

Tilburg University

A review of the implementation of the EU strategy on human trafficking by EU members

Rijken, C.R.J.J.; Bosma, A.K.

Publication date:
2014

Document Version
Publisher's PDF, also known as Version of record

[Link to publication in Tilburg University Research Portal](#)

Citation for published version (APA):
Rijken, C. R. J. J., & Bosma, A. K. (2014). *A review of the implementation of the EU strategy on human trafficking by EU members*. TRACE. http://trace-project.eu/wp-content/uploads/2014/11/TRACE_D1.1_Final.compressed.pdf

General rights

Copyright and moral rights for the publications made accessible in the public portal are retained by the authors and/or other copyright owners and it is a condition of accessing publications that users recognise and abide by the legal requirements associated with these rights.

- Users may download and print one copy of any publication from the public portal for the purpose of private study or research.
- You may not further distribute the material or use it for any profit-making activity or commercial gain
- You may freely distribute the URL identifying the publication in the public portal

Take down policy

If you believe that this document breaches copyright please contact us providing details, and we will remove access to the work immediately and investigate your claim.



Project acronym: TRACE
Project title: Trafficking as A Criminal Enterprise
Grant number: 607669
Programme: Seventh Framework Programme – Security Research
Objective: SEC-2013.6.1-3
Contract type: Coordination and support action
Start date of project: 01 May 2014
Duration: 24 months
Website: www.trace-project.eu

Deliverable D1.1: A review of the implementation of the EU strategy on human trafficking by EU members

Author(s): Conny RIJKEN (TiU)
Alice BOSMA (TiU)

In cooperation with:
Eve ARONSON (LSI)
Angelos CONSTANTINOU (CY POL-THB)
Maria GEORGIU (CY POL-THB)
Suzanne HOFF (LSI)
Ionuț Emilian Lupascu LUPAȘCU (ANITP)
Ana-Maria Tamas TAMAȘ (ANITP)

Dissemination level: Public
Deliverable type: Final
Version: 1
Submission date: 17 November 2014

Table of Contents

Executive summary.....	5
1. Introduction.....	8
1.2. Methodology	8
2. Assessment of the EU policy and legal framework	10
2.1. Key issues following the EU Strategy	11
2.2. Key issues in the EU Trafficking Directive	17
2.3. Key issues following an evaluation of GRETA reports.....	21
Conclusion	23
3. Country Reviews.....	25
PART A: Criminalisation of THB and related phenomena such as slavery, servitude, forced labour	
25	
A1. How is THB defined? To what extent has the definition of Article 2 EU Directive 2011/36 been implemented?	25
A2. How are related phenomena such as slavery, servitude and forced labour addressed in the legislation?	32
A3. What other legislation relevant for the criminalisation of THB does exist (e.g. criminalisation of exploitation of migrants, labour law criminalising labour exploitation)?	35
A4. What are the difficulties encountered in the legal framework? Are some groups more vulnerable to become THB victim because of direct or indirect discrimination?	39
Conclusion	43
PART B: Increased prosecution, including inter-state and transnational cooperation between law enforcement authorities	
44	
B1. What is the modus operandi on THB?	44
B2. How many prosecutions have been conducted over the past five years?.....	49
B3. What are the main obstacles for an effective prosecution of cases of THB? To what extent are financial investigations part of the prosecution in THB cases?	55
B4. How is the inter-state cooperation between law enforcement authorities organised (between local and national levels, between labour inspectors and police, between municipalities, local government and police)? Has some form of a programmatic approach or an interdisciplinary approach been adopted?.....	59
B5. To what extent are tools for international cooperation employed for the prosecution of THB cases?	65
B6. Are there any examples of prosecution of corporations?.....	68
Conclusion	69
PART C: Identification, assistance and protection of trafficked persons	
70	

C1. How many victims have been identified per year of the past five years? Specify what form of THB they were a victim of?.....	70
C2. How are victims of THB identified? Does a referral mechanism exist? If yes, shortly describe how the NRM works. What are the main positive aspects and bottlenecks?	77
C3. What kind of assistance and protection is provided to THB victims? How are victims enabled to use assistance and protection services? Is assistance and protection available to all victims, including male victims, children, EU citizens, nationals? What are the obstacles in victim identification, assistance and protection? Under what conditions can a residence permit and a reflection period be granted? How is unconditional access to support and assistance granted?.....	82
C4. Do victims have access to legal support and how can victims be compensated? How successful are these mechanisms? How are victims protected during court cases?	93
C5. How are victims informed on their rights?.....	97
Conclusion	99
PART D: Prevention of THB.....	99
D1. What efforts does the country undertake to reduce demand for cheap labour and/or forced prostitution and to reduce push factors?	99
D2. What efforts does the private sector undertake to reduce demand for products of THB or services provided by trafficked or exploited persons (both of labour exploitation and sexual exploitation)?	103
D3. Does the country undertake any awareness raising campaigns for the prevention of THB?.....	105
D4. What preventive activities indicated on page 92 of the Joint UN commentary on the EU Directive – A Human Rights-Based Approach did the country undertake? To what extent were these successful?	110
Conclusion	113
PART E: Analysis and Evaluation.....	114
E1. To what extent does the country fulfil the obligations under the directive especially in relation the definition (Art. 2), identification, assistance and protection (Art. 11), protection during criminal procedures (Art. 12), special protection for children (Art. 13-16), compensation (Art. 17) and prevention (Art. 18)?.....	114
E2. To what extent does the country fulfil the ‘obligations’ under the strategy? What should be improved to meet the aims and activities in the EU strategy?	116
3. Final Conclusions.....	121
Appendix I: Terms of Reference Country Review Reports.....	123
Appendix II: Part. C: Number of victims over the last five years in Cyprus provided by Cyprus Police.....	125
Acronyms.....	128
Reference list	131

Change Records

Issue	Date	Description	Author (Company)
0.1	01-19 September 2014	First draft	Contributing partners (TiU, ANITP, LSI, CY POL-THB)
0.2	19-25 September 2014	Contributors review	Contributing partners (TiU, ANITP, LSI, CY POL-THB)
0.3	25 September – 10 November	Full compilation & incorporation of EU mid-term review	Contributing partners (TiU, ANITP, LSI, CY POL-THB)
0.4	10 November 2014	Internal review	Hayley Watson (TRI)
0.5	11 November 2014	Internal review	Julia Muraszekiewicz (VUB)
0.6	11 November 2014	Internal review	Adelina Tamas, Ionuț Emilian Lupascu (ANITP)
0.7	14 November 2014	Internal review	Suzanne Hoff, Eve Aronson (LSI)
0.8	14 November 2014	Internal review	Angelos Constantinu, Maria Georgiou (CY POL-THB)
1	15-17 November 2014	Final version	Conny Rijken (TiU)

Chapter	Main authors responsible	Contributors
Chapter 1	Conny Rijken (TiU)	
Chapter 2	Conny Rijken (TiU)	
Chapter 3	Conny Rijken / Alice Bosman (TiU)	Adelina Tamas, Ionut Emilian Lupascu (ANITP), Angelos Constantinu, Maria Georgiou (CY POL-THB), Suzanne Hoff, Eve Aronson (LSI)
Chapter 4	Conny Rijken (TiU)	

Executive summary

One of the first goals in the TRACE project is to provide a state of the art on human trafficking in the context of the European Union (EU) and to identify the main obstacles and challenges. This report, “A review of the implementation of the EU strategy on human trafficking by EU members” is designed to meet these aims and accordingly, it will not specifically address trafficking as a criminal enterprise, but instead, the report will show the legal and policy framework in which these enterprises operate.

Within the EU, trafficking is noted as one of the most serious criminal offences that constitutes a violation against human rights and is considered a modern form of slavery. The EU has established an impressive legal and policy framework to combat human trafficking of which the 2011/36/EU Directive on trafficking in human beings and the “EU Strategy towards the Eradication of Trafficking in Human Beings (2012-2016)” are the most important.

The EU Directive has a much broader scope than the EU Trafficking Framework Decision that it replaces, for it includes victim protection and prevention of human trafficking in parallel to its criminalisation. In addition and based on the Directive, the strategy has identified five priority areas; identifying, protecting and assisting victims of trafficking, prevention of trafficking, increase prosecution, enhanced coordination and cooperation and increase knowledge of and effective responses to human trafficking.

This report entails an assessment of the strategy and the directive. Furthermore, the report involves the analysis of the implementation of the directive in five countries based on the mid-term evaluation of the strategy, the numerous reports and (academic) articles on human trafficking within the EU and the GRETA country reports.

Our findings show that despite the attention at both the EU and national levels to address and combat human trafficking, a number of issues remain problematic. Below these issues are summarised under; protection of victims; prosecution and prevention of THB.

Protection of victims

The identification and referral of victims of trafficking remains problematic. Not all disciplines and institutions that might get into contact with victims of trafficking (including border police, immigration services, labour inspections, chambers of commerce) are duly trained in the identification of victims. Furthermore, (currently) there is a lack of multidisciplinary teams available to identify victims. Although the reflection period should be granted in case of reasonable grounds that a person is a victim of trafficking, this term is not defined which leads to difficulties in defining the moment the reflection period must be offered to the (presumed) victim. In some of the countries under review, the maximal duration of the reflection period exceeds the minimum given in the Council of Europe (CoE) Convention on human trafficking but no minimum duration is given. This includes the risk of undermining the legal minimum.

Another problem that remains is the unconditional access to support and assistance, at least during the reflection period. It is still suggested that in some Member States, support and assistance is made conditional to cooperation in criminal procedures.

Furthermore, it is still difficult for victims to receive compensation either during criminal procedures or in separate private legal actions. Procedures are complicated and often take a long time and furthermore, in the case of private actions, are expensive.

Other points of concern in relation to victim protection include: 1) the support and assistance to male victims; 2) the special protection that should be provided to child victims and 3) the fact that national victims and victims from EU Member States are sometimes overlooked.

Prosecution

Almost one and a half decades have passed since the adoption of the Palermo Protocol defining human trafficking, yet, still, the term Trafficking in Human Beings is surrounded by terminological ambiguity. This clearly follows from the overview of national legislations in which some Member States have chosen to separately criminalise slavery, forced labour and/or similar practices, whereas other countries understand that trafficking also includes these practices. This leads to several difficulties; first of all the measures to enhance the combating of human trafficking are not *per se* applicable in the context of slavery or forced labour if these are separately criminalised. Victims of forced labour are not necessary victims of human trafficking and can be excluded from victim protection and assistance for trafficking victims. Further, the non-punishment clause applies in the context of human trafficking but not necessary in the context of slavery and/or forced labour.

Stepping up the prosecution of human trafficking is formulated as a key priority in the strategy and admittedly the legal framework in the EU to facilitate cross border cooperation is strongly in place. However, the application of the legal framework including effective use of Europol, Eurojust and the instrument of Joint Investigation Teams needs improvement in general and in relation to human trafficking more in particular.

The same is true for the application of the non-punishment clause. Our findings from the country reports show that Member States apply this clause adopted in Article 8 of the Directive in different ways. Accordingly, further guidance at the EU level would be welcome on this aspect.

Despite all efforts in combating human trafficking, the number of prosecutions and convictions is decreasing. It is widely recognised that cases of human trafficking are difficult to successfully prosecute, that the reliance on testimonies of victims is often problematic and that there is a lack of so-called 'hard evidence'. However, such a realisation has not turned into practices to circumvent or tackle these difficulties. Further research on why the number of convictions is decreasing instead of increasing is needed.

Prevention

The prevention of the crime of trafficking covers a broad area of topics and policies. The primary focus at the EU level concerns addressing THB in the EU's external policies, and as indicated in the mid-term report on the strategy, the EU takes an active approach in this. Another focus of

preventive strategies is addressing the demand side of THB. Both the Member States in the study and the EU (especially through the funding of projects) show a great variety in activities undertaken such as, awareness raising through films, introduction of quality labels in agriculture, criminalisation of the use of services of victims of crimes, etc.

Discrimination of certain groups in society and especially ROMA and children or adolescents mentally less gifted, is a serious risk factor for trafficking practices that should be recognised and addressed more intensively in the context of trafficking preventive strategies in EU Member States as well as at the EU level.

Other aspects

Given the high density of activities and measures taken to address human trafficking both at national and EU levels, the coordination of these is of major importance to avoid overlap. Additionally, more attention should be paid to measuring the effectiveness of the various activities undertaken. A distinction between anti-trafficking strategies that are worth following and strategies that should be abolished can only be made if their effectiveness is thoroughly monitored. The national rapporteurs of equivalent mechanism together with the anti-trafficking coordinator play a crucial role in this.

1. Introduction

The current report assesses how the EU policy and legislation to combating human trafficking has been dealt with in general and in the TRACE pre-established case studies more specifically. The aim of this first deliverable in the TRACE project is first to picture the legal European landscape, second to identify the key issues and critical aspects of EU legislation and policy and third to identify problems and gaps at the national levels while implementing EU legislation and policy. The report will provide relevant background information and contextualisation of the other tasks in the TRACE project and as such help and facilitate the efficacy of the rest of the project.

The first task consisted of two main activities: an overall assessment of (the implementation of) the EU strategy towards the Eradication of Trafficking in Human Beings 2012-2016 and the EU Directive 2011/36 and country reviews of the implementation of the strategy and the directive. The overall assessment of the strategy and the directive *aims* to highlight the main issues and themes that follow from a critical assessment of the directive and the strategy as well as an evaluation of (GRETA) country reports, reports from other organisations and institutions as well as academic articles.

The *aim* of the country reviews is to see how the strategy and the directive have impacted on law, policy and practice at the national level of five countries in the EU and to what extent the aims of the directive and the strategy are met in the respective countries. Consequently, all forms of human trafficking were looked at in the TRACE pre-established case studies. The countries chosen from the TRACE pre-established case studies are: Cyprus, the Netherlands, Poland, Romania and the United Kingdom. When discussing the findings in the review countries they will be discussed in alphabetic order.

When looking at both the strategy and the directive there is a considerable overlap in themes addressed in both documents. In addition the strategy includes various activities for the EU (Commission) level, which cannot be (and need not be) implemented at the national levels. Consequently these aspects will not be assessed in the country reviews.

1.2. Methodology

Both the overall assessment and the country reviews have been conducted by a desk review of available documents on Trafficking of Human Beings (THB) in the EU or on a specific country. These documents can originate from national organisations, governments and other authorities (e.g. rapporteurs or equivalent mechanisms, police, ministries, NGOs, etc.), the European level (including GRETA reports,¹ Euro-state, EU bodies, OSCE, etc.) as well as the international level (e.g. UNODC, UN-Gift, UN special rapporteurs, etc.). Additionally available data on victims, cases and prosecutions will be collected at the national level. Based on all these documents, country review reports have been drafted following a pre-established ‘terms of reference’ to facilitate comparison between the countries.

¹ GRETA is the monitoring body to the Council of Europe Convention on Action Against Trafficking in Persons.

Below, first the overall assessment of the strategy and the directive is given followed by the findings in the five countries. The country reviews will discuss the following aspects:

- A. Criminalisation of trafficking in human beings and related phenomena such as slavery, servitude, forced labour
- B. Prosecution, including intra-national and transnational cooperation between law enforcement authorities
- C. Identification, assistance and protection of trafficked person
- D. Prevention of trafficking in human beings
- E. Analysis and evaluation

2. Assessment of the EU policy and legal framework

Chapter two consists of an assessment of the EU strategy and the EU directive, and is supplemented with the findings of an evaluation of a number of reports from the Group of Experts on Action against Trafficking in Human Beings (GRETA). Reports and articles from various organisations, institutions and academics are used to conduct the assessment and to put findings in perspective. However, before providing this assessment, some recent figures will be presented on the scope of the problem and the nature of traffickers and trafficking victims. When considering the figures one needs to keep in mind that collecting reliable figures that can be compared between countries and regions is extremely complicated due to a number of reasons. For instance and as will be explained below, the differences in defining the crime of trafficking between countries pollutes the figures and one needs a careful look into national legislation to be able to understand figures on prosecutions and victims. Furthermore, states might have chosen to deal with cases of trafficking for labour exploitation in labour courts or under administrative procedures. These cases then remain outside calculations of criminal prosecutions. When taking into account these difficulties when assessing the figures as well as any caution in drawing conclusions from the figures, they can give a good indication of the scope of the trafficking problem.

The ILO indicated in 2012 that some 20.9 million people are victim of forced labour worldwide at any given time of which 22% are victim of forced sexual exploitation and 68% of forced labour in economic activities.² The ILO includes human trafficking in its broader definition of forced labour. Various sources indicate that roughly three quarters of registered victims are trafficked for sexual exploitation, around 70% of the victims are female and approximately 25% of the victims are below the age of 18 years.³ According to the 2013 Eurostat working paper 2,632 registered (presumed) trafficking victims were identified in the, at that time, 27 Member States between 2008 and 2010. Remarkably, the majority of the identified and presumed victims (61%) originate from the EU and in particular from Bulgaria and Romania.

The Eurostat follow-up report from October 2014 reports 30,146 registered (presumed) victims between 2010 and 2012, 80% of which are female. The percentage of minor victims (16%) is a little lower than indicated above, but 36% were registered as aged 18-24. In general, EU Member States report that most victims come from within the EU and that internal trafficking (forced recruitment and exploitation in one country) remains a serious problem that is on the rise. 69% have become victims of sexual exploitation, 19% victims of forced labour and 12% of other forms of exploitation. When considering the extent of prosecutions, the strategy indicates that despite the increased attention towards prosecution of trafficking cases the number of convictions has decreased from 1,534 in 2008, 1,445 in 2009 and 1,144 in 2010. However, the 2014 Eurostat report indicates a total of 8,551 prosecuted and 3,786 convicted persons in 2010-2012, which is 1,262 on average per year, with more than half reported by France and Romania.

² International Labour Office (ILO), *ILO Global Estimate of Forced Labour*, International Labour Organization, Geneva, 2012.

³ These are rough averages as there are slight differences between the various sources. The main sources used here are United Nations Office on Drugs and Crime (UNODC), *Global Report on Trafficking in Persons*, United Nations, New York, NY, 2012; Eurostat, *Trafficking in human beings* (2013 edition), European Commission, Luxembourg, 2013; Eurostat, *Trafficking in human beings* (2014 edition), European Commission, Luxembourg, 2014.

Thus, despite all anti-trafficking efforts over the last decade, Member States have not been able to transpose these efforts into an increased number of convictions.

2.1. Key issues following the EU Strategy

In this section the content of the EU Strategy towards the Eradication of Trafficking in Human Beings (2012-2016) will be discussed and its implementation will be evaluated. Since the appointment of the EU anti-trafficking coordinator in March 2011, the EU's anti-trafficking efforts to step up efforts against human trafficking were reinforced and are undertaken in a more centralised manner. Together with the EU group of experts, the coordinator draws attention to topical issues in combating human trafficking. One of these efforts is the enactment of the EU Strategy towards Eradication of THB adopted in June 2012.⁴ The Strategy is a not legally binding and aims to coordinate and tune the various policies, pieces of legislation and initiatives taken at EU level in different policy areas that are not necessarily, or primarily, adopted to combat human trafficking but do have an impact on, or are part of the fight against human trafficking. Examples thereof are measures adopted in the area of external relations,⁵ migration,⁶ free movement,⁷ or victims' rights.⁸ The risk of overlap, duplication and conflicting policies in such a broad palette of policy areas is a serious one, and accordingly, the Strategy's objective is to provide a coherent framework for a comprehensive and multidisciplinary approach to include all these activities and to set priorities and to fill gaps.⁹ Consequently, the Commission has set five priorities in the strategy which include:

1. Identifying, protecting and assisting victims of trafficking
2. Prevention of trafficking in human beings
3. Increased prosecution of traffickers
4. Enhanced coordination and cooperation among key actors and policy coherence
5. Increased knowledge of and effective response to emerging concerns related to all forms of THB

Per priority the strategy provides a list of actions to be taken for implementation. These actions are addressed both at a national and EU level and help Member States to implement the directive, the human rights based approach and obligations following from Article 4 of the ECHR (European Convention for the Protection of Human Rights and Fundamental Freedoms)

⁴ The EU Strategy towards the Eradication of Trafficking in Human Beings 2012-2016, Communication from the Commission to the European Parliament, The Council, The European Economic and Social Committee and the Committee of the Regions, COM(2012) 286 final, Brussels, 19.6.2012.

⁵ Especially the 2009 Action Oriented Paper on strengthening the EU external dimension against trafficking in human beings, 11450/09, 19 November 2009 and 9501/3/11 REV 3, 4 July 2011.

⁶ For instance the European Commission, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions (Global Approach to Migration and Mobility), COM(2011) 743 final, Brussels, 18.11.2011.

⁷ For instance European Parliament and the Council, Directive 2009/52/EC on sanctions against employers who knowingly employ illegally staying third country workers; and Directive 2014/36/EU of 26.2.2014 on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers, OJ L 94, 28.3.2014.

⁸ European Parliament and the Council, Directive 2012/29/EU of 25.10.2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, L 315/57.

⁹ EU Strategy p. 4.

and relevant case law of the ECtHR, especially the Rantsev case.¹⁰ Within this chapter, the five priorities are shortly introduced, followed by an assessment of what has been achieved so far. The assessment is predominantly based on the Mid-term report of the Commission on the implementation of the strategy.¹¹ The activities of the Member States indicated in the strategy will also be identified. The assessment of these activities will be presented in the second part of this report for the countries of the pre-established case studies (Cyprus, the Netherlands, Poland, Romania and the United Kingdom).

1. Identifying, protecting and assisting victims of trafficking

The strategy recognises that many people and organisations could potentially come into contact with victims of human trafficking and therefore it is important that they are informed and trained to recognise victims of trafficking and that they know what to do when a trafficking victim has been identified. In the strategy, the Commission identifies ‘five broad needs of victims’ namely, respect and recognition, assistance, protection, access to justice and compensation. In line with Article 11 of the directive (see below) assistance and support is based on an individual needs assessment and should include at least appropriate and safe accommodation, material assistance, medical treatment, psychological assistance, counselling and information, translation and interpretation services. To this end, Member States should establish a national and transnational referral mechanism, strengthen child protection systems taking the best interest of the child as a starting point and set up provisions to inform victims on their right. The Commission, for its part, will develop guidelines to better identify victims of human trafficking, fund the development of guidelines on child protection victims and develop a best practice model on the role of guardians.

What has been achieved?

The Commission acknowledges in its mid-term report that early identification of victims remains a challenge and is key to effectively assist and protect victims. Over half of the Member States have established a national referral mechanism. The Commission funds a number of projects in which national referral mechanism benefit from the outcomes (e.g. the Mirror project, RAVOT-EUR). Guidelines for border guards and consular services for the identification of victims of trafficking have been established by the Commission.¹² The guidelines include an overview of relevant projects funded by the Commission, however, without further analysis of the outcomes of these projects such an overview is not readily applicable in practice. It furthermore refers to the Frontex training manual for border guards and the handbook for consular personnel produced by the CBSS (Council of the Baltic Sea States) which both included concrete and practical guidance for the identification of victims. It is on a positive note to see that the Commission highlights some of the more successful practices instead of duplicating efforts. In the guidelines border guards and consular services are simultaneously addressed, which seems a bit odd given the differences in circumstances under which both disciplines have to operate.

¹⁰ European Court of Human Rights, Rantsev v. Cyprus and Russia, Application No 25965/04, 7 January 2010.

¹¹ European Commission, Mid-term report on the implementation of the EU strategy towards the eradication of trafficking in human beings, SWD(2014) 318 final, Brussels, 17.10.2014.

¹² European commission, *Guidelines for the identification of victims of trafficking in human beings*. Accessed 7 November 2014: http://ec.europa.eu/dgs/home-affairs/e-library/docs/thb-victims-identification/thb_identification_en.pdf

To inform victims of their rights the Commission has published a document on the EU rights of trafficking victims, which is available in all official EU languages.¹³ The document includes the core body of rights, which not only follows from the trafficking directive but also from migration law and labour law legislation, thereby clearly reflecting an integrated approach. The big challenge here would be to persuade Member States to translate this document to the national situation and to refer victims to the relevant provisions of the particular country. The integrated approach is further adopted in the research that is currently being conducted by Eurofound (European Foundation for the Improvement of Living and Working Conditions) on the regulation of labour market intermediaries and the role of social partners in preventing THB for labour exploitation. Furthermore, the Commission is preparing a Communication providing guidance on integrated child protection systems with the aim to provide information on relevant EU legislation and policies and furthermore, to integrate such legislation and policies in the broader picture. In relation to guardianship for children the FRA (EU Agency for Fundamental Rights) and DG HOME published '*Guardianship for children deprived of parental care: A handbook to reinforce guardianship systems to cater for the specific needs of child victims of trafficking*'. It has been designed to help Member States improve their system of guardianship. Part of this service is the publication by FRA of a map of national guardianship systems. The handbook is a practical guide for national authorities to design the guardianship system in compliance with EU legislation and includes practical suggestions on how to organise guardianship at national levels. As such it will contribute to a more harmonised system of guardianship throughout the EU.

The mid-term report does not indicate to what extent Member States have taken actions on the activities indicated in the strategy nor how the Commission encouraged Member States to undertake the actions.

2. Prevention of human trafficking

The prevention of human trafficking is one of the key pillars to combat human trafficking. Furthermore, it is one of the three Ps of the three P-paradigm including the state obligations based on the international legal framework representing prosecution of THB, protection of victims of THB and prevention of THB. For a long time the primary focus has been on the prosecution of trafficking, however, over the last decade the protection of trafficking victims has gained greater attention. Still, measures on the prevention of human trafficking including addressing its root causes are very much underrepresented and often lack concrete action. It is therefore to be applauded that the strategy identifies it as a key priority. Currently the EC has funded research on reducing demand and the Commission needs to come up with an evaluation of the legal measures Member States have taken to criminalise the use of services of victims of trafficking in conformity with Article 23 of the directive (see below). The Commission shall set up a European Business Coalition against human trafficking and develop models and guidelines on reducing demand in collaboration with this coalition (in 2016). Member States should strengthen their awareness raising activities targeting consumers, corporations and users of services to make them aware of the risks of human trafficking. In parallel, the Commission will initiate, evaluate and map awareness raising campaigns as well including those targeting vulnerable groups, such as women and children at risk, domestic workers, Roma communities, undocumented workers and situations such as major sporting events.

¹³ EU Guidelines for the identification of victims of THB. Accessed 7 November 2014.

What has been achieved?

The Employers' sanctions directive is considered an important incentive for employers not to hire illegal third country nationals.¹⁴ In May 2014 a report on the implementation of this directive articulated that all Member States now have legislation in place prohibiting the employment of illegal third country nationals although the severity of the sanctions differ considerably.¹⁵ Implementation of the protection for illegal migrants (e.g., claims against employers, remuneration of unpaid wages) foreseen in the directive could be improved in all aspects. Furthermore, the Commission reports that in a number of Member States the work of inspections need to be improved and be based on prioritisation of risk sectors. The overall conclusion is that despite the transformation of the directive in all Member States it lacks appropriate application at national levels.

In addition to a wide range of projects on prevention funded by the Commission, it has now commissioned a study to systematically evaluate the impact of THB prevention initiatives, the outcome of which is expected in the first half of 2015. The gender dimension of THB as a specific focus point for THB preventive action is also addressed through the funding of projects. No concrete outcomes of these are included in the strategies mid-term evaluation. The establishment of an EU business coalition is not mentioned in the report and is foreseen for 2016.

3. Increased prosecution

Following from the figures presented above as well as the country reviews below, successful prosecution of trafficking cases remains a challenge. The cases are often complicated, have a transnational aspect and victims often do not want to give a testimony or do not have accurate information to trace the traffickers. To facilitate successful prosecution, the Commission encourages Member States to establish national multidisciplinary law enforcement units on human trafficking which should closely cooperate with Europol and be able to exchange information with local, regional and national law enforcement units. Furthermore, Member States are encouraged to increase cross border police and judicial cooperation in trafficking cases and make use of all relevant avenues for such cooperation and in particular the establishment of Joint Investigation Teams (JIT) and using Europol and Eurojust. Financial investigations should be proactively conducted in all trafficking cases. Member States practices on the latter is currently being analysed by Europol. The Commission furthermore explores ways to increase cooperation beyond EU borders in line with EU security policy and to identify (links between) criminal networks.

What has been achieved?

The mid-term report indicates that regular training to police and law enforcement officials is provided at national levels often under EU-funded projects and in collaboration with EU agencies and institutions. Member States and relevant EU agencies are encouraged to initiate financial investigations in trafficking cases although no concrete activities are reported on how this is done. To provide further input on this matter Europol is currently analysing how financial

¹⁴ European Parliament and the Council, Directive 2009/52/EC of 18.06.2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals, L 168/24.

¹⁵ Communication from the Commission on the application of Directive 2009/52/EC of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third country nationals, COM(2014) 286 final, Brussels 22.5.2014.

investigations in THB cases are conducted in the Member States. Furthermore, the Commission refers to the implementation of the Directive on confiscation, which is foreseen by the end of 2016. For instance, it is expected that this directive will further enhance the confiscation of property and freezing of assets in cases of serious organised crime, including THB. In an annex to the mid-term report, the Commission provides an overview of joint activities of seven agencies working in the area of justice and home affairs and Eurofound based on the joint statement of the heads of the EU Justice and Home Affairs Agencies which was signed on the 5th EU Anti-Trafficking Day (18 October 2011). The adjustment of activities and intensified cooperation between the agencies is also part of the implementation of the priority on enhanced coordination, cooperation and policy coherence (see below).

THB has now been adopted as one of the nine priority areas of the EU Serious and Organised Crime Policy Cycle. The Standing Committee on Operational Cooperation on Internal Security (COSI) is mandated to facilitate, promote and strengthen cooperation in all nine-priority areas, thus including THB and to adopt operational action plans (OAP). The Commission further reports that many Member States do have structures in place for cooperation at least at law enforcement level established. On the use of the Internet the Commission warns about the role it plays as an informal and anonymous market place for illicit commodities which is easily accessible for criminal acts and criminals. The 2013 EU Anti-Trafficking day was devoted to the role of the Internet in THB. A report on this topic will be published by the Commission mid-2015. In the second half the Commission expects to be able to report on the study on case law on trafficking for labour exploitation.

4. Enhanced coordination and cooperation and policy coherence

At the local, national, regional and international level, many organisations, NGOs, governmental organisations and groups work to combat trafficking from various angles and disciplines, often in a non-coordinated way. Effective and efficient efforts to combat trafficking need a coherent multi-sectoral and multi-disciplinary approach. The strengthening of the network of National Rapporteurs or Equivalent Mechanisms is an essential part of such an approach at the EU level. The establishment of the rapporteurs or equivalent mechanisms in line with Article 19 of the EU Directive is crucial for such coherence at national levels and is therefore an important obligation for Member States. At the EU level, exploring the possibilities in external policy activities to strengthen cooperation to combat human trafficking is envisaged. Formalising partnerships with international organisations, addressing THB in human rights clauses in EU agreements with third countries and funding projects in third countries and regions are other activities for the Commission under this priority. To further contribute to policy coherency the Commission planned to establish a civil society platform, and conduct a comprehensive review of all projects funded by the EU on internal and external aspects of THB.

According to the strategy, coherency is further ensured by mainstreaming fundamental rights in anti-trafficking policy and legislation and therefore the FRA will develop a tool to assist Member States in addressing fundamental rights. To assure that people working in the field are properly equipped and act in a professional fashion the Commission and Member States share a responsibility in providing adequate training to those working in the field.

What has been achieved?

The (current) EU anti-trafficking coordinator, Myria Vassiliadou, plays an important role in overseeing and guiding the cooperation at the EU level. Twice a year she has a meeting with all national rapporteurs and equivalent mechanisms creating an excellent opportunity to exchange information, tune activities and set priorities. To further adjust activities and facilitate cooperation an EU Civil Society Platform against THB was established in May 2013, which is to meet twice a year. Over 100 organisations participate in the platform. This platform is supplemented with an EU Civil Society e-Platform against Trafficking in Human Beings. In May 2014 the Commission organised a joint meeting for the Civil Society Platform and the National Rapporteurs or Equivalent Mechanisms.

Part of this priority is the cooperation with third countries to combat THB based on the AOP (Action Oriented Paper) on strengthening the EU external dimension on action against THB. The AOP has seen two evaluations of which the second included a list of priority countries and regions. The third evaluation is included in the mid-term report on the strategy. Actions undertaken to operationalise this AOP include the funding of projects in which third countries participate, an information package on activities in the priority countries and regions and a list of relevant tools and instruments, a training course for EU Delegations to address THB in their work. Member States have reported to have established funded projects in the priority countries, sometimes in cooperation with organisations such as IOM. In many countries anti-trafficking activities are part of operational activities of liaisons, sometimes in concrete cases sometimes as preventive or awareness raising activities. Member States as well signed bi-lateral agreements with some of the priority countries to strengthen cooperation. From their side the Commission strengthened cooperation with international organisations such as UNODC, UNHCR, IOM, etc.

The Global Approach to Migration and Mobility (GAMM) is part of the external policy and THB is a priority area of GAMM. The prevention of unsafe migration, victim protection and identification and safe return are some of the aspects related to THB relevant for the GAMM.

Other important activities in which THB is systematically addressed are: the Stabilization and association Agreements between the EU and the Western Balkans, Neighbourhood Policy annual reports, Political Cooperation Agreements (Eastern Partnership countries), the Eastern Partnership Panel on Asylum and Migration, Visa Liberalisation Action Plans, EU-Russia visa dialogue, Mobility Partnerships and Common Agendas on Migration and Mobility, Euro-African Dialogue on Migration and Mobility and migration dialogues with other regions such as Latin America, ACP and the Silk Route countries and some bilateral dialogues with India, Russia and China. And finally THB is raised in the human rights dialogues as part of the Action Plan on Human Rights and Democracy.

Many of the activities that have been indicated in this section are facilitated through the funding schemes of various EU financial instruments and programmes. It is an enormous challenge and an difficult journey to map, attune, and streamline all the activities under the various programmes, funding schemes and policy and legislative levels. The mid-term report closes by stating: 'Streamlining information on funded projects is a key part of the work of the Commission's THB Intra-Service Group, where all relevant services contribute information.'¹⁶

¹⁶ EU Strategy, p. 18.

5. Knowledge and response to emerging concerns related to all forms of THB

Human trafficking is not a static phenomenon but is influenced by changing markets at local, regional and International levels (e.g., economic crisis), by world politics and crisis, but also by new insights and knowledge about existing phenomena. Therefore, the centralisation of data collection at the EU level, including information relevant to increase such knowledge and insights, to identify trends and to facilitate evidence-based policing, is crucial and one of the activities in the strategy. According to the Commission, two trends that need more attention are the online recruitment and trafficking for labour exploitation. Addressing trafficking for labour exploitation requires a broad range of activities varying from labour market regulation and legislation, EU migration, external migration, social security, tax law, regulation of contractors and subcontractors, job recruitment agencies, etc. Better knowledge on the interaction and interrelatedness of these aspects especially in the EU context, strengthening the cooperation between relevant actors and developing a best practice guide are the Commission's goals under this point. The gender dimension of human trafficking and vulnerable groups should be given special attention in such data gathering. Children, especially early school leavers, children left behind, unaccompanied children, children with disabilities and people in the Roma community are identified as belonging to the vulnerable groups.

What has been achieved?

The Commission did not report separately on this aspect but has integrated it in the reporting on the other priorities.

2.2. Key issues in the EU Trafficking Directive

The EU directive is based on the three P-paradigm, prosecution, protection and prevention, and State obligations in the directive concern all three aspects. Key for the directive is the focus on victim protection (Art. 10 and 11) and concrete action to protect victims during criminal procedures (Art. 12). Additionally, a number of specific provisions on child victim protection are included in the directive as well. As often happens, again the third P on prevention lacks thorough attention and is only addressed in Article 18 which focus on discourage demand, raising awareness, training of officials who come in contact with possible victims and 'consider taking measures to establish as a criminal offence the use of services which are the objects of exploitation ... with the knowledge that the person is a victim of an offence referred to in Article 2.' The lack of more concrete measures is maybe not so surprising since the directive has been adopted under Arts. 82 and 83 of the TFEU and therefore is primarily focussed on the criminal law (procedural and substantive).¹⁷ The Joint UN-Commentary to the EU directive is a helpful document for employing more concrete activities under Article 18 as well as other provisions in the directive.¹⁸ The list of International Standards on Prevention of Trafficking of the joint commentary was used in the country reviews to systematically review the country's efforts to prevent human trafficking.¹⁹ In this section some of the key issues of the directive will be

¹⁷ Letschert, Rianne, and Conny Rijken, "Rights of victims of crime: Tensions between an integrated approach and a limited legal basis for harmonization", *New Journal on European Criminal Law*, Vol. 4, Issue 3, 2013, pp. 224-253.

¹⁸ OHCHR, UNHCR, UNICEF, UNDOC, UN Women & ILO, *Joint UN Commentary on the EU Directive – A Human Rights-Based Approach*, 2011.

¹⁹ Joint UN Commentary on the EU Directive, p. 92.

discussed in greater detail. The issues that either do not bring new obligations or are straightforward will not be discussed.

First and foremost it needs to be stressed that with the adoption of the directive the EU explicitly (and following the example of the Council of Europe) aimed at taking a human rights based approach towards human trafficking (recital 7). Nowadays human trafficking is very much seen as a human rights violation, which clearly follows from the explicit prohibition of human trafficking in Article 5 of the Charter of Fundamental Rights of the EU. The emphasis on victim support and assistance in the directive is a clear example of the human rights based approach, although looking at the directive from a human rights angle, there is room for further improvement.

Similar to the definition in the framework decision on human trafficking which has been replaced by the directive, the definition in the directive is clearly based on the Palermo Protocol. There are a few differences in the description of what exploitation can entail, namely, the inclusion of force begging as a form of forced labour or services, and the explicit mentioning of exploitation of criminal activities. Additionally and read in conjunction with recital 11, illegal adoption and forced marriages are considered situations of human trafficking to the extent the constitutive elements of the definition of THB are fulfilled. Apart from these differences the definition is identical to the definition in the Palermo protocol meaning that trafficking concerns an act that is undertaken by using any of the means indicated in the definition for the purpose of exploitation. Currently, exploitation (as such) is not defined, although a description of what practices (at a minimum) are considered exploitation is copied from the Palermo protocol with the additions indicated above. What is problematic in the definition is that it criminalises ‘forced recruitment’ for the aim of exploitation and not the exploitation in and of itself.²⁰ This aspect has been articulated in the joint commentary as well, which encourages Member States to criminalise exploitative practices such as forced labour, slavery and slavery-like practices apart from human trafficking, by making a comparison with the criminalisation of both slavery and the slave trade.²¹ The combating of such exploitative practices (e.g., forced labour) and combating human trafficking can serve the same goals as has also been reflected in the recently adopted additional protocol to the 1930 forced labour convention.²² However, the criminalisation of exploitative practices does not necessarily follow from the definition in Article 2 of the directive even though the most objectionable aspect of trafficking is the actual exploitation. This terminological ambiguity has led to a large variety in the implementation of the definition as we will see in the compilation of the country reports. If exploitative practices are separately criminalised, questions may arise regarding the extent to which victims of these practices are entitled to the protection for victims of THB as well. Because of the goals underlying anti-trafficking measures it would be logical to extend the victim protection to victims of these practices as well. Concluding differently will undermine the human rights based approach in combating human trafficking.

²⁰ Rijken, C., “Trafficking in Human Beings for Labour Exploitation: Cooperation in an Integrated Approach”, *European Journal of Crime, Criminal Law and Criminal Justice*, Vol. 21, No. 1, 2013 pp. 9-35.

²¹ Joint UN Commentary, p. 32-34.

²² International Labour Organization, P029 – Protocol of 2014 to the Forced Labour Convention, 1930, of 11.06.2014.

A second key issue is the adoption of the principle of non-punishment adopted in Article 8 of the directive. Although it is to be supported that victims of trafficking are not prosecuted or punished in case of ‘involvement in criminal activities which they have been compelled to commit as a direct consequence of being subjected to any of the acts referred to in Article 2’, the scope of this provision is unclear and the implementation is left much to the discretion of the EU Member States.²³ Moreover, for the correct application of the non-punishment principle early identification of victims is crucial, because this will protect them from prosecution or punishment if the principle is implemented and applied correctly. This brings us to the following key issue in the directive and that is the obligation for early identification.

Third, early identification of victims of trafficking is pivotal to prevent further harm either by the trafficker or a criminal procedure and to provide assistance and protection to the victim at the earliest occasion possible. Different from the Council of Europe Convention on action against human trafficking, there is no specific provision in the directive on how Member States need to organise the early identification. Article 4 of the directive only indicates that necessary measures need to be taken in cooperation with relevant support organisations. Currently it is generally understood and preferred that early identification is undertaken by multidisciplinary teams and not merely by law enforcement bodies. Different from Article 11(4) of the directive such multidisciplinary involvement in the identification is clearly reflected in Article 10 of the Council of Europe Convention. Inspiration therefore can be derived from this Convention in the application and implementation of this Directive provision. Furthermore, in case of reasonable grounds (Article 11(2) of the Directive and Article 10(2) of the CoE Convention) that a person is a victim of human trafficking assistance and support must be provided. However, the Directive nor the CoE Convention or its explanatory reports explicate when such grounds are present. In addition it should be noted that both documents refer to the reasonable grounds for victimhood and not to reasonable grounds for a human trafficking case. That means that an answer to the question of whether there are indications to start criminal proceedings seems to be irrelevant. The reasonable grounds indication leaves a large margin of appreciation to the Member States and includes some uncertainties. Because the reasonable grounds indication has not been further defined it is not clear at what moment a reflection period needs to start or offered to a victim. It furthermore leaves room on how to determine victimhood. In some countries a reflection period is offered to presumed victims, in other countries only to victims who are officially identified or when criminal procedures have commenced.²⁴ The way ‘victimhood’ and the ‘reasonable grounds indication’ are interpreted at the national level is very much decisive for the level of protection granted to victims.

Another key issue in the directive is to be found in Article 11(3), which states that assistance and support to victims of human trafficking cannot be made conditional on the victim’s willingness to cooperate in the criminal procedure. This importantly limits the discretionary powers of the

²³ OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, *Policy and legislative recommendations towards the effective implementation of the non-punishment provision with regard to victims of trafficking*, OSCE/Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, Vienna, 2013.

²⁴ Communication from the Commission to the council and the European Parliament on the application of Directive 2004/81 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, COM(2014) 635 final, Brussels, 17.10.2014, p. 4.

states in which assistance and support can only be granted if the victims cooperates with the authorities in criminal proceedings. There are however three important limitations to this provisions. First the provision should be read in conjunction with recital 18 from which it can be drawn that unconditional access for those who remain in a member state without the required documentation can be limited to the reflection period only. For those staying legally on the territory such limitation is not permitted. Secondly, the last phrase of the Article 11(3) states that unconditional access is without prejudice to Directive 2004/81 or similar national rules. In short, Directive 2004/81 grants a temporary residence permit to Third Country Nationals who are a victim of human trafficking and who cooperate with the authorities. This means that based on this directive trafficking victims can only access support and assistance provided in accordance with this directive if they cooperate with the authorities and is limited to the duration of criminal proceedings only. This seems to be in full contrast with the unconditional access articulated in Article 11(3). Therefore, the UN organisations in their joint commentary have suggested to ignore this last phrase and to provide unconditional access to assistance and support in all cases.²⁵ However, this would be too easy and not resolve the problem since Member States are bound to Directive 2004/81 as well. Because of earlier concerns of the European Commission regarding the underutilisation of Directive 2004/81 the Commission announced a revision of the directive already in its second evaluation of the directive.²⁶ However, only now in October 2014, the Commission has issued a communication on the application of the directive in which it stated that a possible revision of the 2004/81 Directive will only be considered after the first evaluation of the implementation of Directive 2011/36 in 2015.²⁷ Most importantly, in the directive the Commission reiterates recital 18 and explains that Article 11(3) should be understood to impose an obligation on Member States to provide for unconditional access during the reflection and recovery period only. This means that ‘if the victim is not considered eligible for a residence permit or does not have lawful residence in that MS, or has left the territory of the MS, the latter is not obliged to continue providing assistance and support on the basis of Directive 2011/36/EU (recital 18). This limitation seems to seriously hamper the human rights based approach.

Third, unconditional access to assistance and support pretends that this can be completely separated from residence status. In practice such unconditional access remains illusionary for those who do not receive a residence permit which can be made conditional to cooperation (Directive 2004/81 and Article 14 Council of Europe Convention). This means that indirectly the assistance and support will also be made conditional to the cooperation since assistance and support will not be granted if the person does not have a residence permit and stays irregularly in the country.

A fourth key issue in the directive is Article 12 on the protection of trafficking victims in criminal procedures. Important aspects herein are the protection based on an individual risk assessment and the prevention of secondary victimisation through concrete obligations on the treatment of victims during the procedure (avoid unnecessary repetition of interviews and

²⁵ Joint UN Commentary, p. 46-47.

²⁶ Report from the Commission to the European parliament and the Council, on the application of directive 2004/81 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, COM(2010) 493 final, Brussels 15.10.2010.

²⁷ EU Communication on the third-country nationals who are victims of trafficking directive.

questioning on the victim's private life, public hearings and visual contact with the suspect). Free legal aid should be provided in case the victim does not have sufficient financial resources. As such this provision includes a stronger obligation towards victims than Article 13 of the Victim Directive, which states that the condition on access to legal aid and support should be determined by national law.²⁸

Another important (fifth) area included in the directive is the special attention to child victims of trafficking including unaccompanied minors coming from outside the EU, and special protection of children in criminal procedures. As will become clear from the analysis below as well as the country reports, the implementation of this part of the directive seems to be somewhat problematic, at least in the pre-selected case studies.

Lastly, a sixth important aspect that was already briefly addressed above is the inclusion of an article on the prevention of human trafficking. Such prevention should materialise through discouraging demand, awareness raising, training for officials and considering the criminalisation of those who use the services of a victim of trafficking. In accordance with Article 23(1) this particular Article 18(4) will be reported on by the Commission before 6th of April 2016.

[2.3. Key issues following an evaluation of GRETA reports](#)

Similar issues as indicated above are described in the various documents, reports, articles, project-reports and evaluations on human trafficking. In addition to the points made above the following key-issues and trends following from an evaluation of the 23 GRETA-reports remain problematic:²⁹

Vulnerable groups: Roma citizens, children and mentally less gifted

In many reports Roma citizens are identified as a group at heightened risk of becoming victims of THB. The position of Roma needs to be further addressed at the European level and in the context of anti-discrimination initiatives as well. Only with an integrated and comprehensive approach this risk can be diminished. Another group at heightened risk is children. Both the EU Directive and the Council of Europe Convention pay a great deal of attention to children highlighting the importance of addressing the issue comprehensively. Yet, while many conclusions and recommendations of the GRETA reports as well as reports and papers are aimed at child-specific considerations, child trafficking is not comprehensively and consistently addressed. A third vulnerable group consists of those who are mentally less gifted but are able to function in society to a certain extent. Especially young girls with limited capacities seem to be at heightened risk.

Labour exploitation

In many reports there is ample attention for labour exploitation and still the focus is very much on sexual exploitation although on paper there is a recognised increased importance of labour

²⁸ Directive 2012/29/EU on minimum standards.

²⁹ Rijken, Conny, Stefanie Jansen-Wilhelm and Eefje de Volder, "[Taking Stock of GRETA's Monitoring Function](#)" Council of Europe, 2014, not published.

exploitation. As we will see in the country reviews below there is a huge variety in how labour exploitation and THB for labour exploitation is understood at the national levels. Without generalising, it is often reflected on in literature that the needs of victims of labour exploitation differ from the needs of victims of sexual exploitation. Differentiation to some extent might be desirable, taking into account the knowledge that show that men are more often victim of labour exploitation and that compensation and claiming unpaid wages is an important need of victims of labour exploitation.

Male victims

To some extent related to the previous aspect is the lack of assistance and protection measures available for male victims and an overall lack of awareness for male victims. Shelters or similar safe accommodations are often only available to (adult) women.

Non-discrimination

It seems that many of the cross-cutting issues, at risk groups, and victimisation relate to some form of discrimination. For that reason a particular provision on non-discrimination is adopted in Article 3 of the Council of Europe Convention. However, only in one report specific reference was made to racial discrimination in the context of THB. In most of the reports non-discrimination was not specifically addressed.

Compensation

Another trend that can be distilled from the GRETA reports is the difficulty of victims to get compensation. In general, possibilities are limited and only exceptionally successful cases are mentioned.

Corporate liability

A trend and at the same time a challenge for the future is the lack of cases on corporate liability. Although sixteen States have implemented a provision enabling criminal procedures against corporations, only one conviction was mentioned in the 23 evaluated GRETA reports. With the increase of labour exploitation, and attention for corporate social responsibility it needs to be further scrutinised if criminal investigations against corporations together with the prosecution of individuals should be encouraged.

Furthermore, the unconditional access to assistance and support is problematic for its link with the residence status of victims in the context of the Council of Europe Convention as well. Article 12(6) guarantees unconditional access to support to THB victims and states:

‘Each Party shall adopt such legislative or other measures as may be necessary to ensure that assistance to a victim is not made conditional on his or her willingness to act as a witness’.³⁰

GRETA very closely monitors the extent to which access to assistance is dependent on the co-operation in criminal procedures. Even in cases where such link is not formally established but seems to exist *de facto*, GRETA asks critical questions to be able to evaluate the compliance with Article 12(6). However, in relation to foreign victims the link between co-operation and

³⁰ Article 12(6) Council of Europe Convention on Action against Trafficking in Human Beings, Warsaw 2005.

access to assistance seems to be re-established in case States have chosen to implement Article 14(1) by making the residence permit conditional to the co-operation. Following Article 14(1) States may choose to;

‘issue a renewable residence permit to victims, in one or other of the two following situations or in both:

- a. the competent authority considers that their stay is necessary owing to their personal situation;
- b. the competent authority considers that their stay is necessary for the purpose of their co-operation with the competent authorities in investigation or criminal proceedings.’

Very much in the same vein as within the EU, Member States can make the residence permit conditional to cooperation which makes the unconditional access to assistance become illusory, since without a residence permit a person is not allowed to stay in a country. A similar parallel exists between the EU and the CoE in the use of the term reasonable grounds. The reflection and recovery period of at least 30 days is a first step in the assistance and protection to THB victims. When there are *reasonable grounds* to believe the person concerned is a victim the reflection and recovery period must be provided. Thus the interpretation of the term *reasonable grounds* is crucial to access the reflection and recovery period (Article 13) and therefore of central importance in the Convention.

Conclusion

When looking at the EU legislative and policy framework one has to admit that much is being done and a massive effort is put into coordinating all activities that might have an impact on trafficking. The big challenge is to keep an overview of all activities that are on-going. However, there are still some critical aspects when it comes to combating human trafficking that need to be further addressed and dealt with in the future. The challenges that for the moment remain to be critical can be summarised as:

- Identification and referral of victims of trafficking (who is mandated to identify victims, are those mandated equipped to do the identification, is a well-functioning referral mechanism in place)
- Assistance and protection to all victims of THB including male and child victims and both EU citizen and national victims.
- Specific attention to vulnerable groups (Roma, children, mentally less gifted)
- Trafficking in relation to other phenomena such as slavery, servitude, forced labour, etc.
- Direct or indirect discrimination of groups in society as a cause of THB
- Access to justice & compensation for victims
- Corporate liability
- Unconditional access for victims of THB to assistance and protection
- Application of the non-punishment clause
- Prevention of human trafficking

Based on the above and especially keeping in mind the goal of the report, namely evaluating the implementation of the strategy and the directive, the subsequent section, consisting of country reviews focus on the key issues in these documents. They will evaluate the Member States

activities that are flagged in the strategy supplemented with the key-issues in the directive. To be able to draw some conclusions based on the comparison between the review countries the terms of reference of the country reviews were agreed prior to the review.³¹ The issues that are addressed and will be discussed next clearly follow from the above and consist of:

- A. Criminalisation of THB and related phenomena such as slavery, servitude, forced labour
- B. Prosecution, including intra-national and transnational cooperation between law enforcement authorities
- C. Identification, assistance and protection of trafficked person,
- D. Prevention of THB

The priorities in the strategy are clearly reflected in this list of issues apart from the fourth on enhanced coordination, cooperation and policy coherence and the fifth concerning the increased knowledge of and effective response to emerging concerns related to all forms of trafficking in human beings. The fourth priority is a rather broad aspect and dealing with a wide range of policy areas, disciplines and sectors. It would be beyond the scope of the country reviews to describe the full coverage of this priority in detail. Therefore, under the other aspects the issue of cooperation is addressed to the extent that it is relevant. Although the fifth priority is an integral part of a comprehensive approach to combat human trafficking the activities indicated under this priority were primarily addressed at EU level. Therefore, the evaluation and implementation of these activities have been discussed above and is therefore left out of the country reviews. Activities under this priority that have an impact on the other aspects for instance targeting trafficking for labour exploitation has implications for at least A and B and are addressed in the country reviews under these headings. To meet this particular aspect and because the above shows that differences on the interpretation of the definition of trafficking leads to various problems in criminal cooperation, victim identification, data collection, etc. the criminalisation of trafficking and related phenomena has been included as a separate topic in the country reviews.

³¹ See Annex 1 for the Terms of Reference for the Country reports.

3. Country Reviews

In this part of the report the TRACE pre-established case studies are discussed. As mentioned earlier the countries will be discussed per heading in alphabetic order; Cyprus, The Netherlands, Poland, Romania and the United Kingdom, unless a different order is more convenient for the readability of the text. The sections follow the structure of the terms of reference, which were agreed upon before the actual reviews commenced. At times, different sections do overlap and information can be relevant for different sections. We have tried to cluster the information as much as possible in accordance with the headings of sections to provide a full picture of all five countries and to facilitate comparison. Each section will be closed with a sub-conclusion.

PART A: Criminalisation of THB and related phenomena such as slavery, servitude, forced labour

A1. How is THB defined? To what extent has the definition of Article 2 EU Directive 2011/36 been implemented?

The criminalisation of THB and related phenomena has not been identified in the strategy as a key priority. What follows from the above is that a number of problems and issues in combating human trafficking are a direct consequence of terminological ambiguity and the cumbersome nature of the definition of human trafficking. One of these issues is that the definition as such does not include exploitative practices that are considered as the aim of exploitation. On the other hand the exploitation of a person is often considered the most severe part of the definition. For these reasons the way the five countries of the pre-established case studies have criminalised THB in their national legislation will be addressed in this section, despite the fact that it is not a key priority in the strategy.

All countries report that the definition of the Directive 2011/36 has been implemented in national legislation. All countries showed recent legislative changes – either those changes were made in order to implement the directive, or they are the reason that the country already adheres to the directive. However, the changes are of different scopes.

First of all, the UK worked on harmonising the different already existent laws that deal with THB. The UK reports that at this moment in time the Modern Slavery Bill is being discussed in the House of Commons.³² If adopted this Bill will consolidate into one act the offences used to prosecute slave drivers, introduce Trafficking Prevention Orders to restrict the activity and movement of convicted traffickers, introduce a non-punishment clause for victims of THB and provide for a new Anti-Slavery Commissioner to hold law enforcement and other organisations to account.³³ The note distinguishes between: trafficking for sexual exploitation; trafficking for labour or other exploitation; sex with a coerced, deceived or threatened person; and servitude or

³²Modern Slavery Bill 2014-15, *Progress of the Bill*. The first was in the House of Lords was on 5 November 2014, the second reading - the general debate on all aspects of the Bill - is scheduled for 17 November. Accessed 13th October 2014: <http://services.parliament.uk/bills/2014-15/modernslavery.html>.

³³ Lipscombe, Sally and Jacqueline Beard, “Human trafficking: UK responses”, SN/HA/4324, House of Commons Library, 2014. Accessed September 2014: www.parliament.uk/briefing-papers/sn04324.pdf.

forced labour.³⁴ The Bill aims to create two new civil orders to prevent modern slavery, establish an Anti-Slavery Commissioner, and to establish provisions for the protection of modern slavery victims. In the UK, trafficking legislation is now contained in three different instruments each of which deals with a specific aspect of prevention or protection.³⁵

Also Romania integrated its criminal offences related to the trafficking in human beings. Title I, Chapter VII of the special part of the CC(RO) (Law no. 286/17.07.2009) “Trafficking and exploitation of vulnerable persons”, includes provisions regarding trafficking in human beings and other related criminal offences, representing a uniform implementation of the obligations resulting from international legal acts to which Romania is a party (in particular the implementation of Art. 2 EU Directive 2011/36). Before this amendment, THB and related criminal offences were criminalised in at least five different laws.³⁶ (Law no. 678/2001 on prevention and countering of trafficking in human beings; Law no. 196/2003 on preventing and countering of pornography; Law no. 161/2003 on anticorruption measures; Law no. 272/2004 on the protection and promotion of the rights of the child and the Labour Code).

Secondly, some countries had legislation in place but needed to extend the scope of the trafficking because of EU or International legislation. Most of the countries already had amended or implemented the broader definition to include trafficking for labour exploitation as a consequence of implementation of the 2002 Framework Decision or the Palermo Protocol. For example, in the Netherlands, before 2005, only sexual exploitation was criminalised but was then extended with trafficking for labour exploitation and for the removal of organs. The current Article 273f CC(NL) is now further amended based on the EU directive. Poland expanded its THB provision in 2010 in the sense that preparatory-activities are punished as well. The UK Government introduced new primary legislation to enable prosecution of a UK national for human trafficking offences, regardless of where in the world the arrangement or facilitation of the trafficking takes place, and regardless of where in the world the trafficking occurs or is intended to occur. This goes further than trafficking legislation previously in the UK, where the offences only applied when a person trafficked another into, or out of the UK for the purposes of exploitation. The Scottish government already has legislation in place which complies with the

³⁴ Lipscombe & Beard 2014.

³⁵ THB legislation in UK is in: 1. Section 71 of the 2009 Coroners and Justice Act, 2. Sexual Offences Act 2003, 3. Asylum and Immigration (Treatment of Claimants, etc.) Act 2004. AIRE Centre, *Monitoring Report on the Implementation by the United Kingdom of EU Directive 2011/36 on preventing and combating trafficking in human beings*, July 2012. Accessed September 2014: http://www.airecentre.org/data/files/Monitoring_Report_on_Implementation_of_EU_Directive_July_2012.pdf.

³⁶ Law no. 678/2001 on prevention and countering of trafficking in human beings; Law no. 196/2003 on preventing and countering of pornography; Law no. 161/2003 on anticorruption measures; Law no. 272/2004 on the protection and promotion of the rights of the child and the Labour Code (RO).

requirements of the EU Directive in this area.³⁷ This conclusion was queried by a group of NGOs and defended by the Scottish government in two responses.³⁸

Thirdly, Poland made an effort in strengthening the (legal) embedding of and adherence to the anti-trafficking legislation from soft-law to hard law. For years, the use of the definition of human trafficking in Poland was only mentioned in a document called “Methodological guidance for prosecutors conducting or supervising cases of trafficking in human beings” that was issued by the Prosecutor General office in 2003.³⁹ This guidance was not always respected and used during the prosecution of trafficking cases. The majority of cases of trafficking for the purpose of sexual exploitation were prosecuted from Article 204 §4, which was not human trafficking, but rather sexual exploitation or forced prostitution.

Lastly, Cyprus put into force a local anti-trafficking law (Law 60(I)/2014) in order to harmonise its legislation with EU legislation and to adopt de Directive 2011/36. The local anti-trafficking law was adopted on 15th of April 2014.

In conclusion, recent fine-tuning of the anti-trafficking regulations has led to the implementation of Article 2 of the Directive. But what do the different anti-trafficking provisions look like? The key parts of the provisions, regarding the definition of THB, will be quoted below:

Cyprus (Law 60(I)/2014)

“the recruitment, hiring, transportation, transfer, harbouring, or reception or sheltering of persons, including the exchange or transfer of the control or power over that person, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or the giving or of receiving of payments or benefits or allowances to achieve the consent of a person having control over another person for the purpose of exploitation.”

The Netherlands (Art. 273f CC(NL))

“1. Any person who:

1°. With the intention of exploiting another person or removing his or her organs, recruits, transports, transfers, accommodates or shelters that other person, including the exchange or transfer of control over that person, by means of duress, violence or another hostile act, or the threat of violence or other hostile act, or by means of extortion, fraud, deception or the abuse of

³⁷ UK Government, *Report on the Internal Review of Human Trafficking Legislation*. May 2012. Accessed September 2014: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/97846/human-trafficking-legislation.pdf p. 6.

³⁸ The responses are available here:

http://www.scottish.parliament.uk/S3_EuropeanandExternalRelationsCommittee/General%20Documents/1512013Letter_fromCabSecJustice.pdf and here

http://www.scottish.parliament.uk/S3_EuropeanandExternalRelationsCommittee/General%20Documents/LetterfromTheLordAdvocate.pdf Accessed September 2014.

³⁹ Guidelines are intended for use by the Public Prosecutors conducting cases concerning the crime of trafficking in human beings. The instructions include the issue of resignation from the prosecution of acts committed by victims of trafficking in human beings taking advantage of the existing legal measures (i.e. discontinuance of penal proceedings, a refusal to institute proceedings or an extraordinary mitigation of the penalty), which is of special importance, because actions of the victims can have features of such crimes as: illegal crossing the border or using falsified documents.

power arising from a specific state of affairs, or by means of the abuse of a position of vulnerability, or by means of giving or receiving payments or benefits in order to obtain the consent of a person having control over that other person;

2°. Recruits, transports, transfers, accommodates or shelters a person, including the exchange or transfer of control over that person, with the intention of exploiting that other person or removing his or her organs, if that person has not yet reached the age of eighteen years;

3°. Recruits, takes away or abducts a person with the intention of inducing that person to make him or herself available for sexual acts with or for a third party for payment in another country;

4°. Forces or induces another person by means referred to under 1° to make him or herself available for work or services or to make his/her organs available, or takes any action in the circumstances referred to under 1° which he knows or may reasonably be expected to know will result in that other person making him or herself available for work or services or making his or her organs available;

5°. Induces another person to make him or herself available for sexual acts with or for a third party for payment or to make his or her organs available for payment, or takes any action in relation to another person which he knows or may reasonably be expected to know will result in that other person making him or herself available for these acts or making his or her organs available for payment, if that other person has not yet reached the age of eighteen years;

6°. Intentionally profits from the exploitation of another person;

7°. Intentionally profits from the removal of organs from another person, if he knows or may reasonably be expected to know that the organs of that person were removed under the circumstances referred to under 1°;

8°. Intentionally profits from the sexual acts of another person with or for a third party for payment or the removal of that person's organs for payment, if this other person has not yet reached the age of eighteen years;

9°. Forces or induces another person by the means referred to under 1° to provide him with the proceeds of that person's sexual acts with or for a third party or of the removal of that person's organs;

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

Poland (Article 115 CC(PL))

"Human trafficking means recruitment, transportation, transfer, harbouring or receipt of persons with the use of the following:

- 1) violence or unlawful threat,
- 2) abduction,
- 3) deception,
- 4) fraud or taking advantage of inability for proper understanding of taken actions,
- 5) abuse of dependence in the relationship, abuse of critical situation or a state of helplessness,
- 6) provision or acceptance of material or personal benefit or promise thereof to a person taking care or having custody of another person, in order to abuse such person even if such abuse is performed upon the consent of such abused person, especially in prostitution, pornography or other forms of sexual abuse, in forced labour or services, begging, slavery or other forms of abuse of human dignity or for the purpose of acquiring

cells, tissues or organs in violation of the provisions of law. If the conduct of the perpetrator is directed against a minor, it constitutes human trafficking, even if methods or measures mentioned in sections 1-6 have not been applied.”

Romania (Law no. 286/17.07.2009)

“The recruitment, transportation, transfer, sheltering or receiving of a person with the purpose of his/hers exploitation, committed by:

- a) Constraint, kidnapping, misleading or abuse of authority;
- b) Taking advantage of the victim’s inability to defend, to express his/hers will or of the victim’s obvious state of vulnerability.”

United Kingdom

The Sexual Offences Act 2003 and the Sexual Offences (Northern Ireland) Order 2008 apply in case of trafficking for the purpose of sexual exploitation.⁴⁰

The Sexual Offences Act 2003, which came into force on 1st May 2004, introduced wide-ranging offences in England, Wales and Northern Ireland covering trafficking into, out of, or within the UK for any form of sexual offence. The equivalent Scottish provisions are contained in section 22 of the Criminal Justice (Scotland) Act 2003.⁴¹

Under section 145(1) of the Sexual Offences Act 2003 a person commits an offence if he arranges or facilitates the arrival in the United Kingdom of an individual (the "passenger") and: he intends to exercise control over prostitution by the passenger in the United Kingdom or elsewhere, or he believes that another person is likely to exercise control over prostitution by the passenger in the United Kingdom or elsewhere. Subsection 2 creates an offence in similar terms where the travel is within the UK. A further offence is committed for facilitating the transportation of a prostitute outside of the UK subsection 3.

Section 71 of the Coroners and Justice Act 2009 ("the 2009 Act") creates an offence of holding another person in slavery or servitude or requiring them to perform forced or compulsory labour. The offence came into force on 6 April 2010. Section 71 provides that:

1. A person (D) commits an offence if:
 - a. D holds another person in slavery or servitude and the circumstances are such that D knows or ought to know that the person is so held, or
 - b. D requires another person to perform forced or compulsory labour and the circumstances are such that D knows or ought to know that the person is being required to perform such labour.

What stands out when comparing the different anti-trafficking provisions is that all of the provisions have three main elements: 1) An action (recruitment/transport/reception), 2) Using a means, 3) for the purpose of exploitation, although these elements are not explicit in the UK.

⁴⁰ Group of Experts on Action against Trafficking in Human Beings (GRETA), *Report concerning the implementation of the council of Europe convention on Action against Trafficking in Human Beings by the United Kingdom* (GRETA(2012)6), Strasbourg, 12.09.2012.

⁴¹ http://www.ungift.org/doc/knowledgehub/resource-centre/Governments/UK_Action_Plan_to_Combat_Human_Trafficking_en.pdf. Accessed November 2014.

Those key elements are derived from the Palermo Protocol. The action shows movement of the victim into the exploitative situation or the effort to keep the victim within the situation by using one of the indicated means. Thus, the action is achieved by a means, which includes both violent and non-violent forms of coercion. The means are not considered in relation to the exploitation. All countries report that in case the victim is a minor, a means is not needed to prove human trafficking. In the Netherlands, the means can be directed at third persons rather than the victim him- or herself.⁴² Taking the example of the means mentioned in Art. 273f (1)(1) CC(NL), “violence or another hostile act”: a trafficker could for example assault a family member of the victim in order to control the victim.

The third element is the purpose of exploitation. Cyprus reports that “exploitation” is interpreted rather broadly and it includes the “exploitation of the prostitution of others or the forms of sexual exploitation including pornography, labour exploitation or services including forced labour or services, begging, forced pedlary and if it concerns children, it also includes the worst forms of child labour, slavery or practices similarly to slavery, servitude or exploitation of criminal activities, exploitation of a person to make adoption and exploitation of a person for removal, sale and trafficking of human organs or other biological substances, tissues and foetus”.

In the Netherlands, in order to determine whether there is a situation of exploitation, the judge is bound to compare the case to Dutch standards. In case of non-sexual exploitation (labour exploitation), living standards and working conditions are relevant, while the alleged victim in the sex industry is compared to the “Empowered Dutch prostitute”.⁴³ The National Rapporteur however, found that previous work in the prostitution sector played a role in the considerations of judges regarding the voluntary nature of the sex-work.⁴⁴ In Cypriot and Romanian legislation no examples are given of the types of exploitation, whilst in Poland and the Netherlands different kinds of exploitation are mentioned. It is furthermore interesting to note that the Dutch provision does not only criminalise the trafficking itself, but also the creation of the exploitative situation. To be punished under the Art. 273f (1)(4) CC(NL), the victim does not actually have to be exploited, but has to be made available for exploitation. The means is then directed at the exploitation rather than at the recruitment, as it is in Art. 273f (1)(1) CC(NL). This makes the Dutch article extensively applicable. Moreover, since the Dutch Supreme court ruled that the (aim of) exploitation is not a constitutive element,⁴⁵ and thus doesn’t need to be proven before court, the provision can be interpreted even more extensively. However, jurisprudence from the Netherlands shows that judges currently have different approaches to Art. 273f (1)(4) CC(NL). Esser and Dettmeijer-Vermeulen call for more clarification by the Supreme Court and argue that Art. 273f CC(NL) should be used for “real” trafficking. A restrictive interpretation would therefore be preferable.⁴⁶ But this is not the only part of the THB-provision that could be interpreted extensively. A lot of terms, such as “recruiting”, “taking”, “fraud”, “extortion”,

⁴² Nationaal Rapporteur Mensenhandel, *Mensenhandel. Jurisprudentie mensenhandelzaken 2009-2012*, BNRM, Den Haag, 2012.

⁴³ National Rapporteur (NL) 2012, p. 27, 120.

⁴⁴ National Rapporteur (NL) 2012, p. 66, 119.

⁴⁵ HR 20 december 2011, ECLI:NL:HR:2011:BR0448.

⁴⁶ Esser, Luuk, and Corinne Dettmeijer-Vermeulen, “Mensenhandel op een tweesprong. De omgang van rechters met de ruim geformuleerde mensenhandelgedraging in de delictomschrijving van artikel 273f lid 1 sub 4 Sr”, *Delikt & Delinkwent* 2014/48.

“deception”, ect. can be interpreted very extensively.⁴⁷ Additionally, profiting from the exploitation of another person is considered as human trafficking as well.

Another point to highlight is consent. In the Netherlands, consent is an irrelevant concept in determining whether someone is a victim of THB, once the means has been established.⁴⁸ Also in Cyprus, Poland and the UK, consent of the victim does not eliminate the possibility that this person is trafficked.

Sentences

With regard to the possible sentences, judges in all countries are able to impose imprisonment. In Cyprus the law (Art.6 L. 60(I)/2014) prescribes up to 10 years imprisonment for adults and (Art.10), 20 years for minor victims. The Netherlands, the UK and Romania mention maximum sentences in their provisions around approximately 10 years. In the Netherlands, there are several aggravating circumstances, which involve higher sentences: 15 years when the crime was committed by two or more persons acting in concert, in respect of a person under eighteen years old or in respect of a person whose position of vulnerability is being abused or when the crime is accompanied with violence; 18 years when serious violence has caused severe injuries and lifelong imprisonment or temporal imprisonment of maximum 30 years when the human trafficking has led to the death of the victim. The Dutch National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children (Dutch National Rapporteur for short) has reported that even though aggravating circumstances indicate that it is possible to impose a more severe sentence, in practice, this is not always the result. For example, victimizing a minor is an aggravating circumstance. Legally, for a conviction of trafficking a minor (Art. 273f(1): (2), (5), (8) CC(NL)), no means needs to be proven. In practice, the absence of the means leads to a reduced sentence.⁴⁹

Other countries, Romania and Poland, work with minimum-sentences. In both cases the minimum is 3 years of imprisonment. Taking into account the above, Romania thus has both a minimum and a maximum sentence for trafficking in human beings.

Furthermore, Poland reported that there are no express provisions in the CC(PL) on relieving of responsibility some who had been compelled to commit an offence, as is detailed in Art. 8 of the EU directive (the non-punishment clause). However, victims of THB can rely on more general criminal law defences, such as:

- Art. 26 CC(PL):
 - Whoever acts with the purpose of averting an immediate danger threatening any wellbeing protected by law, if the danger cannot otherwise be avoided but the well-being sacrificed has a lower value than that of the well-being rescued, he shall be deemed to have not committed an offence.
 - Whoever rescues any wellbeing protected by law, or sacrifices well-being which does not represent a value manifestly greater than the well-being being rescued,

⁴⁷ Lestrade, Sjarai, and Conny Rijken, “Mensenhandel en uitbuiting nader bepaald”, *Delikt & Delinkwent*, No. 9, 2014/21.

⁴⁸ HR 27 oktober 2009, ECLI:NL:HR:2009:BI7097 (NL).

⁴⁹ Kaandorp, Majorie, and Mirjam Blaak, *Child Trafficking in the Netherlands*, Unicef & Defence for Children – ECPAT the Netherlands, Voorburg, 2014; p. 72; National Rapporteur (NL) 2012.

he shall also be deemed to have not committed an offence. This means that a person who was threatened or forced into committing a crime would not be criminally liable.

- Art. 59(1) CC(PL): If the crime entails minor harm to the community and the maximum penalty is lower than 3 years of deprivation of liberty, the court may waive the imposition of penalty if it adjudicates a penal measure at the same time. When deciding on the extent of the harm to the community, the court will take into account whether the offender was forced into committing an offence.
- Art. 60(2) CC (PL): Even if the above cannot be taken advantage of, “the court may also apply an extraordinary mitigation of the penalty in particularly justified cases when even the lowest penalty stipulated for the offence in question would be incommensurate”. A case of a victim of human trafficking being compelled to commit an offence would most probably be considered such a particularly justified case.

[A2. How are related phenomena such as slavery, servitude and forced labour addressed in the legislation?](#)

Even though paragraph A1 showed that the case study countries made an effort to harmonize their legislation with the EU Directive, it is still common to find separate provisions dealing with phenomena related to human trafficking. For instance in Cyprus, in addition to penalizing trafficking in human beings as described in par. A1., Law 60(I)/2014 also criminalises other relevant activities: inter alia forced labour, begging and slavery.

In the Netherlands, although the concept of human trafficking is already very broad and comprehensive – so that phenomena such as forced labour are encompassed by the provision on human trafficking – some related phenomena are criminalised separately as well. Most of those are related to children.

However, Art. 274 CC(NL) includes a provision on slave *trade* but does not include slavery or slavery-like practices which are omitted in 273f CC(NL) as well.⁵⁰ Other provisions related to the slave trade and the use of slave ships are to be found in 275-277 CC(NL) but are never used. More related to human trafficking is Article 278 CC(NL) on bringing a person under the power of another person, which is also rarely used.

Grooming is criminalised in Art. 248e CC(NL). However, when it precedes trafficking – which mostly happens when the *loverboy-method* (see par. B1) is applied –, it is mostly not charged separately. The period of getting someone to fall in love with the offender and/or to loosen the bond between victim and his or her (safe) social surroundings is then seen as part of the trafficking.⁵¹

Child prostitution is criminalised from the perspective of customer in Art. 248b CC(NL). In this provision, only children between 16 and 18 years are included, because the concept of prostitution is incompatible with the concept of childhood (under 16). Under 16, acts that could

⁵⁰ Lestrade & Rijken 2014.

⁵¹ National Rapporteur (NL) 2012, p. 26, 89.

be compared to prostitution should thus be headed under sexual violence against children. Art. 250 CC(NL) prohibits bringing children in the prostitution when having a certain capacity (related to caretaking). Child pornography is also criminalised separately (Art. 240b CC(NL)), but can also be headed under Art. 273f CC(NL), just like child sex tourism is headed under Art. 273f CC(NL).⁵²

Illegal adoption is criminalised under Dutch law, but is only recognised as form of human trafficking when it was committed with the aim of exploitation.⁵³ Commercial surrogacy is also criminalised, but since it is not in some countries Dutch parents are involved in foreign commercial surrogacy abroad.⁵⁴ Even though the Netherlands signed the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography,⁵⁵ the sale of children without illegal adoption is not criminalised separately in Dutch Criminal Law. The Dutch legislator is of the opinion that the sale of children is punishable under Art. 273f CC(NL).⁵⁶

Not specifically related to children, Art. 197a-197c CC(NL) contain some prohibitions related to the phenomenon of THB, namely the smuggling of people, employment of illegal people and making a business out of the employment of illegal people. The maximum sentences of those articles are less severe than those of Art. 273f CC(NL).

Poland reported a list of provisions that are related to human trafficking:

- Article 8 (provisions of implementing the CC(PL): Whoever causes another person to become enslaved or conducts trade in slaves shall be subject to the penalty of deprivation of liberty for a term of no less than 3 years.
- Art. 115(23) CC(PL): Slavery is a state of dependence in which a person is treated as an object of property.
- Art. 189 CC(PL): Unlawful deprivation of liberty⁵⁷
- Art. 191 CC(PL):
 - § 1 Whoever uses violence against a person or an illegal threat to compel another person to a particular act, omission, or drift, is punishable by imprisonment to 3 years.
 - § 2 If the perpetrator acts in the manner specified in § 1 to force repayment of debts, shall be punished by imprisonment from 3 months to 5 years.
- Articles 270-276 CC(PL): Anyone who counterfeits, steals, retains, damages, destroys, renders unfit for use, conceals or removes a document of another person, whether for the

⁵² Nationaal Rapporteur Mensenhandel en Seksueel Geweld tegen Kinderen, *Mensenhandel. Negende rapportage*, Nationaal Rapporteur, Den Haag, 2013, p. 17.

⁵³ Guideline Human Trafficking (PPS(NL)).

⁵⁴ Kaandorp & Blaak, p. 22.

⁵⁵ Tractatenblad 2001, nr. 63 (NL).

⁵⁶ *Kamerstukken II* 2007/08, 31 001, nr. 34, appendix, p. 2-4 (NL).

⁵⁷ Madler, Veronika. "Trafficking in Human Beings: Labour Exploitation in Poland; Churches Commission for Migrants in Europe (CCME). 2.10.2010. Accessed September 2014:

http://www.ccme.be/fileadmin/filer/ccme/20_Areas_of_Work/10_Slavery_Anti-Trafficking/National_reports/2011-03-Poland_Report_GOING_BEYOND.pdf

purposes of human trafficking or not, is subject to a penalty of imprisonment for up to two years.⁵⁸

- The Act of 28 October 2002 on the liability of collective entities for acts prohibited under penalty (Journal of Laws of 2012, pos. 768 with later amendments). Art. 16, Pgr.1, point 9
 - The collective entity is subject to liability under the Act, where a person referred to in Art. 3, has committed a crime against humanity as defined in Article 119 of the Penal Code, and against liberty and public order, as defined in Article 189ai in Art. 252, Art. 255, Art. 256-258, Art. And Article 263. 264 of the Criminal Code.
 - Having regard to the above mentioned, rule of law must be observed that a collective entity is subject to liability for the crime of human trafficking, committed by a natural person referred to in Article 3 of the Act, if her behaviour has brought or could bring benefit to the company, even if non-pecuniary. One of the conditions of liability of the collective entity referred to in Article 4 of the Act, is a confirmation of the offence by an individual decision of the relevant court.

Furthermore, in addition to criminal legislation, the social assistance, aliens' and labour legislation have been developed over the years to provide for a number of rights of victims of human trafficking. Criminalisation of production of child pornography and the criminalisation of illegal employment of foreigners, including foreigner victims of human trafficking are thus also relevant. However, they are not seen as directly related to human trafficking legislation and prosecution in Poland.

In Romania, slavery is separately criminalised in Art. 209 CC(RO): "Placing and/or keeping a person in slavery and trafficking in slaves are punished by 3 to 10 years of imprisonment and the prohibition of exercising certain rights". Although slavery is criminalised separately, the possible punishment is thus the same as the punishment that can be imposed for human trafficking.

Forced labour is separately criminalised in Art. 212 CC(RO), which can be punished by 1 to 3 years of imprisonment. This is a considerably lower sentence than the sentence that can be imposed for human trafficking.

Lastly, Acts such as pimping, identity fraud and illegal border crossing are criminalised through the CC(RO).

In the UK, slavery, servitude and compulsory labour are addressed under the Coroners and Justice Act 2009.⁵⁹ This act explicitly criminalises slavery.⁶⁰ As mentioned before Section 71 of the Coroners and Justice Act 2009 creates an offence of holding another person in slavery or servitude or requiring them to perform forced or compulsory labour. The offence came into force on 6 April 2010 and applies in England, Wales and Northern Ireland.

⁵⁸ Group of Experts on Action against Trafficking in Human Beings (GRETA), *Report concerning the implementation of the Council of Europe convention on Action against Trafficking in Human beings by Poland* (GRETA(2013)6), Strasbourg, 6.5.2013.

⁵⁹ GRETA (UK) 2012.

⁶⁰ TIP (UK) 2014.

Having discussed the phenomena related to human trafficking that are separately criminalised, some differences between the countries can be seen. Where the human trafficking provisions are already very broad and comprehensive (e.g. the Netherlands, Poland) labour exploitation is not separately criminalised because this is thought to be not necessary anymore. In Cyprus, Romania and the UK, forced labour is criminalised separately. It stands out that in Romania, forced labour has much less severe sentences when it comes to forced labour.

A3. What other legislation relevant for the criminalisation of THB does exist (e.g. criminalisation of exploitation of migrants, labour law criminalising labour exploitation)?

There are different kinds of legislation that are relevant to the criminalisation of THB. The following categories will be discussed: legislation related to prostitution, migration and/or asylum, the labour market, the protection of children, organised crime and policy.

Legislation related to prostitution

In the Netherlands, a bill on the regulation of prostitution and combating abusive practices in the prostitution sector (*Wet reguleren prostitutie en bestrijding misstanden seksbranche, Wrp*) is pending at the senate. This bill offers a national, uniform framework for prostitution policy. However, the registration of prostitutes and the obligation for customers to ascertain themselves that “their” prostitute is working voluntarily have been taken out of the bill.⁶¹ In October 2014 a new legislative proposal was launched to criminalise the customer of the exploited prostitute.⁶² Currently, prostitution is regulated in a decentralised way. Municipalities are involved in the regulation and control of the prostitution sector. Also a diversity of licences and permits are relevant to the topic of trafficking in human beings. For example, hotels, bars, brothels need licences or permits to carry out their business. In case of suspicions related to criminal activity, licences or permits can be withdrawn or refused.⁶³

In Romania, prostitution is no longer criminalised since 2014, when the new CC(RO) entered into force.

In the UK, the clients of prostitutes that are subjected to exploitation can be penalized. The payment for sexual services provided by a prostitute subjected to force, deception, threats or other forms of coercion, is criminalised by the Policing and Crime Act 2009 in England, Wales and Northern Ireland, and trafficking for the purpose of the removal of organs is criminalised by the Asylum and Immigration (Treatment of Claimants) Act 2004, the Human Organ Transplants Act 1989, and the Human Organ Transplants (Northern Ireland) Order 1989.

⁶¹ National Rapporteur (NL) 2013, p. 19.

⁶² Text available at: <http://www.christenunie.nl/k/nl/n32606/news/view/666500/559336/initiatiefwet-christenunie-sp-en-pvda-ook-klant-verantwoordelijk-bij-gedwongen-prostitutie.html>, accessed November 2014.

⁶³ See Group of Experts on Action against Trafficking in Human Beings (GRETA), *Report concerning the implementation of the Council of Europe convention in Action against Trafficking in Human beings by the Netherlands* (GRETA(2014)10), 18.06.2014, p. 17.

Legislation related to migration and/or asylum

In Cyprus smuggling is penalized with a sentence up to 8 years imprisonment or a fine up to 34,172 EURO or both by Art.4 s.19a, L. 8(I)/2007 CC(CY).

In the Netherlands, smuggling of migrants is a criminal offence under 197a CC(NL) as is the employment of illegally residing migrants. In many transnational trafficking cases the person entered the country illegally and if the trafficking was as well the smuggler or organised or facilitated the smuggling, this offence is included in the indictment as well.

Poland has criminalised smuggling as well, which is sometimes related to human trafficking.

In Romania the non-punishment clause applies in case a trafficking victims crossed the border illegally according to the anti-trafficking law (Law 678 Law 678/2001 for combating and preventing the trafficking in persons and the New Criminal Code). Based on the Emergency Ordinance no. 194/2002 and the Law no.678/2001, the foreign victims (citizens from third countries, non EU Member states) could be granted a temporary residence permit at the prosecutor's or judge's request.

The UK Asylum and Immigration Act recognises human trafficking as a criminal offence. The provisions relating to trafficking of people for exploitation, including by way of forced labour, slavery and organ harvesting, are contained in Sections 4 and 5 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004. Section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 was amended by the Borders, Citizenship and Immigration Act 2009 to combat trafficking of children and vulnerable adults where they are brought into the UK for the purpose of obtaining benefits.⁶⁴ Moreover the UK criminalises the facilitation of illegal entry. Sometimes traffickers are convicted only for this act, where it is for example easier to prove and as such would increase the chance of conviction. The offence is currently described in section 143 Nationality, Immigration and Asylum Act 2002 which came into force on 10 February 2003.

Legislation related to the labour market

Dutch legislation to avoid labour exploitation of migrants, staying illegally in the Netherlands is related to both the labour market and to migration. The Netherlands has implemented Directive 2009/52/EC providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals ("Sanctions Directive").⁶⁵ Employers are bound to register the employment of illegally staying third-country nationals as meant in the Directive for whom it is not prohibited to work in the Netherlands. Furthermore, they are bound to offer minimum standards (Art. 2 Directive) to these people. Employees can hold the employer responsible. If the employer does not register the employees, it is assumed that the employment lasted for at least six months, making the employees eligible to receive minimum standards for those six months according to Article 23 of the Aliens Employment Act.

Also the Polish New Aliens Act, which entered into force on 12 December 2013, is related to both migration and the labour market. It contains a package of measures to facilitate introduction

⁶⁴ GRETA (UK) 2012.

⁶⁵ Sanctions Directive (2009/52/EC), see *Stb.* 2012, 143 (NL).

for foreigners working and studying in Poland and those who wish to legalize their stay. The novelty that the Act introduces is to grant a single permit - both to stay and work. A foreigner who works in Poland will be able to apply for a residence permit and work in a single procedure. Before the new law the employer was responsible for applying for a work permit for the affected employee.

Furthermore, Poland has some provisions on the effects of delegating work to foreigners residing contrary to the provisions on the Polish territory (Art. 10 Act of 15 June 2012, Journal Laws of 2012, pos. 769).

1. Who entrusts the job to a foreigner residing without a valid document entitling to stay on Polish territory under a specific use, is punishable by imprisonment up to 3 years.
2. The same penalty shall apply to whom entrusts the job to a foreigner residing without a valid residence permit to the territory of the Polish Republic, who is a victim of specified in Art. 189a § 1 of the Act of 6 June 1997. - Penal Code (Journal. Laws No. 88, item. 553, as amended. D).

The criminalisation of illegal employment of foreigners, including foreign victims of human trafficking is foreseen in Polish law to address the issue of demand. The advantage of this provision is that the perpetrator's knowledge that a foreign person is a victim of human trafficking does not need to be proved.⁶⁶

Since 2008 the National Labour Inspectorate (PL) has been the executive authority in Poland responsible for overseeing the execution, inspection, and observance of Polish labour law.⁶⁷ During the first three years of the National Inspectorate overseeing the employment conditions of foreign workers, there were one thousand cases reported of foreigners working without a legal permit. While illegally hiring a foreign worker does not constitute trafficking, in 2009 the National Inspectorate accused 215 people of not respecting labour laws by not paying Indonesians, Ukrainians, and Filipinos for their work. This might suggest that there may be trafficking violations taking place in Poland. The IOM reports that according to their offices in Minsk, Belarus, and Kiev, Ukraine, it provided equal support to Belarusian and Ukrainian victims facing sex-trafficking and labour trafficking in Poland. The vulnerability of foreigners falling prey to exploitation in sectors like domestic work, agriculture, shipyard building, forced begging, remains to be seen.⁶⁸

Legislation with regard to the protection of children

Paragraph A2 showed that particularly in the Netherlands, some phenomena related to human trafficking were separately criminalised with regard to children. In Romania, rather than criminalisation, there is a large body of protection-provisions related to children. Therefore, the body of legislation related to children (including the criminalisation) of Romania, is presented under this heading.

⁶⁶ GRETA (PL) 2013, p. 32.

⁶⁷ More information on the National Labour Inspectorate here: See: Our Statutory Responsibilities, National Labour Inspectorate. Accessed November 2014: <http://www.pip.gov.pl/en/about-us/18279,our-statutory-responsibilities.html>

⁶⁸ Interview Stana Buchowska, August 8, 2014

Law 272/2004 – on the protection and promotion of the rights of the child comprises a whole range of related aspects: safeguarding citizens’ fundamental rights and freedoms, characteristics of the family environment, of alternative care, of the health system, and services provided to refugees, child protection based on non-discrimination in order to promote and respect the best interests of the child, equal opportunities, etc. Art. , 91, 95, 109 and 110 provide that the child is entitled to protection against economic exploitation, abuse or neglect, kidnapping and any form of trafficking, emphasizing once again the need to prevent and combat exploitation, trafficking and abuse among children:

- The protection of the child against economic exploitation (Art. 91):
 - (1) The child has the right to be protected against exploitation and cannot be forced to perform any work with a potential risk and which is likely to compromise the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.
 - (2) Any practice through which a child is given away by one or both parents or by his / her legal representative, in exchange or not for a reward, with the purpose of exploiting the child or his / her work, is forbidden.
- The protection of the child against abuse or neglect (Art. 95(1)): Child abuse means any voluntary action of a person who has a relation of responsibility, trust, or authority towards the child, through which the life, the normal physical, mental, spiritual, moral, and social development, the bodily integrity, and the physical and mental health of the child are endangered.
- The protection of the child against kidnapping and any form of trafficking (Art. 109(1)): The Ministry of the Administration and Interior and the National Authority for the Protection of the Rights of the Child, in cooperation with the Ministry of Education and Research, shall undertake the necessary steps in order to adopt all legal, administrative and educational measures that are destined to ensure the efficient protection against any forms of internal or international child trafficking, for any purpose or in any form, including by the child's own parents.
- The protection of the child against other forms of exploitation (Art. 110):
 - (1) The child has the right to be protected against any form of exploitation.
 - (2) The public authorities and institutions, according to their responsibilities, adopt specific regulations and enforce adequate measures in order to prevent, among others:
 - a) the illegal transfer and the failure of returning of the child;
 - b) the conclusion of adoptions, either national or international, for any other purposes than the best interests of the child;
 - c) sexual exploitation and sexual violence;
 - d) the kidnapping and trafficking of children, for any purpose and in any form;
 - e) the involvement of children in armed conflicts;
 - f) the forced development of children's abilities to the detriment of their harmonious physical and mental development;
 - g) the exploitation of the children by the media;
 - h) the exploitation of children as part of scientific researches or experiments.

Furthermore, law 196 on preventing and combating pornography was enacted in 2003. Article 10, in particular, incriminates recruitment and any act to force or use a minor in actions with an obscene character; any other such acts shall be punishable by 3 to 12 years imprisonment and the interdiction of certain rights.

A4. What are the difficulties encountered in the legal framework? Are some groups more vulnerable to become THB victim because of direct or indirect discrimination?

All countries report that there are no groups discriminated by the law as such, but that there are several groups discriminated due to ineffective or inappropriate implementation of the existing legislation or that there are certain risk factors that make some groups more vulnerable to becoming a victim of THB. In this paragraph, both the legislative challenges and the specific groups that become vulnerable will be discussed.

Legislative challenges

The Dutch Art. 273f CC(NL) is a very complex article, providing prohibitions of different kinds of trafficking. The comprehensiveness that is aimed for is, however, not fully warranted. First of all, exploitation *an sich* is technically spoken not criminalised nor defined.⁶⁹ Art. 273f (1)(1) CC(NL) criminalises the recruitment by use of a means with the *intention to exploit*. It should be noted that intention is the strictest – and therefore hardest to prove – form of *dolus*. The act that is referred to is the act of recruitment rather than the act of exploitation. Technically, exploitation is therefore not needed to prove human trafficking as criminalised in Art. 273f (1)(1) CC(NL). On the other hand, Art. 273f(1)(4) CC(NL), according to the interpretation by the Dutch Supreme Court, requires the creation of an exploitative situation by means, so that the victim is available to exploitation. Intention and the start of the actual exploitation are not required.

Furthermore, slavery, meaning to keep people as property – so not falling under the definition of people smuggling (Art. 197a CC(NL)), slave trade (Art. 274 CC(NL)), ‘kidnapping’ (Art. 278 CC(NL)), abduction (Art. 281 CC(NL)) or related offenses – is technically not criminalised.⁷⁰ In order to bring slavery under the heading of Art. 273f CC(NL), slavery should be accompanied by forced labour or sexual activities.

In Poland, several important challenges remain to be tackled: challenges to victim identification and provision of services remain and is related to problems in issuing residence permits as will be explained in the following section. As in many other Member States compensation to victims is still difficult to realize in Poland. More in general there is a need for adapting current human trafficking policy, to include more focus on trafficking for labour exploitation.

Further, attention should be paid to the particular vulnerability of children. The effectiveness of prosecutions and investigations needs to be strengthened. The training of service providers and law enforcement representatives and the improved coordination within the national institutions

⁶⁹ Lestrade & Rijken 2014.

⁷⁰ Lestrade & Rijken 2014.

and information sharing as well as the development of an efficient training system of law enforcement, judiciary and other front line practitioners might contribute thereto.⁷¹

Finally, improvement of data gathering, through a harmonized system of statistics and other relevant trafficking data – on perpetrators and their modus operandi should be achieved.⁷²

There are difficulties encountered with the identification of trafficked persons, and obstacles related with the implementation of legal provisions in practice. An issue is that Polish workers exploited in labour abroad, once returned, are not eager to be involved in court cases, they do not want to waste their time and to face difficult long term procedures. Polish workers abroad are reported to seek work elsewhere with employers that appear to be less exploitative because the incentive to earn more income abroad remains.⁷³

Also the training for professionals, including front line officers is currently not sufficient and could benefit from further development. Border guards and front line officers do not have sufficient knowledge and practice on the issue of THB, even though there is a system in place. There are further some gaps in assisting children, with foreign unaccompanied minors between 14-18 years of age as most vulnerable. Several institutions are supposed to assist these groups, but these organisations do not have the capacity/knowledge to identify and refer trafficked persons, among others because there is limited cooperation between the different bodies and they do not know each other. There are also problems with lack of knowledge on the issue among judiciary, partly due to the fact that sentences given for human trafficking are low in practice. Additionally, often cases are not punished as a human trafficking crime, but punished for other crimes and lower penalties are provided. Further police are not always satisfied with the work of the prosecutor's office, while the prosecutor's office is not always satisfied with the actions of judges.⁷⁴

Vulnerable groups

Having discussed the difficulties in the legal framework, some vulnerable groups have already been identified: children and migrants. Those groups are said to be vulnerable in all participating countries. They will be discussed in more detail below. However, in some places, also domestic victims are vulnerable.

In the Netherlands, although this might seem counter-intuitive, Dutch victims form a vulnerable group. They are excluded from centrally regulated residence in specialised shelters, because those are reserved for foreign victims linked to the B8-3 procedure. Apart from the fact that it is more difficult to find specialised help in shelters for Dutch victims, they are also not monitored like foreign victims, which put them in an extra-vulnerable position.⁷⁵ The UK reported a similar concern regarding the attention to UK-born children.⁷⁶

⁷¹ GRETA (PL) 2013.

⁷² Interview Stana Buchowska, August 8, 2014

⁷³ Interview Stana Buchowska, August 8, 2014.

⁷⁴ Interview Stana Buchowska, August 8, 2014.

⁷⁵ Rijken, Conny, Jan van Dijk, and Fanny Klerx-van Mierlo 2013, *Mensenhandel: het slachtofferperspectief. Een verkennende studie naar behoeften en belangen van slachtoffers mensenhandel in Nederland*, Intervict, Tilburg, 2013, p. 35.

⁷⁶ See <http://www.theguardian.com/society/2014/feb/25/children-trafficked-between-uk-towns>.

In Romania, ethnic differences among the indigenous population were presented as a factor of trafficking, but not as a direct or indirect discrimination but to a complex of characteristics of, for example Roma people. A number of socio-economic and demographic factors are contributing to a higher risk of being trafficked for children, such as: the great mobility of Roma families; high birth rate, a higher rate of school absenteeism and school-drop out as compared to the average Romanian population and poverty.⁷⁷ The ethnic discrimination was seen as a contributing factor to a low level of social networking for victims, making thus vulnerable to the recruiter's attention and affection. In the study "Hopes for Sale" one victim stated in one interview that she was rejected by her schoolmates (they didn't want to spent time with her) or by neighbours due to her Roma origins.⁷⁸

Furthermore, in Romania, the legal framework on accessing the labour market, the education system or the exercise of any other rights doesn't discriminate persons belonging to different minorities, genders, religious, and sexual orientation, thereby promoting personal, civil, political, economical and social rights. The equality of opportunities between men and women is promoted by adopting specific public policies, a Strategy being approved in this respect, including concrete measures and activities in specific areas such as integration on the labour market, social life, roles and gender stereotypes, women's and men's' participation at the decision making process. Public and private institutions have an ongoing concern regarding the fight against marginalization, social exclusion, segregation and any other kind of discrimination, by developing public debates on these issues, round tables with media representatives addressing means of eliminating gender stereotypes and any other discrimination within public disseminated information and other related events.

Migrants

A majority of the victims that are identified in the Netherlands are not of Dutch origin. A lot of victims are brought to the Netherlands by their traffickers and do not have a legal basis to stay in the Netherlands. Chapter B8-3, formerly numbered and known as B9, of the Aliens Circular (also called the Residence Regulation for Trafficking in Human Beings), grants a temporal residence permit to victims of human trafficking who are either still in the three-month reflection period to reflect on whether they want to make a formal statement or who want to cooperate with the criminal investigations.

In the Netherlands, the position of migrants is said to be more vulnerable because the framework of assistance and protection of foreign victims via the B8-3 regulation poses some problems. Rijken, Van Dijk and Klerx-van Mierlo have indicated several problems that are related to the regulations as described above:⁷⁹

- There is no formal identification agency. Indirectly, the police and KMar can be seen as identification agencies because they can grant the B8-3 reflection period to the victim. However, there is no agency clearly defining exploitation.

⁷⁷ National Agency against Trafficking in Persons, *Child Trafficking in Romania: Study on the recruitment process*, Bucharest 2009, p. 41.

⁷⁸ AnimaNova, *Speranțe la vânzare* Qualitative research regarding trafficking for sexual exploitation in Romania and Italy in the period 2007-2011, (a study performed under the project "AnimaNova - Labour inclusion for trafficked victims"), Bucharest, Romania, April 2012, p.44.

⁷⁹ Rijken, Van Dijk & Klerx-van Mierlo 2013, p. 38-39.

- Other institutions than police do not play a role in identification. Related to the first problem, there are a lot of agencies other than the police and KMar (the border police) that might have contact with victims (such as labour inspection agencies and social workers). However, those agencies might be helpful in the identification process.
- Police treats victims on their potential to contribute to criminal investigations. This means that if the investigations are not feasible, for example because of a lack of information or evidence, victims are not regarded as such (anymore). In this way victimhood *de jure* is mixed up with factual victimhood.
- Within immigration detention centres, victimhood is not effectively identified. This means that victims are not recognised as such and as a consequence do not have access to protection and assistance.

Identification is even more difficult when it comes to victims staying illegally in the Netherlands. Most often, not the identification of their victimhood, but their residence status is prioritized.⁸⁰ This also means that people staying illegally in the Netherlands are afraid of contacting the police. In this respect, the Dutch framework of combatting THB might be seen as discriminatory.⁸¹

In Poland, migrants and migrant workers going abroad are seen as vulnerable. Some of them are undocumented workers coming to Poland. Ukrainian groups traditionally come to Poland to work in the agriculture sector (harvesting). As of 2010, there have been more and more cases of victims from ex-Soviet union countries like Uzbekistan, Tajikistan and Belarus, and victims from Asia (Mongolia, China, Vietnam, Philippines, Bangladesh and Thailand). Furthermore, the number of victims from Bulgaria, Romania and Moldova has increased. These groups are rarely recognised as being trafficked. However, their victimisation is seen in the light of work exploitation and violation of the labour law, thus leading them to become increasingly vulnerable to trafficking.⁸² Roma people, including children, from Romania and Bulgaria are mainly victims of forced begging. In recent years, there have been cases of human trafficking for labour exploitation in diplomatic households.⁸³

In the UK, migrant women are cited as a group vulnerable to human trafficking in the UK. A 2010 report of Project Acumen⁸⁴ estimated that out of 17.000 migrant women involved in off-street prostitution in England and Wales, 2.600 were trafficked and a further 9.200 could be vulnerable to trafficking.⁸⁵ The risk for men, who are vulnerable to forced labour, is also heightened when they are migrants. The Trade Union Congress established a Commission on Vulnerable Employment which estimated that there were some two million workers in the UK in vulnerable employment, without contract of employment, working through agencies or with reduced rights because of their immigration status, making them more vulnerable to human

⁸⁰ Rijken, Van Dijk & Klerx-van Mierlo 2013, p. 31.

⁸¹ Compare to GRETA (NL) 2014, p. 18.

⁸² CCME (2010).

⁸³ Interview Stana Buchowska, 8 August 2014.

⁸⁴ Project Acumen is a wide-ranging study led by the Regional Intelligence Unit for the South West in the UK. Its goal is to measure the extent of trafficking and the techniques used by traffickers in England and Wales (2010 Project ACUMEN Report)

⁸⁵ GRETA (UK) 2012.

trafficking.⁸⁶ In combination with being a migrant, also the lack of a right to change employer is a risk factor. In the UK, domestic servitude is reportedly higher in diplomatic households compared to private households.⁸⁷

Children

Children are seen as a vulnerable group in each country, especially when they are unaccompanied. In the Netherlands, their vulnerability is attributed to the framework which offers too little protection.⁸⁸ The critique is that “the Dutch approach to human trafficking shows limited attention to the special status of victims”.⁸⁹ In principle, children are treated in the same way as adults. However, this treatment could be burdensome. For example, the requirement to cooperate with police investigations and the criminal trial in order to be eligible for residence in the Netherlands is seen as burdensome, particularly for children.⁹⁰ With regard to the protection and assistance of children, the Netherlands does fully comply with the directive (Art. 15).

Conclusion

The diversity in implementation and interpretation of the trafficking definition as described in the overall assessment of the EU legal and policy framework is clearly reflected in the country reviews, regardless the limited number of countries researched. Differences exist on the separate criminalisation of related phenomenon and the implementation of the means. Some states have a very broad understanding of the term means, which considerably enlarges the scope of the definition. Although separate criminalisation of different exploitative practices advocates clarity it includes the risk that victims of such crimes lack victim protection specifically established for THB victims as strictly speaking they cannot be considered victims of human trafficking.

A number of other problems and challenges indicated in the legal and policy framework are highlighted in the country reports. The vulnerability of certain groups, especially unaccompanied migrant children and Roma people is flagged in most countries and needs further scrutiny. Furthermore, the treatment of migrants in the context of trafficking, its relation with migration strategies and combating of smuggling is complex. Anti-trafficking policies and migration strategies are not always tuned and a further understanding of the interrelatedness between trafficking and smuggling would help to achieve that aim.

⁸⁶ GRETA (UK) (2012).

⁸⁷ GRETA (UK) (2012).

⁸⁸ Defence for Children & Unicef, *Jaarbericht kinderrechten 2014*, Leiden/Voorburg, 2014, p. 17; Kaandorp & Blaak 2014, p. 5, National Rapporteur Mensenhandel en Seksueel Geweld tegen Kinderen, *Mensenhandel in en uit beeld II. Cijfermatige rapportage 2008-2012*, Nationaal Rapporteur, Den Haag, 2014, p. 33, 83; TIP (NL) 2014, p. 289.

⁸⁹ Kaandorp & Blaak 2014, p. 5.

⁹⁰ Jaarbericht kinderrechten 2014, p. 18; Kaandorp & Blaak 2014, p. 70.

PART B: Increased prosecution, including inter-state and transnational cooperation between law enforcement authorities

B1. What is the modus operandi on THB?⁹¹

Human trafficking involves different stages; recruitment, (transfer/movement) and exploitation. This is also seen in the different roles that the suspected traffickers have. Most of them are pimps, others are recruiters or bodyguards, or they take care of the transfers or documents. Traffickers rarely work in isolation.⁹² On the contrary, human trafficking can take place via a criminal organisation that operates internationally⁹³ although it seems that the majority operate in rather small networks and are to a limited extent involved in other forms of crime that are not directly related to human trafficking. Trafficking in and of itself is easily committed through other offences such as violent crimes, and drug abuse and possession and to a lesser extent, drug dealing or traffic.⁹⁴ Except for the (suspected) traffickers there are also those who *facilitate* the situation of exploitation or the trafficking. Those persons are normally not seen as a suspect within the criminal trial. An example is the operator of the place in which the exploitation takes place.⁹⁵ Below, the different stages and phases of human trafficking are discussed.

Origin and destination

The first thing to notice is that while Romania is predominantly a country of origin (although victims are trafficked within Romania, to a large extent (81%) they are trafficked to other countries⁹⁶), most of the other countries (Cyprus, the Netherlands, UK) are better characterized as a country of destination: the country that victims are trafficked to. This does not mean that there are no victims trafficked out of these countries or trafficked within one and the same country (for example the UK reports nationals trafficked abroad⁹⁷), but there are more victims trafficked into the country. Only Poland can be seen as both a country of origin and of destination, as well as transit country. This can be explained by its geographical location.

The main countries of destination for Polish victims of trafficking are Germany, the Netherlands, Belgium, Spain, Sweden, France, Italy and the UK. The main countries from which victims were trafficked to Poland in 2013 are Romania, Bulgaria, Ukraine, Vietnam, Philippines, Russia, Cameroon, Kenya, Morocco, Moldova and Uganda. A major route of human trafficking in and through Poland is from the east (Belarus and Ukraine) to the west (Germany and onwards). Along this route, victims from Afghanistan, Bangladesh, India, Pakistan and Sri Lanka are

⁹¹ In the TRACE project the modus operandi of traffickers is more extensively researched. The findings of that part of the study can be found in: *Report on the relevant aspects of the trafficking act (geographical routes and modus operandi) and on its possible evolutions in response to law enforcement* (forthcoming), that will be made available on the TRACE website: www.trace-project.eu (Accessed 14 November 2014).

⁹² National Rapporteur (NL) 2014, p. 168, 176.

⁹³ PPS (NL) *Jaarbericht 2013*, accessible via: <http://www.om.nl/@162898/jaarebricht-2013/>, p. 27.

⁹⁴ See also TRACE Deliverable 1.3/1.4 on the macro and micro networks related to human trafficking.

⁹⁵ National Rapporteur (NL) 2014, p. 181-182.

⁹⁶ National Agency against Trafficking in Persons *National Report Regarding Trafficking in persons in 2012*, Bucharest, 2013.

⁹⁷ See <http://www.theguardian.com/society/2014/feb/25/children-trafficked-between-uk-towns>; See also report on Rotherham case: <http://www.independent.co.uk/voices/comment/rotherham-child-sexual-abuse-scandal--the-lessons-asian-womens-voices-go-unheard-9701622.html>. Accessed October 2014.

found. They often fly from capital cities of their native countries to Moscow (almost exclusively by Aeroflot) or travel to Moscow by road or rail. Next, they are transported by road to the vicinities of Minsk, Kiev or other large cities adjacent to Poland, and ultimately are smuggled through Poland or enter through visas (obtained legally or not). Very frequently the final stop before arriving in Poland is Lithuania.

Two routes of lesser use are those leading from the east to south and from south to west. The former features similar initial stages as the one just described, although after crossing eastern Polish border, it turns south to the Czech Republic. This route is often used by those migrants who in earlier attempts failed to enter Germany (i.e. to West-Germany). The latter route brings to Poland citizens of Iran, Turkey and certain North African and Middle East countries who usually first fly to Istanbul and next use road transportation to reach the Polish-Czech, Polish-Slovak or a south corner of the Polish-Ukrainian border.

Trafficked migrants for whom the ultimate destination is Poland enter through Germany and the Czech Republic (Vietnamese victims), Slovakia (Romanian and Ukrainian victims) or Ukraine (Armenians and Ukrainians). It might be added that frequently migrants use a variety of transportation means with the same travel package (including a plane, truck, taxi, railway, boat and by foot).

This summary of trafficking routes that mainly focuses on the victims that arrive in and depart from Poland does confirm the earlier sketched divide in countries of origin and countries of destination. The Netherlands and the UK both are on the western side of Europe, and are therefore countries to receive victims from the east. In the UK, where statistical information is available only as of 1 April 2009, when the National Referral Mechanism (NRM) (UK) was set up. In the two-year period to 31 March 2011, the nine most common countries of origin of foreign victims, accounting for 60% of the referrals, were Nigeria, China, Vietnam, Romania, the Czech Republic, the Slovak Republic, Uganda, India and Albania. The number of UK nationals was 52. Concerning children, 67% of the referrals came from five countries: Vietnam, Nigeria, China, UK and Romania.⁹⁸ Out of the potential victims, 497 were indeed identified as victim of human trafficking (i.e. 33% of the initial referrals); of them, 45 were UK nationals and 198 were nationals of other EU Member States.

Cyprus should be seen as a country of destination in the east-to-south-route. Over the past few years, victims of trafficking in human beings have been mainly nationals from countries of the former Soviet Union. However, recently, the number of identified victims from Eastern Europe, India, the Philippines, Morocco and Vietnam has increased and taken the lead

In the rest of this report, unless stated otherwise, when it concerns victims of THB in Cyprus, The Netherlands, Poland, Romania or the UK, it concerns victims who are exploited in that country, as it was their destination. So for example when reporting numbers of victims, this includes victims who are exploited in that specific country, not victims who are trafficked out of the country and are exploited somewhere else.

⁹⁸ GRETA (UK) 2012.

Purpose of the trafficking

The majority of victims in Cyprus and the UK are trafficked for the purpose of sexual and labour exploitation. In the UK, out of the 1.481 *potential* victims referred to the NRM, 621 were referred as potential victims of sexual exploitation, 465 as potential victims of labour exploitation, and 253 as potential victims of domestic servitude.

In Poland and the Netherlands, both labour exploitation and forced prostitutions are the main forms. Victims that are trafficked from Romania are also mainly trafficked for purposes of forced labour in the agriculture sector (men) and forced sex (women and girls). Furthermore, Romanian boys are targeted for forced begging. Also in the UK, where most victims are trafficked for sexual exploitation, there is a growing number of men who are trafficked for labour exploitation. Child trafficking victims are brought to the UK for a whole host of purposes, including sexual exploitation, domestic servitude, benefit fraud, cannabis farming and forced criminality such as street begging, pick pocketing and shoplifting. This shows that victim characteristics are related to the type of trafficking.

To look a little bit broader: the purpose of the trafficking might be found in the increased demand for sexual services, cheap labour force and the interest of the employers to gain profit with minimum investment. Those demands directly influence the development of trafficking workers. Moreover, the similarities between the business of trafficking in human beings and other types of business, characterized by demand and offer, led the specialists in the field of THB-analysis to consider the traffickers from the perspective of persons who rationally choose the type of the crime, the victim, the moment and the place of the crime.⁹⁹

Recruitment

In Poland, the recruitment of victims of labour exploitation or forced labour is sometimes carried out through deception and attractive work offers. The recruiters offer the jobs through newspapers (local and national) and Internet-advertisement.¹⁰⁰ Victims of sexual exploitation are also recruited through the Internet,¹⁰¹ or through friends, acquaintances or relatives.¹⁰² Violence is not always part of the recruitment. When victims are trafficked from Poland as a country of origin, it is frequently reported that violence was withheld until the victims have reached their country of destination.¹⁰³

⁹⁹ OSCE Office of the Special Representative and Coordinator for Combating Trafficking in Human Beings, *Analysing the Business Model of Trafficking in Human Beings to Better Prevent the Crime*, OSCE/Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, Vienna, 2010, p. 29.

¹⁰⁰ Jokinen, Anniina and Natalia Ollus et al. "Trafficking for Forced Labour and Labour Exploitation in Finland, Poland and Estonia." *European Institute for Crime Prevention and Control*, 2011. Accessed October 2014: <http://ift.ee/admin/upload/files/FLEX%20HEUNI%20report%2068.pdf>

¹⁰¹ Dixon, Jr., Judge Herbert, "Human Trafficking and the Internet* (*and Other Technologies, too)", *The Judges Journal: American Bar Association*, Vol 52, No. 1, September 2012. Accessed September 2014: http://www.americanbar.org/publications/judges_journal/2013/winter/human_trafficking_and_internet_and_other_technologies_too.html#2

¹⁰² United Nations Office on Drugs and Crime (UNDOC), *Trafficking in Persons in Europe for Sexual Exploitation*, United Nations. Accessed September 2014: http://www.unodc.org/documents/publications/TiP_Europe_EN_LORES.pdf

¹⁰³ UNODC (Trafficking in Persons in Europe for Sexual Exploitation).

As commented on above, networks of traffickers have members with different and well-established roles. In Romania, the young ones have recruiting tasks and the elder ones have roles in the direct exploitation of the victims or in the coordination of the exploitations. This distribution of roles allows the recruiters to justify their “innocence” to the victims and the impossibility to intervene to remove the victims from the traffic and the exploitative situation. Most of the traffickers are men. There are women involved, but not many. There are various tasks within the recruitment process: persuading victims to accept offers, support and prepare victims for transport and “training” victims for future tasks they have to fulfil the moment they arrive at the destination.

A *modus operandi* in recruitment is called the loverboy-method in the Netherlands. Traffickers (men) create a (love) relationship with the intended victim (girl/woman). They gain the trust of the girl by treating her like a princess. When the girl has become dependent, she is forced to work in the sex-industry or is exploited otherwise. Because of the dependency, she is not likely to leave the exploitative situation easily. The period of grooming is seen as a stage of THB in the Netherlands.¹⁰⁴

In Romania, the tactic of earning trust by giving expensive gifts, investing in cars and other goods, impressing victims with a false image of prosperity and even contacting the parents of the potential victim is also present. Because most victims are initially recruited by acquaintances or friends, it is very difficult to prove criminal intent in early stages. Furthermore, the victim has confidence in those people. When they are actually trafficked, they are transported to towns far away or to abroad in order to isolate them from their (other) friends and family and to control them. During the journey, the victims may be sold from one trafficker to another, without knowing about this and while being transported without a known destination. Sometimes recruitment is done by ex-victims who start trafficking in order to escape their own victimisation.

New modus operandi

Traffickers seem to respond quickly to (inter)national changes. For example in the Netherlands, the characteristics of the recruited victims change over time. The number of Nigerian girls decreased after they had been common victims in 2005-2006. Instead, the number of Guinean girls increased, like the number of girls with intellectual disabilities.¹⁰⁵

In the Netherlands, it is acknowledged that some labour sectors have an intrinsic risk for labour exploitation or that they suffer from an economic climate that encourages the creation of situations which lead to exploitation. The Dutch National Rapporteur mentions the mushroom-growing, toilet-cleaning, transport and shipping industry.¹⁰⁶ The latter is a rather new form of exploitation in the Netherlands, which is characterized by underpayment, very long working days and dependency on the employer. Known cases involve victims from the Philippines and Ukraine.¹⁰⁷

¹⁰⁴ National Rapporteur (NL) 2013, p. 26, 89.

¹⁰⁵ See Kaandorp & Blaak 2014, p. 34 and National Rapporteur (NL) 2013, p. 239. See also Rijken, Van Dijk & Klerx-van Mierlo 2013, p. 14.

¹⁰⁶ National Rapporteur (NL) 2013, p. 108-116.

¹⁰⁷ National Rapporteur (NL) 2014, p. 43.

Another rather new trend with regard to labour exploitation in the Netherlands is the emergence of apparently legal employment constructions which in reality are used to by-pass regulations so that the competitive position of the employer improves or the employees do not receive minimum standards (for example minimum payment). In 2013, the labour inspection counted 582 employers who did not offer minimum wages and minimum vacation benefits, a serious increase since 2012.¹⁰⁸ Examples of the techniques used to by-pass the regulations are: granting minimum wages on paper, but not actually paying them, or paying the wages, but using a large share of the wages as expense allowance (rather than real salary). By-pass regulations are most common in the agricultural sector. The agricultural sector is an important sector in the Netherlands, responsible for a large share in the Dutch export products. The market share, however, is under pressure.¹⁰⁹ This could be a reason that employers try to find ways to improve the competitive position, even if this violates human rights. By-pass mechanisms can be found in the recruitment and employment (e.g. through employment agencies, pay rolling, or secondment), labour conditions and in non-labour related conditions such as housing accommodations and health insurances.¹¹⁰

What causes victims to stay in their situations?

In Poland, migrant victims in particular often remain in the situation of labour exploitation or forced labour in Poland due to debt incurred from visas and travel that were paid for by the perpetrator to transport victims to or within Poland. This is called “debt bondage”. Along with such debt bondage, failure to pay victims or partial payment of wages occurs in many situations of labour exploitation in Poland, which prevents workers from leaving.¹¹¹

With regard to sexual exploitation, the modus operandi used in sexual exploitation in the EU is gradually shifting from activities taking place in public settings (such as red light districts and street prostitution) to more concealed forms such as escort services, private housings and striptease parlours, private clubs and massage parlours. This change contributes to the difficulty of discovering and thus identifying human trafficking cases. In addition, numerous prostitution services are offered by sex workers, some of which are particularly complicated to discover, such as webcam-sex.¹¹²

Furthermore, to avoid detection, traffickers relocate the victims to other cities or countries. They also use the anonymity of the Internet as a discreet method of recruiting new victims, diversifying sex-services, dispatching victims over different countries and even publicising their services. In addition, sham marriages can be used to facilitate the entrance and the residence of victims in the European Union for the purpose of sexual exploitation.¹¹³

¹⁰⁸ NL: *Kamerstukken II* 2013/14, 17 050, nr. 484, p. 1-2.

¹⁰⁹ Rijken, Conny, and Eefje de Volder, *De Nederlandse Agrarische Sector in kaart*, Tilburg Law School, Tilburg, 2014, p. 5.

¹¹⁰ Rijken & De Volder 2014, p. 33-41.

¹¹¹ Jolkinen, Ollus, et al. 2011.

¹¹² EUROJUST, *Strategic Report on Eurojust's action against trafficking in human beings*. October 2012. Accessed November 2014: [http://www.eurojust.europa.eu/doclibrary/Eurojust-framework/Casework/Eurojust%20action%20against%20trafficking%20in%20human%20beings%20\(October%202012\)/THB-report-2012-10-18-EN.pdf](http://www.eurojust.europa.eu/doclibrary/Eurojust-framework/Casework/Eurojust%20action%20against%20trafficking%20in%20human%20beings%20(October%202012)/THB-report-2012-10-18-EN.pdf)

¹¹³ EUROJUST 2012.

This shows that like in the recruitment-phase, (severe) violence or abuse are not the only tactics used by traffickers. Perpetrators seem to seek a more “balanced arrangement”, sometimes resulting in the victims consenting to deliver sex services in return for some limited benefits. The methods described above were reported to be used in different countries.

In Romania, some traffickers belong to cultural groups with “experience” in organizing and gathering people for the purpose of committing crimes. They work together on the basis of kinship relations, neighbourhood or criminal history and try to set up a network that is difficult to discover and prove for the authorities, but – at the same time – making sure that the earned goods are kept under the possession of a small group of persons/families/relatives.¹¹⁴

B2. How many prosecutions have been conducted over the past five years?

Cyprus

In Cyprus, during the period 2010-2014(August), 94 THB cases were taken to court, and another 26 THB cases are currently under investigation. Out of these court cases, 37 cases resulted in a conviction, whilst 23 cases are still pending. The distribution of cases over the years is as follows: 2010: 29 cases, 2011: 18 cases, 2012: 29 cases, 2013: 13 cases, 2014 (up to august): 5 cases.

The Netherlands

The Public Prosecutors Service (PPS) dealt with a total of 1245 cases of human trafficking between 2008 and 2012.¹¹⁵ In almost $\frac{3}{4}$ of those cases, an indictment was issued.¹¹⁶

About half of the criminal investigations start (partly) on the basis of a formal statement by the victim. However, not all of the formal statements lead to criminal investigations. Some statements do not include enough indications that can lead to investigations.¹¹⁷ Furthermore, investigations into forms of THB that do not include sexual exploitation seem to be under-exposed.¹¹⁸

The National Rapporteur researched all verdicts on Art. 273(f) CC (NL) from courts of first instance in 2010. 111 out of 138 cases concerned sexual exploitation.¹¹⁹ Those 111 involved 109 unique offenders (108 natural persons) and 147 alleged victims (for 93 of them, their victimhood was proven in court). For other forms of exploitation, the suspect-victim ratio is somewhat different: 29 suspects versus 70 alleged victims (proven: 39).¹²⁰ Having a closer look at those cases provides the following information on suspected and convicted offenders.

¹¹⁴ National Agency against Trafficking in Persons, *National Report regarding Trafficking in Persons in 2012*, Bucharest, Romania, 2013, p 34-37, p 37. Accessed November 2014:

http://anitp.mai.gov.ro/ro/docs/Cercetare/RapoarteAnuale/RAPORT_PRIVIND_TRAFICUL_DE_%20PERSOANE_IN_2012.pdf

¹¹⁵ GRETA (NL) 2014, p. 55; National Rapporteur (NL) 2014, p. 2-3.

¹¹⁶ National Rapporteur (NL) 2014, p. 2-3.

¹¹⁷ National Rapporteur (NL) 2014, p. 133.

¹¹⁸ National Rapporteur (NL) 2014, p. 136.

¹¹⁹ National Rapporteur (NL) 2012, p. 33.

¹²⁰ National Rapporteur (NL) 2012, p. 33, 125-128.

The big majority of suspects consist of males, in the age group 30-40, born abroad. In THB with the purpose of sexual exploitation, they mostly come from Hungary, Bulgaria, Romania and Poland, while traffickers that fall in the category of other forms of THB mostly originate from India, Morocco, Surinam and the Netherlands.¹²¹ Criminal activities are often the only source of income.¹²²

In 2013, 178 human traffickers were convicted out of 236 defendants, this was the highest number of convictions in recent years.¹²³

The conviction rate in human trafficking is 64% in cases of sexual related trafficking, 48% when it concerns other forms of THB.¹²⁴ In relation to the conviction rate, it is furthermore interesting to mention that Dutch-born suspects are significantly less often convicted than suspects born abroad.¹²⁵ GRETA reports that in 2012, the conviction rate has gone up to 71%.¹²⁶

In about half of the cases regarding sexual related THB the charges include both 273f(1) - (1) and (4) CC (NL).¹²⁷ With regard to the type of trafficking, it is estimated that in 2011, 80% of the cases involved sex trafficking, while only 20% (which is roughly triple the estimation of 2006) involved other forms of THB.¹²⁸ Furthermore, it is important to mention that in half of the proven cases, the exploitation partly took place abroad,¹²⁹ which raises questions related to jurisdiction. Over the last couple of years, jurisdiction over THB-cases has been expanded based on the EU Directive and the Council of Europe Convention against THB. This also benefits international cooperation.¹³⁰

Judges in the Netherlands have a big discretion when it comes to sentencing. The judiciary has made guidelines for sentencing (*oriëntatiepunten*) for a lot of different crimes, but not for THB. In some cases, judges consult the guidelines of related crimes, such as rape. Also similar cases can serve as a guideline.¹³¹ When analysing the sentences in THB-cases, it needs to be taken into account that in most cases, other crimes, mostly property crimes and drug related crimes, were proven as well.¹³² A conviction of THB is almost always sentenced with (unsuspended) custody, but sentences longer than 4 years are rare.¹³³

¹²¹ National Rapporteur (NL) 2012, p. 91-96.

¹²² National Rapporteur (NL) 2014, p. 166.

¹²³ PPS (NL) Jaarbericht 2013, p. 28; TIP (NL) 2014, p. 290.

¹²⁴ National Rapporteur (NL) 2012, p. 36.

¹²⁵ National Rapporteur (NL) 2012, p. 26, 94.

¹²⁶ GRETA (NL) 2014, p. 55.

¹²⁷ National Rapporteur (NL) 2012, p. 78.

¹²⁸ GRETA (NL) 2014, p. 12; TIP (NL) 2014, p. 290.

¹²⁹ National Rapporteur (NL) 2012, p. 34, 45. See also GRETA (NL) 2014, p. 31.

¹³⁰ National Rapporteur (NL) 2012, p. 35.

¹³¹ National Rapporteur (NL) 2012, p. 97-98.

¹³² National Rapporteur (NL) 2012, p. 35. See also p. 108: longer prison sentences are imposed when the trafficking is not the only crime the offender was convicted for. See also TRACE Deliverable 1.3/1.4.

¹³³ National Rapporteur (NL) 2012, p. 106. Note again that available data is from 2010. In this publication, the National Rapporteur notes a trend towards imposing more severe prison sentences. Moreover, since 2009, the maximum sentence has been raised to 8 years, in 2013 it has been raised to 12 years. In case of serious injuries, the maximum prison sentence is 18 years (Art. 273f(1)(4)). The GRETA report indeed shows that the severity of the sentenced slightly increased (GRETA (NL) 2014, p. 55).

Poland

According to the information from the Department of Organised Crime and Corruption in the Prosecutor General's Office (PL) there were 65 registered cases of trafficking in persons and illegal adoption monitored by the Prosecutor General in 2013.¹³⁴ This includes 6 cases of forced labour, 38 cases of sexual exploitation, 4 cases of other forms of exploitation or other forms of degrading human dignity, 1 case of forced begging and 1 case of forced organ transplantation. The other 4 cases were not specified. Other figures include the following information:

- The number of completed preparatory proceedings – 76.
- Indictments – 29 cases
- Decision to suspend the investigation – 19 cases
- Decision on discontinuance of the investigation – 23 cases;
- Number of accused persons – 47
 - of which Polish citizens – 3
 - of which Bulgarian citizens – 7
 - of which German citizens – 1
 - of which Belarusian citizen – 1.
- The number of completed preparatory proceedings:
 - 2010 – 34
 - 2011 – 51
 - 2012 – 65

Additional information from the TIP report on Poland shows that the Polish government prosecuted 48 suspected trafficking offenders and convicted 35 in 2013, compared to 24 defendants prosecuted and 39 traffickers convicted in 2012, 17 prosecutions and 28 convictions in 2011, 77 prosecutions and 28 convictions under the former trafficking law in 2010 and 79 prosecutions and 52 convictions in 2009. In collecting data, the government only considered sentences issued after appeals to be final. In 2012, 64 traffickers were sentenced, compared to 63 in 2011 and 60 in 2010 (2009 not available).¹³⁵

The TIP reports notes that when reviewing trafficking in persons statistics, it is important to consider that inconsistencies on convictions result from the collection of data on first-instance court convictions, and post-appeal sentences. In this respect, the Polish government acknowledged that no central mechanism exists to cross-reference and consolidate these statistics.¹³⁶

As regards conviction decision to suspend the investigations, GRETA has reported that in 2009 there were 17 under Article 253(1) CC(PL) and two under Article 204(4) CC (PL). In 2010, there were six convictions under the new Article 189a(1) CC (PL), 13 under Article 253(1) CC (PL), and one under Article 204(4) CC (PL). Out of the 39 convictions handed down in 2009-2010, 23 involved imprisonment without suspension (nine under three years, 12 between three and five years, one between five and eight years, and one between 10 and 15 years). In 2011, there were a total of 11 first instance convictions under Article 189a(1) CC (PL). In the first six months of

¹³⁴ “Extract from the report of the monitoring of preparatory proceedings, the subject of human trafficking and illegal adoption”, Prosecutor General Office, 2014 (PL).

¹³⁵ TIP (PL) 2010-2014.

¹³⁶ TIP (PL) 2010-2014.

2012, there were 16 first instance convictions under Article 189a(1) CC (PL); five of them involved imprisonment of between three and five years (however, the convictions were still not final).¹³⁷

GRETA has expressed concern over the significant differences between the number of identified victims of human trafficking and the number of successful prosecutions and convictions in Poland.¹³⁸

Romania

A large number of cases are yearly investigated by the Directorate for Investigating Organized Crime and Terrorism (DIICOT), or delegated THB specialised officers, which demands increased attention and special institutional and human capacity for collecting data and crime probation.

The final solutions in these investigations and the number of offenders sent to trial are reflected in an increasing number of indictments related to national and cross-border THB and other related crimes. The number of offenders investigated and prosecuted for THB and trafficking in minors has also increased from 262 in 2009 to 552 in 2013. The evolution of the number of indictments regarding THB is closely related to the cases and investigations conducted. Therefore, an increase in the number of cases completed with an indictment by the prosecutors offices is also visible: 101 in 2009¹³⁹ to 178 in 2013.¹⁴⁰

Apart from the increasing number of cases that is yearly solved by the PPS (RO), it is important to notice the growing success of this approach, reflected in the rising number of prosecutions of offenders.

Special attention was given to victims, especially to underage victims, regardless of the type of exploitation. In this respect, during investigations, police officers have informed victims about the problems, responsibilities, consequences and potential risks related to the decisions they take. In particular, the police officers informed the victims about the fact that cooperation may represent a risk for the victims and their families. Regardless of the victims' quality (witness or injured party), the hearings by the police were governed by principles of human rights, avoidance of re-victimisation and the protection of privacy. Female police officers presence reflected a closer relationship between the police officer and the woman- or child-victim and a better cooperation by the victim during the trials. In each phase of the criminal proceedings, THB-specialised officers are responsible for assessing risks regarding the victims' and their families' safety and well-being. All these aspects are carefully addressed by de police officers, acknowledging the fact that a well-protected and well-assisted victim is better capable to cooperate with the law enforcement agencies and to testify in court against the defendants.

¹³⁷ GRETA (PL) 2013.

¹³⁸ TIP (PL) 2010-2014

¹³⁹ National Agency against Trafficking in Persons, *National Report Regarding Trafficking in Persons in 2009*, Bucharest, 2010.

¹⁴⁰ National Agency against Trafficking in Persons, *National Report regarding Trafficking in Persons in 2012*, Bucharest, Romania, 2013, p.39. Accessed November 2014:

http://anitp.mai.gov.ro/ro/docs/Cercetare/RapoarteAnuale/RAPORT_PRIVIND_TRAFICUL_DE_%20PERSOANE_IN_2012.pdf

The amount of convicted persons increased from 183 persons in 2009¹⁴¹ to 427 in 2012 and then dropped back to 252 in 2013.¹⁴² Nearly half of the offenders received a prison sentence of 5 to 10 years imprisonment.

It should be noted that, because Romania was characterized mainly as a country of origin (see par. B1), it might be the case that victims and traffickers are not in the same country anymore. Due to the fact that, according to the PPS (RO), the majority of the perpetrators are Romanians, there are cases in which the investigations on the trafficking to another country are performed in Romania, even if the crime was committed in another country. Even so, the Police and the PPS(RO) are collaborating with foreign authorities in order to investigate the crimes and to punish the perpetrators in Romania.

The United Kingdom

The Home Office and its structures, in particular the National Crime Agency (NCA) and the Crown Prosecution Office, are the main agency responsible for investigating cases of human trafficking and for gathering evidence. The NCA took over the functions of Serious Organised Crime Agency (SOCA),¹⁴³ which was closed down in 2013.¹⁴⁴ However, close cooperation also exists with other agencies such as the UK Border Agency in building strong cases.

In the UK different sources report different numbers of prosecuted and convicted persons, on the basis of different legal provisions. Below, the figures as presented by GRETA, by TIP and by the UK Ministry of Justice and Crown Prosecution Service are discussed.

According to the GRETA report of 2013, the PPS (UK) has received 14 THB cases with a total of 27 suspects since January 2007. Of the 14 cases, 11 related to THB for sexual exploitation and three to THB for labour exploitation. Prosecutorial decisions were issued in 10 cases involving 21 suspects, 11 of which were prosecuted for offences other than THB (e.g. controlling prostitution for gain, brothel keeping, etc.). Five suspects were prosecuted for THB for the purpose of sexual exploitation, leading to the conviction of two persons in 2012. Five suspects were not prosecuted, including three persons from a THB case which was transferred to Scotland and resulted in convictions in 2011. The report mentioned that four cases of THB are awaiting decision (involving six suspects), one of which concerns THB for labour exploitation.¹⁴⁵

¹⁴¹ ANITP (RO) 2010.

¹⁴² ANITP (RO) 2013.

¹⁴³ ¹⁴³ The SOCA had the responsibility for the UK Human Trafficking Centre and the Vulnerable Persons Team, which provides advice and guidance to police forces in investigating cases of trafficking, as well as support and evidential interviewing of vulnerable victims of trafficking. The CPS has the responsibility for deciding in the most serious and complex cases, whether a suspect should be charged with a criminal offence, and, if so, what the charge(s) should be. When the police have a reasonable suspicion that a suspect(s) has committed a criminal offence associated with human trafficking, they must refer that case to a prosecutor who will make the decision whether to charge. Early consultation will take place between the prosecutor and the police or SOCA officer to ensure that all possible avenues of evidence are explored, and that the correct charge (s) is identified. CPS Policy for Prosecuting Cases of Human Trafficking. Accessed November 2014:

http://www.ecpat.org.uk/sites/default/files/policy_for_prosecuting_cases_of_human_trafficking_cps.pdf, p. 8.

¹⁴⁴ See <https://www.gov.uk/government/organisations/serious-organised-crime-agency>. Accessed November 2014.

¹⁴⁵ See further summary of official statistics in Lipscombe & Beard 2014, pp. 4-5.

The TIP report on the UK furthermore indicates that the UK government received its first convictions for child trafficking in October 2009. The government reported it convicted 31 trafficking offenders for sexual exploitation under its Sexual Offenses Act and convicted two offenders for forced labour under its Asylum and Immigration Act in 2009.¹⁴⁶ According to the Home Office, the British government prosecuted and convicted a total of 35 trafficking offenders between April 2010 and December 2010; this compares with 32 trafficking offenders convicted in 2009¹⁴⁷. The government convicted a total of 24 sex trafficking offenders under its Sexual Offenses Act or other trafficking-related laws, and convicted eight traffickers for labour exploitation, two of whom were convicted under its Asylum and Immigration Act.¹⁴⁸ Between April and December 2011, the British government prosecuted 87 offenses of trafficking for sexual exploitation. There were 29 offenses of labour trafficking or other forms of exploitation, prosecuted under the Asylum and Immigration Act; and 11 offenses for slavery and servitude prosecuted under the Coroners and Justice Act during this year.¹⁴⁹ In 2012, UK authorities reported prosecuting at least 148 sex and labour trafficking offenders with a conviction rate of 70 percent. Of that number, authorities initiated 69 prosecutions for sex trafficking and 29 for labour trafficking or other exploitative purposes in 2012. This compares with 106 prosecutions for sex trafficking offenders and 30 for labour or other exploitative purposes in 2011. During the year, the government reported it filed four prosecutions under the Coroners and Justice Act 2009, compared with 11 in 2011. The majority of prosecutions and convictions for trafficking offenders continued to take place in England.¹⁵⁰ In 2013, UK authorities reported prosecuting at least 139 trafficking offenders and convicting 148 defendants.¹⁵¹

The last source of numbers on prosecutions and convictions is the UK Ministry of Justice and Crown Prosecution Service. Their data for England and Wales in 2011 shows that the number of defendants found guilty, on a principal offence basis, for human trafficking offences (the human trafficking count was the most serious on the indictment) was eight. In 2010, the number was 16. While these were the numbers of convictions for specific trafficking offences, they do not include all traffickers convicted - this is because many traffickers are convicted for alternative, but related, offences. Data from the Crown Prosecution Service's systems, although less robust, gives an indication of the number of defendants convicted where there was an original charge for trafficking but where that particular charge was subsequently dropped or amended, or where the defendant pleaded guilty to or was convicted of an alternative offence. The data generated by this approach shows that the number of defendants charged was 142 in 2011-12 (in 2010-11 that figure was 103). Two-thirds of those defendants were convicted, which equates to 94 defendants."¹⁵²

¹⁴⁶ TIP (UK) 2010.

¹⁴⁷ Note that some human trafficking-related figures in TIP reports from differing years are inconsistent with each other. As with much of the data available on human trafficking, the statistics mentioned here should be taken critically.

¹⁴⁸ TIP (UK) 2011.

¹⁴⁹ TIP (UK) 2012.

¹⁵⁰ TIP (UK) 2013.

¹⁵¹ TIP (UK) 2014.

¹⁵² UK Government, *Report on the Internal Review of Human Trafficking Legislation*. May 2012. Accessed November 2014: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/97846/human-trafficking-legislation.pdf

The figures on human trafficking convictions do not tell the whole story. Indeed, traffickers who are brought before the courts are often prosecuted for one of a number of possible offences and not just trafficking offences.¹⁵³

B3. What are the main obstacles for an effective prosecution of cases of THB? To what extent are financial investigations part of the prosecution in THB cases?

Prosecuting THB cases is hard to manage as it is often attached to a series of obstacles and impediments. Below, the most important hurdles are listed.

Identification problems

Cyprus reports that, in concern with the identification of forced labour, often, the element of coercion is not that vivid, and that individuals involved in such schemes are not in a position to assess whether or not they are per se, recipients of exploitation. Consequently, victims of forced labour rarely report their victimisation to the police. In addition, when victims of trafficking file complaints against their employers, the Labour Office in Cyprus, which examines such cases, does not always refer them to the police due to the lack of a national referral mechanism dealing with this issue. As a result, many incidents of forced labour do not come to the attention of the police, and instead, are handled as employment discrepancies by the Labour Office, which is a part of the Ministry of Labour, Welfare and Social Insurance of the Republic of Cyprus. It is responsible for issues of employment, including equality between men and women. More specific responsibilities of the Department include the protection of special groups in employment, public employment services, free movement of European Union workers, employment of workers from third countries, and some aspects of human resource development.

Also in the Netherlands, identification issues form a hurdle to an effective prosecution. It is known that not every case is revealed, but there is no informed idea about the scope of the “dark number”. The only thing that is known is that there are cases that are not prosecuted at all, because the prosecuting agencies do not know that there is an exploitative situation. Even the recognition of victimhood within the victims themselves is sometimes problematic.¹⁵⁴ Moreover, there are a lot of other obstacles leading the victims to avoid contact with the police or making formal complaints, such as language barriers, fear of being sent to the country of origin, feelings of loyalty with regard to the perpetrator, a lack of information, fear or mistrust of police or prosecuting agencies, etc.¹⁵⁵ Even if the criminal investigations have started, a lack of indications or evidence is an obstacle for effective prosecution.¹⁵⁶

In the UK, some NGO’s claim that the NRM(UK)-system does not identify as victims all those who were subject to trafficking by applying a narrow interpretation of a victim or attaching conditions, which impede identification and undermine prosecution in some cases.

¹⁵³ UK Government 2012.

¹⁵⁴ Rijken, Van Dijk & Klerx-van Mierlo 2013, p. 82.

¹⁵⁵ See Rijken, Van Dijk, & Klerx-van Mierlo 2013, p. 81-82.

¹⁵⁶ National Rapporteur (NL) 2012, p. 11.

Issues related to specialisation by professionals.

Different countries (PL, NL) mention the need for improvement of knowledge by professionals.

In Poland, cases are often not categorized as a human trafficking crime, but the offenders are punished for other crimes and lower penalties are provided. The police (law enforcement) is complaining about the work of the PPS and the PPS is complaining about the actions of judges.¹⁵⁷ According to the “*Extract from the report of the monitoring of preparatory proceedings, the subject of human trafficking and illegal adoption*”, *Prosecutor General Office, 2014*”; there is still too little training and education of prosecutors in Poland. “It is a pity and it is not improving the situation that the National Council of Judiciary and Public Prosecution in 2014 again did not take the subject of human trafficking and illegal adoption into the training program.” - said the report for 2013.

In the Netherlands, in 2010, 166 judges were involved in judging cases of human trafficking. More than 75% of them only had one case to judge,¹⁵⁸ meaning that their experience with cases of human trafficking is rather limited. Recently, it was announced that (at least) in one arrondissement, namely Leeuwarden, a special chamber dealing with cases of human trafficking will be installed.¹⁵⁹ Another reason that cases of human trafficking are complex to deal with is the fact that it does not only entail criminal law, but also administrative law, international cooperation and complex financial investigations. GRETA welcomes the specialisation of judges.¹⁶⁰

Also the GRETA report on the UK mentions that an increase in training of prosecution entities on human trafficking could improve effective evidence collection and subsequently increase related prosecutions in the UK.¹⁶¹ Moreover, in the UK, there is a problem similar to that in Poland, namely that overlapping offences related to human trafficking undermine legal clarity and can therefore be problematic in practice when it comes to prosecutions and convictions.

Issues related to cooperation by the victim

Above, it was highlighted that there are problems with victim identification. As has been reported by all states, if victims do acknowledge their predicaments, at times, they either hesitate to cooperate with the police, or if they cooperate and give written statements, they do not testify in court and leave the country before the court case starts or the withdraw the statement made earlier.

In Poland, like in most other countries, there is a need for better access to services in a language they can understand, as well as to the reflection period, which has a maximum duration of three months. GRETA recommends that those services and the reflection period are not tied to the participation in the prosecution process.¹⁶²

¹⁵⁷ Interview with Stana Buchowska, August 8, 2014.

¹⁵⁸ National Rapporteur (NL) 2012, p. 15.

¹⁵⁹ Leeuwarder Courant, 21.8.2014.

http://www.lc.nl/friesland/rechtbank-stelt-kamer-in-voor-mensenhandel-17548983.html#U_b0R_1_vgw

¹⁶⁰ GRETA (NL) 2014, p. 24.

¹⁶¹ GRETA (UK) 2012.

¹⁶² GRETA (PL) 2013.

The UK also mentions the refusal of victims of trafficking to testify in court as an obstacle for an effective prosecution.

Financial investigations as part of the criminal investigations

In Cyprus, financial investigations in trafficking cases is conducted in almost all recent cases. In the operational guide attached to a circular issued recently by the Chief of Police on the role of the Office of Combating Trafficking in Human Beings, financial investigation is mentioned as one of the actions which should be carried out in trafficking cases. The importance of financial investigation is also stressed by the EMPACT for THB of which Cyprus is a co-leader with the Netherlands. Apart from the financial investigation carried out by the Police as part of the investigation, the financial investigation unit of the Republic which is a body under the General Attorney notifies the Police of every suspicious transaction carried out by any person for further investigation.

Although the Guideline Human Trafficking of the PPS(NL) indicate that financial investigations are normally part of the criminal investigations in the Netherlands,¹⁶³ just like the are in Romania, in practice it is seen that in only 18% of the cases, there is a *SFO (strafrechtelijk financieel onderzoek)*, a formal criminal-financial investigation. Furthermore, measures of forfeiture are not very common.¹⁶⁴ The National Rapporteur states that investing in better financial investigations would benefit the possibilities of forfeiture, which should ideally benefit the victim.¹⁶⁵

The Financial Intelligence Unit The Netherlands (FIU(NL)) researches unusual transactions. This means that they do not start their research as a consequence of a suspicion on human trafficking, but that a suspicious transaction in general can lead to specific suspicions of human trafficking. In that sense, financial investigations can also result into identification. To find indications of THB, they use a “red flag” technique and cooperate with investigation agencies. Furthermore, they educate banks to identify the red flags as well.¹⁶⁶ FIU(NL) reports suspicious dossiers to investigation agencies such as the police and the KMar. In 2013, in 4% of the reported dossiers indications of human trafficking were found. The total amount of money involved in those transactions was € 68 million.¹⁶⁷ Because of the cross-boundary nature of human trafficking, FIU NL consults foreign FIU’s to research foreign assets.

In Poland the Asset Recovery Office (ARO) is located within the National Police Headquarters. On 5 December 2008 an Asset Recovery Department (WOM BK KGP) was established within the Criminal Investigation Bureau of the National Police Headquarters. It carries out the tasks specified in Council Decision 2007/845/JHA of 6 December 2007 concerning cooperation between Asset Recovery Offices of the Member States in the field of tracing and identification of proceeds from, or other property related to, crime.

¹⁶³ See also PPS (NL) Jaarbericht 2013, p. 28.

¹⁶⁴ National Rapporteur (NL) 2014, p. 142-143.

¹⁶⁵ National Rapporteur (NL) 2014, p. 145.

¹⁶⁶ Financial Intelligence Unit Nederland, FIU-jaaroverzicht 2013. Accessed November 2014: https://www.fiu-nederland.nl/sites/www.fiu-nederland.nl/files/u3/FIU%20Jaaroverzicht%202013%20NL_extern.pdf, p. 25-26.

¹⁶⁷ FIU(NL) jaaroverzicht 2013, p. 31, 33.

In Romania, financial investigations in relation to THB came up as a natural step for tackling the capacity of organised criminal networks or groups to ensure the sustainability of their criminal activities. Previously, it was standard practice to start financial investigations only after the suspects had been identified and apprehended. However, it became obvious that evidence derived from the financial investigation provided powerful evidential support to the prosecution of traffickers in relation to the serious crimes THB and membership of an organised criminal group. Therefore, today, financial inquiries are a core part of the investigative activities when it concerns a THB-case. For the special unit that is occupied with combatting THB (SCTP-unit), financial investigations became a routine part of their inquiries.

Apart from evidential advantages for THB-convictions, the financial investigations proved to be advantageous post-conviction in matters related to confiscation of assets as well. This is important, because the penalties for the crimes of trafficking and membership of criminal organisations include the option of forfeiture and special confiscation. According to the law, special confiscation can be imposed if the following conditions are fulfilled:

- The value of the goods earned by the convicted person within five years before the commission of crime and if it is necessary after, if obviously his income/assets are beyond what can be earned legally,
- The court has no doubt that the goods are obtained through criminal activities such as trafficking

In applying such measures, the court will also consider the goods that have been transferred to family members, other third persons or legal persons related to the convicted. If during the financial investigations other (financial) crimes are revealed, the specialised police unit on economic crimes will be responsible to continue specialised inquiries.

In Romania, the financial investigations are focused on for example identifying records of travel arrangements and documentation on venue rental. Another area for such investigations is related to the traffickers expenditure on items such as houses, apartments, investments, cars, jewels and leisure activities such as restaurants and casinos or movements of the profits. In cases investigated by DIICOT in 2011 economic and financial investigations were developed. An amount of nearly a million Euro of profits of crime was identified. Orders for precautionary measures and seizure of goods run up to over 70.000 Euro. For 2012, economic and financial investigations were developed and identified a total amount of approximately 800.000 Euro, and precautionary measures were ordered for an amount of 160.000 Euro. In 2013, a total amount of 1.200.000 Euro was identified in convicted cases and an order for confiscation was given for an amount of 160.000 Euro.

In the UK, according to the CPS guidance for work on cases of human trafficking, ‘prosecutors will [...] work closely with financial investigators to pursue the financial assets of traffickers. Prosecutors will apply for orders to restrain and confiscate any assets and property traced by investigators’.¹⁶⁸ Although there is no published analysis of financial investigations, the report on the internal review states that: The UK has strong and wide money laundering offences under the Proceeds of Crime Act 2002 (POCA) that can be used to disrupt criminal finances. There are also separate regulations that protect the financial sector and other related businesses from being used for money laundering and identify suspicious financial activity. POCA also has various

¹⁶⁸ CPS Policy, p. 9.

means to recover the financial benefits made through any crime; namely confiscation following any criminal conviction, civil recovery in the High Court, cash forfeiture in the magistrates' courts and taxation. The legislation also provides specific investigation powers to ascertain the extent and whereabouts of the proceeds of crime.¹⁶⁹

B4. How is the inter-state cooperation between law enforcement authorities organised (between local and national levels, between labour inspectors and police, between municipalities, local government and police)? Has some form of a programmatic approach or an interdisciplinary approach been adopted?

Cyprus

Although there are no established procedures, there is a very good cooperation between the police departments which deal with trafficking cases, as well as with all the governmental departments and other organisations which deal with trafficking issues. Specialised and systematic training is provided in order to educate police officers, especially the front line responders such as, immigration officers and members of the community policing and criminal investigation departments. These trainings include an overall awareness raising of the front line officers on trafficking issues, the evolving trends, how to deal with potential victims and persons found during police operations, identification techniques, handling of victims, etc. Another measure that has been taken by the police in order to facilitate front line officers, and all police officers in general, regarding victim identification and referral, is the adoption of the "Identification Process Manual". The manual is based on the International Labour Organization Indicators (ILO) for identifying victims of trafficking, the World Health Organization & ICMPDs research and on the provisions of the anti-trafficking Law. The manual intends to assist police officers when dealing with trafficking cases and potential victims. Moreover, Cyprus police has issued a pocket size operational guide. The Operational Guide includes issues such as the difference between human smuggling and human trafficking, international human trafficking, domestic human trafficking, possible indicators of human trafficking victims, victims' mind-sets, screening tools for victims, steps to be taken on the spot and related offences to human trafficking.

The Netherlands

In the Netherlands, the Public Prosecution Service (PPS) is responsible for the investigations and prosecutions of human trafficking. In this broad task, they are bound by a guideline, called the "Aanwijzing Mensenhandel" (hereafter called Guideline Human Trafficking (by PPS)), which is regarded as formal legislation. Key to this guideline is that human trafficking is combatted in a comprehensive way, that signals will be taken up, indications that can lead to criminal investigations will preferably lead to such investigations and eventually to prosecutions, financial investigations are normally part of the criminal investigations, international cooperation is sought where possible and victims assistance is central to the investigation.¹⁷⁰ The PPS has the intention

¹⁶⁹ UK Government, *Report on the Internal Review of Human Trafficking Legislation*. May 2012. Accessed November 2014: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/97846/human-trafficking-legislation.pdf p 10.

¹⁷⁰ Guideline Human Trafficking PPS (NL), *Aanwijzing mensenhandel*, *Stcrt.* 2013, nr. 16816.

to include the non-punishment principles in their Guideline Human Trafficking as an explicit ground for dismissal.¹⁷¹

There are a lot of agencies and institutions in the Netherlands that work towards combatting THB. Some of those institutions are responsible for cooperation and the exchange of information.

First of all, there is the *Human Trafficking Taskforce*, which has initiated partnerships with Dutch organisations and institutions, such as the Dutch Hotel & Catering Industry (Horeca), the Chamber of Commerce, municipalities and Child Care.¹⁷² The Task Force has the responsibility to single out bottlenecks in the combat against human trafficking, to come up with solutions to those bottlenecks and to enhance (inter-state) cooperation. The cooperation has primarily an administrative character.

The National Rapporteur on Human Trafficking plays an important role in the data collection on human trafficking. This data is then analysed and shared: she submits annual reports to the government, which include recommendations to improve the framework.

Regional Information and Expertise Centres (RIECS) and one national expertise centre (LIEC) have partnerships with different agencies: municipalities, provinces, prosecutors, police, IND, KMar, Customs, the Dutch Tax agency, and special investigation agencies such as labour Inspection, Financial investigation Unit (FIOD) – all focussed on intelligence. Their task is to ensure a national uniform approach. From 2014, the LIEC will be joining the Task Force.¹⁷³

Knowing that a lot of victims are of Eastern-European origin (see par. C), Eindhoven airport – at which a lot of cheap charters arrive - is an important nodal point for intervening in the trafficking.¹⁷⁴ Also other border regions in the Netherlands are important for investigations and enforcement. The KMar plays a major role in those areas.¹⁷⁵

When designing solutions to acute or urgent problems, such as the employment constructions (see par. B1), the government actively searches for possibilities to work together. In the example of the employment constructions, the government came to an action plan together with organisations for self-employed people, municipalities, inspection agencies and execution agencies.¹⁷⁶ Within the action plan, the partners of the government get responsibilities and authorizations. For example, the Ministry of Social Affairs and Employment (SZW) can impose financial sanctions. A new bill is announced (Wet aanpak schijnconstructies, WAS).¹⁷⁷

¹⁷¹ Nationaal Rapporteur Mensenhandel en Seksueel Geweld tegen Kinderen, Uitgebreide reactie Nationaal Rapporteur op het rapport van GRETA over Nederland. 04.06.2014. Accessed October 2014: file:///C:/Users/S704745/Downloads/nationaal-rapporteur.reactie-op-rapport-van-greta-over-nederland.2014_tcm63-555637.pdf

¹⁷² PPS (NL) Jaarbericht 2013, p. 27.

¹⁷³ GRETA (NL) 2014, p. 25.

¹⁷⁴ National Rapporteur (NL) 2014, p. 69.

¹⁷⁵ National Rapporteur (NL) 2014, p. 73.

¹⁷⁶ *Kamerstukken II* 2013/14 17 050, nr. 447.

¹⁷⁷ *Kamerstukken II* 2013/14, 17 050, nr. 484, p. 2.

Poland

An interdisciplinary approach involving the following entities has been adopted to combat trafficking of human beings in Poland:

- Interdepartmental Team for Combating and Preventing Human Trafficking¹⁷⁸
- Unit against Trafficking in Human Beings of the Ministry of the Interior
- Law enforcement
- Border Guard
- General Prosecutor's Office
- National Labour Inspectorate
- NGOs¹⁷⁹

The Interdepartmental Team for Combating and Preventing Human Trafficking shapes the State policy on eliminating human trafficking and oversees the implementation of the action plan, while day-to-day co-ordination of the activities of governmental and non-governmental stakeholders is ensured by the Unit against Trafficking in Human Beings of the Ministry of the Interior. Furthermore, specialised anti-trafficking structures have been set up within the Police, the Border Guard and the General Prosecutor's Office. The involvement of non-governmental organisations in the Inter-Ministerial Committee and its working groups, as well as in the planning and implementation of the national action plan, is also a feature of the Polish anti-trafficking framework.¹⁸⁰

The responsibilities of labour inspectors include imposing fines and other forms of punishment, in particular those against employees' rights stipulated in the Labour Code, as well as offences in the field of legality of employment of Polish citizens and foreign nationals and the operation of employment agencies. Labour inspectors gather information on cases of human trafficking on the basis of an analysis of complaints and legal counselling requests forwarded to the NLI, as well as during inspections, in particular those concerning the legality of employment of foreigners.¹⁸¹ Poland furthermore established a National Action Plan (NAP) to combat human trafficking. Since 2006, in the Department of Migration Policy of the Ministry of Interior, a Team for Combating Trafficking in Human Beings has been operational, which provides support for inter-organizational work of the Group, monitors the work relating to the implementation of the tasks set out in the National Action Plan for the coming years and coordinates the support and protection system victims of trafficking. The coordinator of the Team also provides supervision of the NICC for Polish and foreign Victims of Trafficking.

The public institutions and NGOs responsible for the implementation of the NAP are represented in the Inter-Ministerial Committee for Combating and Preventing Trafficking in Human Beings (established in March 2004), which is comprised of seven ministries, law enforcement and

¹⁷⁸ A number of other bodies are invited to take part in the work in the Inter-Ministerial Committee, with a consultative status, in particular the Chancellery of the Prime Minister, the National Labour Inspectorate, the General Prosecutor's Office, the Office of the Human Rights Defender, the Office of the Children's Rights Defender, the International Organisation for Migration (IOM), and the NGOs La Strada Foundation, Caritas Poland, Itaka Foundation - Centre for Missing People, Nobody's Children Foundation, Halina Nieć Legal Aid Centre, and PoMOC Mary Immaculate Association (GRETA (PL) 2013).

¹⁷⁹ GRETA (PL) 2013.

¹⁸⁰ GRETA (PL) 2013.

¹⁸¹ GRETA (PL) 2013.

border guards and other official authorities. The Ministry of the Interior also co-operates with other relevant partners, such as international organisations, research centres and foreign embassies in Poland, with a view to implementing the tasks included in the NAP. In 2005, The Unit against Trafficking in Human Beings, within the Migration Policy Department of was established in 2006 and is responsible for drafting the NAP and monitoring the State-funded National Consulting and Intervention Centre for Polish and Foreign Victims of Trafficking, which is run by the NGO La Strada Foundation, and co-operates with relevant partners, including NGOs, intergovernmental organisations, research centres and embassies.¹⁸²

Romania

Inter-institutional cooperation both in the field of prevention and combating of trafficking are ensured through specific mechanisms and procedures for cooperation between various organisations. A National Mechanism for Identification and Referral of the victims of THB, approved through The Common Order of Ministers, detailed in section C below, regulates who a victim should be referred to and by whom for assistance. It identifies the place and the institution responsible, thus ensuring cooperation between competent institutions responsible for identification and those responsible for assistance of victims.

Cooperation between law enforcement agencies (DCCO, DIICOT) and competent territorial and local structures is ensured through specific police procedures and relevant legislation that regulates the cooperation in combating crime.

At the same time, controls and inspections of work places consist of mixed teams of officers from the General Inspectorate for Immigration and labour inspectors and are conducted regularly and based on a risk assessment, to detect possible cases of exploitation, irregularities, or other rights violations of the foreign workers in our country.

The National Strategy against THB, through National Action Plans to implement the Strategy objectives, provides and directs the strategic activities and responsibilities of relevant institutions to meet both institutional responsibilities and to meet national needs in the intervention against THB.

There is also an Inter-Ministerial Working Group in the field of combating THB, where all competent ministries are represented, in which strategic decisions are made. This group was established under Government Decision 299/2003 on the implementing Regulations of the application Law 678/2001.

Furthermore, Government Decision no. 49/2011 for the approval of the Framework Methodology on prevention and intervention within the network and the multidisciplinary team, for situations of violence against children and domestic violence and the Methodology for multidisciplinary and inter-institutional intervention exploited children and found at risk of being exploited in labour, children victims of THB, as well as Romanian migrant children victims of other forms of violence in other states, provided interventions of the multidisciplinary teams with regard to children in need, vulnerable and victims of THB. Teams are made up of specialists from the DGASPC, child protection structures present in all counties of Romanian and also in all

¹⁸² GRETA (PL) 2013.

Bucharest sectors, police officers, specialist from school inspectorates, local social services, labour inspectors, representatives of the clergy and even NGO representatives. These teams intervene in crisis situations, depending on the particular characteristic of the case are present more or less at the time of the intervention or of the case analysis.

At the level of each county of Romania, based on National Action Plans against THB, 2006 – 2007 and 2008 – 2010 for implementing National Strategy against THB 2006 – 2010, inter-institutional teams were established for preventing and combating THB. These teams consisted of specialists from ANITP, organised crime, representatives of social and child protection services, school inspectorates' specialists, NGO representatives. The teams provide immediate intervention at the local level in cases of victims of THB. Key to the decision-making of those teams are the interests of the victim. The teams are responsible for analysing local needs and resources for intervention in certain areas, coordination of prevention, improve knowledge, implementation of information campaigns. All these activities are conducted under the coordination of a representative of the prefecture (the Prefecture is representative of the Government at the local level). Periodically or on punctual intervention in some cases related to victims of THB, there are county meetings of these inter-institutional teams to find the best solutions to approach a case and to share best practices.

In the period 2012 – 2013, 144¹⁸³ meetings of the anti-traffic inter-institutional teams were organised. The themes approached during these activities aimed at: the objectives of the National Strategy against Trafficking in Persons 2012 – 2016 and of the National Action Plan, notifications on the dynamics of the trafficking in persons at the national and local level. The high level of representation of the institutions/organisations – members in the anti-traffic county teams and an increased attendance to meetings prove an increased interest of the institutions/organisations at the local level for the matter of trafficking in persons.

Inter-institutional cooperation can take place for developing optimal conditions for prevention and victim assistance activities, by the conclusion of protocols between the competent institutions. For example only in 2013 ANITP signed 17 collaboration protocols with NGOs or other local public institutions in order to ensure specific needs in certain lines of assistance or information campaigns.

Cooperation between public institutions and between public institutions and civil society Organisations remains certainly a central tool in the whole national efforts to prevent THB.

The United Kingdom

Law enforcement: in addition to work with Europol, the Government reports the following initiatives for national and international cooperation: Reflex (2001), and Operation Pentameter (2006) and Pentameter 2 (2007).¹⁸⁴ Since 2005, anti-trafficking policy has been coordinated by

¹⁸³ Report submitted by the Romanian authorities on measures taken to comply with Committee of the Parties Recommendation CP(2012)7 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings. June 2014, p. 4, available at:

http://www.coe.int/t/dghl/monitoring/trafficking/Docs/CommitteeParties/Reply_REC/CP_2014_9_RR_ROM_en.pdf, accessed in 01 September 2014.

¹⁸⁴ Lipscombe & Beard 2014.

the Inter-Departmental Ministerial Group on Human Trafficking, and the UK Human Trafficking Centre (UKHTC), a part of the Organised Crime Command in the National Crime Agency, has been set up a point of co-ordination for the development of expertise and co-operation to combat human trafficking.¹⁸⁵ Within the Inter-Departmental Ministerial Groups are the following entities:

Home Office: The Home Office has the overall responsibility for UK's anti-trafficking policy and strategy. Members of the Home Office include the UK Human Trafficking Centre (UKHTC), the UK Border Agency (UKBA), as well as working groups comprised on representatives of the Crown Prosecution Service, Ministry of Justice, Europol, the Scottish Government and Welsh Assembly. The Home Office also established a National Crime Agency (NCA) in 2011 to better connect local and national entities. The UKBA issued guidance for case workers, the officials responsible for review of immigration cases and decisions on status, and other first responders, valid from July 2012 and currently on operation¹⁸⁶. The UK Home Office leads the anti-trafficking response in England and Wales, while the Northern Ireland Department of Justice (NIDJ) sustained the lead in Northern Ireland and efforts in Scotland were led by Police Scotland's dedicated anti-trafficking team.¹⁸⁷

Human trafficking liaison officers throughout the UK connect local to national authorities on human trafficking. In April 2013, Scotland's eight regional police forces were integrated into a single force and created the National Human Trafficking Unit (NHTU) to be the coordinating body for anti-trafficking activities. A meeting structure was established between Scotland's Crown Office and Procurator Fiscal Service and NHTU to enhance investigations, maximize opportunities for prosecutions, and ensure victims are not unnecessarily criminalised.¹⁸⁸ At the Scottish Intelligence Coordination Unit police officers work along partners such as the UKBA, SOCA, HMRC and Scottish Prison Service and through a coordinated approach actively target identified serious and organised crime.¹⁸⁹

Strategic Monitoring Group (SMG)/NRM Oversight Group: The SMG was established in 2009 to review compliance with the NRM as outlined by the Convention, as well as to bring together representatives of the Ministry of Justice, UKBA, UKHTC, the Crown Prosecution Service and government-funded NGOs to improve identification and protection of victims of trafficking and to act as an early warning system to identify issues and risks.¹⁹⁰

Gangmasters Licensing Authority (GLA): The GLA's mission is to safeguard the welfare and interests of workers in agricultural, forestry, horticultural, shellfish gathering, food processing and packaging industries, while ensuring that labour providers operate

¹⁸⁵ Lipscombe & Beard 2014.

¹⁸⁶ Available here: <http://www.atlep.org.uk/research-and-resources/law-and-practice-overview/immigration-law-practice/ukba-policies/>

¹⁸⁷ TIP (UK) 2014.

¹⁸⁸ TIP (UK) 2014.

¹⁸⁹ GRETA (UK) 2013.

¹⁹⁰ GRETA (UK) 2012.

within the law. GLA is thus responsible for preventing the exploitation of workers, particularly by debt bondage and forced labour. GLA works closely with the police and participates in the UKHTC working groups.¹⁹¹

Ministry of Justice: The Ministry of Justice is responsible for victim care provisions and for administering the contract with the primary provider of services to victims in England and Wales.¹⁹²

NGOS: Certain NGOs are formally recognised as First Responders under the NRM and participate in the process of identification of victims of trafficking; others are members of the NRM Oversight Group, or work directly with the UKHTC.¹⁹³

B5. To what extent are tools for international cooperation employed for the prosecution of THB cases?

The Cyprus police utilize international legal tools in order to conduct investigations that go beyond local jurisdiction. Cyprus has ratified the European Convention on Mutual Assistance in Criminal Matters and its Protocol by enacting Law 2(III)/2000. This mechanism enables the States to request and obtain evidence for criminal investigations and prosecutions. Mutual legal assistance requests are made directly to the designated “Central Authorities” of each state. Also, the tools of Europol and Interpol are broadly used. Such initiatives are certainly useful for combating trafficking in human beings, especially if seen in the aspect of transnational crime. Notably, given that organised criminal groups act rapidly, all the procedures for transnational cooperation, either for the setting up of JITs or for exchanging intelligence must be done in a timely manner.

In the Netherlands, information is also exchanged through Europol. The Netherlands mostly delivers information gathered by the expertise centre for human trafficking and human smuggling (EMM).¹⁹⁴ However, in concrete criminal investigations, the information exchange through Europol is seen as laborious and thus not timely. Therefore, direct cooperation is sought by investigation agencies.¹⁹⁵ Mostly, this is with countries of origin in the EU, most often Bulgaria, Hungary and Romania.

As already referred to above, within the EU, investigative agencies can also work together by establishing a JIT. The legal basis for a JIT can be found in Art. 552qa and further CCP(NL). Furthermore, the Netherlands is member of a number of- or has established organisations that promote international cooperation: the Dutch Taskforce, the EU-EMPACT-project and the funding of EuroTrafGuID (a EU funded project involving several states, including the Netherlands, to develop guidelines for first-level identification of victims of trafficking).

¹⁹¹ GRETA (UK) 2012.

¹⁹² GRETA (UK) 2012.

¹⁹³ GRETA (UK) 2012.

¹⁹⁴ National Rapporteur (NL) 2013, p. 244.

¹⁹⁵ National Rapporteur (NL) 2014, p. 241; PPS (NL) Jaarbericht 2013, p. 27.

The Polish authorities stress the importance of international cooperation. In Poland, there are several tools that facilitate international cooperation. First of all, the authorities have indicated that Art. 91 of the Polish Constitution provides for direct application of international agreements, which means that persons can invoke an international agreement in order to support their claims; where there is a conflict between a ratified international agreement and domestic law, the international agreement trumps the latter.

Secondly, there is a Polish National Action plan, which aims to cover the aspects of prevention, protection, prosecution, international co-operation, as well as legislative developments. The Central Unit for Combating Trafficking in Human Beings in law enforcement also prioritizes international co-operation in carrying out anti-trafficking initiatives and international organisations, including the ILO have conducted trainings for labour inspectors on identifying victims of labour trafficking and exploitation. Additionally, intergovernmental organisations, foreign embassies (e.g. of the UK and USA), NGOs (e.g. La Strada Foundation, Nobody's Children Foundation, Halina Nieć Legal Aid Centre, PoMOC Association) and the Trade Union "Solidarność" co-operate closely with governmental institutions by providing experts and funds for the training for professionals.

With regard to police cooperation, there is a Central Team against Human Trafficking and there are Regional Teams against Human trafficking. They lead operational cooperation and inquiry, as well as collaboration focused on training and exchange of experiences and best practices (seminars, conferences, regular meetings of the joint initiatives, such as the G6 or the Council of Baltic Sea States). For this purpose a network of both Polish and foreign liaison officers, as well as police and prosecutorial institutions of international character, i.e.: Interpol, Europol and Eurojust, was established.

Lastly, also the Polish authorities have cooperated with foreign authorities by means of establishing a JIT. For example, in 2013, two JITs were established: one with the UK (concerning labour exploitation of Polish citizens) and one with Romania (concerning exploitation of Romanian citizens in begging). This cooperation shows again that Romania is predominantly a country of origin and that Poland is both a country of origin and a country of destination for victims of THB (see par. B1.)

Apart from working in JIT's, as shown by the Polish-UK JIT example above, the UK authorities mainly cooperate with other authorities close to the UK. In Wales, the Anti-Human Trafficking Coordinator has worked closely with the UK human trafficking agencies to establish a comprehensive picture of the scale of the problem in Wales and in the UK and identify what is needed to address it. Cross-sector intelligence sharing hubs have been developed in Gwent, Cardiff, Pembroke and Wrexham. Powys and Anglesey are about to replicate this approach. The Welsh Anti-Human Trafficking Coordinator is also now a standing member of the Welsh Border Management Group, which monitors ports and sets up multi-agency port operations concerning human trafficking.¹⁹⁶ In Northern Ireland, the Immigration and Human Trafficking sub-group of the Organised Crime Task Force includes representatives of the Police Service of Northern Ireland, An Garda Síochána, SOCA, UKBA, PPS (Northern Ireland), UKHTC, GMA, the

¹⁹⁶ GRETA (UK) 2012.

Department of Justice, the Department of Health, Social Services and Public Safety and the Department of Employment and Learning.¹⁹⁷

Romania's international judicial co-operation in criminal matters is regulated by Law No. 302/2004 on the International Judicial Co-operation in Criminal Matters. The Anti-Trafficking Law contains a provision pursuant to which a contact point shall be established within the Ministry of Administration and Interior and at the Prosecutor's Office attached to the Supreme Court of Justice to develop and facilitate exchange of information regarding investigations and prosecutions of offences under the Law no 678 and the New Criminal Code, with counterpart institutions from other countries. Within the General Police Directorate, there is a specialised Centre for International Co-operation responsible for the exchange of information within the framework of international police co-operation. Within the DIICOT, the Office for Co-operation, Representation, and International Judicial Assistance plays this role.¹⁹⁸

Both DCCO and DIICOT mostly use European legal instruments for police and judicial cooperation in transnational criminal cases. According to them, international cooperation on transnational criminal cases on trafficking in persons is done both directly through existing channels in the structure of the Romanian police or PPS(RO) and other countries by sending and receiving operative messages and warrants, and through specific European and international bodies.

Within operational investigations and based on prosecutors delegations, staff from the anti-trafficking units went abroad to take part in rogatory letters for exchanging operational information and data on cases under investigations of the DIICOT.

Annually, DCCO requests information and verification at the Police Cooperation Centre-National Focal Point, Interpol, Europol, SECI, Romanian liaison officers, foreign liaison officers, SCOPS or other structures. Meanwhile, requests for information and verification are received and checked through the same organisations.

Furthermore, cross-border police cooperation is achieved through direct exchange, as mentioned earlier, with foreign police or with foreign law enforcement units. At the same time DIICOT prosecutors conducted an intensive information exchange with similar structures in other countries on cases of THB. Data is received and requested from law enforcements authorities from Romania and law enforcement authorities from other states.

For example, through continuing use of the data exchange with all law enforcement institutions (Europol, Interpol, Eurojust, SELEC etc.) substantial results related for the period in between December 2012 - December 2013 were obtained¹⁹⁹: 1472 notifications were disseminated through available channels for police cooperation, more than 3.000 international assistance requests were received and requested from external partners.

¹⁹⁷ GRETA (UK) 2012.

¹⁹⁸ GRETA (RO) 2012, p. 22.

¹⁹⁹ Romanian Report Measures taken to Comply with Recommendation CP(2012)7, p. 7.

In the same period, 3 JIT's specifically on THB were performed together with law enforcement from foreign countries: one with Poland (as mentioned earlier) one with Great Britain finalized in July 2013 and another one with authorities from Czech Republic.²⁰⁰

The International Police Cooperation Centre within The General Inspectorate of Romanian Police estimates that most operative messages on trafficking are made through INTERPOL, EUROPOL and the National Focal Point.

Romania data on combating trafficking could be obtained through close cooperation with all national and international authorities in the field of transit and/or the destination countries. Formal and informal cooperation was achieved through messaging, meetings, discussions, permanent contacts with the liaison officers and information exchange on specific cases, according to our internal procedures.

B6. Are there any examples of prosecution of corporations?

Prosecutions of corporations are rare. In each country, there seems to be a legal basis for punishing corporations, but in practice, examples are hard to find. Only in Romania, 3 companies have received a final sentence for the crime of THB (including minors).²⁰¹ One of them, which conducted activities under the umbrella of a massage saloon, received a fine of 25.000 lei and the judgment of winding up the company.

In the Netherlands, legal persons can be held liable for criminal offences through Art. 51 CC(NL). However, there is almost no information on the prosecution of corporations in the Netherlands. From the Data of the National Rapporteur, it is known that in 2010 108 out of 109 unique convicted offenders were natural persons.²⁰² It seems that natural persons are charged rather than companies, even if people are exploited within their work situation. An example is the conviction of 2 directors of an employment agency in 2012.²⁰³ The prosecution of corporations does include a serious risk that the person responsible hides behind the company and is not affected by the prosecution. In the Netherlands we have seen that in such cases the actual perpetrator goes onto start a new business to continue the exploitative practices. To prevent that the responsible person evades responsibility new policy on actually affecting the person behind the business has been adopted in the Netherlands.²⁰⁴

Although the UK was the first country to adopt a national action plan on business and human rights, based on the UN guiding principles on business and human rights, limited literature and no examples were found of prosecution of corporations in the UK. Critics have mentioned that the national action plan gives no indication of any intention to give legal effect to the guiding

²⁰⁰ Romanian Report Measures taken to Comply with Recommendation CP(2012)7, p. 12.

²⁰¹ According to the Superior Council of Magistracy's (RO) statistics.

²⁰² National Rapporteur (NL) 2012, p. 33, 125-128.

²⁰³ Rb Zwolle-Lelystad 14 december 2012, ECLI:NL:RBZLY:2012:BY7662.

²⁰⁴ Part of 'Aanpak malafide Uitzendbureaus', TK 2012/13, 29407, nr. 161.

principles requirements on companies and that without this, it is hard to see how the plan will make a meaningful difference.²⁰⁵

In Poland, there is one known attempt to sue an employment agency for labour exploitation. Namely, in 2007 over 30 Tajik men addressed the Bureau for Human Rights in Tajikistan for legal assistance. The workers had been recruited, as part of a group of sixty persons, by a local employment agency to work for a well-known construction company in Poland. Once in Poland the workers were told to perform different work than that which they had been hired for and were not told what their salary would be. When they demanded their salaries after a month of work, the Polish company told them the Tajik employment agency had to pay them, while the Tajik agency said the Polish company would pay. Those workers who were able returned home by their own means, some stayed in Poland, others left for the Russian Federation and were detained there for illegally crossing the border. The Bureau of Human Rights filed a claim against the employment agency but no action was taken. The employment agency then filed a case against each of the workers for breach of contract in an attempt to intimidate them. The Bureau for Human Rights filed counterclaims and the court decided to drop the employment agency claims. The workers however were no longer interested in pursuing criminal or civil claims as they were intimidated and exhausted by the obstacles presented so far and negative consequences of their complaints.²⁰⁶

Conclusion

It seems that in all countries a long list of units, institutions and NGOs are involved in combating human trafficking and providing assistance and support to victims. Coordinating mechanism are in place in all countries either through a National Action Plan, a National Rapporteur or a similar mechanism. Due to a well developed EU legal framework on criminal cooperation, including direct communication between law enforcement, structures for exchange of information, the work of Europol and Eurojust and the possibility to establish JITs, intensive and frequent cooperation is in place with other countries in all reporting states.

However, the prosecution of traffickers still suffers some difficulties. The most important problem seems to be de identification of the victims. This is the first step in discovering victimisation and criminal acts and therefore a crucial element. Because victims do not recognise themselves as such, or because others do not see the signals of THB, an unknown number of crimes stays hidden. Secondly, improvement of the specialisation of professionals would improve the effectiveness of the criminal system. Lastly, the fact that the victim does not always want to cooperate (due to different reasons) may hinder effective prosecutions.

²⁰⁵ <http://www.theguardian.com/sustainable-business/blog/uk-guidance-business-human-rights-legal> and: <http://www.theguardian.com/politics/2014/sep/08/mps-say-british-companies-should-be-prosecuted-for-overseas-human-rights-abuses>.

²⁰⁶ CCME 2010.

PART C: Identification, assistance and protection of trafficked persons

CI. How many victims have been identified per year of the past five years? Specify what form of THB they were a victim of?

Cyprus

As reported by the Cyprus Police, most victims of THB are found in sexual, labour, and forced marriage schemes, with the number of victims ranging from 52 to 27 annually. Moreover, the preponderance of victims is female and at the age of sexual consent. From 2010-2014, there were only 5 minors identified as victim. The number of men did increase in the same period, with only 5 in 2010 and around 10 in 2012-2014 (each year). Furthermore, it is interesting to notice that Cyprus seems to receive “groups” of victims with regard to the nationality of those victims. In 2010, out of 52 victims, 12 came from Vietnam and 11 from Bulgaria. In 2012, 15 of the 37 victims originated from Nepal. Only the number of victims from Romania seems to be stabilized at around 7 or 8 each year. The exact number of victims in Cyprus is visualised in a table added in appendix II of this report.

The Netherlands

Paragraph B2. (NL) commented on the offender-victim ratio. This ratio showed that one offender victimised more people. Especially in non-sexual related THB, the group of victims is much larger than the group of offenders.²⁰⁷

In 2012, the border authorities (KMar) reported a lot more victims to Comensha (the organisation responsible for the registration of (presumed) trafficked persons in the Netherlands), mainly on the basis of Art. 273f(1)(3) CC(NL), the form of THB in which coercion is not necessary. The National Rapporteur mentions that other organisations did not report significantly more victims. On the contrary, for example Youth care facilities (Jeugdzorg) are still behind in reporting victims.²⁰⁸ The high increase in KMar reports should therefore be looked at with caution, comparisons with other years and other institutions might be difficult. For example, the National Rapporteur states that the increase in registration of victims from Eastern-Europe is due to the increase in reports made by the KMar.²⁰⁹ In 2013, Comensha has reported 1.437 victims, which is a decrease of 16% compared to 2012 (1.711 victims).²¹⁰

The National Rapporteur states that the increase in 2012 in the number of registered cases of human trafficking might be caused by the priority that is given to human trafficking. In other words: Human trafficking is *seen* more, it does not necessarily *happen* more.²¹¹ However, still, not every case of THB is traced. Rijken, Van Dijk & Klerx-van Mierlo argue that the estimations

²⁰⁷ National Rapporteur (NL) 2012, p. 33, 125-126.

²⁰⁸ National Rapporteur (NL) 2014, p. 26.

²⁰⁹ National Rapporteur (NL) 2014, p. 35.

²¹⁰ TIP (NL) 2014, p. 290. See also GRETA (NL) 2014, p. 12. Newest Report: Nationaal Rapporteur Mensenhandel en Seksueel Geweld tegen Kinderen, *Mensenhandel in en uit beeld II. Update cijfers mogelijke slachtoffers 2009-2013*. Nationaal Rapporteur, Den Haag: 2014.

²¹¹ National Rapporteur (NL) 2014.

of the dark numbers are based on too little information.²¹² Therefore, we cannot give indications of the numbers of victims that are not represented in the criminal justice system.

About half of the victims were recruited in the Netherlands. However, this does not mean that half of the victims are Dutch, the place of recruitment does not always match the country of origin of the victim. In the timeframe 200-2013, 28% of the victims were of Dutch origin.²¹³ Most identified victims originate from Eastern-Europe (sexual exploitation) and Asia (other forms of THB).²¹⁴ Most women are subject to sex trafficking, men are more often victimised through forced labour.²¹⁵ Victims who are exploited sexually are often working behind windows, but are also forced to work from other places such as private houses, brothels and in saunas.²¹⁶

Recruitment in the Netherlands often takes place in restaurants and bars, via internet, and in and around schools. In most instances, the recruiter was known by the victim.²¹⁷ Dutch victims are often recruited from within a relationship, (see par. B1).²¹⁸ Aggressive methods to recruit are not very common.²¹⁹

For victims of human trafficking who already started working in the sector they were exploited in, the exploitation lasted 19,2 months on average.²²⁰

Most victims are female and the average age of a victim is between 18 and 24 years old.²²¹ The group of African victims is special in the sense that within this sub-group, equal amounts of men and women are sexually exploited.²²² However, victims of exploitation are not a homogenous group, not even when dividing the total group of victims into victims of sexual trafficking and of other forms of THB. It is therefore not possible to describe *the* victim of labour exploitation²²³ or *the* victim of sexual trafficking.

Research by Rijken, Van Dijk and Klerx-van Mierlo, indicated that the characteristics (nationality, type of exploitation) of victims found in the support shelters (here from the organisation Fier Fryslan) were different from the victim characteristics found in dossiers of the public prosecutor.²²⁴ More in general they report a huge variety within the group of trafficking victims; due to the form of exploitation they have to endure, the length of the exploitation, the presence of a social network, uncertainty about residence permit, a victim's resilience, actual contacts with traffickers, etc. It is therefore extremely difficult to identify characteristics and needs of trafficking victims in general terms.

²¹² Rijken, Van Dijk, Klerx-van Mierlo 2013, p. 56. The National Rapporteur agrees: National Rapporteur (NL) 2014, p. 21.

²¹³ National Rapporteur (NL) UPDATE 2014.

²¹⁴ National Rapporteur (NL) 2012, p. 129-130; National Rapporteur (NL) 2014, p. 153.

²¹⁵ Tip (NL) 2014, p. 289.

²¹⁶ National Rapporteur (NL) 2014, p. 39.

²¹⁷ National Rapporteur (NL) 2014, p. 155-156.

²¹⁸ Rijken, Van Dijk & Klerx-van Mierlo 2013, p. 65.

²¹⁹ National Rapporteur (NL) 2014, p. 156.

²²⁰ National Rapporteur (NL) 2014, p. 151, with no significant differences between different kinds of exploitation.

²²¹ National Rapporteur (NL) 2014, p. 30-31; see also National Rapporteur (NL) UPDATE 2014.

²²² National Rapporteur (NL) 2014, p. 44.

²²³ National Rapporteur (NL) 2014, p. 27.

²²⁴ Rijken, Van Dijk, Klerx-van Mierlo 2013, p. 60.

Forms of child exploitation that occur in the Netherlands are: exploitation (through the loverboy method) for sexual, financial and/or criminal purposes, child pornography, economic exploitation and exploitation in domestic services.²²⁵ Most trafficked minors became victim of sexual exploitation.²²⁶ Another rather new form of exploitation is commercial webcam-sex featuring children.²²⁷ A form of THB that is occurring but not yet fully recognised is the forced begging by children.²²⁸

The data as published in different reports about the amount of minors who became victim of exploitation is not consistent. The annual *Child Rights 2014* report states that the amount of child-victims has increased in the last couple of years from 118 in 2009 to 260 in 2012. The increase was steeper for boys, but girl-victims are still in the large majority. From 2012 to 2013 only the amount of foreign minors who were exploited increased.²²⁹ The National Rapporteur does not speak of an increase in foreign (unaccompanied) minors, but of “fluctuations” with a peak in 2010,²³⁰ while Kaandorp and Blaak report that “the influx of unaccompanied minors has decreased in the Netherlands (reporting period 2009-2011),²³¹ which is also starting to be reflected in the number of AMV’s staying in a shelter.²³² At the same time, they note that the total amount of registered child victims (so not only unaccompanied minors) has increased.²³³ However, they also note that the increase in registered victims is not shown in the number of prosecution of cases involving minors.²³⁴ The National Rapporteur, however, states that the number of prosecutions in which child-victims are involved have doubled since 2008.²³⁵ Even the registered amount of trafficked children should however be nuanced by the fact that registration of minors, although improved (which might have had its influence on the increase itself), is incomplete because care organisations are not obliged to report to the coordination centre CoMensha.²³⁶ Defence for Children and Unicef plea for an expansion of the obligation to report to the registration agencies.²³⁷ Also GRETA recommends to “explore ways of encouraging all stakeholders to report presumed victims of THB”.²³⁸ Moreover, the most registered victims are not minors, but in the age group between 18 and 23 years old. Even though the trafficking might have started in childhood, the victim is not registered as such.²³⁹

The above shows that it is difficult to measure exact numbers of victims. Probably the differences in data are due to different categorizations or definitions on victims. A point of concern is that considerable numbers of unaccompanied minors (AMVs) disappear from

²²⁵ Kaandorp & Blaak 2014, p. 25.

²²⁶ National Rapporteur (NL) 2014, p. 41.

²²⁷ Jaarbericht kinderrechten 2014, p. 19.

²²⁸ Jaarbericht kinderrechten 2014, p. 17.

²²⁹ Jaarbericht kinderrechten 2014, p. 16.

²³⁰ National Rapporteur (NL) 2014, p. 56.

²³¹ Kaandorp & Blaak 2014, p. 66.

²³² 2009: 120, 2010: 170, 2011: 180, 2012: 80. Kaandorp & Blaak, 2014, p. 55.

²³³ Kaandorp & Blaak 2014, p. 5.

²³⁴ Kaandorp & Blaak 2014, p. 5.

²³⁵ National Rapporteur (NL) 2014, p. 193.

²³⁶ Kaandorp & Blaak 2014, p. 4, see also GRETA (NL) 2014, p. 26; National Rapporteur (NL) 2014, p. 33.

²³⁷ Jaarbericht kinderrechten 2014, p. 17.

²³⁸ GRETA (NL) 2014, p. 29.

²³⁹ Kaandorp & Blaak 2014, p. 34.

reception centres (in 2012: 160).²⁴⁰ Those AMV's are extra vulnerable to exploitation. To avoid this from happening, children do get extra support and are taught about the dangers of trafficking.²⁴¹

Poland

Due to the hidden nature of the crime, data on victims of human trafficking in Poland is diverse and, at times, inconsistent. Moreover, there is no harmonized system of data gathering, and law enforcement, the Ministry of Interior, the Prosecutor General's office and various NGOs are providing data that is inconsistent. It is thus often the case that the same trafficked person is counted in different kinds of statistics of reports.²⁴²

According to official statistics, the number of formally identified victims was 611 in 2009, 323 in 2010,²⁴³ 304/315 in 2011, 282 in 2012 (including 181 "justifiably suspected cases") and 218 [potential cases] in 2013.²⁴⁴ Polish nationals constituted 76% of the victims identified in 2008-2010 (221 in 2008, 439 in 2009 and 283 in 2010). The total number of identified victims included 66 children in 2009 and 32 in 2010,²⁴⁵ and 31 victims assisted in 2013 were children.²⁴⁶ In 2013, Polish police investigated 68 new cases of human trafficking, compared to 60 in 2012, 37 in 2011, 48 in 2010 and 105 [alleged cases] in 2009.²⁴⁷

Additionally, the following is data provided by the Ministry of Interior in its *Report on the Implementation of the "National Action Plan Against Trafficking for 2013-2015"*, for year 2013. There are data concerning victims that were identified and assisted within the Nation Referral Mechanism i.e. The National Intervention and Consultation Centre (NICC) for victims of Trafficking, where the victims are reported. In 2013 a total number of 222 victims were registered to have received direct assistance; 103 of them were Polish citizens and 119 foreigners. Most of the foreigners came from Romania (39 persons), Bulgaria (24 people), Ukraine (20 persons), Vietnam (14 persons), the Philippines (5 people). In addition, support was granted 3 people from Russia, the two people from Cameroon, Kenya, Morocco, Moldova and Uganda, as well as the one person from Belarus, the Czech Republic, Slovakia and Sri Lanka. Among the total number of people who received support, there were 161 women and 61 men, 191 adults and 31 minors. 105 persons were sexually exploited, 53 persons were victims of forced labour and 19 persons were victim of forced begging.

The figures from the Prosecutor General Office, differ and are provided below:²⁴⁸ They registered a total of 261 victims in 2012 and 135 in 2013 of which 96 women, 39 men and of

²⁴⁰ Kaandorp & Blaak 2014, p. 66.

²⁴¹ GRETA (NL) 2014, p. 43.

²⁴² Interview Stana Buchowska, August 8, 2014

²⁴³ GRETA (PL) 2013.

²⁴⁴ The statistics from 2011-2013 are from the TIP reports; however, even the TIP reports themselves list different numbers for the same year (for 2011 for example), and in 2013, describe the number as "possible victims" rather than "identified victims" in previous reports. These discrepancies can be noted in a footnote similar to this one but are the only consistent numbers I could find for the past 5 years.

²⁴⁵ GRETA (PL) 2013.

²⁴⁶ GRETA (PL) 2013.

²⁴⁷ TIP (PL) 2010-2014.

²⁴⁸ Extract from the report of the monitoring of preparatory proceedings, the subject of human trafficking and illegal adoption", Prosecutor General Office (PL), 2014.

which 93 Polish citizens. The other victims were of the following origin: Bulgarian (1); Czech (1); Kenyan (1); Moldovan (1); Romanian (9); Ukrainian (16); Vietnamese (1). Furthermore, this number included 4 minors.

The GRETA report states that Polish authorities have not provided a breakdown of the above-mentioned numbers according to victim's sex and type of exploitation. However, with regards to foreign nationals trafficked to Poland, trafficking of women for the purpose of sexual exploitation remains predominant (some 80% of all identified cases). There are numerous reports according to which trafficking for the purpose of labour exploitation in Poland is also on the rise, in particular from Azerbaijan, China, Nepal, the Philippines, Vietnam, Bangladesh and other Asian countries.²⁴⁹

However, although many foreigners have been found victims of labour law violations, only a few have been identified as victims of trafficking for forced labour. With regards to Polish nationals trafficked abroad, the types of exploitation in recent years involved sexual exploitation, forced labour in the agricultural sector, domestic service, benefit fraud, and using victims' documents to establish false bank accounts and credit agreements.²⁵⁰

Data from 2012 from the Police and Border Guard on cases of "justified suspicion of identification of a victim of human trafficking" refer to 181 persons (133 women and 48 men), of whom 90 were Polish nationals. While the majority of the victims (100) were trafficked for sexual exploitation, there were also 50 cases of trafficking for forced labour, 21 cases of trafficking for the purpose of forced criminal activities, five cases of trafficking for the purpose of forced begging, and five cases of trafficking resulting in slavery. Most of the victims (140) were exploited in Poland. The main countries of destination were Sweden and the UK.²⁵¹

Romania

Most victims are identified by the specialised units for combating organised crime of the Romanian police and, externally, by specialised police structures of other countries as a consequence of specific police raids. Furthermore, victims are identified by social services and (foreign) NGO's. However, it should be noted that the extent to which victims are identified in this manner is low.

The National Integrated System to Monitor and Assess Trafficking in Persons (SIMEV)²⁵² is counting the victims recruited and exploited in Romania (both nationals and foreigners). This

²⁴⁹ GRETA (PL) 2013.

²⁵⁰ GRETA (PL) 2013.

²⁵¹ GRETA (PL) 2013.

²⁵² The quantitative analysis was derived from registered data from SIMEV, administered by ANITP. National Integrated System to Monitor and Assess Trafficking in Persons (SIMEV) was developed by the National Agency against Human Trafficking (ANITP) and became fully operational in January 2007. Technically, the national system is based on multi-level software, which uses a central database, a data interrogation application and a web-type user interface. The access to this system is only permitted to users within ANITP, the Monitoring, Evaluation and Coordination Office, ANITP Regional Centres, as well as to certain users within the Offices to Combat Organised Crime and within the General Inspectorate of the Romanian Border Police. The data may also originate from other partner institutions besides the Ministry of Internal Affairs, for example NGOs, DGASPC, ISJ etc. Officers of ANITP Regional Centres are also collecting and filling data regarding victims' assistance.

means that both internal trafficked victims and victims recruited, transported and exploited outside the country (external trafficking) are counted. The system does not make a distinction in terms of the places of recruitment when categorizing the trafficking (internal or external), only the exploitation is divided in in- and external trafficking. For example, if a Romanian is recruited in the Netherlands and then exploited in the Netherlands, the case will be seen as an external trafficking case. The situation is similarly registered and counted when the Romanian victim was recruited in Romania but exploited in the Netherlands.

The number of identified victims changes from year to year:

- 2009: 780
- 2010: 1154
- 2011: 1048
- 2012: 1041
- 2013: 896

Reviewing this period, the average of the victims identified annually is 1000, but the annual measurement presents a quantitative decrease from year to year since 2010, without noticing major changes in the distribution of certain vulnerable groups based on gender, age or other demographic indicators. The geographical origin of the victims appears to be the most flexible indicators that changes from year to year and suggests increased flexibility, easiness and determination of crime networks in choosing their future victims as well as the permanent need for a comprehensive approach regarding interventions.

Adult victims have a majority distribution among identified victims, in percentage of 70%, of which 51% were male. The average age of the identified victims was 24 years, but there is an increased vulnerability to age 17, at that age it was recorded the highest frequency among the victims. For female victims, the age observed with the greatest risk of being trafficked is 21 years. Risk among women being trafficked greatly decreases under the age of 14 and over the age of 25 years.

The percentage of minor in total number of victims was 30%. In the group of minors, an even larger majority is of the female sex: 89%. Most identified victims who were sexually exploited victims were minor females; their percentage of the total identified is 46%. During the years 2009-2013, 46 male victims were identified as being sexually exploited, of which 33 were minor.

Sexual exploitation is the most common form of exploitation. Most of the identified victims are trafficked in clubs, on the street or other public or private spaces known for prostitution. There were cases in which victims of trafficking after their involvement in prostitution activities, return to Romania, are involved in recruiting other girls, to transport and sexual exploitation in destination countries.

Victims are equally vulnerable to trafficking for labour exploitation, regardless of rural or urban origin. The vast majority of victims exploited to this form are adult males (77.5%). The rural origin is a vulnerability factor in these cases (65% of the total identified victims were from rural areas).

Forced begging is much less common compared to sexual exploitation or labour exploitation, but still is the third most common form of exploitation of Romanian victims, with a distribution of approximately 10% of identified victims annually, most of them being exploited externally. Usually, the location used for this form of exploitation are crowded areas with a high frequency of passer-by, like entries in shops or supermarkets, schools, churches, railway stations, parking lots, parks, major intersections in cities, crowded markets, tourist areas etc.

Committing theft is even less common among the annually identified victims. This does not necessarily mean that victims are not forced into committing theft or other crimes, but that this form of exploitation is sometimes associated with other forms, victims being compelled to such practices in addition to other forms of exploitation.

During the reporting period 16 foreign victims were identified in Romania, with citizenship of countries such as Moldova, Bangladesh, Poland, Serbia, Greece, Hungary and Bulgaria.

The United Kingdom

In paragraph B1. (UK), it was already mentioned that a total of 1.481 potential victims were referred to the NRM in the two-year period between 1 April 2009 and 31 March 2011. 33% (36% for minors) of these victims were identified as victims of human trafficking. This number concerned 225 women, 131 men, 109 girls (minor) and 32 boys (minor).²⁵³ Additional information from the TIP (UK) report over the last five years is as follows:

- **2009:** The government identified 527 trafficking victims through its NRM between April and December 2009: the UK Border Agency and police identified the majority of victims.²⁵⁴
- **2010:** The government reported it identified 379 potential victims of sexual and labour exploitation between April 2009 and September 2010; 89 of these potential victims were children. The UK Border Agency and police identified the majority of victims. Authorities rescued 15 trafficking victims in 2010 in Northern Ireland, including three male victims.²⁵⁵
- **2011:** The government reported that it proactively identified and referred 294 potential trafficking victims from July through September 2011 through its NRM. The most common countries of origin for the 294 NRM referrals included Nigeria, Vietnam, the UK, Slovakia, China, and Uganda. As of January 2012, 40 percent, or 117 of the 294 people referred to the NRM, were found to have been trafficked, most commonly from the UK, Slovakia, Romania and Lithuania.²⁵⁶
- **2012:** The government reported that it identified 1,186 potential trafficking victims from July through December 2012, including 372 potential child victims. Approximately 224 of these referrals involved labour trafficking or domestic servitude victims. This figure represents a 25 percent increase compared with overall NRM referrals in 2011. The government reported a preliminary figure of 415 trafficking victims who received a

²⁵³ See <http://www.theguardian.com/society/2014/feb/25/children-trafficked-between-uk-towns>. Accessed November 2014.

²⁵⁴ TIP (UK) 2010.

²⁵⁵ TIP (UK) 2011.

²⁵⁶ TIP (UK) 2012.

“positive grounds” decision in 2012, with significant number of outstanding decisions involving non-EU victims.²⁵⁷

- **2013:** The UK government reported that it identified 1,746 potential trafficking victims in 2013—1,112 females and 624 males. The UK government reported a total of 400 potential child victims.²⁵⁸

According to the Anti-Trafficking Monitoring Group (ATMG), service providers and lawyers remain concerned about Home Office decision making which denies victims of trafficking rights to reflection delay and assistance on the grounds that they are no longer in need of such assistance; so-called ‘historic’ cases.²⁵⁹

C2. How are victims of THB identified? Does a referral mechanism exist? If yes, shortly describe how the NRM works. What are the main positive aspects and bottlenecks?

Identification Agency

In most countries, the police are in some way related to the identification of victims. In Cyprus, the police are the competent authority for victims, which will be discussed in more detail when discussing their referral procedure.

In Poland, there are two routes for identifying victims of trafficking, by the NICC or by law enforcement agencies. The police belong to the latter.

In the Netherlands, there is no formal identification process common to all possible victims irrespective of their nationality and immigration status.”²⁶⁰ Within the framework of the residence regulation (see par. A), the police and the KMar are responsible for determining whether someone is a victim of THB.²⁶¹ This means that the identification is left to investigative agencies. Also Comensha, the agency to which victims are reported, does not use formal identification criteria.²⁶² However, the residence permit is linked to the status of being a victim. In recent years, there has been a debate on the possible abuse of the regulation by asylum seekers. This idea is strengthened by the average length of the stay on the basis of the B8-3 residence permit (see par. A).²⁶³ As GRETA puts it, “this has led to a climate of suspicion towards victims of trafficking as a whole, with the risk of possible victim being left out of the protection afforded by the Residence Regulation for THB.”²⁶⁴ Klaver, Van der Leun and Schreijenberg interviewed experts about possible indicators of abuse of the regulation, but concluded that the indicators are non-determining. The enforcement of indicators such as “lack

²⁵⁷ TIP (UK) 2013.

²⁵⁸ TIP (UK) 2014. Where not specified, the type of exploitation was not provided.

²⁵⁹ The Anti-Trafficking Monitoring Group (ATMG), *Hidden in Plain Sight Three Years On: Updated Analysis of UK Measures to Protect Trafficked Persons*. October 2013, p. 9.

²⁶⁰ GRETA (NL) 2014, p. 36. See also Rijken, Van Dijk & Klerx-Van Mierlo 2013, p. 38.

²⁶¹ GRETA (NL) 2014, p. 37.

²⁶² National Rapporteur (NL) 2014, p. 25.

²⁶³ Dutch Government, *Evaluatie kansloze aangiften verblijfsregeling mensenhandel*. 2014. Accessed October 2014: <http://www.rijksoverheid.nl/documenten-en-publicaties/rapporten/2014/06/24/evaluatie-pilot-kansloze-aangiften-verblijfsregeling-mensenhandel.html>, p. 2.

²⁶⁴ GRETA (NL) 2014, p. 38.

of consistency in the statement” and “minimal information on the living area” excludes victims from the regulation.²⁶⁵ The IND (immigration and naturalisation service) and COA (responsible for the reception, supervision and departure of asylum seekers) are trained to identify indications of human trafficking.²⁶⁶ An assessment on indications of human trafficking is a standard procedure in DT&V (return procedure).²⁶⁷ Per year, about 35 persons are identified as possible victims of human trafficking in this way.²⁶⁸ Currently a working group has been established that is looking into the possibilities to establish a multidisciplinary team for the identification of victimhood.

As mentioned in par. B1, Romania is mainly a country of origin, meaning that the State has to deal with human trafficking mainly from a perspective that its citizens are exploited abroad. There is not a specific system for recognizing victimisation of citizens residing abroad. Rather, information from foreign law enforcement authorities, Romanian embassies or consulates, international organisations or even foreign NGO’s regarding a possible Romanian victim abroad is enough to include the person into a program meant to assist and help that victim. Referrals are made through the NRM (RO) (see further par. C2). Furthermore, Romania is a part of the ICMPD projects “Development of a Trans-national Referral Mechanism for Victims of Trafficking between Countries of Origin and Destination (TRM-EU)” and “Enhancing Transnational cooperation on trafficking cases in South-Eastern Europe (TRM II)” in which a reporting template for all the participating countries was developed in order to facilitate transnational communication for trafficking cases. These projects have contributed to an increase in victim’s referrals and to an improvement of the data regarding the Romanian victims’ situation and exploitation abroad.

Challenges in the identification of victims

The Netherlands reports a number of challenges in the identification of victims. At the side of possible “bystanders” of the victimisation that could identify a situation as victimisation and report to for example the police, it is sometimes hard to tell whether a situation may be regarded as human trafficking. It is important to note that even at the side of the victim, the victimisation is not always recognised, as was already stated in par. B3, while discussing obstacles for effective prosecution. It should be clear that exploitation should be assessed using the Dutch standards – not the standards of the victim’s country of origin. This is important for example when assessing minimum wages. Furthermore, as discussed in paragraph A1, also the creation of exploitative situations in which victims make themselves available for exploitation is criminalised. Especially this type of human trafficking is hard to detect.

There are significant challenges to consistent victim identification, referral and coordination of assistance in Poland. Without an NRM (see next paragraph), assessment processes are not standardized and thus data on identified victims is not necessarily reflective of the situation on the ground. Additionally, there is a considerable gap between victim identification and prosecution of perpetrators in Poland, with certain types of assistance dependent on victims’

²⁶⁵ Klaver, Jeanine, Joanne van der Leun, and Ad Schreijenberg, *Vooronderzoek oneigenlijk gebruik verblijfsregeling mensenhandel*, Regioplan Beleidsonderzoek, Amsterdam, 2013, p. 67-68.

²⁶⁶ GRETA (NL) 2014, p. 40.

²⁶⁷ GRETA (NL) 2014, p. 49.

²⁶⁸ National Rapporteur (NL) 2013, p. 155.

participation (and risk of re-traumatization) in court proceedings, despite legislation mandating access of victims to services regardless of participation in court proceedings. Foreign (non-Polish, non-EU) victims are also excluded from State compensation and very few are granted residence permits. An overall lack of translation of legislation on the ground in Poland thus discourages victims from coming forward and from seeking services they are entitled to by law.

In the UK, the identification of victims also suffers from some challenges. While the NRM (UK) (see next paragraph) is a positive development, victim identification continues to lack adequate coordination and comprehensive victim-assessment tools that take all types of victims into account (e.g. male, female, child, foreign and national/local). While there is considerable legislation safeguarding victims of human trafficking in the UK, there also remain challenges in applying these safeguards on the ground, particularly with more vulnerable victim groups. As outlined earlier, child or foreign national victims of human trafficking are sometimes placed in juvenile detention or immigration detention centres rather than at shelters appropriate for trafficking victims. Moreover, NGOs point out that many trafficked persons are not identified and thus not receive the assistance they need. Increased attention to such gaps will help improve protection mechanisms for victims in the UK.

Availability of an NRM

Not every country has a National Referral Mechanism (NRM), but the countries that don't have an NRM are currently in the position of drafting one (NL) or have other laws that provide for a referral procedure (CY and PL).

In Cyprus, Law 60(I)2014 provides the standard referral procedure. Whenever any governmental department or NGO contacts potential victims, they refer them to the Social Welfare Services where the victims receive information, especially concerning their rights regarding administrative and judicial proceedings. The potential victims are then referred to the Police which are the competent authority for the identification of victims. In turn, the police – in order to maintain a universal method of identifying victims of THB, as well as assist front line officers regarding victim identifications and handling – has adopted an *identification process manual*, which is based on the Internal Labour Organisations indicators for identifying victims of trafficking, the WHO and on the provisions of the domestic legislation. The manual functions as a guideline to all law enforcers.

In Poland, the National Intervention and Consultation Centre (NICC) for Polish and foreign victims of trafficking, established in April 2009, is generally recognised as a national referral mechanism structure and is also presented as such by NGO and governmental representatives. It is financed by the state. Due to the increasing number of identified victims in Poland, there has been an increase in the financial support as well. In 2012, the NICC received approximately 194.000 Euro, in 2013 this went up to 250.000 Euro. There is neither a National Rapporteur nor a National Coordinator; the limited coordination work is done within the Ministry of Interior. The Ministry of Internal Affairs coordinates the activities of the Team for Combating and Preventing Trafficking in Human Beings. The Ministry organises conferences and meetings bringing together actors involved in the fight against human trafficking, supporting projects for human trafficking, as well as is responsible for the introduction of the subject of human trafficking to public media programs and raising awareness of the general public.

The Netherlands does not have a national referral mechanism yet. However, the minister of Security and Justice has announced that the legislator will be working on a national referral mechanism. The outline of the proposed referral mechanism is as follows.²⁶⁹ The first part has the function of a “signpost”. A website will be developed that will give an (exhaustive) overview of all agencies and regulations that deal with human trafficking. This will not only help victims to find their way to the relevant institutions, but will also serve the professionals in the field. The second part shapes the responsibilities of the agencies. This does not only make clear which agencies execute which tasks, but having an overview of all the agencies (which is made sure by part 1), it will also allow to adapt to balance the responsibilities in such a way that there is not too much overlap but not too much gaps either. Thirdly, agreements about the responsibilities will be made. Another important addition to the draft of the referral mechanism is that a project group will be created, which has the task to research in what way identification of victims of THB can be improved. The national and regional expertise centres will assist this project group.²⁷⁰ It was argued that a national referral mechanism is needed because of the gap in protection for Dutch child-victims, delineation of responsibilities now that the group of victims is growing, and process-descriptions are not up to date/sufficient anymore.²⁷¹

The UK initiated its NRM in April 2009. It created provisions for support to victims through a 45-day recovery and reflection period for all identified victims and temporary one-year renewable residence permits in circumstances where they assist the authorities or support criminal proceedings or owing to their personal circumstances.²⁷² The NRM furthermore establishes a three-stage procedure for identification: i) initial referral of a potential victim by frontline staff from designated organisations known as “First Responders; ii) consideration of the merits of the case by an official from a designated “Competent Authority” in order to determine whether a person might have been a victim of trafficking (known as “reasonable grounds decision”); iii) a conclusive decision by the Competent Authority whereby a person is considered as a trafficking victim. This identification procedure applies across the UK countries and covers both adults and children.²⁷³ There is also guidance for frontline staff.²⁷⁴

GRETA notes that the NRM(UK) is a positive development, to the extent that it formalises the process of victim identification and referral to support, irrespective of whether a person cooperates with the authorities. The development of the NRM has been accompanied by multi-agency consultation and engagement, issuing of guidance and provision of training. That said, GRETA notes that the NRM has been criticised by various stakeholders as being too centralised, lacking accountability and transparency, creating a conflict of interest in decision making, and ultimately failing to ensure that all potential victims of trafficking are identified, supported and protected and that traffickers are prosecuted.²⁷⁵

²⁶⁹ *Kamerstukken II* 2013/14, 28 638, nr. 122, p. 5 and further.

²⁷⁰ *Kamerstukken II* 2013/14, 28 638, nr. 122.

²⁷¹ National Rapporteur (NL) 2013, p. 130-132.

²⁷² CPS Policy, p. 17.

²⁷³ GRETA(UK) 2012.

²⁷⁴ Home Office, *Victims of human trafficking: Guidance for frontline staff*, 21 January 2013, accessed November 2014: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/275239/Human_trafficking.pdf

²⁷⁵ Home Office, *Victims of human trafficking: Guidance for frontline staff*, 21 January 2013, accessed November 2014: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/275239/Human_trafficking.pdf

Elaborating on the critique by the stakeholders, by operating a standard of proof for conclusive identification that is too high for many victims of trafficking to meet, the NRM has been reported to prevent the positive identification of victims and prejudices the rights of applicants, not only in terms of achieving legal status as victims of trafficking, but also in being granted residence permit and compensation.²⁷⁶ According to an UK Anti-Trafficking Monitoring Group consisting of NGOs and international organisations, the NRM lacked coordination, did not ensure adequate oversight of individual cases and failed to meet the needs of victims of forced labour and involuntary domestic servitude. In their June 2010 report, the ATMG noted that many victims are not referred through the NRM, as victims either do not view any benefits of referral, are afraid of retribution by their traffickers, or are fearful of the consequences of being brought to the attention of authorities because of their immigration status. The Group's report also faulted the NRM for failure to ensure that identified victims were truly referred to specialised care providers. Furthermore, the NGO report concludes that the UK authorities focused on the credibility of a potential victim too early in the identification process, noting that most victims who have only recently escaped control of their traffickers do not always reveal the truth about their experiences when first questioned.²⁷⁷ It is unclear how much this situation has improved since then. Furthermore, other information from 2010 revealed that the government failed to provide safe accommodation for some victims identified through the NRM; despite being officially recognised as trafficking victims, the government housed 27 victims in an immigrant detention centre and 22 victims in prison or in a young offenders' institution in 2009.²⁷⁸ In the October 2013 ATMG report, the ATMG mentioned that access to services through the NRM is disproportionately allotted to EU/EEA nationals and that there remain no formal appeal procedures for negative NRM decisions – either for EU/EEA or foreign nationals.²⁷⁹

Romania has adopted a National Strategy against Trafficking in Persons 2006-2010 and a National Plan for the Implementation of the Strategy 2006-2007. The latter includes provisions for a national integrated system of identification and referral (NRM), which was based on the OSCE's handbook. The mechanism set up a uniform and coordinated response of all anti-trafficking institutions and organisations. The aim is to improve on early victim identification in terms of capacity as well as on the protection and assistance to victims, regardless of the institution or organisation that the victim initially gets in contact with. The mechanism furthermore represents a set of norms (measures and actions) designed to identify and refer victims of trafficking with the purpose of ensuring support services. The mechanism was formalized under a joint order, no. 335/2007 and was signed by all the responsible ministers. The first stage of the identification and referral mechanism is the victim screening in order to determine whether an individual is in fact a victim of trafficking and, if the case may be, to ensure that that individual gets access to specialised support and protection services. The screening and identification process implies the establishment of an initial contract with the presumed trafficked person, the analysis of the indicators and a pre-interview carried out by trained personnel with the victim to identify possible trafficking elements. The following

²⁷⁶ Home Office, *Victims of human trafficking: Guidance for frontline staff*, 21 January 2013, accessed November 2014: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/275239/Human_trafficking.pdf

²⁷⁷ TIP (UK) 2011.

²⁷⁸ TIP (UK) 2012.

²⁷⁹ ATMG 2013, p. 8.

indicators should always be assessed: sex, age, social conditions, documentation, last location, identification circumstances and signs of abuse.

The NRM (RO) could be improved with regard to the knowledge on the NRM by professionals who (potentially) come into contact with victims and with regard to the format, which could be made more accessible, friendlier and more concise.²⁸⁰ This would ensure better understanding of roles and responsibilities by each representative involved in the identification and/or referral.

C3. What kind of assistance and protection is provided to THB victims? How are victims enabled to use assistance and protection services? Is assistance and protection available to all victims, including male victims, children, EU citizens, nationals? What are the obstacles in victim identification, assistance and protection? Under what conditions can a residence permit and a reflection period be granted? How is unconditional access to support and assistance granted?

Different types of assistance and protection can be distinguished. For example, it can be focused on health-related issues or on legal issues. Both forms of assistance will be discussed in this paragraph. Furthermore, assistance can depend on the stage of the proceedings: a just identified victim might need and receive other assistance and protection than a victim testifying in court. Below, the different steps are sequentially discussed.

Physical protection

Physical protection is often the first step: victims are placed in a secure environment away from the trafficking situation. In most countries, there is a national agency assigning rooms in those shelters. In Cyprus, the Social Welfare Services are responsible for this. In the Netherlands, Comensha is the central organisation for victim registration and referral to the appropriate support facilities. Third country nationals and in some cases also EU citizen can be accommodated in specialised shelters (COSM's) through. Dutch victims need to use the existing national support facilities available. There are only a few institutions that are specialised in supporting trafficking victims and therefore Dutch victims run the risk of being deprived of specialised care, which is further complicated by the decentralisation of care facilities.²⁸¹

In Poland, the provision of accommodation and support to victims of trafficking is ensured by the National Consulting and Intervention Centre for Polish and Foreign Victims of Trafficking, 14 designated crisis intervention centres across the country, as well as non-governmental organisations. Adult female victims of trafficking are accommodated in the shelter run by La Strada or are referred to another shelter or a crisis intervention centre. The Centre is also responsible for finding a safe place for male victims of human trafficking who can be referred to crisis intervention centres or placed in hostels.²⁸² NGOs including La Strada provide assistance to victims, including shelter and legal assistance.²⁸³

²⁸⁰ Twinning Project RO 06 IB JH 08, *Supporting the institutional capacity to prevent trafficking in human beings in Romania – Increasing the intervention on capacity of the actors involved in the process of victim trafficking identification, referral and assistance through providing quality multi-disciplinary services*, -internal report for the C Component/Activity of the Project, 2010.

²⁸¹ Rijken, van Dijk & Klercx, 2013

²⁸² GRETA (PL) 2013.

²⁸³ GRETA (PL) 2013.

In Romania, there are different types of shelters:

- Governmental centres for assistance and protection of adult victims of trafficking, set up by the Law 678/2001;
- Governmental transit centres for unaccompanied minors or victims of trafficking;
- Governmental centres for foreigners, under the administration of General Inspectorate for Immigration;
- Centres for assistance under the administration of NGOs.

Also, in accordance with national law, social services providers can organise and provide services for victims of human trafficking at their homes or in day centres. In addition to these specific centres for victims of trafficking adult or minor, depending on the victims' needs and the local/regional situation of social network, victims can be assisted in other types of residential centres, subordinated to General Directorates of Social Assistance and Child Protection, aimed to assist different categories of persons at risk (victims of domestic violence, persons with disabilities, homeless persons).

Empowerment and well-being

In Cyprus, empowerment of a victim is the second step after the protection of the victim. This is achieved through a series of interviews conducted by the specialised members of the Office of Combating Trafficking in Human Beings (OoCTHB). This office is working together with the Cyprus police and it is the coordinating body of all the police departments, as well as the central point for the identification of victims and of the training of the police officers on THB issues. During the interviews, the OoCTHB establishes a rapport with victims, in an attempt to get a full picture of their situation and also assess the level of security risks they are facing. This process enhances the cooperation with the police and also enables the victim to take an informed decision whether to cooperate or not. This decision can be made during a reflection period, in which the victim gets a temporary residence permit. At the same time, sessions with a clinical psychologist of the Health Services of the State are arranged. If the victim decides to cooperate, a written statement is taken at the OoCTHB that offers a friendly environment to the victims. During the course of the investigations and legal proceedings, the victims stay in the shelter. They also get a new telephone number so that they are not easily traced. Furthermore, the police patrol the residences of victims of THB and accompany the victims to the court.

In Poland, Social Welfare law ensures that assistance is duly provided to victims of human trafficking in Poland:

- Art. 5a (Right to benefits in the form of crisis intervention, shelter and services), as noted in Art. 53(1) point 15 and Art. 53a(2)(4) of the Act of 13 June 2003;
- Art. 7 point 7a: social assistance to individuals and families, in particularly because of the need to protect victims of trafficking;
- Art. 22(15): the duties of the governor must coordinate, under the system of social assistance measures in the prevention of human trafficking and supporting victims of human trafficking.

Before discussing the social services in Romania, it is interesting to mention that out of the 1.041 victims of trafficking that were identified in 2012, only 352 victims were referred to social service providers. Of these victims, 262 were referred to public social service providers, 58

victims were referred to private providers and 32 were referred to support measures provided based on a public-private partnerships. Lastly, 15 victims reconsidered their decision, so that assistance measures were suspended. This shows that a large majority of the victims were not interested in receiving social support.

For victims who are interested in receiving support, there are various possibilities. First of all, in accordance with Art. 7 and 11 of Law 211/2004 on the protection of victims of crime, probation services are mandated to provide counselling. Psychological counselling is usually provided by specialists from other private or public institutions, with which probation services also work together on the basis of partnership agreements. The cooperation ensures different kinds of assistance to victims, which is necessary since their needs are complex and require the involvement of institutions competent in different areas of expertise (e.g. medical, employment, education, etc.).

In the Netherlands the care-coordinator determines the medical needs of the victims and organises legal support if required also during the reflection period. The victims will receive an allowance and once a residence permit is granted the victim will be able to receive education and access to the labour market. Again Dutch victims and EU citizen who have been equalled with Dutch citizen have to organise such support and assistance themselves.

In Romania, the protection and assistance of children is taken care of by a separate agency. Protection and assistance is in that case provided directly by DGASPC. Child victims of trafficking receive, depending on their personal situation, psychological recovery services, medical assistance, legal representation, support for professional/school reintegration and physical protection. They can also receive financial compensation as provided under the law. Repatriation of children who are victims of THB is performed according to Government Decision no. 1443/2004 on the procedure of repatriation of unaccompanied Romanian children and/or victims of trafficking in minors and the provision of special protection measures on their behalf.

In the UK, the following forms of support are available (next to the already mentioned safe and secure accommodation and emergency medical treatment): medical treatment including access to sexual-health services; interpretation and translation services; information and counselling on legal rights; referral to other relevant services (such as counselling and legal advice); psychological assistance; support to participate in the criminal justice system; specialist services sensitive to the gender, age and special requirements of the victim; subsistence support; and advocacy for specialist services from other agencies. Further, identified victims of trafficking have full access to the UK National Health Service free of charge. There are no differences in the support services offered to victims of transnational and national trafficking.²⁸⁴ As for legal assistance, victims of trafficking are entitled to legal aid only when there are reasonable grounds to believe that the individual is a victim and only as long as that decision is maintained. It is furthermore interesting to mention that the UK department of Health invested in a research

²⁸⁴ GRETA (UK) 2012.

project called PROTECT and that Platform 51, on behalf of the Department of Health issued guidance²⁸⁵ and e-learning²⁸⁶ opportunities for health staff.

Residence permits (Related information can also be found in par. A3.- Legislation related to migration and/or asylum).

In all countries, victims have to be granted a temporary residence permit for a reflection-period, in which they can make a decision on filing complaints against the perpetrators, while being allowed to recover and escape the influence of the perpetrators and being informed on the rights as a victim. The recovery and reflection period is in itself not conditional on cooperation with the investigative or prosecution authorities.

In Cyprus, the reflection period is based on Article 45(5) of Law 60(I)/2014 and it takes at least one month. In the Netherlands, Poland and Romania, it takes three months and in Poland, the minimum is 30 days. In the Netherlands there is no minimum duration for the reflection period given in legislation. The UK NRM grants a minimum 45-day reflection and recovery period for victims of human trafficking. There is currently no maximum length for the recovery and reflection period.²⁸⁷ Since one of the goals of the reflection period is to decide on whether or not to cooperate with the criminal proceedings, in Cyprus, the prosecution authorities may approach the victim to determine whether s/he is willing to cooperate with them, in collaboration with the Social Welfare Services and/or the Mental Health Services and/or non-governmental organisations.

According to Article 53(1) of Law 60(I)/2014, the Minister of Interior, issues to a victim, who is a national of a third country, even if s/he entered or resides illegally in the Republic of Cyprus, a temporary residence permit in order to grant a reflection period. This permit allows the victim to recover and escape the influence of the perpetrators, so that s/he can make a decision, with full knowledge of his/her rights, as to whether s/he wishes to cooperate with the prosecution authorities.

In the case where a victim is a third country national and already granted a residence permit, the permit remains valid until it expires, without affecting the rights of the victim. Victims who are granted a reflection period are eligible to a temporary residence permit.

According to Article 53(2) of Law 60(I)/2014, in the case where a victim is a European citizen, the Director of the Civil Registry and Migration Department of the Ministry of Interior, issues without a fee, a temporary registration certificate.

Regarding the procedure for granting a recovery and reflection period, the Office of Combating of Trafficking in Human Beings of the Cyprus Police primarily interviews potential victims for identification. When there are reasonable grounds to believe that a person is a victim, the above-mentioned Office forwards an application to the Director of the Civil Registry and Migration Department of the Ministry of Interior for the granting of the temporary residence permit or the temporary registration certificate for reflection. When the above-mentioned permit or certificate

²⁸⁵ Open Democracy, accessed September 2014: <https://www.opendemocracy.net/ourkingdom/david-rhys-jones/what-stops-uk-protecting-victims-of-trafficking>.

²⁸⁶ <http://www.e-lfh.org.uk/programmes/human-trafficking-e-learning/> accessed September 2014.

²⁸⁷ <http://www.e-lfh.org.uk/programmes/human-trafficking-e-learning/> accessed September 2014.

for reflection is granted, the Office of Combating Trafficking in Human Beings informs the Social Welfare Services. Then, the victim is accompanied by the relevant social worker or by a representative of an NGO to the Civil Registration and Migration Department to be registered.

In the Netherlands a reflection and recovery period is only granted to third country nationals and some EU citizen. The reflection period is granted to the victim to the police or the border police. GRETA recommends that the reflection period could also be granted to the victim by the Labour Inspection Service. The Immigration and Naturalisation Service (IND) decides on residence permit, but in practice almost always relies on the judgment of the police.²⁸⁸

The reflection period is bound to be granted to a (potential) victim on the basis of the slightest indication of human trafficking. The threshold for granting the reflection period is kept low on purpose.²⁸⁹ During the three month-reflection period, victims stay in a specialised shelter (COSM) and get an allowance. In order to guarantee enough accommodation places, municipalities have to provide a set number of those (Art. 60a Housing Act).²⁹⁰ Comensha manages the placing of victims into accommodations. After the reflection period the municipality gives an allowance.²⁹¹ The National Rapporteur has received signals that the police does not always guarantee the reflection period, but instead immediately schedules an appointment for an official statement.²⁹²

After the reflection period, the victim either decides to make a formal statement, in which case a temporal residence permit can be continued, or not to make a formal statement, in which the temporal residence permit will be stopped. If a formal statement is made, the question is whether there are enough indications to start criminal investigations. If so, the permit can be continued if the victim cooperates. This bond between residence permit and cooperation in criminal investigations runs till the final conviction. Only when a victim cannot cooperate due to a serious threat against him or her because of psychological or medical problems, the residence permit can also be granted without this bond. After the conviction or after three years of cooperation, the victim can get a longer residence permit. The National Rapporteur suggests that a victim can get this permit after the decision to prosecute is made rather than after a conviction.²⁹³ GRETA recommends eliminating the link between assistance in the criminal proceedings and assistance.²⁹⁴

On average, victims of human trafficking stay in the Netherlands on the basis of a residence permit from the B9 for 464,8 days.²⁹⁵ A pilot to shorten this period, i.e. to shorten the period of the criminal investigations and trial was able to diminish this period to 126,9 days.²⁹⁶ The biggest

²⁸⁸ Rijken, Van Dijk & Klerx-van Mierlo 2013, p. 40.

²⁸⁹ Evaluatie kansloze aangiften verblijfsregeling mensenhandel, p. 1.

²⁹⁰ GRETA (NL) 2014, p. 42.

²⁹¹ GRETA (NL) 2014, p. 44.

²⁹² Reaction National Rapporteur (NL) on GRETA, also Rijken 2012.

²⁹³ Reaction National Rapporteur (NL) on GRETA.

²⁹⁴ GRETA (NL) 2014, p. 44.

²⁹⁵ Evaluatie kansloze aangiften verblijfsregeling mensenhandel, p.2, refers to National Rapporteur (NL), *Opsporing van mensenhandel en de B9 Regeling, 2012, p. 31 ev.*

²⁹⁶ Evaluatie kansloze aangiften verblijfsregeling mensenhandel, p. 11.

group of victims using the temporal residence permit involve African victims.²⁹⁷ Unaccompanied minors (in Dutch: AMV's; Alleenstaande Minderjarige Vreemdeling), who are entitled to legal assistance and the temporal residence permits just like other foreign victims, do not use this possibility very often.²⁹⁸

A “safety net” for victims who are not eligible for a B8-3 permit, for example because they do not want to cooperate with the criminal investigations or because there are no criminal investigations (anymore) is the residence permit on humanitarian ground however such a permit is rarely given if criminal investigations have not been initiated.

In Poland, the recovery and reflection period is regulated by the Act on Foreigners. Pursuant to Article 53a(2), point 4, of this Act, “a residence permit for a specified period can be issued to a foreigner who resides in Poland illegally if the body in charge of conducting proceedings in the case of trafficking in human beings states that the foreigner is probably a victim of trafficking in human beings within the meaning of the Council Framework Decision of 19 July 2002. The general rules for issuing residence permits (i.e. possessing health insurance, source of income or financial resources, and legal title to dwelling) do not apply and no stamp duty is charged for the issuance of the residence permit for the recovery and reflection period. During this period, the person concerned is entitled to assistance within the Program for the Support and Protection of Victims/Witnesses of human trafficking. Pursuant to article 89(1), point 3, of the Act on Foreigners, expulsion or deportation orders are not enforced during the reflection period.”²⁹⁹

Victims identified by LEAs (Police or Border Guards), as well as Prosecutor are entitled to be supported within a special *Programme for Support and Protection Victim/Witness of Trafficking in Human Beings* for foreigners. Cases of human trafficking are carried by LEAs but the Prosecutor makes the final decision on qualifications of crimes. The time for reflection period is 3 months, and on the basis on it, victims staying illegally in Poland are entitled to legalize their stay. They can be placed in the shelter run by the National Consultation and Intervention Centre for Victims of human trafficking (public task financed from the state budget) or be placed in the crisis intervention centre – from both they are allowed to freely leave.

- Victims included in the Programme for foreigners and officially identified as victims of human trafficking are entitled to receive support within so-called crisis intervention:
- Diagnosis of the victim's need by the Foundation worker;
- Case-management (consultations, advising, support, providing safety, organisation of aid while working individually with a person);
- Providing an interpreter;
- Transport of a victim on the territory of Poland;
- Safe shelter (transport, accommodation, satisfying the basic life needs: food, clothes, hygienic measures) and change of appearance;
- Medical and psychological consultations, medical examinations and purchase of medicines.

²⁹⁷ National Rapporteur (NL) 2014, p. 129.

²⁹⁸ National Rapporteur (NL) 2014, p. 100.

²⁹⁹ Council of Europe Convention Action against Trafficking in Human Beings CETS No.: 197.

- Assisting the victim during the contacts with enforcement agencies and Area of Justice – legal consultation,
- Organisation of the residence legalisation,
- Organisation of a safe return of a victim to the country of origin.

These types of support can be provided after a victim's agreement to cooperate with LEAs and during the reflection period formally without such agreement. However, in general persons are asked much quicker to cooperate with the authorities, based on which services will be provided.

Since 2011, safe return for victims of human trafficking can be also organised by the IOM, even if the person is not in the Program but is identified by LEAs.

If the victim of human trafficking is a third country national, and s/he after the reflection period declines to cooperate with LEAs, her/his return to the country of origin will be organised. Currently, there is work undertaken to create, on some conditions, the possibility of permanent stay for victims of human trafficking. In the case of minors, legal guardian will be appointed to represent the child in the court in order to guide the best interest of the child. Then the court will decide where the child will be placed, if, of course, the child cannot return to parents in the country of origin.³⁰⁰

With regard to the nature of Romania, being characterized as a country of origin, the reflection period is mainly used by Romanian victims trafficked abroad, but returning to Romania. However, the national legislation regarding the status of foreigners as well as the relevant legislation for the protection and assistance provided to foreigners, gives the right to foreigners to apply for a temporary residence permit in Romania. This permit gives the right to stay in Romania, but also to use the Romanian assistance and protection services. The small number of foreign victims in Romania allows the competent authorities to monitor the victims situation individually. For example, in 2012 and 2013, six people of a foreign nationality were identified as victim of THB. One of those victims was from another EU state and the other five were from the Republic of Moldova. For those victims, the authorities have taken ne necessary measures for repatriation (according to their will) or their social and professional integration in Romania.

In the UK, provisions for victims who are subject to immigration control to remain in the UK for the duration of the recovery and reflection period is provided for in immigration legislation. Those potential victims who are granted temporary admission to the UK are released from immigration detention (unless their detention is justified on grounds of public order). No detention or removal action is taken against the potential victim during the recovery and reflection period.³⁰¹ The use of the 45-day recovery and reflection period has been subject to criticism by NGOs who point out that this period is designed for the presumed trafficked person to begin recovery and to make informed decisions about disclosure to the police rather than an opportunity for the Competent Authority to scrutinise the credibility of the information

³⁰⁰ European Migration Network (EMN), *Ad-Hoc Query on Transposition of Article 8 of Directive 2011/36/EU*. 18.12.2012. Accessed September 2014: http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/ad-hoc-queries/eu-acquis/433_emn_ad-hoc_query_on_transposition_of_Article_8_of_directive_2011-36_widerd_en.pdf

³⁰¹ <http://www.e-lfh.org.uk/programmes/human-trafficking-e-learning/> accessed September 2014.

provided.³⁰²

Furthermore, persons conclusively found to be victims of trafficking may be eligible for a residence permit in the UK if their personal circumstances warrant them remaining in the UK or if they are co-operating with the authorities in a criminal investigation or proceedings and their presence in the UK is required for this purpose.³⁰³

When the victim decides to cooperate

The Cypriot legal system requires a victim's testimony for the conviction of human trafficking. Therefore, victims are always encouraged and psychologically supported to participate in the investigations and to contribute to the proceedings. The law enforcement authorities ensure that effective and appropriate protection is provided, which includes protection from potential revenge or intimidation, especially during and after the investigation and prosecution. This means that protection is offered during the following stages of the proceedings that will be discussed below as well.

During trial

In the Netherlands, it is possible for victims to be hidden from the suspect or to be disguised during the court proceedings in order to diminish the risk of threats against the testifying victim. Furthermore, since 2010, there is a special witness protection program.³⁰⁴

Also in Cyprus, victims who get the role of witness in the criminal proceedings are entitled to protection. The Attorney General is responsible for this. This is regulated under Law L95(I)/2001 on the protection of the witness. Art. 5 of this law provides for special protection measures for the witness during the court proceedings, such as holding the trial behind closed doors, the use of special screens, CCTV, etc. Art. 16 provides for the establishment of a program for the protection of witnesses and collaborators of justice, under the control and supervision of the Attorney General, who decides on the specific protection measures to be applied.

However, to date, no victim has been subject to the protection under this law. A measure of protection that was recently accepted in a specific case by the court was that the victim could testify behind a partition. Moreover, the PPS(CY) can submit an application to the court for an order of detention of the accused until the end of the trial. This has also happened before.

Furthermore, according to Art. 17, the General Attorney also ensures that appropriate measures are taken for the victim's family or individuals connected to family members. The protection of both the victims and the family continue after the end of the criminal proceedings.

In Romania, the ANITP, the General Inspectorates on Romanian Police, Border Police and Gendarmerie and DIICOT have intensified their efforts to protect victims through the development and implementation of the Victim Witnesses' Coordination in trial Program. The program aims to create a coordinated and single response for trafficked persons who are witnesses or injured parties in the criminal procedures. The program objectives are to increase the participation of victims in criminal proceedings, to respect the rights of individual

³⁰² <http://www.e-lfh.org.uk/programmes/human-trafficking-e-learning/> accessed September 2014.

³⁰³ <http://www.e-lfh.org.uk/programmes/human-trafficking-e-learning/> accessed September 2014.

³⁰⁴ GRETA (NL) 2014, p. 56.

participation in all phases of the trial, to inform victims about judicial and administrative procedures and to facilitate the access of the victims to specialised legal counselling.

In the UK, the police have the primary responsibility for alerting the prosecutor that the case involves a vulnerable or intimidated witness. Having identified that the witness is vulnerable or intimidated, the police can then video record the victim's evidence-in-chief for presentation at court. Video recorded cross-examination can also be considered admissible if the witness has already been permitted to give their evidence in chief on video prior to the court case. In all relevant cases, the witness's needs should be discussed at the meeting with the prosecutor to improve case progression and provide a level of reassurance for the victim or witness. Once victims have made the decision to support a prosecution, there are a number of measures the prosecutor can employ to assist. This is particularly important as we realize that many victims take significant risks in giving evidence. These are called "Special Measures" and include among others:

- Separate the victim from the defendant;
- Giving evidence through live link, including from their home country;
- Clearing the public gallery and protecting from the press;
- In some instances, not revealing the victim's identity when giving evidence.³⁰⁵

Obstacles

In the Netherlands there are three main obstacles in the identification and assistance and support for trafficking victims. First of all it is problematic that only police and the KMar can give an official statement of whether in a particular case of a person there are indications for a trafficking case, which might lead to the issuing of a reflection period. Formally they do not give an indication of victimhood and cooperation with the authorities is not required for accessing support and assistance facilities. However, indirectly and in practice the statement of the victim will be the primary source for determining whether there are indications for a criminal case. It is well possible, and it has been the case in several trafficking cases, that the victim is not able to provide the police with appropriate information which can be the basis for a criminal investigation by nevertheless the person is a victim of trafficking. Too often a lack of indications is equalled with a lack of victimhood thus mixing up victimhood de jure with factual victimhood.³⁰⁶ In some cases the police not even makes a report of the victim's statement which means blocking access to the reflection period and/or a residence permit. A second and related problem is the fact that there is no minimum to the reflection period which means that it can be withdrawn even before the 30 days (the minimum given in the CoE Convention) have expired. In that sense it is questionable whether the Netherlands fulfils its obligations under the convention. Additionally, and because of signals of abuse of the B8-3 procedure, the Netherlands started a pilot in which victim statements without any indications for trafficking had to be dealt with within ten working days.³⁰⁷ This seems to be at odds with the basis of a human rights based approach. A third problem is the lack of specialised and centralised facilities for Dutch victims and some EU victims. Because they have to rely on existing health care services they are often devoid of specialised care.

³⁰⁵ This would only be appropriate in cases where the trafficker did not know the identity of the victim.

³⁰⁶ Klaver, Van der Leun & Schrijenberg 2013; Rijken, van Dijk & Klercx-van Mierlo 2013.

³⁰⁷ Evaluatie Kansloze Aangiften Verblijfsregeling Mensenhandel.

In Poland, two obstacles to access to assistance and protection services are mentioned, and they are similar to two problems mentioned with regard to the UK. The first is that authorities should improve the system for providing assistance to child victims of trafficking. Secondly, the authorities should ensure that suitable accommodation is provided to male victims of trafficking and that they can fully benefit from the assistance measures provided for in the law.³⁰⁸

Another problem is the following. Many victims of human trafficking in Poland are not ready to accept assistance and are not ready to become a part (a subject) of referral and assistance system – for different reasons, like a fear of unknown, fear of future, fear of unfair treatment from the authorities, lack of understanding the mission and work of NGOs, lack of willing to testify and to be a part of a long process of court proceedings etc.³⁰⁹

Moreover, a challenge is how legal provisions are implemented in practice; here we can observe a lack of capacity or insufficient capacity of the front line professionals who are supposed to identify trafficked persons and work within a system of NRM. Major obstacles here relate to a lack of knowledge and lack of information and a lack of practice – in theory they are trained, but they are inexperienced.

The most prevalent challenges for addressing human trafficking in Poland are reported as follows:

- **Personal:** attitudes, stereotypes and prejudices;
- **Structural/institutional:** when structures are not reflecting the needs or are built in a way that are counterproductive; when they are too complicated and it prevents to work efficiently because of their complicated form; lack of cooperation between and amongst different institutions and organisations.
- **Procedural:** where the procedures prevent to implement the content efficiently – like bureaucracy, old – out of date procedures, contradictory procedures.

In Romania, there is some room for improvement as well. Based on the evaluations by ANITP, but also based on conclusions of the working groups for elaborating the New National Strategy against Trafficking in Persons in Romania, the current national spread of the specialised centres for victims' assistance are not covering the (complexity of) victims' needs. Therefore, one of the specific objectives of the national strategy is the reconfiguration of the national protection and assistance system for victims of trafficking. It is a long term objective and will be achieved through: evaluation of specialised services, development and promotion of proposals for reorganisation of those services, reviewing of the legal and institutional framework and implementation of National Interest Programs to provide assistance for trafficking victims.

Current plans include the following. The National Agency for Employment (NAE) will continue to ensure equal employment opportunities for all categories of people looking for a job, especially those who have difficulties on the labour markets such as women, victims of trafficking, persons with disabilities, Roma, etc.: vulnerable groups. NAE provides information and counselling to all people for a job, which also includes labour mediation service and training programs.

³⁰⁸ GRETA (PL) 2013.

³⁰⁹ Interview Stana Buchowska, August 8, 2014.

In Northern Ireland, NGOs indicated that victims did not receive information from their first contact with the authorities on the relevant judicial and administrative proceedings.³¹⁰ NGOs expressed concern about the lack of support service standards throughout the UK, as a result of which victims are receiving different levels of assistance based on the agency supporting them. Appropriate accommodation for women is not always available and that some of them were housed in unsuitable places.³¹¹

Additionally, accommodation for male victims is severely limited in the UK. There are also problems with securing access to specialised services, such as interpretation and legal assistance, and NGOs indicated that they had to raise funds privately to fund such services or rely on volunteers. Further, accessing health care can reportedly be challenging and specialised mental health services in particular are not guaranteed.³¹²

There are no national standards for safe accommodation for child victims of trafficking in the UK. Accommodation provision for trafficked children varies significantly, e.g. residential care homes, shared flats and houses, bedsits, bed and breakfast (B&B) emergency housing, and foster care. Children under the age of 16 are entitled to receive foster care and those over 16 are usually accommodated in B&B housing. Not all trafficked children receive accommodation specific to their safety and security needs. Due to a lack of centralised, secure accommodation facilities, a considerable number of children go missing and there is evidence that they re-join their traffickers and subsequently get exploited.³¹³

The following are cited as five areas in need of improvement in victim assistance in the UK:

- Adopting clear support service minimum standards for victims of trafficking and the provision of adequate funding to maintain them;
- Ensuring that all children victims of trafficking benefit from the assistance measures provided for under the Convention and Directive, including appropriate accommodation and access to education;
- Enabling victims of trafficking to have access to the labour market, vocational training and education as a form of rehabilitation;
- Ensuring that victims of trafficking who need it can benefit from translation and interpretation services;
- Improving the provision of legal advice or assistance to victims on various matters (NRM, asylum criminal proceedings, compensation).³¹⁴

³¹⁰ <http://www.e-lfh.org.uk/programmes/human-trafficking-e-learning/>. accessed September 2014.

³¹¹ <http://www.e-lfh.org.uk/programmes/human-trafficking-e-learning/>. accessed September 2014.

³¹² <http://www.e-lfh.org.uk/programmes/human-trafficking-e-learning/>. accessed September 2014.

³¹³ <http://www.e-lfh.org.uk/programmes/human-trafficking-e-learning/> accessed September 2014.

³¹⁴ <http://www.e-lfh.org.uk/programmes/human-trafficking-e-learning/> accessed September 2014.

C4. Do victims have access to legal support and how can victims be compensated? How successful are these mechanisms? How are victims protected during court cases?

For information on protection during court cases, see par. C2.- During trial. Access to legal support (See also paragraph C3. and C5.)

With regard to the assistance of children in the Netherlands, Defence for children and Unicef recommend to extend the special assistance to minor victims of human trafficking, which now ends at the 18th birthday of the victim, to the age of 23.³¹⁵

In Poland, pursuant to the Law on Free Legal Aid, a victim of trafficking is entitled to legal counselling, support in drafting documents, the right to have an attorney before the court, prosecutor and Constitutional Court, as well as the right to a waiver of procedural expenses. These rights are guaranteed without it being necessary to assess the victim's financial status. Irregular migrants are, however, not covered by the Law on Free Legal Aid, only NGO's provide legal assistance and aid to them.³¹⁶

Victims in the UK receive assistance accessing legal aid through service providers. Victims of trafficking who are not correctly identified do not have automatic recourse to legal redress.³¹⁷

Compensation

It is striking how many different modalities are present that allow victims to claim damages. Generally, there are three pathways: (1) as part of the criminal procedure, (2) as a (separate) civil procedure, (3) via a state compensation fund.

In Cyprus, a victim has a legal right to compensation against all persons responsible for committing the criminal offences under this Law and for violation of his/her human rights (see Art. 35 of Law 60(I)/2014). The accused also has the corresponding civil liability to pay special and general damages to his victims, including any delayed debts from exploiting a victim's labour.

The abovementioned general damages must be fair and reasonable and when calculating their degree, the Court takes into account the following:

- The extent of the exploitation and the benefit the perpetrator made or could have made from exploiting the victim;
- The future prospects of the victim and to what extent they were affected by his exploitation;
- The degree of culpability of the perpetrator;
- The relationship to or the level of authority or influence of the perpetrator to his victim.

The Court, taking into account the degree of atrocity of the exploitation or the degree of relationship or the level of authority of the perpetrator to the victim, may adjudicate punitive damages. The Court when calculating special damages takes into account every expense the

³¹⁵ Jaarbericht kinderrechten 2014, p. 18.

³¹⁶ GRETA (PL) 2013.

³¹⁷ AIRE Centre 2012.

victim sustains as a result of the exploitation, including repatriation costs, where applicable. In the event of the death of the victim, the parents or the dependants of the victim have the legal right to compensation.

In addition, according to Art. 36 of Law 60(I)/2014, any victim regardless of its willingness to cooperate with prosecution authorities for the criminal investigation, prosecution or trial, has access to legal advice and legal representation to claim compensation under the Advocates' Law, and in the case where the victim does not have sufficient financial resources, he or she has the right to free legal aid under the Legal Aid Law.

In the Netherlands, there are a couple of ways in which a victim can be awarded compensation: through a civil law procedure, through the criminal procedure and by claiming at the Violent Offences Compensation Fund.³¹⁸ The Guideline Human Trafficking of the PPS (NL) state that victims should be assisted in claiming their damages. The National Rapporteur, however, is critical, because not all of the pathways are clear and not all of them are effective.³¹⁹ This claim is supported by the fact that in 2010, about 30% of the victims related the cases pending at the criminal courts of first instance did file a claim as a civil claimant (see below).³²⁰ In 2012, compensation was awarded in 44 cases.³²¹ Judges find it hard to estimate the height of the damages, even material damages.³²² Better financial investigations would help. Moreover, the link between forfeiture of illegally obtained profits and compensation for the victim is not yet very strong. However, policymakers aim at creating a stronger link.³²³

Within criminal law, the victim could first of all act as a civil claimant (injured party). In this way, the victim actively asks for compensation. The National Rapporteur notes that the method of calculation of the height of compensation for the claimant as applied by the criminal judge lacks uniformity due to the absence of clear indications or criteria.³²⁴ For example aspects that one would expect to play a role are namely the duration of the exploitation, the severity of the violence suffered and the age of the victim. The latter two are not mentioned explicitly, the first one does not seem to affect the height of the (immaterial) damages awarded at all.³²⁵

Secondly, within the criminal law system, a compensation measure can be awarded. The compensation measure is a sanction against the offender. Formally, it is the public prosecutor who could demand the compensation measure. Implicitly, the victim could inform the public prosecutor on his or her wish to be benefited by the compensation measure. However, it is the judge's discretion to award it or not. In theory, this sanction can be imposed *ex officio*, but in

³¹⁸ Heemskerk, Marijn, and Eline Willemsen, *Compensatie voor slachtoffers van mensenhandel*, Fairwork 2013, p. 6.

³¹⁹ National Rapporteur (NL) 2012, p. 136.

³²⁰ 29% in cases of sexual exploitation, 30% in other forms of THB: National Rapporteur (NL) 2012, p. 137-141. See also Heemskerk & Willemsen 2013, p. 14.

³²¹ TIP (NL) 2014, p. 290.

³²² Heemskerk & Willemsen 2013, p. 17.

³²³ National Rapporteur (NL) 2012, p. 165.

³²⁴ National Rapporteur (NL) 2012, p. 17.

³²⁵ National Rapporteur (NL) 2012, p. 154-155.

practice, it is almost always linked to the civil claim.³²⁶ The advantage of the compensation measure over the civil claim is that this measure is executed by the public prosecution service and that the certainty of payment is much higher for the victim. If the offender doesn't pay within 8 months, the state will disburse the damages.

Thirdly, the judge is allowed to award damages to the victim through conditions linked to the punishment.

The Violent Offences Compensation Fund is available to victims who do not have a residence permit.³²⁷ The maximum amount that can be awarded to the victim is € 25.000,-. From 2009 to 2012, between 45 and 51 claims were filed per year on the basis of victimisation through THB. Most of the claims were filed by women.³²⁸ In practice, the payments were far below the maximum, with averages between € 404,- (2010) and € 1.223,- (2012). The highest payment was € 7.725 in 2009.³²⁹ Most victims were referred to the Violent Offences Compensation Fund by their lawyer or by Victim Support Holland.³³⁰ This means that there are possibilities for improvement related to outreach.

In Poland, there are five avenues for victims of trafficking to obtain compensation in Poland:

- during criminal proceedings, by filing a motion in accordance with Art. 46 CC (PL);
- during criminal proceedings, by bringing a civil action on the basis of Art. 62-70 CCP (PL);
- in civil proceedings, if the decision of the criminal court did not award just satisfaction;
- in civil proceedings, independently of criminal proceedings, in accordance with the general principles of Art. 415 of the Civil Code;
- on the basis of the Act on State Compensation for Victims of Certain Crimes.³³¹ State compensation can be granted only to Polish and EU citizens on the condition that the crime was committed on the territory of Poland. State compensation can be granted regardless of whether the perpetrator was found, accused or convicted.³³²

Polish authorities intend to set up a special expert group to analyse the legislation and functioning of the compensation provisions with a view to ensuring access of victims of trafficking to existing compensation schemes.³³³

In Romania, victims did receive compensation from traffickers via the criminal court procedure. In 2010, 73 court decisions held financial compensation for victims, in 2011 56 and in 2012 53. When reviewing this number, one should be careful. This number should not be compared to the number of identified victims, because not all of the identified victims participated in the trial. Moreover, the length of the trial makes comparison difficult. For example, a victim could be identified in 2010 and participate in a trial which lasts two years, so that this victim receives a

³²⁶ National Rapporteur (NL) 2012, p. 17, 146, 150-151. In the year 2010, there was no court of first instance that imposed the compensation measure *ex officio*.

³²⁷ Rijken, Van Dijk, Klerx-van Mierlo 2013, p. 136.

³²⁸ National Rapporteur (NL) 2014, p. 224-225.

³²⁹ National Rapporteur (NL) 2014, p. 231.

³³⁰ National Rapporteur (NL) 2014, p. 228.

³³¹ GRETA (PL) 2013.

³³² GRETA (PL) 2013.

³³³ GRETA (PL) 2013.

court decision in 2012. We cannot compare the victims who received a court decision in 2012 with the identified victims in 2012.

In the UK, The Legal Aid, Sentencing and Punishment of Offenders Act 2012 allows victims of trafficking to access legal aid to seek compensation in civil courts and Employment Tribunals. However, this provision does not include claims to CICA, which provides guidance for applicants to help them submit their claim. In order to access this legal aid, victims of trafficking need to have a positive reasonable ground decision under the NRM (UK) and a positive or pending conclusive decision.³³⁴

There are a number of mechanisms by which a victim might seek compensation.³³⁵

- Through prosecutors requesting a compensation order upon conviction in appropriate cases under sections 130 -132 of the Powers of the Criminal Courts (Sentencing) Act 2000, which provides for compensation orders against defendants.
- Through confiscation and compensation under section 13(2) of the Proceeds of Crime Act 2002. Here, the court must determine any application for confiscation before considering a compensation order, however, the court has a discretion under section 13(5) and (6) POCA 2002 to make both a compensation order and a confiscation order against the same person in the same proceedings if it believes that the defendant will have sufficient means to satisfy both orders in full.

Prosecutors can apply for these post-conviction. However, alternative avenues to claim compensation are:

- Through the victim suing the offender in the civil courts. Civil litigation enables the victim to hold a defendant personally accountable for his actions, though funding for legal representation to pursue a civil compensation claim is often a bar to this course of action.
- Through the Criminal Injuries Compensation Authority (CICA). This scheme compensates for personal injuries awards to victims of crime and fatal injury awards to immediate family members of a victim who has died as a result of a violent crime. To claim, the victim must have sustained physical or mental injuries as a result of a violent crime. A victim claiming mental injury without physical injury must demonstrate they were put in considerable fear of immediate physical harm.

Currently, prosecutors must consider applying for compensation on conviction³³⁶.

Research from 2008, on access to compensation for trafficked persons in the UK found only one known instance where the prosecution expressed an intention to apply for a compensation order on behalf of a trafficked person. Out of 41 cases reviewed, there were no cases where the court ordered the trafficker to pay compensation to the victim. The same research also suggests that trafficked persons rarely pursue remedies through civil courts or employment tribunals. Concerns

³³⁴ AIRE Centre 2013.

³³⁵ See CPS Policy. For further helpful practical guidance on mechanisms to claim compensation, please refer to Rights and Recourse – A Guide to Legal Remedies for trafficked Persons in the UK, published by Eaves and Anti-Slavery. This guide also provides advice on the mechanisms to pursue compensation under civil law and, for victims who have been exploited for forced labour or domestic servitude, through employment Tribunals.

³³⁶ Crown Prosecution Service UK, Website: Human Trafficking, Smuggling and Slavery. Accessed September 2014: http://www.cps.gov.uk/legal/h_to_k/human_trafficking_and_smuggling/#a04

have also been expressed that foreign victims of trafficking are prevented from pursuing compensation because of having to leave the UK.³³⁷

C5. How are victims informed on their rights?

Article 11(5) of the EU Directive and Article 15(1) of the Council of Europe Convention establishes that victims of trafficking must have access to information on relevant judicial and administrative proceedings in a language, which they can understand. If the implementation of this provision is criticised, this is mostly in relation to foreign victims, either because there is a language problem (UK, NL) or because certain groups are more vulnerable in the information framework, such as migrant domestic workers in the UK.

In Cyprus, the Social Welfare Services are responsible for informing all THB victims of their rights. They are also responsible for providing support, practical help and guidance to victims on how to get help from other relevant services. The Social Welfare Services have produced an informative booklet concerning the rights of the victims of trafficking which has been translated in 11 languages (Greek, English, Romanian, Ukrainian, Latvian, Bulgarian, Russian, French, Polish, Spanish and Chinese), which is available to victims.

In the Netherlands, whether or not the victim is represented by a lawyer, Title IIIA of the CCP (NL)(Art. 51a-51e) grants the victim the right to information, meaning that the victim will be informed on procedural aspects of the case, like the date of the trial, and that the victim has the right to see the dossiers. The PPS (NL) is responsible for this, which means that this only applies for victims who cooperate with the authorities in a criminal procedure. Victims that are granted the rights derived from the B8-3 procedure, which was explained above in relation to residence permits and a reflection period, also have the right to legal assistance. The government will pay for the legal assistance, but since 2012, there is no more central reimbursement for interpreters,³³⁸ which seems to be a problem in the light of Art. 15(1) of the Convention. Dutch victims do not get access to this regulation at all. For Dutch victims, the reimbursement of costs related to legal assistance is dependent on the income of the victim.

According to NGOs providing assistance to victims of trafficking and lawyers in Poland, information on the recovery and reflection period is not systematically provided to victims. There are reports from civil society according to which foreign victims of human trafficking who do not co-operate with the investigation are not classified as victims of trafficking and are not offered a reflection period.³³⁹ When a trafficked person is referred to the NICC – they receive information about their legal situation and also are supported by a lawyer, even if they do not wish to testify. For those who can testify, there is a special consultancy provided on the role of victim/witness and how the trial will proceed.

In Romania, any specialist (such as the police, a prosecutor, a judge, a social worker) who comes into contact with a victim has the responsibility to provide information to victims about their

³³⁷ GRETA (UK) 2012.

³³⁸ National Rapporteur (NL) 2013, p. 198.

³³⁹ GRETA (PL) 2013.

rights, including the right to compensation and about protection and assistance measures as discussed in par. C3. The first contact between a victim and a specialist – regardless the area intervention, thus also brings the necessary legal information.

In the UK, NGOs, sometimes in conjunction with government offices, work to promote awareness and to inform victims of their rights in the UK. However, Information on access to compensation is not always provided to trafficked persons in a language that they understand.³⁴⁰

Information is provided to foreign migrants on legal opportunities for migration and employment in the UK as well as on their rights (including social, immigration and labour rights). The UKBA website and local country sites have detailed guidance for overseas visa applicants, including a telephone and email service, leaflets, and guidance available at Visa Application Centres and embassies. Press releases on immigration rules and policy and the danger of illegal working and THB are issued regularly and events with immigration agents, corporate partners and student bodies are organised to inform them of immigration rules and how to apply for a visa. There have also been targeted information campaigns on migrants' employment rights, including dissemination of leaflets by the UKBA and Trades Union Congress to East European workers.³⁴¹

NGOs have expressed concern about the lack of information provided to migrant domestic workers coming to the UK regarding their rights. They have also pointed out that the UKBA guidance is often not followed as regards the need to carry out interviews of applicants for overseas domestic worker visas with the domestic worker alone (i.e. without their employer), in order to ensure that they understand the terms and conditions of the employment and that they are willing to travel to the UK.³⁴²

Victims are kept informed about the progress of a case and about dates of court hearings or other important case developments. For victims of trafficking that information will usually be passed to the senior investigating officer who will notify the victims' support provider. That same officer will also keep the victim informed about the outcome of the case – the verdict and sentence.

Under the Code of Practice for Victims of Crime, the prosecutor must tell a victim if it is decided that there is insufficient evidence to bring a prosecution, or if it is decided to drop a case, or substantially to alter the charges. In such circumstances, a victim will be explained why these decisions were made.

In a case of human trafficking, the prosecutor who made the decision to drop or substantially alter the charge will notify the victim and will also offer to meet the victim to explain personally the reasons for the decision. Where a prosecutor has made a decision not to charge during a face-to-face consultation with a police officer (that is, without a full, written evidential report), the police officer must notify the victim.³⁴³

³⁴⁰ GRETA (UK) 2012.

³⁴¹ GRETA (UK) 2012.

³⁴² GRETA (UK) 2012.

³⁴³ CPS Policy, p.21.

Conclusion

Many problems remain in relation to identification, assistance and support. A few of them are flagged as the most pressing. The identification of victims of trafficking as well as trafficking cases remains problematic and challenging. Because this is a crucial first step for the commencement of criminal investigations it is of utmost importance that there is a continuing effort to improve the identification of victims and cases. Again clarity on the definition of trafficking is needed for taking this crucial first step. There is still concern on the unconditional access to the reflection period as well as the duration thereof. We have seen that not in all countries the reflection period is automatically given for at least 30 days. Compensation for trafficking victims is provided for in the national laws in all countries. However, there seems to be a difference between the law in the books and the law in practice as it seems to be hard for victims to receive compensation.

PART D: Prevention of THB

D1. What efforts does the country undertake to reduce demand for cheap labour and/or forced prostitution and to reduce push factors?

Overall, the government of Cyprus rarely enforces preventive measures, especially in the sense of reducing the demand for sexual, labour and other services provided by victims of THB. Most of the action undertaken by the government concentrates on the prosecution of trafficking cases, and this, coupled with consequent convictions, could be regarded as a preventive mechanism. Nonetheless, sporadic appearances of police officers in television and radio programmes in Cyprus have been used to inform the public regarding sex trafficking and labour exploitation. In addition, the Ministry of Interior has recently funded an awareness raising campaign against human trafficking, and local radio stations hosted a series of relevant announcements.

In Poland, there used to be a similar governmental attitude towards prevention. The 2014 US State Department TIP Report indicates that the Polish government did not organise any programs to reduce the participation of Polish citizens in child sex tourism in 2013 and that the government did not run any programs specifically designed to reduce the demand for commercial sex or forced labour in 2013.³⁴⁴ However, when it comes to cooperation that is set up together with NGOs and intergovernmental organisations, there are some recent examples of efforts undertaken to prevent THB. Despite those efforts discussed below, NGOs have expressed concern about the lack of a proactive attitude on the part of law enforcement officers and the prevalence of negative stereotypes, which hinder them from identifying victims of trafficking.³⁴⁵ The examples furthermore show that although the efforts under this heading are formally a cooperation between the government and other organisations, in practice, the other organisations are prime drivers of those efforts.

In the other countries, prevention is more common. The UK even published a strategy with a focus on victims and prevention. It furthermore includes the aim of improving the coordination

³⁴⁴ TIP (PL) 2014.

³⁴⁵ GRETA (PL) 2013.

of border and policing law enforcement efforts to prevent traffickers from entering the UK. The strategy refers to the use of intelligence to target those convicted or suspected of trafficking at the border as well as the development of risk-based indicators to facilitate the systematic targeting of high-risk passengers.³⁴⁶ The three pillars of the plan are as follows:

- Improved victim identification and care
 - actions have been taken to improve the awareness of front line professionals working in local authorities, health services, the UK Border Agency (UKBA), the police, the Crown Prosecution Service, the Serious Organised Crime Agency (SOCA), charities such as NSPCC and the GLA, so that they can better identify, support and protect victims.
- Increased international engagement
 - to gain a better understanding of human trafficking patterns, to raise awareness of this crime, and to assist in strengthening law enforcement and justice systems in priority countries. The CPS has a number of prosecutors based in ‘strategic threat assessment countries’.
- More effective action at the border
 - The Border Force has been working with the European Border Agency, Frontex, to draw up risk profiles on victims from particular countries, in cooperation with other Member States.
- Improved coordination of UK law enforcement efforts - agencies across the UK work collaboratively and with their counterparts in other countries to share intelligence and collectively target traffickers.³⁴⁷

Some measures taken are specifically directed at a form of exploitation. Those measures will be discussed separately below. Other measures are of a more general nature, such as the “M” in the Netherlands. This project, *Meld Misdaad Anoniem* in full, is a report line to which people can report (suspicions of crime) anonymously. The number is free to call, is available daily, and reports can be made in Dutch, English and German. Furthermore, the number is accessible from abroad.³⁴⁸ Together with the minister of Security and Justice, M. actively makes an effort to make exploitation visible. In 2012, they launched a successful campaign directed at prostitution-customers. Banners were placed on internet sex websites and workshops on recognizing signals of trafficking were organised. The reports that were made during that campaign resulted in 28 arrests.

Another general measure is general awareness raising through information campaigns, school education and training of relevant professionals. In Poland, the government supports this kind of activities. However, increased awareness to prevention activities targeting children is needed.³⁴⁹ In Romania, the government support campaigns as well, targeting different groups: vulnerable people, but also professionals. Moreover, the Romanian government responds to the emerging trend of the internet to use it as a tool to target awareness raising activities. In the Netherlands, education is often focused at (potential) victims only, while education (and prevention in

³⁴⁶ CPS Policy, p. 21.

³⁴⁷ UK Government 2012.

³⁴⁸ Website of the report online: <http://www.meldmisdaadanoniem.nl/english/report-crime-anonymously/> accessed September 2014.

³⁴⁹ GRETA (PL) 2013.

general) at the side of (potential) offenders and the society as a whole, is also imported. In awareness raising campaigns and activities there is an overrepresentation of initiatives addressing the loverboy-method.³⁵⁰ Education in the Netherlands is not only found in clear education programs, but also in documentaries on national TV. Kaandorp and Blaak notice that the education efforts directed at children have increased over the last couple of years, although they are still critiqued for not being coherent nationwide. Kaandorp and Blaak expressed their concern about the lack of a “clearly defined policy on the prevention of human trafficking”.³⁵¹

Efforts related to forced prostitution

In the UK, the Policing and Crime Act, which amended the Sexual Offences Act 2003 and the Sexual Offences (Northern Ireland) Order 2008 introduced the offence of paying for the sexual services of a prostitute subjected to force, deception, threats or any other form of coercion.³⁵²

As was mentioned before, prostitution is legal in the Netherlands. The Netherlands thus uses other measures to prevent forced prostitution. The Wrp, the bill which regulates prostitution nationally (See par. A1), is still pending at the Senate, and prostitution is still regulated in a decentralised way. Some municipalities however, have taken special measures to prevent exploitation within the prostitution sector. For example, special measures in Utrecht include the obligation to register oneself as a prostitute, a maximum of working hours per day and a minimum renting period for windows in the prostitution area. The operators are responsible for the enforcement of those rules.³⁵³ Furthermore, the police are very creative in its interventions to discover signs of human trafficking. Using fake prostitutes, they tested whether signals of trafficking were adequately reported by the hotel industry. The information gained was discussed with the hotel industry to raise awareness. In 2011, the police blocked 2 internet escort sites because of suspicions of human trafficking. At the same time, the police send SMS-messages to 1.300 telephone numbers that had contacted the websites. This message was meant to raise awareness at the side of the customers and to ask for help and the report of suspicious situations.³⁵⁴ Lastly, the police have implemented a new strategy of raids, whereby a whole area is cordoned off by the police. All prostitutes are then interviewed in order to detect potential signals of human trafficking.³⁵⁵

In Romania, prostitution was criminalised until recently, but has been legalized in a recent change in the CC (RO). The change was actually seen as a measure to prevent forced prostitution. Because the change was recent, the effectiveness is yet to be evaluated.

In Poland, the national action plan 2013-2015 (NAP) for combating human trafficking (adopted in May 2013), which was developed in coordination with NGO's and which prioritizes enhanced care for child victims, more training for professionals and information campaigns targeting the most vulnerable populations, aims at preventing forced prostitution. In point 6 of the plan, it is indicated that Nobody's Children Foundation serves as a local representative of the Code

³⁵⁰ Kaandorp & Blaak 2014, p. 42.

³⁵¹ Kaandorp & Blaak 2014, p. 43.

³⁵² GRETA (UK) 2012.

³⁵³ National Rapporteur (NL) 2013, p. 69-73.

³⁵⁴ PPS (NL) website, 11.1.2011: http://www.om.nl/onderwerpen/mensenhandel_en/@154816/nationale_recherche/ accessed September 2014.

³⁵⁵ GRETA (NL) 2014, p. 38.

Conduct, with the support of the Ministry of Internal Affairs and the Police Headquarters to implement and promote the Code of Conduct for the protection of children from commercial sexual exploitation in tourism. On November 23, 2013 the Nobody's Children Foundation took part in training workshops focusing on coordination of prevention activities for police officers from departments of prevention, where they conducted a workshop for 20 participants on sex tourism in Poland and around the world. The Foundation is also preparing a website that will facilitate the reporting the cases of commercial sexual exploitation of children in tourism in cooperation with the National Police Headquarters. In addition, the Foundation released 500 copies of the brochure “Preventing Sexual Exploitation children in tourism” in cooperation with ECPAT International.³⁵⁶

Efforts related to labour exploitation

The Polish NAP pays particular attention to trafficking for labour exploitation, which is acknowledged by the Polish authorities as a growing problem. Trainings for labour inspectors were held in previous years by the ILO.³⁵⁷ Throughout 2013, authorities continued to produce and distribute information to Polish citizens seeking work abroad, and the Ministry of Labour operated a website in which Polish citizens could chat with experts about finding legitimate jobs abroad. Authorities also continued to distribute labour rights information to foreign workers in Poland and migrants at Poland’s eastern border crossings. The government offered a training session on combating human trafficking for 32 labour inspectors. A Polish court fined one individual for fraudulent recruitment of foreign workers.

The UK’s Human Trafficking Strategy also refers to the need to tackle the demand for inexpensive, unprotected and often illegal labour. No specific actions are included in the Strategy apart from a general reference to working with the private sector “to strengthen our overall approach to tackling trafficking”. The GLA and major food retailers and suppliers have established a Protocol that identifies how they will work together to improve standards and protect workers³⁵⁸. The IOM works to prevent THB for the purpose of labour exploitation and forced labour through tackling demand and increasing the awareness of consumers and supply chain management, raising awareness about the link between everyday products and the exploitative conditions under which potential victims of trafficking may have produced them.³⁵⁹ In addition, awareness raising work led by NGOs targets trade unions, business communities and members of the public about the impact of demand for cheap goods and services, especially groups who are more likely to encounter trafficked people such as business travellers, hospitality industry representatives who employ subcontracted labour and those whose work (horticulture, agriculture, fisheries) is regulated by the Gangmaster’s Licensing Authority (GLA).³⁶⁰

Measures for employment undertaken in Romania by both government agencies and the private operators are meant to lead to an increase in the employment rate of labour market in Romania,

³⁵⁶ The brochure is distributed through courses on Code of Conduct, available online: www.kodeks.fdn.pl/materialy

³⁵⁷ GRETA (PL) 2013.

³⁵⁸ There is also the 2004 Gangmasters (Licencing) Act. Accessed October 2014:
<http://www.legislation.gov.uk/ukpga/2004/11/contents>.

³⁵⁹ 2004 Gangmasters (Licencing) Act. Accessed August 2014:
<http://www.legislation.gov.uk/ukpga/2004/11/contents>.

³⁶⁰ 2004 Gangmasters (Licencing) Act. Accessed August 2014:
<http://www.legislation.gov.uk/ukpga/2004/11/contents>.

which decreased to 58.8% in 2010, the sixth lowest rate in the EU. The measures are related to measures of labour integration of disadvantaged, vulnerable persons. The main legal provisions (Law no.116/2002 regarding prevention and combating social marginalization) are intended and designed to provide incentives to employers who hire vulnerable persons.

The influence of labour migration, success stories, the temptation of the West or other conditions and incentives which determine the Romanians to leave, while actually only having a foggy promise of a job. Taking big risks and working conditions next to exploitation and slavery are making Romanian an important source country for trafficking towards Europe. An important measure of prevention in this sector is awareness-raising through campaigns, because a low level of knowledge about the potential risks increases persons vulnerability. According to the results of the campaign impact evaluation that was made in relation to the prevention campaign “To work is right, to exploit the work is a crime”, there were improvements in the knowledge among target groups. Via a free telephone line (0800.800.678), people can also get information on emigration for work purposes.

Changes made within the Romanian Labour Code in 2011 were meant to make labour market more flexible, to curb economic inequalities, and to establish the conditions of part-time work and the work performed under temporary contracts. Based on World Bank’s Recommendations³⁶¹ the minimum wage salary is increased periodically by percentage points, thus being a measure that addresses one of the most serious problems of poverty among employees.

D2. What efforts does the private sector undertake to reduce demand for products of THB or services provided by trafficked or exploited persons (both of labour exploitation and sexual exploitation)?

In the previous paragraph (D1.), it was mentioned that the Cypriot Government does not really undertake efforts to prevent THB. The private sector (including and especially NGO’s), is more active in this regard. The US embassy often funds workshops and conferences that bring together relevant NGO’s and activists to discuss the issue of THB on the island. Additionally, NGOs print leaflets that caution the public on the types and manifestations of THB. On a more practical level, some NGOs visit schools and military camps to inform students and soldiers on the issue of human trafficking, with the hopes of sensitising them and preventing them from seeking services connected to the trafficking and exploitation of humans.

A noteworthy initiative by the private sector in the Netherlands is that of the hotel industry. The hotel industry launched a campaign in hotels named “please disturb”. More than 1000 hotels received a DVD that informed personnel on the signals of human trafficking, especially that of illegal (and non-voluntary) sex work in hotels. Another initiative is the Fair Produce label for the mushroom industry following some severe cases and convictions for human trafficking in this

³⁶¹ Ciprian, Domnişoru, *Munca în recesiune-dezinformări și pauperizare. Drumul spre Muncă Decentă*, accessed on 08 September 2014: <http://www.criticatac.ro/16304/munca-recesiune-dezinformri-pauperizare-drumul-spre-munca-decent/>

sector. FairProduce is a coalition between various organisations mandated to issue quality labels to mushroom producers that follow the Fair Produce standards. The label is clearly indicated on the product so the consumer is sufficiently informed on how the mushrooms were produced. There are initiatives to extend the label to the productions of asparagus and strawberries. In parallel GlobalG.A.P has established an international quality label for the agricultural sector through a supplementary paragraph on social standards including some standards to prevent exploitation. This social paragraph is called GRASP (Global G.A.P. Risk Assessment on Social Practice).³⁶² As said this is an international initiative which makes it more attractive because it has a lesser impact on the competition position of the producer. Other initiatives on self-regulation contributing to fair labour standards and diminishing risks of exploitation are labels for recruitment agencies³⁶³ and housing of temporary workers.³⁶⁴

In the UK, Members of the private sector in the UK are taking steps to promote awareness on labour exploitation. A private sector group in the UK proposed collaboration between the GLA and a leading supermarket to provide information on forced labour at two supermarkets frequented by agricultural workers.³⁶⁵ Currently LSI is working on a research on the UK on the issue of reducing demand, unfortunately at this time there is no information yet to share.

In Romania, there we no documented activities related to the involvement of the private sector in carrying out activities to reduce the demands for products of THB or services provided by trafficking victims.

Unfortunately no clear overview is available on what the private sector in Poland does to reduce demand for products of human trafficking or services provided by trafficked or exploited persons. Hopefully new ongoing researches, commissioned by the European Commission on the issue of demand, will provide more insight on this. Poland currently has the legislation in place, that criminalised human trafficking and forced labour (see above). Poland is a member state of the ILO since 1919. The country has ratified 81 ILO International Labour Standards (Conventions), including the eight fundamental Conventions.

Currently Poland does not seem to have a national action plan on the implementation of the UN guiding principles on Business and Human Rights, unlike some European countries now have³⁶⁶. In 2012, Poland did respond, as one of 26 states to a survey conducted by a working group of the HRC on the implementation of the Guiding Principles on Business and Human rights³⁶⁷.

³⁶² http://www.globalgap.org/uk_en/what-we-do/globalg.a.p.-certification/globalg.a.p.-00001/GRASP/

³⁶³ <http://www.normeringarbeid.nl/default.aspx>

³⁶⁴ <http://www.normeringflexwonen.nl/default.aspx>

³⁶⁵ GRETA (UK) 2013.

³⁶⁶ Currently the UK, the Netherlands, Italy, Denmark and Spain have national action plan on the implementation of the UN Guiding Principles on Business and Human Rights, while Switzerland and Finland are in the process to develop one. See further <http://www.ohchr.org/EN/Issues/Business/Pages/NationalActionPlans.aspx>.

³⁶⁷ The Working Group on the issue of human rights and transnational corporations and other business enterprises, as part of the mandate given by the Human Rights Council in its resolution 17/4, conducted two pilot surveys on the uptake and implementation of the Guiding Principles on Business and Human Rights: one of States and one of corporations.

The report of the findings indicated that most Governments³⁶⁸ are still in the initial stage of implementing the Guiding Principles, and that the process of initiating implementation can be lengthy.

In March 2008, Mrs. Jolanta Kwasniewska, former first Lady of Poland and member of the Women Leaders' Council, launched the Polish Council to Fight Human Trafficking which unites representatives from academia, the private sector, civil society, and law enforcement in the fight against human trafficking.³⁶⁹ It is unclear how active this Council currently is, and what the involvement of the business sector is. La Strada Poland is currently trying to establish closer cooperation with the business sector and engage them in the prevention of human trafficking, as part of LSI's project NGOs & CO. Their focus is put on the recruitment sector.

D3. Does the country undertake any awareness raising campaigns for the prevention of THB?

See also paragraph D1.

Across the different countries, there have been a lot of different campaigns for raising awareness. It is difficult to compare them, but the common denominator seems to be that they are diverse and target potential victims, bystanders and professionals and that they are aimed at different types of exploitation. Some of the initiatives have already been mentioned in paragraph D1., those will not be repeated in this paragraph. This paragraph lists other campaigns and shortly describes their target population and aim.

The Netherlands

In the Netherlands, the main approach of prevention is laid down in the “barrier-model”. In this model, trafficking in human beings is understood as a “business”(though illegal and harmful”. By raising barriers, the idea is to make business more costly, and therefore less attractive and profitable. Barriers are placed in the following levels of the business of THB: recruitment, entry, identification, psychological attachment, housing, work and financial aspects.³⁷⁰

An example is that trade unions and employer organisations play a role in the awareness raising on and prevention of labour exploitation. Specifically in the sector of domestic work diplomatic services must be aware of the risk while they issue visa; a person who travel to the Netherlands to become domestic worker has to obtain a visa in person and must be given information about labour rights.³⁷¹

Awareness raising and attention for prevention does not end at the geographical borders of the Netherlands. Cooperation mainly takes place with countries that are country of origin for a lot of victims, such as Nigeria and countries in Eastern Europe.³⁷²

³⁶⁸ The results of the surveys are presented in the present report in aggregate form and do not identify individual States or corporations.

³⁶⁹ <http://www.ungift.org/docs/ungift/pdf/wlc/Microsoft%20Word%20-%20Polish%20Council%20Members.pdf>
accessed September 2014.

³⁷⁰ GRETA (NL) 2014, p. 22.

³⁷¹ GRETA (NL) 2014, p. 39.

³⁷² Kaandorp & Blaak 2014, p. 42.

Poland

In addition to the initiatives mentioned above in paragraph D1, the following campaigns have contributed to the awareness of THB and the prevention thereof:

- A website,³⁷³ implemented by the Ministry of the Interior, was launched in August 2013 to raise awareness on human trafficking. The site, which operates in two languages - Polish and English, offers a range of information on prevention of human trafficking, protection and support of victims. Information campaigns on human trafficking for forced labour;
- Campaigns targeted at persons who are aiming to work in EU countries through a film on the use of labour offices and other institutions and organisations. Responsible for implementation is the Ministry of Interior, in cooperation with the Ministry of Labour and Social Policy;
- Development and dissemination of leaflets to potential foreign victims of trafficking, which are distributed at border crossing points and in the Polish consular offices. Responsible for implementation is the Ministry of Interior in cooperation with the Headquarters Border Guard and the Ministry of Foreign Affairs;
- Information leaflets for migrant workers in multiple languages;
- A 3-year project "Migrants' rights in practice", aimed at facilitating the integration of third-country nationals by increasing their awareness of their rights and obligations in Poland and preventing forms of discrimination and exploitation of migrants in the labour market. The project began in 2011 and is led by the IOM, the Ministry of Internal Affairs and Administration and the Chief Labour Inspectorate;
- In 2013, a prevention film on labour migration was produced. It tells about risks connected with labour migration. The film was prepared in two versions. The first one shows the most important safety rules in the form of animated charts. The second version, accompanied by information about the principles of safety, tells the story of victims of trafficking into forced labour and forced to commit crimes. The film was distributed widely amongst the district labour offices across the country and has been also published on the information website of the Ministry of Interior.

Romania

Raising awareness and improving the knowledge of trafficking is a prevention dimension which, along with combating of trafficking and victims' assistance, is an important reaction to the trafficking phenomenon. Increasing public awareness is achieved through information, awareness on trafficking in human beings.

The Romanian authorities have paid particular attention to raising awareness about THB as a form of prevention, taking into account the fact that Romania is primarily a country of origin. A great number of campaigns and projects have taken place over the years, organised by the ANITP, NGOs, sometimes in cooperation with foreign partners or international organisations or other institutions. In some cases, NGOs have organised awareness-raising campaigns partially financed by the ANITP.

³⁷³<http://www.handelludzmi.eu/hle?dzial>, accessed September 2014.

During the mentioned period (2012 – 2013), the National Agency against Trafficking in Persons, has carried out a series of campaigns and preventive actions at the national level. These actions focussed for instance on minors at risk (for example the campaign “Child trafficking in the teenagers’ words”-described above), Roma communities (campaign “Where begging starts childhoods ends”), homeless people (campaign developed under the slogan "Get involved by informing TODAY”), as well as prevention of sexual exploitation of women and discourage demand (campaign “The indifference makes us accomplices”).

To mention only some few other examples of projects/campaigns in the area of prevention of THB:

- The campaign for preventing human trafficking „*Choose to work safely, away from the human traffickers*”, implemented in 2012 in partnership with AIDRom - Ecumenical Association of Churches in Romania, aimed at increasing awareness of Romanian citizens who want to go to work abroad about the risks of trafficking for labour exploitation. The dissemination of the campaign materials was supported by the General Inspectorate of the Border Police, the posters being displayed in several airports and border crossings.



- ANITP intensified its efforts to reduce the number of victims of labour exploitation. In this regard, in the frame of the project “Integrated approach for prevention of labour exploitation in origin and destination countries”, co – financed by European Commission, a transnational prevention campaign was achieved called: “To work is a right! To exploit work is a crime”. This campaign was implemented, simultaneously in 6 countries (Romania, Bulgaria, Greece, Cyprus, FYROM and Hungary) and was aimed at the prevention of trafficking in persons for labour exploitation³⁷⁴.

- From April to June 2012, the National Agency Against Trafficking in Persons and Child Helpline Association implemented the prevention campaign „*Child trafficking in*

the teenagers’ words”. The possibility was created of sending anti-trafficking messages to one of the most vulnerable groups, respectively the minors from rural areas. The direct meetings with the children addressed information on the risks and the implications of the child trafficking, as well as the possibility to ask for help, if they are in danger, through the Hotline 0800.800.678, managed by ANITP.

- The National Agency against Trafficking in Persons joined BANCPOST , as a partner in *The NO Project* . The project is powered by BANCPOST and represents a public awareness campaign, aimed on young people, in order to increase awareness about human trafficking through art, sport, music, dance, film, education and social media. The NO Project is implemented at national level during 2013 and 2014, taking into account the specific needs and the realities from Romania. The campaign aims to inform, inspire

³⁷⁴ National Agency against Trafficking in Persons, *National Report regarding trafficking in persons in 2012*, Bucharest, 2012, p.62, available only in Romanian at: http://anitp.mai.gov.ro/ro/docs/Cercetare/RapoarteAnuale/RAPORT_PRIVIND_TRAFICUL_DE_%20PERSOANE_IN_2012.pdf, last accessed in 11 November 2014.

and motivate young people to act / respond proactively against modern slavery - putting their available talent, passion and energy to raise public awareness.

- The AGIRE Project on action to strengthen the public-private partnership and assistance in identifying vulnerable children and victims of trafficking, coordinated by Save the Children Italy and concerning Austria, Greece, Italy and Romania;
- The campaign against sexual exploitation of children, organised by the Save the Children and the ANITP, entitled “Let the children live their childhoods” and aimed at informing and training professionals in order to give them a toll to prevent trafficking for sexual exploitation;
- the campaign organised by the ANITP, IOM and the Czech Ministry of the Interior in May-September 2008 entitled “Work in the Czech Republic” and aimed at warning the public about the danger of trafficking for those travelling for work to the Czech Republic (200 posters and 2 000 brochures were distributed and other awareness-raising activities were run in the areas identified as being places of origin of potential victims);
- The campaign in seaside resorts under the slogan “Free under the sun. Get informed. Trafficking in persons is unmerciful!” During the campaign, the information activities for tourists relating to trafficking and its subsequent effect occurred;
- The national campaign to prevent THB entitled “Open your eyes” aimed at providing young women with information on the dangers of THB;³⁷⁵;

The primary target group of the awareness raising campaigns is the main potentially vulnerable group, the public at large, aged between 18 and 40, consisting of individuals who are willing to work abroad, who usually live in poor areas, and have difficulty in accessing education and information. Within the second group the decision makers who are responsible for preventing and combating trafficking for labour exploitation are targeted. The community around potential victims is also an important target, as they are in daily contact with the primary target group, and they should be able to recognise and prevent a potential trafficking situation. This group consists of relatives, friends, teachers, social workers, and priests.

For the period 2012 – 2013, ANITP together with other public or civil representatives implemented 91³⁷⁶ campaigns: 12 at national level and 79 at regional/local level – and 24 action plans THB for preventing of trafficking at local/regional level. In the same period, the number of the direct or indirect beneficiaries (people who have seen the campaigns’ messages) was more than one million and a half. There were registered 2.500.000 beneficiary of online messages and recommendations.

The United Kingdom

In the UK, there have been a lot of different awareness raising campaigns. The following list gives an indication:

³⁷⁵ ANITP (RO) 2010-2013.

³⁷⁶ National Agency against Trafficking in Persons, Report submitted by the Romanian Authorities on measures taken to comply with Committee of the Parties Recommendation CP (2012)7 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings, June 2014, p.13. Accessed 1 September 2014:

http://www.coe.int/t/dghl/monitoring/trafficking/Docs/CommitteeParties/Reply_REC/CP_2014_9_RR_ROM_en.pdf

- In June 2010, the Ministry of Justice published a leaflet with guidance on the implementation of section 71 of the Coroners and Justice Act 2009, in order to raise awareness about forced labour and servitude. The leaflet was scheduled to be reprinted during the course of 2012.³⁷⁷
- The UKHTC Tactical Advisors and Vulnerable Persons Team have provided advice and support to police forces throughout the UK to raise awareness, investigate and prevent internal trafficking of children for sexual exploitation and vulnerable adult men for the purpose of forced labour. In 2012, the UKHTC developed a UK-wide awareness campaign together with Crime stoppers. The campaign, which was expected to be launched in 2012, focused on labour exploitation and include a hotline number.³⁷⁸
- **Blue Blindfold:** The campaign Blue Blindfold, which was developed by the UKHTC in 2007, aimed at raising awareness of human trafficking amongst the general public and highlighting that human trafficking could be happening in their neighbourhood. The Blue Blindfold campaign was re-launched in Northern Ireland in January 2011 by means of advertisements on buses, internet advertising, and posters and leaflets sent to health centres and distributed through the community safety partnership network. Evaluation of the campaign in Northern Ireland showed that approximately 500 000 adults were aware of the campaign. Of those who saw the advertising, 60% agreed that they knew something about human trafficking; 75% agreed that it is an issue in Northern Ireland, and 84% agreed that they would call Crime stoppers or the Police Service of Northern Ireland if they were suspicious of human trafficking taking place. No evaluation of the campaign has been made elsewhere in the UK.³⁷⁹
- **My Dangerous Loverboy:** The UKHTC has produced the “My Dangerous Lover Boy” DVD and education pack with contributions from partners. It is designed to raise awareness of internal trafficking of girls and young women for the purpose of sexual exploitation in the UK. By 2012, some 1 000 packs have been disseminated and are being used to educate young people who fall within the target group preferred by the traffickers.³⁸⁰
- **Friend or Trafficker?:** There is an ongoing multi-language poster campaign “Friend or Human Trafficker?” at a number of UK entry points, with a message encouraging passengers to question whether they have been tricked or deceived into coming to the UK and urging them to speak with a border official or the police.³⁸¹
- **Visitor or Victim?:** The “Visitor or Victim” campaign encouraged those who consider themselves as victims of trafficking to contact support services. The campaign poster and leaflet, in nine languages, was placed in ports of entry to Northern Ireland including airports, as well as in main railway stations, health centres, Citizens Advice Bureaux and libraries.³⁸²

³⁷⁷ GRETA (UK) 2013.

³⁷⁸ GRETA (UK) 2013.

³⁷⁹ GRETA (UK) 2013.

³⁸⁰ GRETA (UK) 2013.

³⁸¹ GRETA (UK) 2013.

³⁸² GRETA (UK) 2013.

- **Project Befall:** The Serious Organised Crime Agency (SOCA) was developing an interactive 3D model - process map on child trafficking, which maps victims and could be used in the future for labour trafficking.³⁸³
- **UK campaigns in countries of origin:** The British authorities are also making efforts to raise awareness and prevent human trafficking in countries of origin. Work was carried out in China, Nigeria, Romania, Lithuania and Thailand with the IOM, the United Nations Office on Drugs and Crime (UNODC) and other organisations, as well as a project run by the Salvation Army in Malawi on children vulnerable to being trafficked and child victims of trafficking.³⁸⁴

Although much has been done in terms of raising awareness in the UK, increased focus is needed to raise awareness of internal trafficking and the risks of trafficking of British nationals abroad, with a special emphasis on trafficking in children. Increased attention should also be paid to raising awareness of the risks of trafficking in men.³⁸⁵

D4. What preventive activities indicated on page 92 of the Joint UN commentary on the EU Directive – A Human Rights-Based Approach did the country undertake? To what extent were these successful?

For this section we used the list of activities in the Joint UN commentary to achieve some coherency in the assessment. None of the countries have successfully implemented all of the activities indicated on page 92 of the Joint UN commentary. However, they all made serious efforts to implement at least several. The main area of improvement in the Netherlands and Romania is related to children’s rights and in Poland there is need for a better coordination.

The Netherlands

As shown in the above paragraphs, the Netherlands has taken various measures to combat trafficking and prevent new cases of trafficking. This is also recognised in important reviews of the Dutch situation. TIP 2014 reports that “the government of the Netherlands fully complies with the minimum standards for the elimination of trafficking”.³⁸⁶ Except for the TIP 2014 report, also Greta Report and the Report by the National Rapporteur stress that the Netherlands is generally complying with standards for combating human trafficking and that the overall picture is positive.

When the measures on prevention are compared to the key international standards on prevention as indicated in the Joint UN commentary on the EU-Directive on p. 92, it shows that most of the standards are met. However, a couple are not implemented adequately.

³⁸³ GRETA (UK) 2013.

³⁸⁴ GRETA (UK) 2013. See also Guardian and Observer at the forefront of whistleblowing in Europe and beyond: Award in 2013 <http://www.theguardian.com/media/2013/oct/16/guardian-wins-award-reports-slavery> and recent groundbreaking reports about the fishing industry.

³⁸⁵ <http://www.theguardian.com/media/2013/oct/16/guardian-wins-award-reports-slavery> and recent groundbreaking reports about the fishing industry.

³⁸⁶ TIP (NL) 2014, p. 289.

Two standards specifically relate to child-victims: “measures are taken to reduce children’s vulnerability to trafficking (...)” and “States promote a human-rights based approach, gender mainstreaming and a *child-sensitive approach* (...)”. Having stated that children, especially unaccompanied foreign children are a vulnerable group, it can be concluded that those standards need improvement in the Netherlands. Linked to this is the standard that “policies and practices address the factors that increase vulnerability to trafficking (...)”. In the draft of the national referral mechanism, it is stated that special attention should be paid to child victims.

Evaluating the three following standards, it is questionable whether they are met: “Trafficked persons are protected from re-victimisation” (because not all victims, especially Dutch victims are able to find a shelter and specialised care), “potential migrants are informed about the risks of migration (...)” (because most of the international cooperation seems to be reactive rather than preventive in nature) and “Prevention strategies are evidence based” (because although this is true, there seems to be an overrepresentation of prevention on the side of victims rather than including potential offenders as well and there seems to be an overrepresentation of the loverboy-method in education wise-prevention).

Poland

Poland has adequately undertaken six out of the 15 preventative activities indicated on page 92 of the Joint UN Commentary (nr. 1,2, 6, 7, 12, 15). The successful application of these initiatives can, among others, be evidenced in the GRETA and TIP reports. The remaining initiatives may be partly or not undertaken and thus represent significant areas for improvement. A solidified NRM, as well as increased cooperation and coordination among the seven actors involved in anti-trafficking coordination and assistance could help to fill the gaps.

Romania

Romania successfully implemented a number of key international standards on prevention of trafficking.

First of all, actions were taken to eliminate stigma related to exploitation. This resulted in a low rate of re-victimisation (3.7%)³⁸⁷ in 2013, compared to a re-victimisation rate of 4.6% in 2009.

Second, awareness-raising and in depth research on trafficking are priorities of the Romanian Intuitions in the field. For example, in 2013, a study was designed with the aim of exploring mechanisms regarding begging exploitation and the susceptibility of this form of exploitation. A national prevention campaign targeting trafficking for forced begging will be based on these results. In-depth research and complex analyses regarding the causes but also reactions to trafficking phenomenon were seen as a need in this field, based on the preliminary analyses in preparing the National Strategy against Trafficking in Persons 2012-2016.³⁸⁸ Furthermore, initiatives for multidisciplinary applied research, within various partnerships with relevant social actors in EU countries and third countries, resulted in documents analysing various incidents, causes, effects or dimensions of the trafficking in persons. These aimed to radiograph the deepest

³⁸⁷ Data available from SIMEV – National System to Monitor and Assess Victims of Trafficking in Persons, based on victims’ testimony.

³⁸⁸ According to G.D.1142/2012 regarding the approval of National strategy against Trafficking in Persons 2012-2012 and its subsequent for implementation National Action Plan for the period 2012-2014;

and various levels of interaction, which govern either the criminal dimension of the phenomenon of trafficking in person or the psychological, social and economic or border or junction areas.

Third, training among specialists in the field is an area covered both by National strategic activities and by the various grant projects. Trainings for specialists working in the field of combating trafficking are performed sensitive with victims' trauma but also to raise the victims' referral for assistance according to their needs. Trainings with other kind of specialists working in the field are tackling concrete areas of assistance, protection, coordination, referral or other specific areas in order to promote victims' rights, going from national to regional/local areas of Romania. As a study regarding sexual exploitation among Romanian victims evaluated the authorities' position for the trafficking phenomenon, highlighted the low level of awareness about trafficking at local level, making them unable or limit to take decision at local level or to be involved in prevention activities.³⁸⁹ Trainings, meetings, or activities for raising awareness involving teachers, educators or other professionals who could react at some indicators are performed at local level, under the inter-institutional anti-trafficking unit's coordination.

Fourth, programs for combating poverty, gender inequality, or discrimination of any kind are among the continuous government's priorities since the beginning of 90s, the moment Romania started the period of transition from a communist country to a democratic one. The standard of living and quality of life have increased considerably in this period, however poverty associated with many other human or social conditions (the level of increased living standards in other European countries, globalization, open borders, education,³⁹⁰ age and more), is still a prominent factor contributing to an increased vulnerability to trafficking.

Fifth, the Ministry of Foreign Affairs is constantly involved in activities and projects aimed at informing migrants about the risks associated with illegal migration. Information helpful for Romanians being in need in other states is made available through the diplomatic missions, the permanent missions of Romania in other states or through other specific channels.

Lastly, the possibility to benefit from a recovery and reflection period, as provided in Law no. 678/2001 on prevention and countering trafficking in human beings with all later amendments, and the requirement of notifying the victims regarding this matter, is communicated to victims, on which occasion an official report is filled in, to proof that the victim has been notified regarding the rights of the victim, signed at the first contact between the victim and the specialist (ANITP, The Directorate for Combating Organised Crime, The Directorate for Investigating Organised Crime and Terrorism-Prosecutor's Office).

Measures for eliminating the factors that increase vulnerability for the children and for other categories as well, are integrated within public policies against trafficking, for social assistance and child rights protection, for education and health and for promoting gender equality and for eliminating social marginalization and combating discrimination of any kind.

³⁸⁹ AnimaNova, Speranțe la vânzare Qualitative research regarding trafficking for sexual exploitation in Romania and Italy in the period 2007-2011, (a study performed under the project "AnimaNova - Labour inclusion for trafficked victims"), Bucharest, Romania, April 2012.

³⁹⁰ ANITP (RO) 2009 (child trafficking).

*United Kingdom*³⁹¹

The UK government undertook a number of activities on prevention and awareness raising and continued to initiate, support, and implement a wide range of anti-trafficking prevention programs. In January 2013, the UK Human Trafficking Centre launched “Read the Signs.” This is a campaign to educate the public and report information on cases of forced labour and domestic servitude. In 2013, the UK government introduced front-line awareness-raising activities for police and health professionals, and announced a training initiative to identify and assist child and adult victims.

The UK developed education packets for teenagers on signs of trafficking, myths and realities, and ways to report cases. Moreover training for staff in emergency departments and engaged the National Society for Prevention of Cruelty to Children Child Trafficking Advice Centre to operate an advice line on child trafficking in Northern Ireland was developed..

In Scotland, a quick reference card was distributed and a multisectoral group including law enforcement, victim support, charities, and public authority social work departments to tackle emerging issues, was established with the aim to share information and promote best practices.

Conclusion

Regarding the prevention of THB a broad range of activities has been initiated at national levels by the government, NGO’s, private sector, individuals, etc. Although there seem to be some valuable initiatives by the private sector, information on those initiatives and their effectiveness is difficult to obtain in most countries and initiatives sometimes overlap and/or compete with each other. Such initiatives are often territorially limited to one state which is problematic given the free movement of services, workers and goods in the EU and the globalised (labour) market. The prevention of THB requires thorough collaboration and coordination at national, regional and international levels which is lacking at the moment. Of what is known, most is done by NGO’s (in cooperation with the government). Furthermore, with regard to the Netherlands, the TIP 2014 report stated that “some NGO’s reported a decrease in anti-trafficking funding from the government in 2013”.³⁹² The financial crisis might in this way affect THB preventive activities in the Netherlands and in other countries.

³⁹¹ UK –TIP report, accessed 14 November 2014: <http://www.state.gov/documents/organization/226848.pdf>.

³⁹² TIP (NL) 2014.

PART E: Analysis and Evaluation

E1. To what extent does the country fulfil the obligations under the directive especially in relation the definition (Art. 2), identification, assistance and protection (Art. 11), protection during criminal procedures (Art. 12), special protection for children (Art. 13-16), compensation (Art. 17) and prevention (Art. 18)?

Cyprus

Though Cypriot legislation has been harmonised with the relevant EU Directive, and its enforcement has already been put in effect, there are a number of issues that need to be addressed. That is, the inchoate prevention of THB, the absence of any compensation and legal redress to victims of THB, and the lack of knowledge of contemporary concerns related to THB.

The Netherlands

The Netherlands faces some challenges with regard to the obligations under the directive when it comes to the protection and assistance of child-victims and when it comes to unconditional access to protection and assistance.

First, with regard to children, it follows from the review of the Dutch case that children are treated in the same way as adults. Although this means that they do have access to protection and assistance, the access might be more difficult or burdensome for children. For example, the requirement of cooperation in the criminal process in order to obtain a residence permit if the victim is from a non-EU country might be harder for children than for adults.

Second, with regard to unconditional access to the protection and assistance for victims, the requirement named above might be problematic for adults as well from a perspective of the directive. In the introduction, it was already stated that the directive leaves room for some discretion for the country in this respect when it concerns non-EU victims. However, the restriction that is imposed by requiring cooperation with the criminal trial is still very often criticised, also by GRETA.

Poland

Unfortunately there is no monitoring and evaluation body at the level of the European Union to check the implementation of the EU Member countries to comply with the Directive. According the Commission all 28 Members States have ‘transposed’ to the directive, but has not yet done a review of how the members comply. Most information available is from study visits, or monitoring by other bodies, including GRETA. However GRETA looks more at the implementation of the Council of Europe convention. As mentioned before in this report and in the literature, in particular in the GRETA report on Poland, important challenges that need to be tackled for Poland are:

- Challenges to victim identification and provision of services
- Issuing residence permits
- Awarding compensation to victims
- Need for adapting current human trafficking policy to labour exploitation
- Address particular vulnerability of children
- Strengthen effectiveness of investigations and prosecutions

- Train service providers and law enforcement
- Improve coordination within the national institutions and information sharing
- Improve international coordination and information-sharing³⁹³
- Need to develop an efficient training system of law enforcement, judiciary and other front line practitioners
- Improve data gathering, need to develop a harmonized system of statistics and other relevant trafficking data – on perpetrators and their modus operandi³⁹⁴

Additionally, it was mentioned by our NGO source, that there are gaps identified related to prevention work. One of the recommendations she made for Poland is that the school curriculum should include human trafficking, and that this should be a compulsory element. The Ministry of Education should be more active in this field. See further below.

Romania

The Directive's provisions can be found in the national set of legislation regarding prevention and combating trafficking in persons. The legal framework related to indicators of trafficking and identification of its victims, victims' referral, assistance, and protection of victims, including minors, is aligned with European legislation.

Romania provides access to existing mechanisms for redress, including financial compensation to victims of trafficking. These mechanisms are regulated by Law 211/2004 on the rights of victims of crime and by Law 678/2001. The victim witness program coordination implemented by institutions with competence in investigation matters and matters of protection stimulates participation in criminal proceedings. The program is meant to complement the support offered to victims, in addressing legal channels and accessing their right to compensation.

Special protection for minor victims has been extensively detailed in the section relating to the services, especially the special attention paid to eliminating child trafficking. According to the Law 678/2001 child victims, female victims, and those who are at risk of becoming victims of trafficking are given specific protection and welfare. Moreover, according to the same law, in collaboration with government agencies and NGOs, psychological and social support is provided to victims based on their needs.

Legal assistance for exercising their rights prescribed by the law is provided for free, in criminal proceedings, in all phases of the trial, and in all other matters in order to support their claims against the traffickers. This right is ensured both by the Law 678/2001 and the general provisions of the law 211/2004 on the rights of victims of crime.

The United Kingdom

The country fulfils in principle the obligations under the directive. However the fulfilment of the legal obligations does not guarantee adequate implementation in practice. In July 2014, the Anti-Trafficking Monitoring Group (ATMG) created an Alternative Modern Slavery Bill, to assist in the scrutiny and strengthening of the government's Modern Slavery Bill. New measures

³⁹³ GRETA (PL) 2013.

³⁹⁴ Interview Stana Buchowska, August 8, 2014.

introduced by the ATMG bill include a range of offences to capture all forms of modern slavery; comprehensive victim protection measures, including a defence for those who have been forced to commit crimes and a statutory National Referral Mechanism; an Anti-Slavery Commissioner role which has strong powers and a clear independence; and a provision to tackle slavery in supply chains. See below for further information.

E2. To what extent does the country fulfil the ‘obligations’ under the strategy? What should be improved to meet the aims and activities in the EU strategy?

The obligations for Member States following the EU strategy can be summarised as follow: establish a national referral mechanism, strengthen child protection, and inform victims on their rights (priority 1); awareness raising campaigns targeting consumers and users and cooperation with the private sector (priority 2); increase cross border cooperation, establish national multidisciplinary law-enforcement units, and increase cooperation with Europol, Eurojust and establish JITs (priority 3); establish national rapporteurs or equivalent mechanism (priority 4) and improve data collection (priority 5). The review countries will be assessed on these aspects.

Cyprus

Cyprus has ratified the European Convention on Mutual Assistance in Criminal Matters and its Protocol by enacting Law 2(III)/2000. In 2013, an operational meeting was held in Cyprus concerning a trafficking ring of Bulgarian nationals operating in Cyprus between Cypriots and Bulgarian investigators, with the support of Europol and Eurojust. Such initiatives are certainly useful for the combating of trafficking in human beings, especially concerning the aspect of transnational crime. Notably, given that organized criminal groups act rapidly, all the procedures for transnational cooperation, either for the setting up of JITs or for exchanging intelligence must be done in a timely manner. This is one of the main obstacles faced by the Cypriot Authorities. Also the collecting and securing of evidence in other countries is too difficult to achieve. Not often are requests sent to other countries by the Cyprus Police on the issue of THB. However, January 2013 the Cypriot investigators cooperated with Dutch investigators and judges who visited Cyprus to carry out investigations on an ongoing THB case in the Netherlands. Moreover, the Cyprus Police responded to 77 requests received from other EU Member States via Europol and from third countries via Interpol, in relation to trafficking cases. Additionally, the Cyprus police has requested the aid of other countries in trafficking related investigations in 12 occasions, via the channels of Interpol and Europol.

Recently, Cypriot authorities received information by Interpol in Manchester that a Latvian national had been identified as a potential victim of THB upon her arrival to the UK from CY. According to the information, the potential victim did not want to accept the support offered in the UK and she expressed the wish to return to Cyprus as she indicated Cyprus as the safer place for her to go. As soon as she arrived in Cyprus, members of the OoCTHB received her and escorted her to the governmental shelter. Soon thereafter, members of the OoCTHB interviewed her, and as a result, identified her as victim of THB.

The Netherlands

The Netherlands is currently developing a National Referral Mechanism which will clarify work and role of organisations, support facilities and other aid institutions involved in combating human trafficking which will further define the mandate of the respective organisations. The idea is that the information on the NRM will be available on a website with links to all organisations. However, before a person can be referred he/she must be identified. The identification of presumed victims is very much a law enforcement task in the Netherlands which includes a risk that victims not willing to cooperate or not able to self-identify will not easily be pictured. A working group discussing possibilities for multidisciplinary identification of victims has recently been established. However, in practice there is room for improvement as the granting of the reflection period and the residence period for trafficking victims is surrounded by suspicion on abuse of the procedure. This leads to a devoid of protection and assistance to victims in case of lack of indications for criminal investigations. Currently, child victims are treated in a similar fashion as adult victims, meaning that, in case of foreign children not legally residing, they only have access to assistance and support after the reflection period, if they cooperate with the authorities.

In relation to addressing consumers, a legislative proposal has been tabled (again) to criminalise the purchase of sexual services of victims of trafficking. Apart from news reports, no specific initiatives are undertaken to address consumers of products of labour exploitation.

The Netherlands puts a great effort in coordination and cooperation among the various authorities contributing to combat human trafficking. The national rapporteur, whose position is anchored in law, strongly facilitates such cooperation.

Poland

Poland transposed the EU trafficking directive and has adequate legislation in place on trafficking in human beings. As its human trafficking provision is already comprehensive, labour exploitation is not separately criminalised. As for the implementation of Polish legislation and measures in practice and its obligations under the EU strategy, several important challenges remain to be tackled.

There are difficulties encountered with the identification of trafficked persons and the provision of services, including the issuing of residence permits, as well as obstacles related with access to justice and legal remedies, including compensation for trafficked persons.

GRETA has further expressed concern over the significant differences between the number of identified victims of human trafficking and the number of successful prosecutions and convictions in Poland. In Poland, often cases are not categorized as a human trafficking crime, but the offenders are punished for other crimes and lower penalties are imposed. Further there is no harmonized system of data gathering; law enforcement, the Ministry of Interior, the Prosecutor General's office and various NGOs are providing data that is inconsistent.

In Poland, the National Intervention and Consultation Centre (NICC) for Polish and foreign victims of trafficking is generally recognized as a national referral mechanism structure and is also presented as such by NGO and governmental representatives. However no formal NRM is in place. As stated, partly due to this, there are significant challenges to consistent victim identification, referral and coordination of assistance in Poland as currently assessment processes

are not standardised and thus data on identified victims is not necessarily reflective of the situation on the ground.

An interdisciplinary approach has been adopted to combat trafficking of human beings in Poland and close cooperation seems to exist among all different stakeholders, including NGOs, which are together responsible for the implementation of Poland's NAP on human trafficking. Positive is further that Poland has adequately undertaken preventative activities, as is also acknowledged in GRETA and TIP reports.

Unfortunately no information is available on what Poland does to reduce demand for products of human trafficking or services provided by trafficked or exploited persons. Poland does not have a national action plan on the UN guiding principles on business and human rights as some European countries have. There is one known attempt to sue an employment agency for labour exploitation. The role of the private sector in addressing human trafficking needs to get more attention.

Recommendations made for Poland by NGOs and in reports of international organisations call for increased attention to the particular vulnerability of children and improvement of the assistance (system) for children; to ensure that suitable accommodation is provided to male victims of trafficking and that they can fully benefit from the assistance measures provided for in the law; the strengthening of the effectiveness of prosecutions and investigations as well as compensation claims, ensure training of service providers, law enforcement and prosecutors and improve coordination within the national institutions and information sharing and improve data gathering.

Romania

Within the European Strategy towards the Eradication of Trafficking in Human Beings five priorities are included which the Member States should address in cooperation with Services or European Institutions and agencies, civil society and other institutions in order to eliminate trafficking: identification, prevention and assistance of victims, improving investigations, improving coordination and cooperation, improving knowledge and an appropriate response to new forms of trafficking.

To establish a unified strategic framework for all the institutions and organisations involved in anti-trafficking activities, the National Strategy against Trafficking in Persons 2012-2016 and its subsequent action plan were adopted. The Strategy is a policy document, in line with EU requirements and priorities on prevention and combating trafficking in persons, as were set out in the Stockholm Program, the Internal Security Strategy, and the EU Strategy for the eradication of trafficking directed to address new types of trafficking, especially in terms of child labour and begging.

Improving the quality of protection and assistance for victims of trafficking, improving the social reintegration, improving institutional capacity to investigate trafficking offenses especially in cases of trafficking of minors, and the pursuit of profit by criminal prosecution, increasing capacity to collect and analyse data on trafficking and process optimization and enhancing inter-institutional and international cooperation are activities gravitating for the implementation of the

Anti-trafficking National Strategy. The Strategic national objectives are linked to major objectives of the European Strategy.

Some actions from the EU Strategy still need to be addressed in Romania in order to fulfil the European anti-trafficking view, including the following: promoting the establishment of a Private Sector Platform, enhanced coordination among key actors, understanding on-line Recruitment and improving assistance for the victims of trafficking.

United Kingdom

Similar to other EU countries, the UK in theory fulfils its obligation under the strategy (and the directive) to a large extent. A new modern slavery bill is currently pending in the UK, expected to be adopted in 2015. The legislation is intended to consolidate and harmonize all the current relevant offences of trafficking and forced labour in one place, which are now scattered in three different pieces of legislation.

It is rather the implementation in practice of anti-trafficking legislation and measures that needs attention and should be further improved. As promoted, the UK has a national referral mechanism in place. The Home Office is the central institution for the coordination of anti-trafficking initiatives, but has a strong focus on law enforcement and on migration issues.

Concerns have been raised by NGOs that adequate coordination is lacking and that the NRM did not ensure adequate oversight of individual cases and failed to meet the needs of victims of forced labour and involuntary domestic servitude. Also as elsewhere in Europe, identification of trafficked persons remains an issue. The UK has a multi-disciplinary team to identify trafficked persons and the identification of trafficking victims has been mandated to a limited number of NGOs, which is a good example in comparison to other EU countries. They can refer victims to the Home Office who then has a final say.

Assistance and support to trafficked persons, and a reflection period, is available and arranged in national legislation and measures. There are no differences in the support services offered to victims of transnational and national trafficking. However, the Home Office has been criticised for being too strict in its assessment denying victims the right to assistance and support in some cases. Moreover, NGOs have pointed out that many trafficked persons are not identified and do not receive the assistance they need. Recommendations for assistance further include adopting clear support service minimum standards for victims of trafficking and the provision of adequate funding to maintain them; improving the system for providing assistance to child victims and ensuring that suitable accommodation is extended to male victims of trafficking. In practice there is no unconditional support for trafficked persons, which is actually the case for nearly all EU countries.

The UK's own Human Trafficking Strategy has a clear focus on victims and prevention, and measures are in place to ensure that (presumed) victims are informed about their rights, but again NGOs have expressed concern about the lack of information provided to migrant domestic workers coming to the UK regarding their rights. The UK government has initiated several campaigns, often in cooperation with other stakeholders.

The GLA and major food retailers and suppliers have established a Protocol that identifies how they will work together to improve standards and protect workers. The GLA plays an important role in controlling the use of temporary workers in agriculture and horticulture and a debate is ongoing whether its mandate should be extended to other sectors as well. Further NGOs and IOM have been targeting consumers to raise awareness on their role.

Further in line with the EU strategy and directive, the UK strategy also refers to the need to tackle the demand for inexpensive, unprotected and often illegal labour. The UK was the first country to adopt a National Action Plan on the UN Guiding Principles on Business and Human rights. Critics have mentioned though that the national action plan gives no indication of any intention to give legal effect to the guiding principles requirements on companies and that without this, it is hard to see how the plan will make a meaningful difference. As mentioned before in this report, there are not yet cases known of businesses held liable for human trafficking cases.

Further the UK strategy includes the aim of improving the coordination of border and policing law. Close cooperation already exists between the relevant law enforcement bodies. However the GRETA report on the UK mentions that an increase in training of prosecution entities on human trafficking could improve effective evidence collection and subsequently increase related prosecutions in the UK. Currently the prosecution rate is 70%

Lastly, the UK currently does not have a national Rapporteur or monitoring mechanism in place. UK NGOs have established an anti-trafficking monitoring group; initially to monitor the implementation of the Council of Europe convention in the UK, but the group continues to monitor the anti-trafficking measures taken and has already published several reports. This earlier pending UK modern slavery bill does foresee in the establishment of a national anti-slavery commissioner.

3. Final Conclusions

Based on the EU legislative and policy framework five priorities have been set in the EU strategy to eradicate human trafficking in 2012. These priorities are: identifying, protecting and assisting victims of trafficking; stepping up the prevention of trafficking in human beings; increased prosecution of traffickers; enhanced coordination and cooperation among key actors and policy coherence; and, increased knowledge of and effective response to emerging concerns related to all forms of trafficking in human beings. On both the EU level and the national level the realisation of the activities indicated under the set priorities, remain problematic.

The identification of victims remains one of the core challenges in all countries reviewed. This challenge is to be taken very seriously, because it affects all stages of the combat against human trafficking, included in the three P's: Protection, Prosecution and Prevention. As long as it is unclear who has become victim and who is responsible for their identification, those persons cannot be protected and the traffickers cannot be prosecuted. With regard to prevention, identification issues also play an important role: prevention is only possible when it is known what situations and which persons are potentially targeted for trafficking. Although many disciplines are involved in anti-trafficking activities, the identification of victims is still very much affected by a law enforcement perspective. The UK shows a good example of the official involvement of NGOs for identification and referral, despite critical evaluations of the implementation thereof.

Not all countries have a minimum duration of the reflection period, although the maximum is (in all countries) above 30 days. However, a minimum is not always guaranteed which could be in violation with the CoE Convention as well as with Art. 11 of the EU trafficking directive. It would be good if all possible victims are provided with the minimal reflection period, regardless if they already want to give a statement. Only if victims had indeed a minimal period to recover they are able to make a balanced decision whether they want to cooperate. Speedy procedures with the aim to close a case if no indications for a criminal case can be found in a victim's statement (as seen in the Netherlands), should be abandoned.

Furthermore, if a victim is identified and transferred to the competent authorities and wants to return to her/his home country rather than remain in the country of destination, there should be an option to transfer victim status. This could be achieved by adopting the principle of mutual recognition for victim status, a principle widely used in police and judicial cooperation in the EU. Because victim-identification is largely based on directive 2004/81 the establishment of victim status has been harmonised to a considerable extent in the EU. By adopting the principle of mutual recognition of victim status in case of trafficking victims, a victim who returns to his/her home country can automatically use victim protection and assistance facilities in his/her home country.

In general child victims are treated in the same way as adult victims regardless of the special provisions in the EU directive. Special attention should be given during the hearing to the fact the person is a child and must be done by duly trained professionals. Furthermore, awareness raising campaigns and other activities to prevent human trafficking should target children and

especially those at risk of being trafficked such as children from broken families, unaccompanied migrant minors and those children with weak mental capacities.

More general in relation to awareness raising it can be stated that many initiatives and activities are undertaken at both the national and EU level. It is nearly impossible to attune and list all relevant activities nor the effectiveness of these. There is a considerable risk of overlap which may lead to some form of competition, for instance, between quality labels like in the Netherlands. In some countries there is an overreliance on self-regulatory activities and initiatives from the private sector. This leads to an increased diffusion of the activities and lack of coherence.

The criminalisation of the use of services which are the objects of exploitation is another aspect of THB preventive strategies strongly supported by the European Commission and explicitly mentioned in the strategy. None of the review-countries contained an explicit criminalization, although, this has been discussed for some time within the Dutch government. Although it is not limited to sexual exploitation it seems that criminalising the use of sexual services of trafficking victims is the main goal as indicated from the various discussions. Despite this, problems relating to an efficient monitoring of such criminalisation remain a reoccurring aspect in the discussions and should be addressed if such legislation wants to transcend symbolic legislation.

The number of effective prosecutions continues to be a primary concern. It is astonishing that the number of convictions has not risen despite the various anti-trafficking measures over the last decade. The conviction rate in many states remains low compared to other crimes. The number of cases that do not make it to court or to a conviction is still high as is the complexity of trafficking cases. The dependency on a victim's statement and a lack of so-called hard evidence complicates effective prosecutions. This is further strengthened by a lack of clarity in defining human trafficking at national levels. The criteria that should be used to qualify a situation as exploitative is not established at national, EU or International level. Whether the definition of trafficking includes the exploitative act itself is dealt with differently in the review countries. As we have seen, some countries adopted specific provisions on forced labour and slavery apart from trafficking. Victims of these crimes are not per-se covered by the trafficking victims protection regimes, which may be problematic. Currently, no guidance is given on how to address this point at the EU or International level, although the UN joint commentary to the EU directive seem to push for separate criminalisation of trafficking and exploitation in a similar fashion as slave trade and slavery.

This report has found that an incredible high number of activities, initiatives, researches, policy documents and legislation is being produced to combat human trafficking. Additionally, measures adopted in related policy areas such as migration, free movement of workers and services, labour, etc. although not primarily focusing on human trafficking, can be relevant for and impact on the combat against trafficking. It is an important but challenging task to keep track on these activities. The establishment of national rapporteurs or equivalent mechanisms, an obligation following from EU directive and adopted in the strategy can strongly facilitate this.

Appendix I: Terms of Reference Country Review Reports



TRACE

Trafficking as A Criminal Enterprise

TRACE WORKPACKAGE 1: HUMAN TRAFFICKING AS A CRIMINAL ENTERPRISE

TERMS OF REFERENCE COUNTRY REVIEW REPORTS

A. Criminalisation of THB and related phenomena such as slavery, servitude, forced labour

A1. How is THB defined in your country? To what extent has the definition of Article 2 EU Directive 2011/36 been implemented?

A2. How are related phenomena such as slavery, servitude and forced labour addressed in your legislation?

A3. What other legislation relevant for the criminalisation of THB does exist in your country (e.g. criminalisation of exploitation of migrants, labour law criminalising labour exploitation) ?

A4. What are the difficulties encountered in the legal framework? Are some groups more vulnerable to become THB victim because of direct or indirect discrimination?

B. Increased prosecution, including inter-state and transnational cooperation between law enforcement authorities

B1. What is the modus operandi on THB in your country?

At least the following question will be answered: What are countries of origin/destination? How is the trafficking organised (recruitment, means and exploitation)? Who are the victims? Provide relevant data on victims, prosecutions, investigations, convictions. What are the trafficking routes?

B2. How many prosecutions have been conducted over the past five years?

B3. What are the main obstacles for an effective prosecution of cases of THB? To what extent are financial investigations part of the prosecution in THB cases?

B4. How is the inter-state cooperation between law enforcement authorities organised (between local and national levels, between labour inspectors and police, between municipalities, local government and police)? Has some form of a programmatic approach or an interdisciplinary approach been adopted?

B5. To what extent are tools for international cooperation employed for the prosecution of THB cases?

B6. Are there any examples of prosecution of corporations in your country?

C. Identification, assistance and protection of trafficked person

C1. How many victims have been identified per year over the past five years? Specify what form of THB they were a victim of.

C2. How are victims of THB identified? Does a referral mechanism exist? If yes, shortly describe how the NRM works. What are the main positive aspects and bottlenecks? (please look at CH 1 and 2 of the handbook of the OSCE on NRM)

C3. What kind of assistance and protection is provided to THB victims? How are victims enabled to use assistance and protection services? Is assistance and protection available to all victims, including male victims, children, EU citizen, nationals? What are the obstacles in victim identification, assistance and protection? Under what conditions can a residence permit and reflection period be granted? How is unconditional access to support and assistance guaranteed?

C4. Do victims have access to legal support, How can victims be compensated? How successful are these mechanism? How are victims protected during court cases (Art. 12 EU Directive)?

C5. How are victims informed on their rights?

C6. How do you assess the effectiveness of victim identification, assistance and protection in the country?

D. Prevention of THB

D1. What efforts does the country undertake to reduce demand for cheap labour and/or forced prostitution and to reduce push factors?

D2. What efforts does the private sector undertake to reduce demand for products of THB or services provided by trafficked or exploited persons (both of labour exploitation and sexual exploitation)?

D3. Does the country undertake any awareness raising campaigns for the prevention of THB?

D4. What preventive activities indicated on page 92 of the Joint UN Commentary on the EU Directive – A Human Rights-Based Approach did the country undertake? To what extent were these successful?

E. Analysis and evaluation

E1. To what extent does the country fulfil the obligations under the directive especially in relation to the definition (Art. 2), identification, assistance and protection (Art. 11), protection during criminal procedures (Art. 12), special protection for children (Arts. 13-16), Compensation (Art. 17) and prevention (Art. 18).

E2. To what extent does the country fulfil the 'obligations' under the strategy? What should be improved to meet the aims and activities in the EU Strategy?

Appendix II: Part. C: Number of victims over the last five years in Cyprus provided by Cyprus Police

2010

TYPE	GENDER				NUMBER OF VICTIMS
	MALE		FEMALE		
	MINOR	ADULT	MINOR	ADULT	
SEXUAL EXPLOITATION	-	-	2	19	21
LABOUR EXPLOITATION	-	5	-	12	17
FORCED MARRIAGE	-	-	-	10	10
SEXUAL EXPLOITATION AND FORCED MARRIAGE	-	-	-	3	3
SEXUAL EXPLOITATION AND LABOUR EXPLOITATION	-	-	-	1	1
TOTAL	-	5	2	45	52

2011

TYPE	GENDER				NUMBER OF VICTIMS
	MALE		FEMALE		
	MINOR	ADULT	MINOR	ADULT	
SEXUAL EXPLOITATION	-	-	1	26	27
LABOUR EXPLOITATION	-	5	-	5	10
FORCED MARRIAGE	-	-	-	2	2
SEXUAL EXPLOITATION AND FORCED MARRIAGE	-	-	-	1	1
SEXUAL EXPLOITATION AND LABOUR EXPLOITATION	-	5	1	34	40
TOTAL	-	-	1	26	27

2012

TYPE	GENDER				NUMBER OF VICTIMS
	MALE		FEMALE		
	MINOR	ADULT	MINOR	ADULT	
SEXUAL EXPLOITATION	-	-	-	16	16
LABOUR EXPLOITATION	-	11	-	8	19
FORCED MARRIAGE	-	-	-	2	2
TOTAL	-	11	-	26	37

2013

TYPE	GENDER				NUMBER OF VICTIMS
	MALE		FEMALE		
	MINOR	ADULT	MINOR	ADULT	
SEXUAL EXPLOITATION	-	-	-	16	16
LABOUR EXPLOITATION	-	8	-	2	10
FORCED MARRIAGE	-	-	-	4	4
TOTAL	-	8	-	22	30

2014

TYPE	GENDER				NUMBER OF VICTIMS
	MALE		FEMALE		
	MINOR	ADULT	MINOR	ADULT	
SEXUAL EXPLOITATION	-	-	2	12	14
LABOUR EXPLOITATION	-	10	-	4	14
FORCED MARRIAGE	-	-	-	5	5
SEXUAL EXPLOITATION AND LABOUR EXPLOITATION	-	-	-	2	2
TOTAL	-	10	2	23	35

IDENTIFIED VICTIMS OF TRAFFICKING					
COUNTRY OF ORIGIN	YEAR				
	2010	2011	2012	2013	2014 (01/01 – 31/08)
VIETNAM	12	7	2	2	
BULGARIA	11	1	3	5	6
ROMANIA	8	8	8	7	7
PHILIPPINES	5	1	1	-	-
EGYPT	5	-	-	-	-
UKRAINE	2	1	1	-	1
CAMEROON	2	2	-	1	-
BELARUS	2	2	-	-	-
ESTONIA	2	2	-	-	-
MOLDOVA	1	-	-	-	-
CHINA	1	7	-	-	-
NEPAL	1	-	-	-	-
INDIA	-	3	15	9	11
RUSIA	-	2	-	1	-
PAKISTAN	-	1	-	-	-
NIGERIA	-	-	1	1	-
BANGLANTES	-	-	1	-	-
LATVIA	-	-	1	-	1
DOMINICAN REPUBLIC	-	-	1	-	-
GREECE	-	-	1	-	-
TURKEY	-	-	1	-	-
CYPRUS	-	-	1	-	1
UZBEKISTAN	-	-	-	1	-
SRI LANKA	-	-	-	1	1
GEORGIA	-	-	-	1	-
HUNGARY	-	-	-	1	-
MOROCCO	-	-	-	-	1
KENYA	-	-	-	-	1
TOTAL	52	40	37	30	30

Acronyms

Please note: sometimes an abbreviation is followed by another abbreviation between brackets, representing the country. For example: CC(NL) represents the abbreviation CC (criminal code) in NL (The Netherlands). The following country codes are used: CY (Cyprus); NL (the Netherlands); PL (Poland) RO (Romania), UK (United Kingdom).

A

AP	Annual Plan
AMV	(NL) Alleenstaande Minderjarige Vluchteling (unaccompanied minor)
ANITP	(RO) National Agency against Human Trafficking
ATMG	(UK) Anti-Trafficking Monitoring Group

C

CA	Consortium Agreement
CP	Contracting Party
CC	Criminal Code
CCP	Criminal Code of Procedure
CICA	(UK) Criminal Injuries Compensation Authority
COA	(NL) Centraal Orgaan opvang Asielzoekers (reception center asylum seekers)
COSI	(EU) Standing Committee on Operational Cooperation on International Security
CPS	Crown Prosecution Service (UK)

D

DCCO	(RO) Directorate for Combating Organised Crime
DGASPC	(RO) General Direction for Social Assistance and Child Rights Protection
DIICOT	(RO) Directorate for Investigating organised Crime and Terrorism
DT&V	(NL) Dienst Terugkeer & Vertrek (agency concerning the return procedure)

E

ED	EUROPEAN DYNAMICS
EMM	(NL) expertise center for human trafficking and human smuggling
EMPACT	European Multidisciplinary Platform Against Crime Threats

F

FIOD	(NL) Fiscal Information and Investigation Service
FIU	Financial Intelligence Unit

G

GAMM	Global approach to Migration and Mobility
GMA	(UK) Gangmasters Licensing Authority

I	
IND	(NL) Immigratie- en naturalisatiedienst (Immigration and Naturalisation Service)
IOM	(PL) International Organisation for Migration
J	
JIT	Joint Investigation Team
K	
KMar	(NL) Koninklijke Marechaussee (Dutch Royal marechaussee)
L	
LEA	(PL) Police or Border Guard
LIEC	(NL) National Information and Expertise Centres
M	
MNIR	(RO) Romanian abbreviation for NRM
N	
NAE	(RO) National Agency for Employment
NAP	(PL) National Action Plan
NCA	(UK) National Crime Agency
NICC	(PL) National Intervention and Consultation
NHTU	(UK) National Human Trafficking Unit
NIDOJ	(UK) Northern Ireland Department of Justice
NLI	(PL) National Labour Inspectorate
NRM	National Referral Mechanism
O	
OoCTHB	(CY) Office of Combating Trafficking in Human Beings
P	
POCA	(UK) Proceeds of Crime Act
PPS	Public Prosecution Service
PSCE	Public Safety Communication Europe
R	
RIEC	(NL) Regional Information and Expertise Centres

S

SCTP	(RO) Special police unit that has the task of combating THB
SFO	(NL) Strafrechtelijk Financieel Onderzoek (financial investigations)
SIMEV	(RO) System to Monitor and Assess Trafficking in Persons
SMG	(UK) Strategic Monitoring Group
SOCA	(UK) Serious Organised Crime Agency
SZW	(NL) (inspectorate) Sociale Zaken en Werkgelegenheid

U

UKBA	(UK) UK Border Agency
UKHTC	(UK) UK Human Trafficking Centre

Reference list

Books, journal articles and book chapters

Esser & Dettmeijer-Vermeulen 2014

Esser, Luuk, and Corinne Dettmeijer-Vermeulen, “Mensenhandel op een tweesprong. De omgang van rechters met de ruim geformuleerde mensenhandelgedraging in de delictsomschrijving van artikel 273f lid 1 sub 4 Sr”, *Delikt & Delinkwent* 2014/48.

Heemskerk & Willemsen

Heemskerk, Marijn, and Eline Willemsen, *Compensatie voor slachtoffers van mensenhandel*, Fairwork 2013.

Klaver, Van der Leun & Schrijenberg 2013

Klaver, Jeanine, Joanne van der Leun, and Ad Schrijenberg, *Vooronderzoek oneigenlijk gebruik verblijfsregeling mensenhandel*, Regioplan Beleidsonderzoek, Amsterdam, 2013.

Lestrade & Rijken 2014

Lestrade, Sjarai, and Conny Rijken, “Mensenhandel en uitbuiting nader bepaald”, *Delikt & Delinkwent*, No. 9, 2014/21.

Letschert & Rijken 2013.

Letschert, Rianne, and Conny Rijken, “Rights of victims of crime: Tensions between an integrated approach and a limited legal basis for harmonization”, *New Journal on European Criminal Law*, Vol. 4, Issue 3, 2013, pp. 224-253.

Rijken 2013

Rijken, C., “Trafficking in Human Beings for Labour Exploitation: Cooperation in an Integrated Approach”, *European Journal of Crime, Criminal Law and Criminal Justice*, Vol. 21, No. 1, 2013 pp. 9-35.

Rijken, Van Dijk & Klerx-van Mierlo 2013

Rijken, Conny, Jan van Dijk, and Fanny Klerx-van Mierlo 2013, *Mensenhandel: het slachtofferperspectief. Een verkennende studie naar behoeften en belangen van slachtoffers mensenhandel in Nederland*, Intervict, Tilburg, 2013.

Rijken, Jansen-Wilhelm & de Volder 2014

Rijken, Conny, Stefanie Jansen-Wilhelm and Eefje de Volder, “[Taking Stock of GRETA’s Monitoring Function](#)” Council of Europe, 2014, not published.

Rijken & De Volder 2014

Rijken, Conny, and Eefje de Volder, *De Nederlandse Agrarische Sector in kaart*, Tilburg Law School, Tilburg, 2014.

Legislation & Policy

CoE Convention Action against Trafficking in Human Beings

Council of Europe Convention Action against Trafficking in Human Beings CETS No.: 197.

Directive: seasonal workers directive

European Parliament and the Council, Directive 2014/36/EU of 26.2.2014 on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers, OJ L 94, 28.3.2014.

Directive: Directive 2012/29/EU on Minimum Standards

European Parliament and the Council, Directive 2012/29/EU of 25.10.2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, L 315/57.

Directive: Sanctions directive (2009/52/EC)

European Parliament and the Council, Directive 2009/52/EC of 18.06.2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals, L 168/24.

EU Action Oriented Paper 2009

Action Oriented Paper on strengthening the EU external dimension against trafficking in human beings, 11450/09, 19 November 2009 and 9501/3/11 REV 3, 4 July 2011.

EU Global Approach to Migration and Mobility

European Commission, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions (Global Approach to Migration and Mobility), COM(2011) 743 final, Brussels, 18.11.2011.

EU Communication on the Sanctions directive

Communication from the Commission on the application of Directive 2009/52/EC of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third country nationals, COM(2014) 286 final, Brussels 22.5.2014.

EU Communication on the third-country nationals who are victims of trafficking directive

Communication from the Commission to the council and the European Parliament on the application of Directive 2004/81 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, COM(2014) 635 final, Brussels, 17.10.2014.

EU Report on the third-country nationals who are victims of trafficking directive

Report from the Commission to the European parliament and the Council, on the application of directive 2004/81 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, COM(2010) 493 final, Brussels 15.10.2010.

2004 Gangmasters Licencing Act

<http://www.legislation.gov.uk/ukpga/2004/11/contents>.

Governmental Decree (RO)

G.D.1142/2012 regarding the approval of National strategy against Trafficking in Persons 2012-2012 and its subsequent for implementation National Action Plan for the period 2012-2014

Guideline Human Trafficking PPS (NL)

Aanwijzing mensenhandel, *Stcrt.* 2013, nr. 16816

ILO Protocol 29 to the Forced Labour Convention (1930)

International Labour Organization, P029 – Protocol of 2014 to the Forced Labour Convention, 1930, of 11.06.2014.

Mid-Term report on the implementation of the Strategy

European Commission, Mid-term report on the implementation of the EU strategy towards the eradication of trafficking in human beings, SWD(2014) 318 final, Brussels, 17.10.2014.

Strategy

The EU Strategy towards the Eradication of Trafficking in Human Beings 2012-2016, Communication from the Commission to the European Parliament, The Council, The European Economic and Social Committee and the Committee of the Regions, COM(2012) 286 final, Brussels, 19.6.2012.

Reports

ANIMANOVA (RO) 2012

AnimaNova, Speranțe la vânzare Qualitative research regarding trafficking for sexual exploitation in Romania and Italy in the period 2007-2011, (a study performed under the project “AnimaNova - Labour inclusion for trafficked victims”), Bucharest, Romania, April 2012

ANITP (RO) 2009 (child trafficking)

National Agency against Trafficking in Persons, *Child Trafficking in Romania: Study on the recruitment process*, Bucharest 2009.

ANITP (RO) 2010

National Agency against Trafficking in Persons, *National Report Regarding Trafficking in Persons in 2009*, Bucharest, 2010.

ANITP (RO) 2011

National Agency against Trafficking in Persons, *National Report Regarding Trafficking in Persons in 2010*, Bucharest, 2011.

ANITP (RO) 2012

National Agency against Trafficking in Persons, *National Report Regarding Trafficking in Persons in 2011*, Bucharest, 2012.

ANITP (RO) 2013

National Agency against Trafficking in Persons, *National Report Regarding Trafficking in persons in 2012*, Bucharest, 2013.

ATMG 2013

The Anti-Trafficking Monitoring Group (ATMG), *Hidden in Plain Sight Three Years On: Updated Analysis of UK Measures to Protect Trafficked Persons*. October 2013.

Eurostat 2013

Eurostat, *Trafficking in human beings* (2013 edition), European Commission, Luxembourg, 2013.

Eurostat 2014

Eurostat, *Trafficking in human beings* (2014 edition), European Commission, Luxembourg, 2014.

GRETA (UK) 2012

Group of Experts on Action against Trafficking in Human Beings (GRETA), *Report concerning the implementation of the council of Europe convention on Action against Trafficking in Human Beings by the United Kingdom* (GRETA(2012)6), Strasbourg, 12.09.2012.

GRETA (PL) 2013

Group of Experts on Action against Trafficking in Human Beings (GRETA), *Report concerning the implementation of the Council of Europe convention on Action against Trafficking in Human beings by Poland* (GRETA(2013)6), Strasbourg, 6.5.2013.

GRETA (NL) 2014

Group of Experts on Action against Trafficking in Human Begins (GRETA), *Report concerning the implementation of the Council of Europe convention in Action against Trafficking in Human beings by the Netherlands* (GRETA(2014)10), 18.06.2014.

ILO 2012

International Labour Office (ILO), *ILO Global Estimate of Forced Labour*, International Labour Organization, Geneva, 2012.

Jaarbericht Kinderrechten 2014

Defence for Children & Unicef, *Jaarbericht kinderrechten 2014*, Leiden/Voorburg, 2014.

Joint UN Commentary

OHCHR, UNHCR, UNICEF, UNDOC, UN Women & ILO, *Joint UN Commentary on the EU Directive – A Human Rights-Based Approach*, 2011.

Kaandorp & Blaak 2014

Kaandorp, Majorie, and Mirjam Blaak, *Child Trafficking in the Netherlands*, Unicef & Defence for Children – ECPAT the Netherlands, Voorburg, 2014.

Lipscombe & Beard 2014

Lipscombe, Sally and Jacqueline Beard, “Human trafficking: UK responses”, SN/HA/4324, House of Commons Library, 2014, available online at: www.parliament.uk/briefing-papers/sn04324.pdf (last accessed September 2014).

National Rapporteur (NL) 2012

Nationaal Rapporteur Mensenhandel, *Mensenhandel. Jurisprudentie mensenhandelzaken 2009-2012*, BNRM, Den Haag, 2012.

National Rapporteur (NL) 2013

Nationaal Rapporteur Mensenhandel en Seksueel Geweld tegen Kinderen, *Mensenhandel. Negende rapportage*, Nationaal Rapporteur, Den Haag, 2013, p. 17.

National Rapporteur (NL) 2014

Nationaal Rapporteur Mensenhandel en Seksueel Geweld tegen Kinderen, *Mensenhandel in en uit beeld II. Cijfermatige rapportage 2008-2012*, Nationaal Rapporteur, Den Haag, 2014.

National Rapporteur (NL) UPDATE 2014**OSCE 2010**

OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, *Analysing the Business Model of Trafficking in Human Beings to Better Prevent the Crime*, OSCE/Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, Vienna, 2010.

OSCE 2013

OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, *Policy and legislative recommendations towards the effective implementation of the non-punishment provision with regard to victims of trafficking*, OSCE/Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, Vienna, 2013.

TIP 2010-2014

U.S. Department of State, *Trafficking in Persons Report 2010*.

U.S. Department of State, *Trafficking in Persons Report 2011*.

U.S. Department of State, *Trafficking in Persons Report 2012*.

U.S. Department of State, *Trafficking in Persons Report 2013*.

U.S. Department of State, *Trafficking in Persons Report 2014*.

TWINNING REPORT (RO) 2010

Twinning Project RO 06 IB JH 08, Supporting the institutional capacity to prevent trafficking in human beings in Romania – Increasing the intervention on capacity of the actors involved in the

process of victim trafficking identification, referral and assistance through providing quality multi-disciplinary services, -internal report for the C Component/Activity of the Project, 2010.

UK Government 2012

UK Government, *Report on the Internal Review of Human Trafficking Legislation*. May 2012. ; https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/97846/human-trafficking-legislation.pdf

UNODC 2012

United Nations Office on Drugs and Crime (UNODC), *Global Report on Trafficking in Persons*, United Nations, New York, NY, 2012.

UNODC (Trafficking in Persons in Europe for Sexual Exploitation)

United Nations Office on Drugs and Crime (UNDOC), *Trafficking in Persons in Europe for Sexual Exploitation*, United Nations.

http://www.unodc.org/documents/publications/TiP_Europe_EN_LORES.pdf

Case Law

European Court of Human Rights, *Rantsev v. Cyprus and Russia*, Application No 25965/04, 7 January 2010.

Dutch Supreme Court: HR 27 oktober 2009, ECLI:NL:HR:2009:BI7097

Dutch Supreme Court: HR 20 december 2011, ECLI:NL:HR:2011:BR0448.

Dutch Court of first instance: Rb Zwolle-Lelystad 14 december 2012, ECLI:NL:RBZLY:2012:BY7662.

Websites and online documents

AIRE Centre 2012

AIRE Centre, *Monitoring Report on the Implementation by the United Kingdom of EU Directive 2011/36 on preventing and combating trafficking in human beings*, July 2012.

http://www.airecentre.org/data/files/Monitoring_Report_on_Implementation_of_EU_Directive_July_2012.pdf

Anti Trafficking Legal Project – UKBA Policies

<http://www.atlep.org.uk/research-and-resources/law-and-practice-overview/immigration-law-practice/ukba-policies/>

CCME 2010

Madler, Veronika. "Trafficking in Human Beings: Labour Exploitation in Poland; Churches Commission for Migrants in Europe (CCME). 2.10.2010.

http://www.ccme.be/fileadmin/filer/ccme/20_Areas_of_Work/10_Slavery_Anti-Trafficking/National_reports/2011-03-Poland_Report_GOING_BEYOND.pdf

Ciprian, Domnişoru,

Munca în recesiune-dezinformări și pauperizare. Drumul spre Muncă Decentă,
<http://www.criticatac.ro/16304/munca-recesiune-dezinformri-pauperizare-drumul-spre-munc-decent/>

CPS Policy

CPS Policy for Prosecuting Cases of Human Trafficking.

http://www.ecpat.org.uk/sites/default/files/policy_for_prosecuting_cases_of_human_trafficking_cps.pdf

Crown Prosecution Service (UK) Website: Human Trafficking, Smuggling and Slavery

http://www.cps.gov.uk/legal/h_to_k/human_trafficking_and_smuggling/#a04

(accessed September 2014)

Dixon, Jr. 2012

Dixon, Jr., Judge Herbert, “Human Trafficking and the Internet* (*and Other Technologies, too)”, *The Judges Journal: American Bar Association*, Vol 52, No. 1, September 2012.

http://www.americanbar.org/publications/judges_journal/2013/winter/human_trafficking_and_internet_and_other_technologies_too.html#2

EMN 2012

European Migration Network (EMN), *Ad-Hoc Query on Transposition of Article 8 of Directive 2011/36/EU*. 18.12.2012. http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/ad-hoc-queries/eu-acquis/433_emn_ad-hoc_query_on_transposition_of_article_8_of_directive_2011-36_widerd_en.pdf

EUROJUST 2012

EUROJUST, *Strategic Report on Eurojust’s action against trafficking in human beings*. October 2012. [http://www.eurojust.europa.eu/doclibrary/Eurojust-framework/Casework/Eurojust%20action%20against%20trafficking%20in%20human%20beings%20\(October%202012\)/THB-report-2012-10-18-EN.pdf](http://www.eurojust.europa.eu/doclibrary/Eurojust-framework/Casework/Eurojust%20action%20against%20trafficking%20in%20human%20beings%20(October%202012)/THB-report-2012-10-18-EN.pdf)

EU Guidelines for the identification of victims of THB

European commission, *Guidelines for the identification of victims of trafficking in human beings*.

http://ec.europa.eu/dgs/home-affairs/e-library/docs/thb-victims-identification/thb_identification_en.pdf

Evaluatie Kansloze aangiften verblijfsregeling mensenhandel

Dutch Government, *Evaluatie kansloze aangiften verblijfsregeling mensenhandel*. 2014.

<http://www.rijksoverheid.nl/documenten-en-publicaties/rapporten/2014/06/24/evaluatie-pilot-kansloze-aangiften-verblijfsregeling-mensenhandel.html>,

FIU (NL) jaaroverzicht 2013

Financial Intelligence Unit Nederland, FIU-jaaroverzicht 2013, https://www.fiu-nederland.nl/sites/www.fiu-nederland.nl/files/u3/FIU%20Jaaroverzicht%202013%20NL_extern.pdf

https://www.fiu-nederland.nl/sites/www.fiu-nederland.nl/files/u3/FIU%20Jaaroverzicht%202013%20NL_extern.pdf

https://www.fiu-nederland.nl/sites/www.fiu-nederland.nl/files/u3/FIU%20Jaaroverzicht%202013%20NL_extern.pdf

GRASP, Website

http://www.globalgap.org/uk_en/what-we-do/globalg.a.p.-certification/globalg.a.p.-00001/GRASP/

The Guardian, articles

<http://www.theguardian.com/society/2014/feb/25/children-trafficked-between-uk-towns>
<http://www.theguardian.com/sustainable-business/blog/uk-guidance-business-human-rights-legal>
[http://www.theguardian.com/politics/2014/sep/08/mps-say-british-companies-should-be-prosecuted-for-overseas-human-rights-abuses.](http://www.theguardian.com/politics/2014/sep/08/mps-say-british-companies-should-be-prosecuted-for-overseas-human-rights-abuses)

<http://www.theguardian.com/media/2013/oct/16/guardian-wins-award-reports-slavery> and recent groundbreaking reports about the fishing industry.

Guidance for frontline staff (UK)

Home Office, Victims of human trafficking: Guidance for frontline staff, 21 January 2013,

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/275239/Human_trafficking.pdf

Independent, article (Rotherham Case)

<http://www.independent.co.uk/voices/comment/rotherham-child-sexual-abuse-scandal--the-lessons-asian-womens-voices-go-unheard-9701622.html>

Jolkinen, Ollus, et al. 2011.

Jokinen, Anniina and Natalia Ollus et al. "Trafficking for Forced Labour and Labour Exploitation in Finland, Poland and Estonia." *European Institute for Crime Prevention and Control*, 2011, <http://ift.ee/admin/upload/files/FLEX%20HEUNI%20report%2068.pdf>

Leeuwarder Courant 21.8.2014

http://www.lc.nl/friesland/rechtbank-stelt-kamer-in-voor-mensenhandel-17548983.html#.U_b0R_1_vgw

Legislative Proposal NL: Criminalise the customer of the exploited prostitute

<http://www.christenunie.nl/k/nl/n32606/news/view/666500/559336/initiatiefwet-christenunie-sp-en-pvda-ook-klant-verantwoordelijk-bij-gedwongen-prostitutie.html>

Letters from the Scottish Government

http://www.scottish.parliament.uk/S3_EuropeanandExternalRelationsCommittee/General%20Documents/1512013Letter_fromCabSecJustice.pdf

http://www.scottish.parliament.uk/S3_EuropeanandExternalRelationsCommittee/General%20Documents/LetterfromTheLordAdvocate.pdf

Meld Misdaad Anoniem ("M"), Website

<http://www.meldmisdaadanoniem.nl/english/report-crime-anonymously/>

National Labour Inspectorate (PL)

Our Statutory Responsibilities, National Labour Inspectorate, <http://www.pip.gov.pl/en/about-us/18279,our-statutory-responsibilities.html>

National Action Plans, Website

<http://www.ohchr.org/EN/Issues/Business/Pages/NationalActionPlans.aspx>.

National Rapporteur (NL) 2014 (Reaction on GRETA report)

Nationaal Rapporteur Mensenhandel en Seksueel Geweld tegen Kinderen, Uitgebreide reactie Nationaal Rapporteur op het rapport van GRETA over Nederland. 04.06.2014.

file:///C:/Users/S704745/Downloads/nationaal-rapporteur.reactie-op-rapport-van-greta-over-nederland.2014_tcm63-555637.pdf

Normeringenarbeid & Normeringenflexwonen, Websites

<http://www.normeringenarbeid.nl/default.aspx>

<http://www.normeringenflexwonen.nl/default.aspx>

Open Democracy

<https://www.opendemocracy.net/ourkingdom/david-rhys-jones/what-stops-uk-protecting-victims-of-trafficking.aspx>

Organised Crime Agency UK (Website)

<http://www.gov.uk/government/organisations/serious-organised-crime-agency>.

PPS (NL) Jaarbericht 2013

Openbaar ministerie, *Jaarbericht 2013*, accessible via: <http://www.om.nl/@162898/jaarebricht-2013/>

PPS (NL) Website

http://www.om.nl/onderwerpen/mensenhandel_en/@154816/nationale_recherche/.

Preventing Sexual Exploitation children in tourism Website

www.kodeks.fdn.pl/materialy

Romanian Report Measures taken to Comply with Recommendation CP(2012)7

Report submitted by the Romanian authorities on measures taken to comply with Committee of the Parties Recommendation CP(2012)7 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings. June 2014, p. 4, available at:

http://www.coe.int/t/dghl/monitoring/trafficking/Docs/CommitteeParties/Reply_REC/CP_2014_9_RR_ROM_en.pdf , accessed in 01 September 2014.