



# Common template for EMN study on Third-Country National Victims of Trafficking in Human Beings: Detection, Identification and Protection

## National contribution for the Netherlands

Final version (18 November 2021)

Action: EMN NCPs are invited to submit their completed common templates by 25 October 2021.

If needed, further clarifications can be provided by directly contacting the EMN Service Provider (ICF) at [emn@icf.com](mailto:emn@icf.com).

### 1 BACKGROUND AND RATIONALE FOR THE STUDY

Trafficking in human beings is a crime against people that can take various forms such as sexual exploitation (including forced prostitution), forced labour or services, slavery and servitude related practices, as well as the removal of vital organs, all of which constitute a grave violation of victim's fundamental rights. Trafficking in human beings is prohibited in various international instruments such as in the Charter on Fundamental Rights of the European Union (EU),<sup>1</sup> the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Children and Women, supplementing the UN Convention against Transnational Organized Crime (Annex II),<sup>2</sup> the Council of Europe (CoE) Conventions on Action against Trafficking in Human Beings<sup>3</sup> (which is monitored by GRETA, the CoE Group of Experts on Action against Trafficking in Human Beings) and on Preventing and Combating Violence Against Women and Domestic Violence (Istanbul Convention),<sup>4</sup> the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW),<sup>5</sup> Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, the International Covenant on Civil and Political Rights

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<sup>1</sup> Charter of Fundamental Rights of the European Union, 2012, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012P%2FTXT>, last accessed on 10 May 2021.

<sup>2</sup> UNODC, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol), 2000, [https://www.unodc.org/res/human-trafficking/2021the-protocol-tip\\_html/TIP.pdf](https://www.unodc.org/res/human-trafficking/2021the-protocol-tip_html/TIP.pdf), last accessed on 9 May 2021.

<sup>3</sup> CoE, Convention on Action against Trafficking in Human Beings, 2005, <https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168008371d>, last accessed on 9 May 2021.

<sup>4</sup> CoE, Convention on Preventing and Combating Violence Against Women and Domestic Violence, 2011, <https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168008482e>, (Istanbul Convention), last accessed on 9 May 2021.

<sup>5</sup> UN, Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979, <https://www.un.org/womenwatch/daw/cedaw/>, last accessed on 10 May 2021.

(ICCPR),<sup>6</sup> the Global Compacts for Migration<sup>7</sup> and Refugees<sup>8</sup> and the 2030 Agenda for Sustainable Development.<sup>9</sup>

According to the latest available data, between 2017 and 2018, there were more than 14 000 registered victims within the EU.<sup>10</sup> Trends in the EU seem to mirror those at global level: for every 10 victims detected, five are adult women and two are girls, one in every three is a child.<sup>11 12 13</sup> Trafficking in human beings is not only recognised as a highly profitable crime,<sup>14</sup> it is also recognized as a crime with links to social development and security, migration, conflict- and climate-induced displacement. The impact and cost of human trafficking on individuals as well as on political, economic and social systems is compelling. Trafficking victims may suffer from an array of physical and devastating psychological health issues stemming from brutal physical and emotional attacks at the hands of their traffickers, dangerous workplace conditions, occupational hazards, inhumane living conditions, poor sanitation, inadequate nutrition, poor personal hygiene, and general lack of quality health care. Human trafficking has the power to affect the victims' life forever:<sup>15</sup> therefore, the application of a human right-based and victim-centred approach is needed.

Persistent demand for sexual services and for low-wage workers employed in manual jobs continue to ensure opportunities for traffickers to operate: in spite of the recent significant increase in the number of people convicted, many perpetrators remain undetected and unpunished.<sup>16</sup> Given its clandestine nature, and the many factors which may deter a victim from reporting the crime, trafficking in human beings is believed to be significantly underreported.<sup>17</sup> Detection and identification of (potential) victims of trafficking in human beings is therefore likely to remain at the same time critical and problematic, as flagged by a recent report of the European Parliament.<sup>18</sup>

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<sup>6</sup> UN, International Covenant on Civil and Political Rights, 1966, <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>, last accessed on 10 May 2021.

<sup>7</sup> UN, Global Compact for Safe, Orderly and Regular Migration, 2018, [https://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/RES/73/195](https://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/73/195), last accessed on 9 May 2021.

<sup>8</sup> UN, Global Compact for Refugees, 2018, [https://www.unhcr.org/qcr/GCR\\_English.pdf](https://www.unhcr.org/qcr/GCR_English.pdf), last accessed on 9 May 2021.

<sup>9</sup> UN, 2030 Agenda for Sustainable Development, 2015, [https://www.un.org/ga/search/view\\_doc.asp?symbol=A/RES/70/1&Lang=E](https://www.un.org/ga/search/view_doc.asp?symbol=A/RES/70/1&Lang=E), last accessed on 10 June 2012.

Trafficking in human beings is addressed under Goal 5 (Gender Equality), Goal 8 (Decent Work and Economic Growth) and Goal 16 (Peace Justice and Strong Institutions).

<sup>10</sup> European Commission, Data collection on trafficking in human beings in the EU, 2020, [https://ec.europa.eu/anti-trafficking/sites/default/files/study\\_on\\_data\\_collection\\_on\\_trafficking\\_in\\_human\\_beings\\_in\\_the\\_eu.pdf](https://ec.europa.eu/anti-trafficking/sites/default/files/study_on_data_collection_on_trafficking_in_human_beings_in_the_eu.pdf), last accessed on 8 May 2021.

<sup>11</sup> European Commission, Data collection on trafficking in human beings in the EU, 2020, [https://ec.europa.eu/anti-trafficking/sites/default/files/study\\_on\\_data\\_collection\\_on\\_trafficking\\_in\\_human\\_beings\\_in\\_the\\_eu.pdf](https://ec.europa.eu/anti-trafficking/sites/default/files/study_on_data_collection_on_trafficking_in_human_beings_in_the_eu.pdf), last accessed on 8 May 2021.

<sup>12</sup> UNODC, Global Report on Trafficking in Persons, 2020, [https://www.unodc.org/documents/data-and-analysis/tip/2021/GLOTIP\\_2020\\_15jan\\_web.pdf](https://www.unodc.org/documents/data-and-analysis/tip/2021/GLOTIP_2020_15jan_web.pdf), last accessed on 8 May 2021.

<sup>13</sup> The Counter Trafficking Data Collaborative, Global Data Hub on Human Trafficking, [www.ctdatacollaborative.org](http://www.ctdatacollaborative.org), last accessed on 10 June 2012.

<sup>14</sup> ILO, Profits and Poverty: The Economics of Forced Labour, 2014, [https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---declaration/documents/publication/wcms\\_243391.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_243391.pdf), last accessed on 9 May 2021.

<sup>15</sup> IOM, UN.GIFT and London School of Hygiene and Tropical Medicine, Caring for Trafficked Persons: A Guide for Health Providers, [https://publications.iom.int/system/files/pdf/ct\\_handbook.pdf](https://publications.iom.int/system/files/pdf/ct_handbook.pdf), 2009, last accessed on 14 June 2021.

<sup>16</sup> UNODC, Global Report on Trafficking in Persons, 2020, [https://www.unodc.org/documents/data-and-analysis/tip/2021/GLOTIP\\_2020\\_15jan\\_web.pdf](https://www.unodc.org/documents/data-and-analysis/tip/2021/GLOTIP_2020_15jan_web.pdf), last accessed on 8 May 2021.

<sup>17</sup> EUROPOL, European Union serious and organised crime threat assessment (SOCTA), 2021, <https://www.europol.europa.eu/activities-services/main-reports/european-union-serious-and-organised-crime-threat-assessment>, last accessed on 10 May 2021.

<sup>18</sup> European Parliament, Report on the implementation of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, (2020/2029(INI)), 2020, [https://www.europarl.europa.eu/doceo/document/A-9-2021-0011\\_EN.pdf](https://www.europarl.europa.eu/doceo/document/A-9-2021-0011_EN.pdf), last accessed on 15 May 2021.

Third-country nationals account for more than half of the registered victims in EU Member States.<sup>19</sup> Vulnerable migrants have been reported to be at persistent risk of becoming victims of trafficking along migration routes: in particular unaccompanied minors and those in the asylum procedures, might be at a higher risk of becoming victims of trafficking in human beings and other gender-based violence, such as rape or domestic violence.<sup>20</sup> Reception centres for asylum applicants can be targeted by human traffickers for recruitment.<sup>21</sup> Early identification of victims is crucial to promptly assist, support and protect victims of trafficking in human beings and enables police and prosecution authorities to better investigate and punish traffickers.<sup>22</sup> However, their detection and identification in mixed migration flows remains a challenge<sup>23</sup> in a number of Member States,<sup>24</sup> some of which also relate to tensions with the current legal framework (especially within asylum procedures)<sup>25</sup> as well as to disruption in victim assistance and support services.<sup>26</sup> For instance, difficulties have occurred in some Member States, e.g. labour exploitation cases not recognised as trafficking in human beings and treated by the police under civil law (Latvia), difficult in detection and identification of victims due to more restricted movements during the Covid-19 pandemic crisis (Luxembourg), 'cross-border' victims or third-country nationals 'forced' to commit criminal acts themselves (the Netherlands) or collaboration with governmental agencies (Sweden).

The full extent of the impact of the COVID-19 pandemic on trafficking in human beings is not yet known. However, a rise in poverty as a result of restrictions, an increase in vulnerabilities linked to migration statuses and ongoing travel restrictions may have, among other factors, resulted in higher levels of trafficking and placed third-country national migrants at greater risk of exploitation.<sup>27</sup> The risks of exploitation of minors in particular are thought to have increased.<sup>28</sup> The

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<sup>19</sup> European Commission, Data collection on trafficking in human beings in the EU, 2020, [https://ec.europa.eu/anti-trafficking/sites/default/files/study\\_on\\_data\\_collection\\_on\\_trafficking\\_in\\_human\\_beings\\_in\\_the\\_eu.pdf](https://ec.europa.eu/anti-trafficking/sites/default/files/study_on_data_collection_on_trafficking_in_human_beings_in_the_eu.pdf), last accessed on 8 May 2021.

<sup>20</sup> European Commission, Third report on the progress made in the fight against trafficking in human beings, 2020, [https://ec.europa.eu/anti-trafficking/sites/default/files/third\\_progress\\_report.pdf](https://ec.europa.eu/anti-trafficking/sites/default/files/third_progress_report.pdf), last accessed on 15 May 2021.

<sup>21</sup> EUROPOL, European Union serious and organised crime threat assessment (SOCTA), 2021, <https://www.europol.europa.eu/activities-services/main-reports/european-union-serious-and-organised-crime-threat-assessment>, last accessed on 10 May 2021.

<sup>22</sup> European Commission, Communication on the EU Strategy on Combatting Trafficking in Human Beings 2021-2025, 2021 (New EU Strategy) [https://ec.europa.eu/home-affairs/sites/default/files/pdf/14042021\\_eu\\_strategy\\_on\\_combatting\\_trafficking\\_in\\_human\\_beings\\_2021-2025\\_com-2021-171-1\\_en.pdf](https://ec.europa.eu/home-affairs/sites/default/files/pdf/14042021_eu_strategy_on_combatting_trafficking_in_human_beings_2021-2025_com-2021-171-1_en.pdf), last accessed on 18 May 2021.

<sup>23</sup> European Commission, Third report on the progress made in the fight against trafficking in human beings, 2020, [https://ec.europa.eu/anti-trafficking/sites/default/files/third\\_progress\\_report.pdf](https://ec.europa.eu/anti-trafficking/sites/default/files/third_progress_report.pdf), last accessed on 15 May 2021.

<sup>24</sup> European Commission, Study on reviewing the functioning of Member States' National and Transnational Referral Mechanisms, 2020, [https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/study\\_on\\_reviewing\\_the\\_functioning\\_of\\_member\\_states\\_national\\_and\\_transnational\\_referral\\_mechanisms.pdf](https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/study_on_reviewing_the_functioning_of_member_states_national_and_transnational_referral_mechanisms.pdf), last accessed on 15 May 2021.

<sup>25</sup> Johanna Schlintl, Liliana Sorrentino, Residence Permits, International Protection and Victims of Human Trafficking: Durable Solutions Grounded in International Law, 2021, [https://documentation.lastradainternational.org/lisidocs/3387-REST%20Report%20Residence%20Permits%20-%20International%20Protection%20and%20Victims%20of%20Human%20Trafficking%20-%20FEB%202021.pdf?fbclid=IwAR2YqjwIVDXeb0CtOMDdJQd9IOGBDw\\_pMZ0d7hS\\_NQF3-E3deluMOBdDued4](https://documentation.lastradainternational.org/lisidocs/3387-REST%20Report%20Residence%20Permits%20-%20International%20Protection%20and%20Victims%20of%20Human%20Trafficking%20-%20FEB%202021.pdf?fbclid=IwAR2YqjwIVDXeb0CtOMDdJQd9IOGBDw_pMZ0d7hS_NQF3-E3deluMOBdDued4), last accessed on 10 May 2021.

<sup>26</sup> International Organization for Migration (IOM), Understanding the migration & mobility implications of COVID-19, [https://www.iom.int/sites/default/files/documents/covid-19\\_analytical\\_snapshot\\_59\\_human\\_trafficking\\_update.pdf](https://www.iom.int/sites/default/files/documents/covid-19_analytical_snapshot_59_human_trafficking_update.pdf), last accessed on 12 June 2021.

<sup>27</sup> Giammarinaro, Maria Grazia, COVID-19 Position paper: The impact and consequences of the COVID-19 pandemic on trafficked and exploited persons', UN Human Rights Special Procedures, 2021, <https://www.ohchr.org/Documents/Issues/Trafficking/COVID-19-Impact-trafficking.pdf>, last accessed on 6 May 2021.

<sup>28</sup> EUROPOL, European Union serious and organised crime threat assessment (SOCTA), 2021, <https://www.europol.europa.eu/activities-services/main-reports/european-union-serious-and-organised-crime-threat-assessment>, last accessed on 10 May 2021.

pandemic has also made the identification of victims of trafficking more challenging for authorities and has resulted in delays in identification procedures.<sup>29</sup>

In 2012, the EU called upon Member States to set up “systematic approach(es) to victim identification, protection and assistance” including promoting “regular training for officials likely to come into contact with victims or potential victims of trafficking in human beings [...] aimed at enabling them to identify and deal with victims and potential victims of trafficking in human beings”.<sup>30</sup> One of the key priorities of the EU Strategy on Combatting Trafficking in Human Beings 2021-2025 is protecting, supporting and empowering victims, which also includes the early identification of victims: in this regard, working together with relevant EU agencies, as well as embedding cooperation and partnerships against trafficking with non-EU countries of origin and transit and organisations at regional and international levels in the EU’s external relations policy is fundamental.<sup>31</sup>

## 2 EU LEGAL AND POLICY CONTEXT

This section outlines EU legislation relevant to the identification and protection of victims of trafficking. It begins by describing the anti-trafficking legislation and its main recent developments, followed by relevant elements of the Common European Asylum System (CEAS). Whilst the Anti-trafficking Directive 2011/36/EU introduces the concepts of detection and identification of victims in all situations, existing instruments for international protection and forced return procedures do not explicitly provide for a tailored mechanism.<sup>32 33</sup> The recast asylum acquis goes some way in improving this situation as described below, although there may be room to further enhance provisions for victims of trafficking in human beings who are in Dublin or forced return procedures.

### 2.1 EU Anti-trafficking legislation

The EU recognises trafficking in human beings as a violation of human rights: Article 5(3) of the EU Charter on Fundamental Rights prohibits trafficking in human beings outright. The EU’s competence to act in relation to trafficking in human beings is set out in the EU Treaties, and in several legal documents. The Treaty on the Functioning of the EU (TFEU) recognises the EU’s power to act on trafficking in relation to its nature as (i) a phenomenon with links to migration,<sup>34</sup> and (ii) a cross-border crime.<sup>35</sup>

Several Directives within the migration acquis either focus on, or have implications for, third-country national victims of trafficking in human beings, but the Anti-trafficking Directive 2011/36/EU is the first act at the EU level to address trafficking in human beings in a comprehensive and integrated way. The instrument adopts a victim-centred ‘human rights approach’, providing for a common definition of the criminal offence of trafficking, and obliging Member States to “establish appropriate mechanisms aimed at the early identification of and assistance to victims, in

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<sup>29</sup> CoE, 10<sup>th</sup> General Report GRETA Activities, 2021, <https://rm.coe.int/10th-general-report-greta-activities-en/1680a21620>, last accessed on 9 May 2021.

<sup>30</sup> European Commission, EU Strategy towards the eradication of trafficking in human beings 2012-2016, 2012 (EU Strategy), [https://ec.europa.eu/anti-trafficking/sites/default/files/the\\_eu\\_strategy\\_towards\\_the\\_eradication\\_of\\_trafficking\\_in\\_human\\_beings\\_2012-2016\\_1.pdf](https://ec.europa.eu/anti-trafficking/sites/default/files/the_eu_strategy_towards_the_eradication_of_trafficking_in_human_beings_2012-2016_1.pdf), last accessed on 6 May 2021.

<sup>31</sup> New EU Strategy.

<sup>32</sup> Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA (Anti-trafficking Directive), <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32011L0036>, last accessed on 10 May 2021.

<sup>33</sup> Forced return is outside the scope of this study.

<sup>34</sup> Treaty on the Functioning of the European Union (TFEU), Article 79, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012E%2FTXT>, last accessed on 15 May.

<sup>35</sup> TFEU, Article 83.

cooperation with relevant support organisations”.<sup>36</sup> In 2020 the European Commission published its third two-yearly report on the progress made in the fight against trafficking in human beings as required under Article 20 of the Anti-trafficking Directive 2011/36/EU.<sup>37</sup>

Prior to the entry into force of the Anti-trafficking Directive 2011/36/EU, the Residence Permit Directive 2004/81/EC was the only piece of EU legislation providing for assistance to third-country national victims of trafficking.<sup>38</sup> It sets out a framework for Member States to grant a temporary reflection period of unconditional stay and assistance and conditions for granting a residence permit to third-country national victims of trafficking in human beings, when these persons cooperate with the authorities competent to start pre-trial investigations and convict the perpetrator. Some Member States<sup>39</sup> make provision for certain forms of residence permit, based on the vulnerable position of the victim. This possibility is sometimes limited to particular categories of persons (e.g. minors).<sup>40</sup>

According to the Anti-trafficking Directive 2011/36/EU, “a person should be provided with assistance as soon as there is a reasonable-grounds indication for believing that he or she might have been trafficked and irrespective of his or her willingness to act as a witness”.<sup>41</sup> The Anti-trafficking Directive 2011/36/EU goes on to state that in cases where the victim does not already reside lawfully in the Member State the assistance should be provided unconditionally for at least the duration of the reflection period. However, it can be withdrawn if on completion of the identification process or expiry of the reflection period, the victim is not considered eligible to remain in the Member State.<sup>42</sup> The Anti-trafficking Directive 2011/36/EU, however, recognises that in addition to residence based on cooperation, victims of trafficking may also be eligible for international protection.<sup>43</sup>

It is also of note that potential victims of trafficking who have been issued a reflection period cannot be subject to any expulsion order against them for the duration of this period,<sup>44</sup> and that victims of trafficking who have been granted a residence permit will not be subject to an entry ban, provided that there is no threat to public policy, public security or national security within the scope of the Return Directive 2008/115/EC.<sup>45</sup>

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<sup>36</sup> It is noted that Denmark, Georgia, the Republic of Moldova and Norway are not bound by this Directive.

<sup>37</sup> European Commission, Third report on the progress made in the fight against trafficking in human beings, 2020, [https://ec.europa.eu/anti-trafficking/sites/default/files/third\\_progress\\_report.pdf](https://ec.europa.eu/anti-trafficking/sites/default/files/third_progress_report.pdf), last accessed on 15 May 2021.

<sup>38</sup> Directive 2004/81/EC on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities, (Residence Permit Directive), <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32004L0081>, last accessed on 15 May.

<sup>39</sup> AT, BE, ES, HU, IT, LU, NL, PL, SK.

<sup>40</sup> Denmark, Ireland and Norway do not participate in and therefore are not bound by the 2004 Directive, while having similar national provisions in place for granting reflection periods and granting of a temporary residence permit based on a victim’s cooperation with the authorities. European Commission, Report on the application of Directive 2004/81/EC, 2010, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52010DC0493&from=EN>, last accessed on 9 May 2021.

<sup>41</sup> Anti-trafficking Directive, recital 18 and Article 11(3).

<sup>42</sup> Anti-trafficking Directive, recital 18.

<sup>43</sup> Anti-trafficking Directive, Article 11(6).

<sup>44</sup> Article 6(2) of the Residence Permit Directive provides for a possibility to Member States authorities to terminate the reflection period in cases where the person concerned has actively, voluntarily and on his or her own initiative renewed contact with the perpetrators of trafficking or for reasons relating to public policy and to the protection of national security.

<sup>45</sup> Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, (Return Directive), <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32008L0115>, last accessed on 9 May 2021.

Finally, in its *Rantsev v. Cyprus and Russia* ruling,<sup>46</sup> the European Court of Human Rights (ECtHR) recalled the positive obligations that fall to States when it comes to inquiring into possible trafficking situations and to taking the necessary measures to protect victims. Going further than a simple obligation for states to enact laws aimed at ensuring the prohibition of slavery, servitude and forced labour as provided for in Article 4 of the European Convention on Human Rights (ECHR), the Court, set forth the obligation for states to take appropriate measures to 'remove an individual from a situation or risk, where it is presumed that state authorities were aware that this individual was at real and immediate risk of being trafficked or exploited'. Very recently, the Court reiterated that these positive obligations are incumbent upon states and stressed the need for the latter to 'protect victims and investigate as soon as there are reasonable grounds to believe that there is credible suspicion of trafficking'.<sup>47</sup>

## 2.2 Main EU policy developments addressing trafficking in human beings

While the main responsibility for tackling trafficking in human beings and protecting victims lies with Member States, in 2012 the European Commission launched the first EU Strategy towards the Eradication of Trafficking in Human Beings 2012-2016 (EU Strategy).<sup>48</sup> It calls on Member States to adopt a systematic approach to victim identification, protection and assistance, including through the establishment of formal, functional national referral mechanisms (NRMs). In its mid-term report on the implementation of the EU Strategy,<sup>49</sup> for the first time, the European Commission collected statistical data on the trafficking of human beings at a European level. In 2020, a fifth edition was published together with the third report on the progress made in the fight against trafficking in human beings mentioned above.

On 14 April 2021, the European Commission adopted the new EU Strategy on Combatting Trafficking in Human Beings 2021-2025,<sup>50</sup> calling for a comprehensive response to combatting a complex criminal phenomenon as follows:

- Reducing demand that fosters trafficking, including by assessing the possibility of establishing minimum EU rules criminalising the use of exploited services from victims of trafficking and proposing legislation on corporate governance to clarify the responsibilities of companies.
- Breaking the business model of traffickers, online and offline including by conducting a dialogue with internet and technology companies and encouraging systematic training of law enforcement and judicial practitioners on detecting and addressing trafficking in human beings.
- Protecting, supporting and empowering the victims with a specific focus on women and children including by seeking to improve the early identification of victims and their referral to further assistance and protection. Strengthen victim empowerment programmes and facilitate re-integration. The European Commission will also fund gender-specific and child-sensitive training to help police, social workers, border guards or healthcare staff to detect victims.
- Promoting international cooperation with international partners including by means of foreign policy instruments and operational cooperation to help combat trafficking in countries of origin and transit including through dedicated human rights and security dialogues.

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<sup>46</sup> ECtHR, *Rantsev v. Cyprus and Russia*, Application No.25965/04, 10 May 2010: <https://rm.coe.int/16806ebd5e>, last accessed on 15 May 2021.

<sup>47</sup> ECtHR, *V.C.L and A.N. v. The United Kingdom*, Applications Nos. 77587/12 and 74603/12), 16 February 2021: <http://hudoc.echr.coe.int/fre?i=001-207927>, last accessed on 15 May 2021.

<sup>48</sup> EU Strategy.

<sup>49</sup> European Commission, Communication on the application of Directive 2004/81/EC, 2014, <https://ec.europa.eu/transparency/regdoc/rep/1/2014/EN/1-2014-635-EN-F1-1.Pdf>, last accessed on 9 May 2021.

<sup>50</sup> New EU Strategy.

Tackling trafficking in human beings and the early identification of potential non-EU victims (who account for more than half of the total number) is also a priority under several of the latest Communications adopted by the European Commission. These include the new EU Security Union Strategy<sup>51</sup> launched in July 2020, and the New Pact on Migration and Asylum<sup>52</sup> of September 2020. It also plays a prominent role in the Europol Serious and Organised Crime Threat Assessment and the EU Strategy to tackle Organised Crime 2021-2025, presented respectively on 13 and 14 April 2021.<sup>53</sup>

The European Commission recently published three studies - one on the gender dimension of trafficking,<sup>54</sup> one on its economic, social and human costs<sup>55</sup> and one on reviewing the functioning of Member State's National and Transnational Referral Mechanisms<sup>56</sup> - focused on (different aspects of) the topic, with the latter one in particular treating victim detection and identification in the context of migration and asylum. Finally, the outcomes of this study will complement the Commission's evaluation of the Anti-trafficking Directive 2011/36/EU, which is a key action of the New EU Strategy.

### 2.3 EU asylum acquis

The EU asylum acquis comprises two Regulations and four Directives, which legislate on different aspects of the procedure for granting international protection, including which country is responsible for examining each application (Dublin III Regulation),<sup>57</sup> and how to compare fingerprints for law enforcement purposes (Eurodac Regulation),<sup>58</sup> the type of persons who qualify for international protection and the rights related to the international protection status (Qualification Directive 2011/95/EU),<sup>59</sup> the common standards that Member States should have in place for

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<sup>51</sup> European Commission, Communication on the EU Security Union Strategy, 2020, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020DC0605&from=EN>, last accessed on 9 May 2021.

<sup>52</sup> European Commission, Communication on a New Pact on Migration and Asylum, 2020, [https://ec.europa.eu/info/sites/default/files/1\\_en\\_act\\_part1\\_v7\\_1.pdf](https://ec.europa.eu/info/sites/default/files/1_en_act_part1_v7_1.pdf), last accessed on 9 May 2021.

<sup>53</sup> European Commission, Communication on the EU Strategy to tackle Organised Crime 2021-2025, 2021, [https://ec.europa.eu/home-affairs/sites/default/files/pdf/14042021\\_eu\\_strategy\\_to\\_tackle\\_organised\\_crime\\_2021-2025\\_com-2021-170-1\\_en.pdf](https://ec.europa.eu/home-affairs/sites/default/files/pdf/14042021_eu_strategy_to_tackle_organised_crime_2021-2025_com-2021-170-1_en.pdf), last accessed on 9 May 2021.

<sup>54</sup> European Commission, Study on the gender dimension of trafficking in human beings, 2016, [https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/study\\_on\\_the\\_gender\\_dimension\\_of\\_trafficking\\_in\\_human\\_beings\\_final\\_report.pdf](https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/study_on_the_gender_dimension_of_trafficking_in_human_beings_final_report.pdf), last accessed on 9 May 2021.

<sup>55</sup> European Commission, Study on the economic, social and human costs of trafficking in human beings within the EU, 2020, [https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/study\\_on\\_the\\_economic\\_social\\_and\\_human\\_costs\\_of\\_trafficking\\_in\\_human\\_beings\\_within\\_the\\_eu.pdf](https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/study_on_the_economic_social_and_human_costs_of_trafficking_in_human_beings_within_the_eu.pdf), last accessed on 15 May 2021.

<sup>56</sup> European Commission, Study on reviewing the functioning of Member States' National and Transnational Referral Mechanisms, 2020, [https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/study\\_on\\_reviewing\\_the\\_functioning\\_of\\_member\\_states\\_national\\_and\\_transnational\\_referral\\_mechanisms.pdf](https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/study_on_reviewing_the_functioning_of_member_states_national_and_transnational_referral_mechanisms.pdf), last accessed on 15 May 2021.

<sup>57</sup> Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast), (Dublin III Regulation), <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:32013R0604>, last accessed on 15 May 2021.

<sup>58</sup> Regulation (EU) No 603/2013 of the European Parliament and of the Council of 26 June 2013 on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes, and amending Regulation (EU) No 1077/2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice, (Eurodac Regulation), <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32013R0603>, last accessed on 15 May 2021.

<sup>59</sup> Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted

granting and withdrawing international protection (Asylum Procedures Directive 2013/32/EU),<sup>60</sup> and the common standards for the reception of applicants that should be granted to guarantee them a dignified standard of living (Reception Conditions Directive 2013/33/EU).<sup>61</sup> In the EU asylum acquis, victims of human trafficking are considered a vulnerable category of applicants under the Reception Conditions Directive 2013/33/EU which lays down specific provisions for vulnerable applicants and their special reception needs, including the assessment of such needs.<sup>62</sup> The applications of vulnerable persons can be prioritised under the Asylum Procedures Directive 2013/32/EU.<sup>63</sup> Finally, the new EU Pact on Migration and Asylum<sup>64</sup> proposes to put in place a pre-entry screening that should be applicable to all third-country nationals who are present at the external border without fulfilling the entry conditions or after disembarkation, following a search and rescue operation.<sup>65</sup>

In this study, the Dublin III Regulation is of relevance as it establishes the criteria and mechanisms for determining the Member State responsible for the examination of an asylum claim in the EU. Where a Member State other than the one in which the applicant has lodged an application is found to be responsible for examining the application, the applicant will usually be transferred to that Member State. Where the applicant has lodged multiple applications in different Member States, the person will usually be transferred back to the Member State previously determined as responsible. In cases where a victim has been exploited in the Member State responsible, it could be traumatic to be returned to that Member State, even though in accordance with the Dublin Regulation, the transfer can take place. However, questions have arisen in relation to the reflection period that should be granted under art 6(2) of the Residence Permit Directive 2004/81/EC.<sup>66</sup> According to this provision, any expulsion order against a victim of trafficking shall not be enforced during this reflection period, which is an occasion for them to recover and decide whether they want to cooperate with the competent authorities, by, for example, reporting their trafficking situation. The Court of The Hague has referred several questions for a preliminary ruling, including whether a transfer decision pursuant to the Dublin Regulation during the reflection period qualifies as an expulsion order and thus whether such transfer is precluded by the Residence Permit Directive 2004/81/EC.<sup>67</sup>

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(recast), (Qualification Directive), <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32011L0095>, last accessed on 15 May.

<sup>60</sup> Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (Asylum Procedures Directive), <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=celex%3A32013L0032>, last accessed on 18 May 2021.

<sup>61</sup> Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast), (Reception Conditions Directive), last accessed on 18 May 2021.

<sup>62</sup> Reception Conditions Directive, articles 21 and 22.

<sup>63</sup> Asylum Procedures Directive, Article 31(7)(b).

<sup>64</sup> European Commission, Communication on a New Pact on Migration and Asylum, 2020, [https://ec.europa.eu/info/sites/default/files/1\\_en\\_act\\_part1\\_v7\\_1.pdf](https://ec.europa.eu/info/sites/default/files/1_en_act_part1_v7_1.pdf), last accessed on 9 May 2021.

<sup>65</sup> European Commission, Proposal for a Regulation introducing a screening of third country nationals at the external borders and amending Regulations (EC) No 767/2008, (EU) 2017/2226, (EU) 2018/1240 and (EU) 2019/817, 2020, [https://ec.europa.eu/info/sites/default/files/communication-screening-third-country-nationals\\_en.pdf](https://ec.europa.eu/info/sites/default/files/communication-screening-third-country-nationals_en.pdf), last accessed on 18 May 2021.

<sup>66</sup> Johanna Schlintl, Liliana Sorrentino, Residence Permits, International Protection and Victims of Human Trafficking: Durable Solutions Grounded in International Law, 2021, [https://documentation.lastradainternational.org/lisidocs/3387-REST%20Report%20Residence%20Permits%20-%20International%20Protection%20and%20Victims%20of%20Human%20Trafficking%20-%20FEB%202021.pdf?fbclid=IwAR2YgIwIVDXeb0CtOMDdJQd9IOGBDw\\_pMZ0d7hS\\_NQF3-E3deluMOBdUed4](https://documentation.lastradainternational.org/lisidocs/3387-REST%20Report%20Residence%20Permits%20-%20International%20Protection%20and%20Victims%20of%20Human%20Trafficking%20-%20FEB%202021.pdf?fbclid=IwAR2YgIwIVDXeb0CtOMDdJQd9IOGBDw_pMZ0d7hS_NQF3-E3deluMOBdUed4), last accessed on 10 May 2021. Also, Case C-66/21 CJEU in which the Netherlands asked preliminary questions on the relation between art. 6(2) Dir. 2004/81 and Dublin transfers.

<sup>67</sup> Court of the Hague, 29 January 2021 ECLI:NL:RBDHA:2021:727 also

Johanna Schlintl, Liliana Sorrentino, Residence Permits, International Protection and Victims of Human Trafficking: Durable Solutions Grounded in International Law, 2021, [https://documentation.lastradainternational.org/lisidocs/3387-REST%20Report%20Residence%20Permits%20-%20International%20Protection%20and%20Victims%20of%20Human%20Trafficking%20-%20FEB%202021.pdf?fbclid=IwAR2YgIwIVDXeb0CtOMDdJQd9IOGBDw\\_pMZ0d7hS\\_NQF3-E3deluMOBdUed4](https://documentation.lastradainternational.org/lisidocs/3387-REST%20Report%20Residence%20Permits%20-%20International%20Protection%20and%20Victims%20of%20Human%20Trafficking%20-%20FEB%202021.pdf?fbclid=IwAR2YgIwIVDXeb0CtOMDdJQd9IOGBDw_pMZ0d7hS_NQF3-E3deluMOBdUed4)



Where the applicant is an unaccompanied minor without family members on the territory of other Member States, the State where the unaccompanied minor has lodged an application for international protection shall be responsible.<sup>68</sup> Moreover, so-called 'Dublin' transfers do not always take place for instance where a Member State decides to take responsibility for an application for international protection lodged by a third-country national or a stateless person itself, for example:

- on the basis of a national decision (the so-called 'sovereignty clause');<sup>69</sup>
- on humanitarian grounds based in particular on family or cultural considerations (the so-called 'humanitarian clause').<sup>70</sup>

Concerns arise when it comes to asylum applicants who may become victims of trafficking during so-called 'secondary movements' or may be returned under the Dublin III Regulation to the country where exploitation has occurred. In 2011, in *N.S. and M.E.* (Joined cases C-411/10 and C-493/10),<sup>71</sup> the Court of Justice of the EU (CJEU), held that, in line with Article 4 of the EU Charter of Fundamental Rights, Member States may not transfer an asylum applicant to the responsible Member State where they cannot be unaware that systemic deficiencies in the asylum procedure and in the reception conditions in that Member State amount to substantial grounds for believing that the asylum applicant would face a real risk of being subjected to inhuman or degrading treatment. The determining Member State shall continue to examine the criteria set out in the hierarchy of criteria in order to establish whether another Member State can be designated as responsible. This principle applies to all applicants whether or not they claim to be victims of trafficking.<sup>72</sup> Nonetheless, decisions not to transfer remain dependent on effective detection methods, identification processes and a procedure in place for the transfer to be delayed or a final decision made whether or not to proceed with it.

Detection and identification of potential victims is key, and national courts have stressed the importance of these steps on several occasions, pointing to the tension that may arise from the time-efficiency spirit of the Dublin Regulation on the one hand, and the protection duties imposed on Member States on the other.<sup>73</sup>

When the Dublin III Regulation was adopted in 2013 it also improved possibilities for detection, since it introduced a provision to conduct a personal interview 'in order to facilitate the process of determining the Member State responsible'.<sup>74</sup> The Dublin III Regulation introduced provisions on the consideration of safety and security of unaccompanied minors in particular where there is a risk of the child being a victim of trafficking,<sup>75</sup> but does not explicitly introduce provisions relevant to adults who are (potential) victims of trafficking in human beings within Dublin procedures: the Reception Conditions Directive 2013/33/EU states that Member States shall take into account the specific situation of vulnerable persons such as (among others) victims of human trafficking.<sup>76</sup>

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[%20International%20Protection%20and%20Victims%20of%20Human%20Trafficking%20-%20FEB%202021.pdf?fbclid=IwAR2YqjwIVDXeb0CtOMDdJQd9IOGBDw\\_pMZ0d7hS\\_NQF3-E3deluMObDued4](#), last accessed on 13 June 2021.

<sup>68</sup> Dublin III Regulation, Article 8(4).

<sup>69</sup> Dublin III Regulation, Article 17(1).

<sup>70</sup> Dublin III Regulation, Article 17(2).

<sup>71</sup> Judgment of the Court (Grand Chamber) of 21 December 2011. *N. S. (C-411/10) v Secretary of State for the Home Department and M. E. and Others (C-493/10) v Refugee Applications Commissioner and Minister for Justice, Equality and Law Reform*. References for a preliminary ruling: Court of Appeal (England & Wales) (Civil Division) - United Kingdom and High Court of Ireland - Ireland.

<sup>72</sup> Dublin III Regulation, Article 3(2).

<sup>73</sup> For instance, Case N. NL19.30940 mentioned above (footnote 63).

<sup>74</sup> Dublin III Regulation, Article 5.

<sup>75</sup> Dublin III Regulation, Article 6(3)(c).

<sup>76</sup> Reception Conditions Directive, Article 21.

## 2.4 The victims' rights directive

Adopted in 2012, the Victims' Rights Directive 2012/29/EU establishes minimum standards on the rights, support and protection of victims of crime and ensures that persons who have fallen victim to crime are recognised and treated with respect.<sup>77</sup> Trafficking in human beings is recognised as one of the crimes covered by the Victims' Right Directive 2012/29/EU.<sup>78</sup> Victims of crime must receive proper protection, support and access to justice: in particular, the need for special support and protection for women (and their children) who are victims of gender-based violence, especially with a view to avoiding secondary and repeated victimisation, is emphasised.<sup>79</sup> In the context of the individual needs' assessment, particular attention shall be paid to victims of trafficking.<sup>80</sup>

On that basis, all EU Member States,<sup>81</sup> must ensure and prioritise victims' protection and safety regardless of their residence status. Indeed, while Article 1 of the Victims' Right Directive 2012/29/EU calls for a non-discriminatory approach to the protection of victims of crime, Article 2 further defines victims as "anyone who has suffered physical, mental, emotional or economic harm caused by a criminal offence, as well as family members of someone whose death case caused by a criminal act". Read in conjunction with Recital 10 which highlights that "Member States must take necessary measures to ensure that the rights set out in this Directive are not made conditional on the victim's residence status", the definition of 'victims' provided de facto encompasses third-country nationals who may fall victims to crime within the EU territory, including the one of trafficking in human beings. The Victims' Right Directive 2012/29/EU provides victims and their family members with a right to information, support and protection. It further strengthens the victims' procedural rights in criminal proceedings and requires that EU Member States ensure appropriate training on victims' needs for officials who are likely to come into contact with victims. For certain groups of victims, the EU has adopted specific rules which respond more directly to the specific needs of some victims as, *inter alia*, to provide protection and support for victims of human trafficking.<sup>82</sup>

## 3 STUDY AIMS AND OBJECTIVES

The proposed study aims to explore the national practices of detection, identification and protection of third-country national victims of trafficking in human beings. In this respect, without adopting the same scope, it updates the 2013 EMN study "Identification of victims of trafficking in human beings in international protection and forced return procedures" and covers:

1. Overview of national situations in relation to trafficking in human beings, in particular focusing on the national, latest available data, trends, patterns and trafficking purposes (Introduction).
2. National policy and legislative developments and measures to detect (presumed) third-country national victims of trafficking in human beings, including information on competent authorities, existing reporting mechanisms, possibilities to appeal decisions. (Section 1).
3. National policy and legislative developments and measures to identify (presumed) third-country national victims of trafficking in human beings, including referral mechanisms (if existent) among national authorities and other relevant stakeholders (Section 2)
4. National policy and legislative developments and measures to protect (presumed) third-country national victims of trafficking in human beings, including the legal framework for granting the

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<sup>77</sup> Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, (Victims' Rights Directive), <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32012L0029>, last accessed on 18 May 2021.

<sup>78</sup> TFEU, Article 83(1).

<sup>79</sup> Victims' Rights Directive, Recital 17.

<sup>80</sup> Victims' Rights Directive, Article 22(3).

<sup>81</sup> Denmark opted out from the Victims' Rights Directive.

<sup>82</sup> Victims' Rights Directive, articles 8, 22 and 24.

reflection period, residence permits and the provision of appropriate information and assistance (Section 3).

5. Cooperation mechanisms with other Member States, EU agencies (EASO, Europol, Frontex), international organisations and third countries of origin and of transit (Section 4).
6. Challenges and good practices in Member States, such as those concerning vulnerable persons, (presumed) cases falling under the scope of the Dublin III Regulation and the impact of COVID-19 (Section 5).

#### 4 SCOPE OF THE STUDY

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

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

Third-country nationals who are in an irregular situation and subject to a return decision will be out of the scope of this study as they have already been dealt with in other recent EMN products.

The temporal scope for statistics and the national contexts is from January 2015 up to December 2020 for statistics and the national contexts.

The study is aimed at policy makers at national, European and international level, but also representatives of specific industries (e.g. private sectors in areas where trafficking in human beings is documented to occur), civil society organisations, academia, and will complement and update findings of other relevant European Commission reports and studies as well as contribute to the European Commission’s study for the evaluation of the Anti-trafficking Directive.

For the purpose of this study, the definitions listed in the section below will apply.

#### 5 DEFINITIONS

The study uses the following definitions, which – unless otherwise stated – are based on the EMN Asylum and Migration Glossary.<sup>83</sup>

Detection of (a situation of) trafficking in human beings	The process of identifying a possible situation of trafficking in human beings.
<b>Dublin procedure</b>	The process of determining the EU Member State responsible for examining an application for international protection lodged in one of the EU Member States by a third-country national under Regulation (EU) No 604/2013 (Dublin III Regulation).
<b>Dublin transfer</b>	1. The transfer of responsibility for the examination of the merits of an application for international protection from one Member State to another Member State.

<sup>83</sup> EMN Glossary, [https://ec.europa.eu/home-affairs/what-we-do/networks/european\\_migration\\_network/glossary\\_en](https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/glossary_en), last accessed on 18 May 2021.

Detection of (a situation of) trafficking in human beings	The process of identifying a possible situation of trafficking in human beings.
	2. The (physical) transfer of an applicant to the EU Member State who is considered to be responsible for examining the merits of an application following a Dublin procedure
<b>Identification of a victim of trafficking in human beings</b>	The process of confirming and characterising a situation of trafficking in human beings for further implementation of support.
<b>Identified victim of trafficking in human beings</b>	A person who has been formally identified as a victim of trafficking in human beings according to the relevant formal authority in Member States.
<b>International protection</b>	<p>In the global context, the actions by the international community on the basis of international law, aimed at protecting the fundamental rights of a specific category of persons outside their countries of origin, who lack the national protection of their own countries.</p> <p>In the EU context, protection that encompasses refugee status and subsidiary protection status.</p>
<b>National referral/cooperation mechanisms</b>	Mechanism aimed at identifying, protecting and assisting victims of trafficking in human beings, through referral, and involving relevant public authorities and civil society. <sup>84</sup>
<b>Potential victim of trafficking in human beings</b>	A person vulnerable to trafficking in human beings. <sup>85</sup>
<b>Presumed victim of trafficking in human beings</b>	A person who has met the criteria of EU regulations and international Conventions but has not been formally identified by the relevant authorities (e.g. police) as a trafficking victim or has declined to be formally or legally identified as victim of trafficking.
<b>Protection of (presumed/identified) victims of trafficking in human beings</b>	The action of national authorities aimed at protecting the fundamental rights of (presumed) victims of trafficking in human beings. <sup>86</sup>

<sup>84</sup> Article 11(4) of the Anti-trafficking Directive lays down an obligation on Member States to take the necessary measures to establish appropriate mechanisms aimed at the early identification of, assistance to and support for victims, in cooperation with relevant support organisations.

<sup>85</sup> Definition inspired by IOM, <https://publications.iom.int/books/migrants-and-their-vulnerability-human-trafficking-modern-slavery-and-forced-labour>, last accessed on 10 June 2021.

<sup>86</sup> Definition inspired by the Anti-trafficking Directive, Article 11. A person shall be provided with assistance and support as soon as the competent authorities have a reasonable-grounds indication for believing that the person might have been subjected to trafficking in human beings.

Detection of (a situation of) trafficking in human beings	The process of identifying a possible situation of trafficking in human beings.
<b>Reception centre</b>	A location with facilities for receiving, processing and attending to the immediate needs of refugees or asylum applicants as they arrive in a country of asylum.
<b>Reflection period</b>	A period of time determined according to national law granted to third-country nationals officially identified as victims of trafficking in human beings allowing the victim to recover and escape the influence of the perpetrators of the offences so that they can take an informed decision as to whether (or not) to cooperate with the competent authorities.
<b>Registered victim of trafficking in human beings</b>	A person who is either an identified or a presumed victim of human trafficking and has been registered by authorities and/or other agencies and organisations. <sup>87</sup>
<b>Trafficking in human beings</b>	The recruitment, transportation, transfer, harbouring or reception of persons, including the exchange or transfer of control over those persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.
<b>Transfer of procedure</b>	The process of changing from one migration procedure to another. <sup>88</sup>
<b>Victim(s) of crime</b>	Anyone who has suffered physical, mental, emotional or economic harm caused by a criminal offence, as well as family members of someone whose death case caused by a criminal act'. <sup>89</sup>
<b>Voluntary Return</b>	The assisted or independent return to the country of origin, transit or third country, based on the free will of the returnee.
<b>Vulnerable person</b>	Minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, victims of trafficking in human

<sup>87</sup> Definition inspired by the European Commission, Data collection on trafficking in human beings in the EU, 2020, [https://ec.europa.eu/anti-trafficking/sites/default/files/study\\_on\\_data\\_collection\\_on\\_trafficking\\_in\\_human\\_beings\\_in\\_the\\_eu.pdf](https://ec.europa.eu/anti-trafficking/sites/default/files/study_on_data_collection_on_trafficking_in_human_beings_in_the_eu.pdf), last accessed on 8 May 2021.

<sup>88</sup> Definition elaborated by the Core AG for the purpose of this study.

<sup>89</sup> Victims' Rights Directive, Article 2.

Detection of (a situation of) trafficking in human beings	The process of identifying a possible situation of trafficking in human beings.
	beings, persons with serious illnesses, persons with mental disorders and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, such as victims of female genital mutilation.

## 6 PRIMARY QUESTIONS TO BE ADDRESSED BY THE STUDY

Primary research questions:

1. What is the national situation with regard to (presumed) third-country national victims of trafficking in human beings in the Member States?
2. What are the national policies and procedures in place to detect (presumed) third-country national victims of trafficking in human beings (including targeted policies and strategies for vulnerable persons)?
3. What are the national policies and procedures in place to identify (presumed) third-country national victims of trafficking in human beings (including targeted policies and strategies for vulnerable persons)?
4. What are the national policies and procedures in place to protect and support (presumed) third-country national victims of trafficking in human beings and what is the role of national referral mechanisms?
5. To what extent and how do Member States cooperate internationally in detecting, identifying and protecting (presumed) third-country national victims of trafficking in human beings?
6. What are the key challenges and good practices in the Member States in the detection, identification and protection of (presumed) third-country national victims of trafficking in human beings?

## 7 RELEVANT SOURCES AND LITERATURE

### **EMN Studies**

- EMN (2014), [Study on the identification of victims of trafficking in human beings in international protection and forced return procedures.](#)

### **EMN Ad-Hoc Queries (AHQ)**

- EMN (2019), [AHQ on Access of victims of trafficking to their rights](#)
- EMN (2018), [AHQ on Identification of victims of human trafficking during asylum interview](#)
- EMN (2016), [AHQ on Protection of victims of human trafficking](#)
- EMN (2012), [AHQ on Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims](#)
- EMN (2009), [AHQ on Types of residence permits that victims of trafficking who do not cooperate with the authorities are granted](#)

### **Other Studies, Reports and Communications**

- European Commission (2021), [Communication on the EU Strategy on Combatting Trafficking in Human Beings 2021-2025](#)
- European Commission (2021), [Communication on the EU Strategy to tackle Organised Crime 2021-2025](#)

- EUROPOL (2021), [European Union serious and organised crime threat assessment \(SOCTA\)](#)
- Council of Europe (2020), GRETA's activities, [General reports and resources](#)
- Council of Europe (2020), [Guidance Note on the entitlement of victims of trafficking, and persons at risk of being trafficked, to international protection](#)
- European Commission (2020), [Communication on the EU Security Union Strategy](#),
- European Commission (2020), [Communication on a New Pact on Migration and Asylum](#),
- European Commission (2020), [Third report on the progress made in the fight against trafficking in human beings](#)
- European Commission (2020), [Data collection on trafficking in human beings in the EU](#)
- European Commission (2020), [Study on the economic, social and human cost of human trafficking](#)
- European Commission (2020), [Study on reviewing the functioning of Member States' National and Transnational Referral Mechanisms](#)
- European Parliament (2020), [Report on the implementation of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims](#)
- UNODC (2020), [Global Report on Trafficking in Persons](#)
- UNODC (2020), [How Covid-19 restrictions and the economic consequences are likely to impact migrant smuggling and cross-border trafficking in persons to Europe and North America](#)
- Council of Europe (2020), [Assistance to victims of human trafficking](#)
- European Commission (2016), [Study on the gender dimension of trafficking in human beings](#)
- European Commission (2014), [Communication on the application of Directive 2004/81/EC](#),
- ILO (2014), [Profits and Poverty: The Economics of Forced Labour](#)
- European Commission (2013): [Guidelines for the identification of victims of trafficking in human beings](#)
- European Commission (2012), [EU Strategy towards the eradication of trafficking in human beings 2012-2016](#)
- OHCHR (2010), [Recommended Principles and Guidelines on Human Rights and Human Trafficking](#)

### **Case law**

- European Court of Human Rights, V.C.L and A.N. v. The United Kingdom, Applications Nos. 77587/12 and 74603/12), 16 February 2021: <http://hudoc.echr.coe.int/fre?i=001-207927>
- Court of Justice of the European Union (Grand Chamber) of 21 December 2011. N. S. (C-411/10) v Secretary of State for the Home Department and M. E. and Others (C-493/10) v Refugee Applications Commissioner and Minister for Justice, Equality and Law Reform. References for a preliminary ruling: Court of Appeal (England & Wales) (Civil Division) - United Kingdom and High Court of Ireland - Ireland.
- European Court of Human Rights, Rantsev v. Cyprus and Russia, Application No.25965/04, 10 May 2010: <https://rm.coe.int/16806ebd5e>

## 8 AVAILABLE STATISTICS

This study builds on the study on data collection on trafficking in human beings in the EU which provides for an in-depth analysis of criminal justice statistical data for years 2017 and 2018.<sup>90</sup>

Information is checked against the EMN Annual Report on Migration and Asylum 2020 (ARM): to facilitate data collection, the EMN Service Provider provides the relevant datasheets on trafficking for each Member State, prepared since 2016, as part of the Statistical Report of the EMN Annual Report on Migration and Asylum.

## 9 METHODOLOGICAL CONSIDERATIONS

As with all EMN Studies, the National Reports should be primarily based on secondary sources. These may be supplemented by expert interviews. For example, experts working in the field (e.g. national authorities, service provider, civil society organisations, and international organisations) could be consulted to identify key challenges and good practices in the Member States in the detection, identification and protection of (presumed) third-country national victims of trafficking in human beings.

## 10 ADVISORY GROUP

The Core Advisory Group (AG) for this study is composed by: FR, IE, LU, NL, PL EMN NCPs, ICF (EMN Service Provider), DG HOME. Together with the following EMN NCPs (BE, CZ, EE, ES, FI, HU, LT, LV, MT, PL, SE, SI, SK, GE, MD), EASO and EUROPOL, they form the wider AG for this study.

## 11 TIMETABLE

The following tentative timetable has been proposed for the development of the common template for this study:

Date	Action	By whom
<b>20 April</b>	AG meeting	Lead EMN NCPs, wider AG, COM, EMN Service Provider
<b>29 April</b>	Draft version 2 common template to be shared with core AG members (1-week deadline)	Core AG EMN NCPs (FR, IE, LU, NL, PL NCPs), Odysseus experts
<b>19 May</b>	Draft version 3 to be shared the wider AG and COM for comments (1-week deadline)	All EMN NCPs to review
<b>9 June</b>	Core AG meeting to discuss comments	Core AG EMN NCPs (FR, IE, LU, NL, PL NCPs), EMN Service Provider
<b>17 June</b>	Consolidated final draft to be shared with COM	EMN Service Provider
<b>25 June</b>	Launch of common template	EMN Service Provider
<b>25 October</b>	Submission of common templates	All EMN NCPs

<sup>90</sup> European Commission, Data collection on trafficking in human beings in the EU, 2020, [https://ec.europa.eu/anti-trafficking/sites/default/files/study\\_on\\_data\\_collection\\_on\\_trafficking\\_in\\_human\\_beings\\_in\\_the\\_eu.pdf](https://ec.europa.eu/anti-trafficking/sites/default/files/study_on_data_collection_on_trafficking_in_human_beings_in_the_eu.pdf), last accessed on 8 May 2021.



## 12 TEMPLATE FOR NATIONAL CONTRIBUTIONS

The template provided below outlines the information that should be included in the National Contributions of EMN NCPs to this Study. The indicative number of pages to be covered by each section is provided in the guidance note. For National Contributions, the total number of pages should not exceed 40 pages, including the questions and excluding the introduction of the study. A limit of 30 pages will also apply to the Synthesis Report, in order to ensure that it remains concise and accessible.

## Common template of EMN study 2021

# Detection, identification and protection of third-country national victims of trafficking in human beings

### National contribution from *The Netherlands*<sup>\*91</sup>

*Disclaimer: The following information has been provided primarily for the purpose of contributing to a synthesis report for this EMN study. The EMN NCP has provided information that is, to the best of its knowledge, up-to-date, objective and reliable within the context and confines of this study. The information may thus not provide a complete description and may not represent the entirety of the official policy of the EMN NCPs' Member State.*

### Top-line factsheet [max. 1 page]

*The top-line factsheet will serve as an overview of the **national contribution** introducing the study and drawing out key facts and figures from across all sections, with a particular emphasis on elements that will be of relevance to (national) policymakers. Please add any innovative or visual presentations that can carry through into the synthesis report as possible infographics and visual elements.*

*Please provide a concise summary of the main findings of Sections 1-5:*

In this study the practices of detection, identification and protection of third-country national victims of trafficking in human beings in the Netherlands are explored. The study gives an overview of the Dutch situation, focusing on the latest available data and trends. Moreover, the national policy and legislative developments and measures to detect, identify and protect (presumed) third-country national victims of trafficking in human beings are covered. Next to this, cooperation mechanisms with other Member States, EU agencies, international organization and third countries or origin and transit countries are included. Also, challenges and good practices –also related to COVID-19- are addressed. The study covers third-country national asylum applicants, third-country nationals in an irregular situation and third-country nationals in possession of a valid authorization to stay on the territory of a Member State (residence permit or short-term visa) who can be detected, identified and protected as (presumed) victims of trafficking in human beings.

### **Detection and identification of victims of trafficking in human beings**

Detection of (potential) victims of trafficking in human beings can be done by every organisation involved with third-country nationals and by anyone suspecting that someone is a potential victim. Already when there is the slightest indication someone might be a potential victim, this can be reported to the **Netherlands Police** or the **Royal Netherlands Marechaussee (Koninklijke Marechaussee - KMar)** or the **Labour Inspectorate of the Ministry of Social Affairs and Employment (Inspectie Sociale Zaken en Werkgelegenheid- iSZW)**. The **Expertise Centre for Human Trafficking and Human Smuggling (Expertisecentrum Mensenhandel Mensensmokkel - EMM)**<sup>92</sup> has developed two indicator cards, one for law enforcement and one for all other organisations who may come in contact with (potential) victims of trafficking in human beings. The indicator cards are

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<sup>91</sup> Replace highlighted text with your **Member State** name here.

<sup>92</sup> The Expertise Centre for Human Trafficking and Human Smuggling is a cooperation between the Netherlands Police, the Royal Netherlands Marechaussee, the Inspectorate of Social Affairs and Employment and the Immigration Service. Together they analyse the available information to distil trends and phenomenon.

based on indicators which have been identified in criminal investigations, collected and analysed by the EMM. CoMensha<sup>93</sup> and FairWork<sup>94</sup> have developed their own lists of indicators from a victim perspective.

For professionals who are in direct contact with (potential) victims, such as the Netherlands Police, the KMar and employees at the **Immigration- and Naturalisation Service (Immigratie- en Naturalisatiedienst - IND)**, training on how to detect victims of human trafficking is mandatory. For others, such as general practitioners and health-care professionals, this is optional. Several campaigns have been launched in the past years to raise awareness about human trafficking and to educate about the detection of (potential) victims of human trafficking.

In the Netherlands, no formal identification procedure of victims of human trafficking exists. It is not always clear when in the process there are merely suspicions of victimhood (detection) and when it is deemed certain that someone is a victim (identification), because there is no moment of formal identification. Thus a clear distinction in the procedures is difficult to make. In this study, the offer of a reflection period (see next paragraph for definition) by the authorized organisations (Netherlands Police, KMar and iSZW) to the victim or the reporting of the crime are considered as measures to *identify* the victim, since this is the moment when the official procedures (reflection period and reporting of the crime) in order to be able to further identify the victim<sup>95</sup> are initiated and the potential/presumed victim is also reported to the **National Coordination Centre against Human Trafficking (Coördinatiecentrum tegen Mensenhandel – CoMensha)** by law enforcement. However, this is no formal identification, and in practice the difference between procedures for detection and identification of a presumed trafficking victim is marginal.

### **Reflection period and residence permits**

The Netherlands Police, the KMar and iSZW can offer a reflection period when there is the slightest indication that a person has been subjected to trafficking in human beings. The reflection period can be offered to third-country national victims who have no lawful residence (e.g. not by persons in the asylum or Dublin procedure until their transfer, as they have rightful residence based on their asylum application), in order to decide whether or not to report the crime. The reflection period thus gives temporary lawful residence to potential victims, but no residence permit is issued when the reflection period is offered. The reflection period has a maximum duration of three months and has no minimum duration. Victims are not required to cooperate with authorities during this reflection period.

When the third-country national decides to report the crime and the IND is notified of this by the Netherlands Police or KMar, the filing of the police report is regarded as an application for the *temporary residence permit for victims and witnesses of human trafficking (B8)* and consequently a temporary residence permit for the duration of the criminal investigation and possible prosecution is granted. This permit grants legal residence in exchange for cooperation with authorities in the ongoing investigation for the duration of the criminal investigation or procedure. Victims of human trafficking can also apply for an extended residence permit after they have been staying in the Netherlands on the aforementioned temporary permit for three years or when the **Public Prosecution Service (Openbaar Ministerie)** has decided to prosecute a case of human trafficking of which the applicant is a victim. There is an exception to the requirement of cooperation, which applies to victims unable to cooperate with authorities, namely if the victim is a minor, if due to his

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<sup>93</sup> The National Coordination Centre against Human Trafficking, 'Over Mensenhandel, Vormen van Mensenhandel' (About Human Trafficking, Forms of Human Trafficking), <https://www.comensha.nl/over-mensenhandel/vormen-van-mensenhandel/>, last accessed on 7 October 2021.

<sup>94</sup> FairWork, Checklist modern slavery, <https://www.fairwork.nu/en/cheklist-modern-slavery/>, last accessed on 7 October 2021.

<sup>95</sup> The fact that these procedures are initiated does not mean there is always someone identified as a victim in cases where there are suspicions of human trafficking, since often human trafficking is difficult to detect.

or her mental state the victim is unable to give a statement, or if giving a statement cannot be expected due to threats by the traffickers. This is called **schrijnend pad (distressing path)**.

### **Persons in the Dublin procedure**

For third-country nationals who are in the Dublin procedure and file a police report, a temporary residence permit is only granted when it is necessary according to the Public Prosecution Service for the third-country national to be present in the Netherlands for the criminal investigation procedure on human trafficking. Dublin transfers are halted until the IND has made a decision on whether to grant a residence permit or not. This decision by the IND is usually made after the decision of the Public Prosecution Service, or during the period when an application for review is possible after a negative decision, or during the review procedure.<sup>96</sup> When a residence permit is granted the Dublin transfer is permanently cancelled.<sup>97</sup> If the presence of the third-country national is not necessary for the criminal investigation procedure, no residence permit is granted and the transfer will be continued.

### **Type of assistance given to victims**

In the Netherlands, victims with either a temporary or a permanent residence permit have the same rights and possibilities for social assistance as every other Dutch citizen, based on the **Social Support Act (Wet Maatschappelijke Ondersteuning)**.<sup>98</sup> Victims in the asylum procedure have access to the same assistance as other asylum seekers, and victims falling under the Dublin III Regulation have the same rights as other persons in the Dublin procedure. There is a number of organisations each having their own expertise supporting victims of human trafficking. Furthermore, the Netherlands has a national referral mechanism, which is the recently updated website *Wegwijzer Mensenhandel (guide on human trafficking)*.<sup>99</sup> On this website professionals and citizens can find the necessary information on how to detect victims of human trafficking and how to proceed when indications of human trafficking are identified. On the website they are referred to the relevant organisations that can be contacted, however it does not include the actions to be taken by the various actors. In practice, mainly a local or regional form of referral is used by means of so-called care coordinators. They are the first point of contact for presumed victims in their region in order to help them with all kinds of procedures (such as applying for health care).<sup>100</sup> CoMensha closely cooperates with these care coordinators and provides care coordination in the regions where there is no provision of care coordinators.

### **Intra-EU cooperation**

The Netherlands is actively involved in numerous intra-EU cooperation initiatives regarding the detection, identification, and protection of (potential) third-country national victims of human trafficking. For example, the Netherlands holds the presidency of the human trafficking programme of the **Multidisciplinary Platform Against Criminal Threats (EMPACT THB)**<sup>101</sup> of Europol and participates in various initiatives with other Member States (such as the 'Benelux Union', the 'Referral of and Assistance for Victims of Human Trafficking in Europe' (RAVOT-EUR) with Belgium and Hungary, the 'Euregional Information and Expertise Center' (EURIEC) with relevant

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<sup>96</sup> Appeal against the transfer is also always possible for persons in the Dublin procedure apart from the procedure for victims of human trafficking.

<sup>97</sup> Dublin III Regulation, Article 19(1).

<sup>98</sup> This information was provided by the National Coordination Center against Human Trafficking, 24 September 2021.

<sup>99</sup> Wegwijzer Mensenhandel, 'National Referral Site for Human Trafficking', [National Referral Site for Human Trafficking \(wegwijzermensenhandel.nl\)](http://wegwijzermensenhandel.nl), last accessed on 15 September 2021.

<sup>100</sup> This information was provided by the Netherlands Police on 9 September 2021. Additions were made during the interview with the Public Prosecution Service, 16 September 2021.

<sup>101</sup> This information was provided by the Netherlands Police on 9 September 2021. Additions were made during the interview with the Public Prosecution Service, 16 September 2021.

agencies in Belgium and Germany, European Asylum Support Office (EASO) trainings, as well as the European NGO platform 'La Strada International'). Moreover, the Netherlands Police provides trainings abroad and has posted police liaison officers in Croatia, Italy and Poland.

### **Cooperation mechanisms with third countries**

The Netherlands is also actively involved in cooperation with third countries to combat human trafficking, whereby the government has adopted a '*four P approach*', focused on Prevention, Protection, Prosecution, and Partnerships. The Netherlands mainly cooperates with third countries through raising awareness amongst third-country nationals about the risks of human trafficking (e.g. through the COMPASS project in cooperation with the International Organisation for Migrations (IOM)),<sup>102</sup> through enhancing international political cooperation and knowledge exchange,<sup>103</sup> providing assistance and training to local law enforcement and immigration authorities in countries of origin and transit,<sup>104</sup> and by actively engaging within international organisations and platforms such as the United Nations.<sup>105</sup>

### **Challenges**

Stakeholders have identified a number of key challenges in the Netherlands, of which five important ones are<sup>106</sup>:

- Fragmentation in detection, identification and protection of victims of human trafficking and varying approach based on the residence status of presumed victims.
- Lack of a formal identification process separate from criminal investigation.
- Reluctance of (presumed) victims to share experiences.
- Lacking awareness of different forms of exploitation (the main focus is on sexual exploitation).
- Challenging criminal proceedings due to complex nature of human trafficking.

COVID-19 has also led to some challenges. Because of COVID-19 the detection and identification of victims of human trafficking became more difficult, due to less visibility and less possibilities for physical investigation. Also, because of travel restrictions, human trafficking was found to take place a lot more online. Moreover, malpractices concerning labour migrants were magnified during the pandemic: undocumented migrants often work on the informal labour market, where no work means no income. Therefore, a special taskforce researching the position and the protection of labour migrants (*Aanjaagteam Bescherming Arbeidsmigranten*) was launched in 2020.<sup>107</sup> The Taskforce mainly focused on low- and medium skilled EU-labour migrants.

### **Good practices**

Stakeholders identified a number of good practices in the Netherlands (please note that the order of the good practices does not reflect a strict hierarchy in their importance):

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<sup>102</sup> E.g. through the whole-of-society approach program COMPASS in cooperation with the International Organisation for Migration (IOM).

<sup>103</sup> E.g. under the umbrella of EMPACT THB, through project-based cooperation with third countries, the Khartoum process, international migration dialogues, and the strengthening of international cooperation between operational authorities

<sup>104</sup> Through capacity-building projects and the placement of liaison officers in third countries

<sup>105</sup> For example, the United Nations Security Council (UNSC), the Finance Against Slavery and Trafficking (FAST) initiative in cooperation with Liechtenstein, Australia and the United Nations, the regional program PROMIS of the United Nations Office on Drugs and Crime (UNODC) and the Office of the United Nations High Commission for Human Rights (OHCHR), as well as through international fora in which the IND participates).

<sup>106</sup> Please note that the order of the challenges does not reflect a strict hierarchy in their importance.

<sup>107</sup> *Parliamentary Papers II*, 2019-2020, 29 861, no. 52; Aanjaagteam Bescherming Arbeidsmigranten, 'Geen tweederangsburgers, Aanbevelingen om misstanden tegen arbeidsmigranten in Nederland tegen te gaan' (*No second class citizens, recommendations to prevent and combat misuse of labour migrants in the Netherlands*), 30 October 2020. [Geen+tweederangsburgers-Interactief.pdf](#), last accessed on 20 October 2021.

- Programme Together Against Human Trafficking (*Programma Samen Tegen Mensenhandel*), which contains the involvement of a wide variety of authorities and organization all participating in combatting trafficking in human beings.
- National and international cooperation on the topic of human trafficking.
- Human Trafficking Academy (*Mensenhandel Academy*), this is a section of the CoMensha-website and offers complete training material on detecting human trafficking.
- Important role of municipalities in combating human trafficking.
- Constructive conversation between NGOs and the Dutch government.
- Fieldlab against human trafficking.
- Manual against labour exploitation.

## Introduction:

National situation with regard to detection, identification, and protection of (presumed) third-country national victims of trafficking in human beings (2015-2020)

**Q1.** Please describe the main policy developments and debates that have occurred in the reference period 2015-2020 with regard to detection, identification, and protection of (presumed) third-country national victims of trafficking in human beings (e.g., parliamentary debates, policy reforms, draft/adopted legislation, media coverage, awareness-campaigns, relevant publications).

### **Adaptation of settlement grounds in asylum procedure (2015)**

- In line with the Procedures Directive, the purposes of residence have been adapted in the asylum procedure on 20 July 2015.<sup>108</sup> While the Procedures Directive has no direct impact on the reflection period or the residence permit for victims of trafficking in human beings, prior to this policy change an asylum application was rejected if the applicant was in possession of a residence permit as a victim of human trafficking.

### **Clarification of sections B8/3.1 and B8/3.3 of the Aliens Act Implementation Guidelines (2016)**

- Section B8/3.1 and B8/3.3 of the Aliens Act Implementation Guidelines were clarified in April 2016: an official determination of victimhood is not necessary to receive a residence permit as a victim of human trafficking if the presumed victim cannot or does not want to participate in the criminal trial due to medical or psychological reasons or serious threats. Prior to this date the section spoke of victims and not presumed victims, but in 2016 it was clarified that it is sufficient if there are indications of trafficking in human beings.<sup>109</sup>

### **Adaptation of list of criteria for receiving a residence permit (2018)**

- In October 2018 the criterion of being a minor was added to the list of criteria for qualifying for a temporary, non-renewable residence permit for one year as a (presumed) victim of trafficking in human beings without admitting a police report or participating in the criminal investigation (according to the so-called *schrijnend pad* - distressed path as described in sections B8/3.1 of the Aliens Act Implementation Guidelines.)<sup>110</sup>
- For prolonged residency as a victim of trafficking in human beings (, based on section B9/12 of the Aliens Act Implementation Guidelines (the extended non-temporary residence permit), it is not necessary to wait until the court has passed a judgement in a criminal case concerning human trafficking. It can be granted as soon as the Prosecutor decides to prosecute and human trafficking is on the indictment. A further clarification explains that the (presumed) victim can apply for the extended non-temporary residence permit after residency under the Temporary Residence Regulation for Trafficking in Human Beings for three consecutive years.<sup>111</sup>

### **Launch of the programme 'Together against Human Trafficking' (2018)**

- On 4 December 2018 the programme Together against Human Trafficking (*Samen tegen Mensenhandel*) was launched.<sup>112</sup> This is an interdepartmental cooperation, which involves a wide variety of authorities and organisations that all cooperate in combatting trafficking in

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<sup>108</sup> Dutch Government Gazette, 2015, 20854.

<sup>109</sup> Dutch Government Gazette, 2016, 16221.

<sup>110</sup> The distressed path is specific for (presumed) victims of trafficking in human beings who are not able due to specific circumstances (e.g. psychological or physical limitations) to report the crime or participate in a police investigation, for more information please see question 8g in Section 3.

<sup>111</sup> Dutch Government Gazette, 2018, 52887.

<sup>112</sup> Government of the Netherlands (2018). Programme Together against Human Trafficking. Programme Together against Human Trafficking (wegwijzermensenhandel.nl). Consulted on 13-09-2021.

human beings and the detection, identification, and protection of (presumed) victims of human trafficking (e.g. the Netherlands Police, the **Royal Netherlands Marechaussee (Koninklijke Marechaussee – KMar)**, the Netherlands Labour Authority (**Inspectie Sociale Zaken en Werkgelegenheid – iSZW**), the **Immigration and Naturalisation Service (Immigratie- en Naturalisatiedienst - IND)**, municipalities, NGO's, healthcare facilities and shelters). It intensifies existing efforts in policy and implementation by strengthening cooperation between the different parties involved. The programme is aimed at all forms of trafficking in human beings designated as threats in the 2017 National Threat Assessment, namely sexual exploitation, labour exploitation, criminal exploitation and forced provision of services, with regard to adults as well as young people. It is aimed at Dutch victims as well as EU and third-country national victims. The programme encompasses a wide range of procedures, projects and initiatives that complement and reinforce one another along five lines of action: (1) further development of the basic approach to tackling human trafficking), (2) further development of the approach to tackling labour exploitation, (3) victim and perpetrator prevention, (4) strengthening the municipal approach to tackling human trafficking, and (5) sharing knowledge and information. This programme will serve as an umbrella programme with which new initiatives can successively be associated.

### **Adaptation of sections B8/3.1 and B8/3.3 of the Aliens Act Implementation Guidelines (2019)**

- On 1 August 2019, the paragraphs B8/3.1 and B8/3.3 of the Aliens Act Implementation Guidelines have been adapted in regard to third-country nationals to whom the Dublin regulation apply, in order to accommodate a preliminary investigation by the **Public Prosecution Service (Openbaar Ministerie)** to determine if the (presumed) victim's presence is necessary for the investigation and criminal procedure in the Netherlands.<sup>113</sup> Prior to this adaption, by the time it was concluded that there were no leads for a criminal investigation, a Dublin transfer was no longer possible as the (presumed) victim had received a residence permit under the Residence Regulation for Trafficking in Human Beings within 24 hours after filing the complaint. Furthermore the recent sudden increase in reports filed by (presumed) victims to whom the Dublin regulation apply caused a backlog of intakes by the Netherlands Police.

For persons in the Dublin procedure, it is still possible after the adaptation to file a report as a (presumed) victim of trafficking in human beings even if they attested to be trafficked in another EU Member State. However, the application for the residence permit under the human trafficking regulation is not decided on by the IND until the Public Prosecution Service has concluded that the attendance of the victim is required in the Netherlands for the criminal proceedings. Specifically, the IND will decide on the application within 24 hours after the Public Prosecution Service has decided that it is necessary for the applicant to remain in the Netherlands for the investigation and criminal procedure or as soon as possible when the Public Prosecution Service decides it is not necessary for the applicant to remain in the Netherlands. In case the report of the (presumed) victim, to whom the Dublin Regulation applies, is not filed within three months after applying for asylum in the Netherlands the IND may proceed with the Dublin procedure without waiting for the decision of the Public Prosecution Service.

**Q2.** Please elaborate on the characteristics of detected, identified and protected (presumed) third-country national victims of human trafficking (including age, gender, country of origin, migration status), trafficking purposes (e.g. sexual exploitation, including forced prostitution, forced labour or services, slavery and servitude related practices, as well as the removal of vital organs), latest patterns and trends in the reference period 2015-2020.

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<sup>113</sup> Government Gazette, 2019, 40593.



### View of victims in the Netherlands provided by the National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children

Every year the National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children (*Bureau Nationaal Rapporteur Mensenhandel en Seksueel Geweld tegen Kinderen – BNRM*), reports on the victims of trafficking in human beings in the Victim Monitor Trafficking in Human Beings (*Slachtoffermonitor Mensenhandel*). The most recent monitor includes (presumed) victims registered in 2015 – 2019 by National Coordination Centre against Human Trafficking (*Coördinatiecentrum tegen Mensenhandel – CoMensha*). The Netherlands Police, KMar and ISZW are compelled to report all (presumed) victims of trafficking in human beings that are registered in their respective registration systems to CoMensha. Some other organisations report (presumed) victims of trafficking in human beings voluntary to CoMensha.<sup>114</sup>

In Table 1.1 is shown that in the period 2015 – 2019 the total number of victims registered by CoMensha is 5.060. This number includes Dutch and European victims. The total of third-country nationals is 2.297 victims in the period 2015 - 2019, however of 149 victims the nationality is unknown. Most of the registered victims in this period who are victim of sexual exploitation (GO-SU) or forced to criminal activities (CU) have the Nigerian nationality. In contrast, the registered victims from the Philippines are mostly victims of forced labour (AU).

Table 1.1 The top five of non-EU nationalities according to the BNRM/CoMensha per year 2015 – 2019 (total of registered victims is 5.060 (n). This includes Dutch and European registered victims).

	2015 n=1.150	2016 n=952	2017 n=956	2018 n=668	2019 n=1.334	GO-SU n=1893	AU n=1.018	CU n=321	unknown	2015-19 N=5.060
Nigeria	44	46	46	149	512	612	30	143	12	<b>797</b>
Uganda	24	20	34	55	91	206	8	3	7	<b>224</b>
Guinee	12	18	30	26	27	88	3	0	20	<b>113</b>
Sierra Leone	11	19	13	31	28	78	3	11	10	<b>102</b>
Philippines	24	8	20	16	4	2	67	0	3	<b>72</b>

GO-SU = Border crossing sexual exploitation; AU = forced labour; CU = Forced Criminal exploitation  
Source Victim Monitor 2015 -2019, data CoMensha

One form of trafficking in human beings that is not very common is the removal of organs and as such it is not integrated as a separate category in the table. This form of trafficking is more prevalent among third-country nationals than among EU-nationals. In the reporting period (2015-2019) of the last Victim Monitor, twelve victims were registered by CoMensha. In 2019 three of the victims were not only victim of the removal of organs but also of another form of trafficking and the organ removal was used as a threat. The other three victims who were reported in 2019 were missing a kidney. The nationality is only known of the victims that were reported in 2019, these were all third-country nationals.

<sup>114</sup> As not all detected (potential/presumed) victims are reported to the National Coordination Centre against Human Trafficking, the numbers mentioned here are not absolute.

Another form of trafficking in human beings that is often overlooked is forced criminal actions, which is also more prevalent among third-country national victims than among EU-nationals. Though in recent years more awareness has been raised for this specific form of exploitation. In 2019, 85% of the registered victims of forced criminal actions like drugs trafficking/dealing are of African origin. In most cases the trafficking took place in their country of origin or in transit to the Netherlands.

Table 1.2 Region of origin of registered victims by CoMensha and form of exploitation

	2015	2016	2017	2018	2019	GO-SU	AU	CU	unknown	total
Latin America and Caribbean	23	21	38	19	27	101	19	3	5	128
Asia	182	114	87	49	27	125	211	16	137	489
Africa	182	178	197	328	791	1.238	122	183	133	1.676
Other regions outside Europe	1	1	0	0	2	3	1	0	0	4

GO-SU = Border crossing sexual exploitation; AU = forced labour; CU = Forced Criminal exploitation  
 Source Victim Monitor 2015 -2019, data CoMensha.

In table 1.2 the regions of origin of the registered victims by Comensha are shown, as well as the form of exploitation that occurred. Most registered third-country national victims are of African origin and are sexually exploited (GO-SU), while the registered victims from Asia are often victims of forced labour (AU).<sup>115</sup>

### Residence permits provided to (presumed) victims of Trafficking in Human Beings

In tables 1.3 to 1.5 the IND has provided the information as requested according to the provided table in the draft template.<sup>116</sup> The total number of third-country nationals ‘identified’ as victims is the total number of third-country nationals who have received a residence permit under the Residence Regulation for Trafficking in Human Beings (see Box 1 in section 1 for the difference between detection and identification in the Netherlands, as there is no formal identification). These numbers do not match with table 1.1 as the criteria are not corresponding. In table 1.1 the amount of victims registered by CoMensha is shown and includes persons who have not come into contact with law enforcement, while the IND has only provided information on the number of residence permits issued. The residence permit can only be applied for by law enforcement (see section 3, question 8 a to g). In 2019 there was a significant increase in issued residence permits for (presumed) victims of trafficking and as explained in the answer to

<sup>115</sup> National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, ‘Slachtoffermonitor mensenhandel 2015 – 2019’, 2020.

<sup>116</sup> For readability the table is divided in smaller sections in this report, the whole table is sent separately.

question 1 above this was one of the main reasons to adapt the policy for providing the residence permit to victims to whom the Dublin Regulation applies.

The difference between male and female (presumed) victims has shifted from mainly female in 2016 to mainly male in 2019 and. While in 2020 both groups are almost the same amount. However most victims of sexual exploitation are female, while males are more often victim of other forms of exploitation. Most of the residence permits are issued to victims who are over 18 years of age.

Table 1.3. Total number of resident permits under the Regulation for Victims of Trafficking in Human Beings provided to Third-country nationals.

NL	Total number of TCNs 'identified' as victims of trafficking in human beings			Age					
				Over 18 years of age			Under 18 years of age		
	Total	Female	Male	Total	Female	Male	Total	Female	Male
2016	123	88	35	115	81	34	8	7	1
2017	160	104	56	153	100	53	7	4	3
2018	307	161	146	296	154	142	11	7	4
2019	610	243	367	599	239	360	11	4	7
2020	424	203	221	415	199	216	9	4	5

Source: IND, BIC.

Table 1.4. Forms of exploitation.

NL	Forms of exploitation								
	Sexual exploitation			Labour exploitation			Other forms		
	Total	Female	Male	Total	Female	Male	Total	Female	Male
2016	57	46	11	n/i	n/i	n/i	66	42	24
2017	112	77	35	n/i	n/i	n/i	48	27	21
2018	130	73	57	n/i	n/i	n/i	177	88	89
2019	221	118	103	n/i	n/i	n/i	389	125	264
2020	170	99	71	n/i	n/i	n/i	254	104	150

Source: IND, BIC.

Table 1.5. Top three citizenships of Third-country nationals who have received a resident permit under the Regulation for Victims of Trafficking in Human Beings.

NL	Top 3 citizenships (TCN)
2016	Nigeria, Uganda, Guinea
2017	Nigeria, Uganda, Guinea
2018	Nigeria, Uganda, Sierra Leone
2019	Nigeria, Uganda, Gambia
2020	Nigeria, Uganda, Gambia

Source: IND, BIC.

In Table 1.6 the migration status at the time of the application for a residence permit under the Regulation for Victims of Trafficking in Human Beings is shown. Most applicants have applied for another residence permit before they are detected as (potential/presumed) victim of trafficking in human beings and an application for the residence permit is made on their behalf.

A significant increase is seen in 2019 and 2020 as more victims had first applied for a residence permit for legal migration. The increase of applications by persons who are detected within the procedure for international protection in 2019 is also visible. In 2018 there were 71 persons, while in 2019 this has increased to 171, in 2020 this has declined to 64. At this moment it is not known if this is due to the adaption of the policy in regard to third-country nationals to whom the Dublin Regulation applies or due to the Covid-19 pandemic.

Table 1.6. The migration status of the (presumed) victim at the time of the application for the resident permit under the Regulation for Victims of Trafficking in Human Beings.

<b>Migration status</b>								
	<b>Legal Migration residence permit</b>	<b>Residence permit for International protection</b>	<b>In procedure for legal migration</b>	<b>In procedure for international protection</b>	<b>Other Titles<sup>117</sup></b>	<b>No residence title</b>	<b>Applied only for residence as victim THB</b>	<b>Total</b>
<b>2016</b>	<b>10</b>	<b>2</b>	<b>6</b>	<b>17</b>	<b>37</b>	<b>45</b>	<b>6</b>	<b>123</b>
<b>2017</b>	<b>18</b>	<b>8</b>	<b>20</b>	<b>20</b>	<b>51</b>	<b>29</b>	<b>14</b>	<b>160</b>
<b>2018</b>	<b>10</b>	<b>7</b>	<b>24</b>	<b>71</b>	<b>118</b>	<b>65</b>	<b>12</b>	<b>307</b>
<b>2019</b>	<b>33</b>	<b>5</b>	<b>165</b>	<b>171</b>	<b>162</b>	<b>50</b>	<b>24</b>	<b>610</b>
<b>2020</b>	<b>65</b>	<b>0</b>	<b>238</b>	<b>64</b>	<b>27</b>	<b>23</b>	<b>7</b>	<b>424</b>
<b>Total</b>	<b>136</b>	<b>22</b>	<b>453</b>	<b>343</b>	<b>395</b>	<b>212</b>	<b>63</b>	<b>1624</b>

<sup>117</sup> This includes persons awaiting transfer under Dublin Regulations (212), persons who have applied timely for renewal of their temporary residence permit (50) and a temporary title provided only for temporary registration purposes.

## Section 1: Detection of third-country nationals (presumed) victims of trafficking in human beings

### Box 1: Detection and identification in the Netherlands

**In the Netherlands a person is not formally identified as a victim of trafficking in human beings.** It is not clear when in the process there are merely suspicions of victimhood (detection) and when it is deemed certain that someone is a victim (identification). In many cases where indications that someone might be a victim of trafficking in human beings are not sufficient to start an investigation or prosecution, a presumed victim is often not recognised as such. Therefore, it is quite complex to distinguish between *detection* and *identification* of victims in this study.

In the Netherlands, detection can be done by anyone and reported to the Netherlands Police, the Royal Netherlands Marechaussee (*Koninklijke Marechaussee – KMar*), or the Netherlands Labour Authority (*Inspectie Sociale Zaken en Werkgelegenheid – iSZW*). When suspicions arise that someone might be a (presumed) victim of human trafficking, the Netherlands Police, the KMar or iSZW can offer a reflection period of three months if the victim has no right of residence in the Netherlands. The (presumed) victim can decide in these three months whether to report the crime or not. When the (presumed) victim reports the crime, they receive a residence permit under the Residence Regulation for Trafficking in Human Beings. This is a temporary residence permit for a year that is valid for the duration of the criminal investigations or proceedings and which can be prolonged if criminal proceedings are still ongoing after a year.<sup>118</sup>

**To be able to answer the questions in this study, the offer of a reflection period or the reporting of the crime are considered as measures in order to *identify* the victim,** since this is the moment when official procedures such as the reflection period and investigation procedures are initiated and the (presumed) victim is registered at the National Coordination Centre against Human Trafficking (*Coördinatiecentrum tegen Mensenhandel - CoMensha*) by either the Netherlands Police, KMar or iSZW. **It is important to emphasise that this is no formal identification and that in practice the difference between detection and identification is marginal.** Thus, the reflection period and reporting of the crime are only chosen as a starting point for identification in this study, in order to be able to distinguish better between detection and identification.

For registration purposes (potential/presumed) victims are reported<sup>119</sup> to CoMensha. They work together with law enforcement authorities, aid workers, care coordinators for trafficking in human beings, shelters, regional and national authorities and international partners. The collected data are anonymised and used by organisations such as the Ministry of Justice National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children (*Bureau Nationaal Rapporteur Mensenhandel en Seksueel Geweld tegen Kinderen – BNRM*). The BNRM is the entity in the Netherlands that yearly publishes a report with all information available about (potential/presumed) victims.<sup>120</sup>

<sup>118</sup> Section B8.3, Aliens Act Implementation Guidelines.

<sup>119</sup> Not all victims are reported: some entities are compelled to report by Section 4:2, sub 1 under b.3 of the Police Information Decree (Netherlands Police, KMar, ISZW) while others (e.g. youth protection, healthcare, shelters) are free to report or not. Many care workers do not know about the option to report (presumed) victims of trafficking in human beings or think they are not allowed to provide the information due to strict interpretation of the General Data Protection Regulation and only provide information if the (presumed) victim gives written permission. This information was provided by The National Coordination Center against Human Trafficking on 10 October 2021.

<sup>120</sup> National Referral Site for Human Trafficking, *Wegwijzer Mensenhandel*, 'Organisations, CoMensha', <https://english.wegwijzermensenhandel.nl/Organisations/CoMensha.aspx>, last accessed on 15 September 2021.

**Q3.** Please describe the national procedures to detect (presumed) third-country national victims of trafficking in human beings, by answering to the following questions:

**a)** Are there measures in place to detect (presumed) third-country national victims of trafficking in human beings?  Yes  No

If so, please further elaborate in the table below.

Measures in place to detect (presumed) third-country national victims of trafficking in human beings	Details
Self-reporting	<p>It is possible for victims to report any crime, including trafficking in human beings, to the police. On the website of the police there is a page especially for victims of human trafficking (only in Dutch) with a short list of the rights and possibilities (female or male detective, interpreter, safe address, and for irregular migrants the assurance that being irregular will not be held against them).<sup>121</sup></p> <p>There is also a website by the Victim Support Fund specifically for victims: Victim Guide (<a href="http://www.slachtofferwijzer.nl">www.slachtofferwijzer.nl</a>). Here victims of all crimes, including human trafficking in the sex industry, can find information to get the necessary help and information. This website is available in seven languages<sup>122</sup> and provides general information as well as an overview of victim support organisations.<sup>123</sup></p> <p>The website National Referral Site for Human Trafficking (<i>Wegwijzer Mensenhandel</i>) gives information on where and how victims can come in contact with a care coordinator (<i>zorgcoördinator</i>), CoMensha, the local police or Inspectorate SZW (<i>Inspectie Sociale Zaken en Werkgelegenheid – ISZW</i>). The basic information is still available in English, but the English website has not been updated on 1 September 2021 like the Dutch website.<sup>124</sup></p>
Awareness raising campaigns	<p><b><i>Open Your Eyes to Human Trafficking</i></b></p> <p>This is a campaign by CoMensha to raise awareness for the issue of human trafficking.<sup>125</sup> An important activity in this campaign is a travelling exhibition of 30 portraits and stories of victims, with the aim of gaining recognition and acknowledgement among the Dutch public. Moreover,</p>

<sup>121</sup> Netherlands Police, 'Subjects, victim of human trafficking', <https://www.politie.nl/informatie/slachtoffer-van-mensenhandel-doe-aangifte.html>, last accessed on 16 September 2021.

<sup>122</sup> Available in Dutch, English, Spanish, Russian, Arabic, Chinese, Turkish and Polish.

<sup>123</sup> Victim Guide, *SlachtofferWijzer*, 'I am victim', <https://slachtofferwijzer.nl>, last accessed on 29 July 2021.

<sup>124</sup> National Referral Site for Human Trafficking, *Wegwijzer Mensenhandel*, 'Detection, Whom to report to', Whom to report to?, <https://english.wegwijzermensenhandel.nl/Detection/Whom-to-report-to/>, last accessed on 29 September 2021.

<sup>125</sup> National Coordination Centre against Human Trafficking, Open your Eyes, '#OpenjeOgen !', <https://comen1sha.nl/open-je-ogen/>, last accessed on 16 September 2021.

	<p>CoMensha published a photo pamphlet with the 30 portraits and stories, which can be found on their website. The opening of the exhibition is often combined with a seminar to enhance the integrated approach and the important role of municipalities in the combat against trafficking in human beings.<sup>126</sup></p> <p><b>Certification program <i>No Place for Sex Trafficking</i></b></p> <p><i>No place for sex trafficking</i><sup>127</sup> is an NGO-project endorsed by the Dutch Ministry of Justice and Security and developed by What The Studio,<sup>128</sup> with the support of Defence for Children,<sup>129</sup> the Dutch Ministry of Justice and Security, the Public Prosecution Service and What Design Can Do.<sup>130</sup> The certification programme was launched with an online and city campaign in Amsterdam. This certification programme consists of three sub-programmes in which free online training courses can be followed by employees. In this training, employees will learn how to spot the signs of sex trafficking at their workplace. The three programmes are:</p> <ul style="list-style-type: none"><li>• <i>No Table for Sex Trafficking</i>: this programme is meant for professionals working at bars, restaurants and clubs. The programme will probably be launched at the end of 2021.</li><li>• <i>No Room for Sex Trafficking</i>: this programme is meant for hotels and holiday parks. This programme is already in place.</li><li>• <i>No Ride for Sex Trafficking</i>: this programme is meant for taxi drivers. The programme will probably be launched at the end of 2021.<sup>131</sup></li></ul> <p><b>Human Trafficking Academy (Mensenhandel Academy)</b></p> <p>CoMensha started in 2018 with this Academy (in Dutch), which is part of the CoMensha website and is meant to offer the complete training material on detecting and reporting human trafficking in a structured way. Many different professionals can find relevant material for their sector. It also includes specific e-learning for care workers who come into contact with migrants.<sup>132</sup></p> <p><b>STEP: Toolkit and educational material</b></p> <p>The STEP project is the short name for Sustainable integration of trafficked human beings through proactive identification and enhanced protection. The purpose of</p>
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<sup>126</sup> This information was provided by the National Coordination Centre against Human Trafficking on 24 September 2021.

<sup>127</sup> No Place for Sex Trafficking, certification programmes, <https://www.noplaceforsextrafficking.org/pages/home>, last accessed on 16 September 2021.

<sup>128</sup> What The Studio is an interdisciplinary creative team bringing relevant content and inspiring initiatives to life, based in the Netherlands.

<sup>129</sup> Defence for Children is a Worldwide Grassroots Movement for Children's Rights.

<sup>130</sup> What Design Can Do is an international platform on the impact of design, empowering creative communities around the globe to improve and transform society.

<sup>131</sup> Interview with the National Coordination Center against Human Trafficking, 16 August 2021.

<sup>132</sup> Interview with the National Coordination Center against Human Trafficking, 16 August 2021.

the toolkit is to assist co-workers of COA, Nidos and the Dutch Council for Refugees (*VluchtelingenWerk Nederland - VWN*) to inform asylum applicants and unaccompanied minors (UAM's, either with or without an asylum procedure) about trafficking in human beings.

The project is meant to raise awareness among asylum applicants and UAM's about the implications of trafficking in human beings. It also aims to give victims the necessary information to get help and to try to prevent asylum applicants and UAM's from becoming victims. The toolkit is digitally available together with further relevant educational information and explanation about the project.<sup>133</sup>

***SAFE (Safe and Adequate Return, Fair Treatment and Early identification of Victims of Trafficking)***

The purpose of this NGO-project by CoMensha and LaStrada is to realise a safe future for victims of trafficking in human beings and to detect in an early stage (potential) victims in the current migration streams within Europe.<sup>134</sup>

***Yearly Webinar Immigration and Naturalisation Service***

The IND organises a webinar or an information day twice a year on the topic of human trafficking for all employees to attend (on a voluntary base). A certain aspect of trafficking in human beings will be highlighted or explained further during these meetings.<sup>135</sup>

***Hidden at Work***

*Hidden at Work* is a two year NGO-project (2021-2022) of FairWork<sup>136</sup> that focusses on the prevention of gender-based violence, specifically at the informal workplace, by addressing labour and sexual exploitation and harassment of women at work. The target group of the project are female migrants working in the informal private sphere. The project aims to reach out to these women through (online) awareness-raising and empowerment strategies. The project activities take place in the Netherlands, Austria and the Czech Republic, as well as at the European level.<sup>137</sup>

***Too Cheap (Te Goedkoop)***

The Salvation Army has an awareness raising campaign with the use of advertisements that focusses on products and services that are too cheap to be true. As long as Dutch consumers want to buy cheap

<sup>133</sup> Interview with IND (Asylum and International Protection Unit), 23 August 2021.

<sup>134</sup> Provided by the National Coordination Center against Human Trafficking on 24 September 2021.

<sup>135</sup> Interview with the IND (Asylum and International Protection Unit), 23 August 2021.

<sup>136</sup> FairWork is a NGO who directly supports victims of labour exploitation in the Netherlands.

<sup>137</sup> FairWork, Hidden at Work, <https://www.fairwork.nu/en/hidden-at-work/>, last accessed on 7 October 2021.



	<p>products or enjoy cheap services, other persons are exploited to provide these products or services either in the Netherlands or abroad.<sup>138</sup></p>
<p>Collection of indicators</p>	<p>In 2011, the Netherlands participated in the project 'Development of Common Guidelines and Procedures on Identification of Victims of Human Trafficking' together with Bulgaria, France, Greece, Romania, and Spain. In 2013 a manual was developed for first line detection of victims of human trafficking. It contains a collection of different indicators for different groups of victims and exploitation situations.<sup>139</sup></p> <p>The Expertise Centre for Human Trafficking and Human Smuggling (<i>Expertisecentrum Mensenhandel Mensensmokkel</i> - EMM)<sup>140</sup> has developed two indicator cards, one for law enforcement and one for all other organisations who may come in contact with (potential) victims of trafficking in human beings. The indicator cards are based on indicators which have been identified in criminal investigations, collected and analysed by the EMM.</p> <p>CoMensha<sup>141</sup> and FairWork<sup>142</sup> have developed their own lists of indicators from a victim perspective, which can be used to detect (potential) victims of trafficking. Both organisations have short stories told by (former) victims as examples on their websites.</p> <p>An overall list and links to more information regarding all types of exploitation can be found on the website <a href="https://www.wegwijzermensenhandel.nl">wegwijzermensenhandel.nl</a>. Manuals provide practical tools for first-line professionals who come into direct contact with (potential) victims of trafficking in human beings. The list of indicators provides an extensive overview.<sup>143</sup></p>
<p>Intelligence gathering by investigative services (e.g. police, labour inspectorate)</p>	<p>The Netherlands Police is implementing a system called Cross-domain Work Process on Trafficking in Human Beings (<i>Domeinoverstijgende Informatiegestuurde Werkwijze</i> - DIGW), to use intelligence in the detection of human trafficking and the victims of human trafficking. It is a bridge between intelligence and investigation procedures. This system uses knowledge-based models to translate criminal laws into factual indicators. The indicators are systematically organised and receive 1, 2 or 4 points. All</p>

<sup>138</sup> This information was provided by The National Coordination Centre against Human Trafficking on 14 October 2021, <https://www.tegoedkoop.com> (toochoop), and site last accessed on 20 October 2021

<sup>139</sup> This information was provided by The National Coordination Centre against Human Trafficking on 24 September 2021: [trainershandboek-eerstelijns-signalering-mensenhandel.pdf](https://www.trainershandboek-eerstelijns-signalering-mensenhandel.pdf) (hetccv.nl).

<sup>140</sup> The Expertise Centre for Human Trafficking and Human Smuggling is a cooperation between the Netherlands Police, the Royal Netherlands Marechaussee, the Inspectorate of Social Affairs and Employment and the Immigration Service. Together they analyse the available information to distil trends and phenomenon.

<sup>141</sup> The National Coordination Centre against Human Trafficking, 'Over Mensenhandel, Vormen van Mensenhandel' (About Human Trafficking, Forms of Human Trafficking), <https://www.comensha.nl/over-mensenhandel/vormen-van-mensenhandel/>, last accessed on 7 October 2021.

<sup>142</sup> FairWork, Checklist modern slavery, <https://www.fairwork.nu/en/cheklist-modern-slavery/>, last accessed on 7 October 2021.

<sup>143</sup> National Referral Site for Human Trafficking, Wegwijzer Mensenhandel, Detection, What to look out for: What look out for? <https://www.wegwijzermensenhandel.nl>, last accessed on 29 September 2021.

	<p>available information in relation to human trafficking is scored. The sources are currently still mainly the police registration systems (in which unrelated information indicators for human trafficking might be hidden), and information provided in structural meetings with other organisations involved in law enforcement, combatting trafficking in human beings or migration processes. In the future more sources will be added, including open sources like news sites and websites where prostitutes can advertise.</p> <p>On its own, certain information can be insignificant, but combined with other bits of information found through other sources it can become a significant sign that a person might be a victim of human trafficking. The pieces of information are scored together and can add up to an intelligence report that might require immediate action or further investigation by police. With this method, (presumed) victims might be detected in police reports not related to trafficking in human beings or who are advertised on websites for sexual services by combining the information of the website with other intelligence information. This can lead to investigations and extraction of the (presumed) victim out of the trafficking situation.<sup>144</sup></p>
<p>Proactive screening in asylum procedures</p>	<p>Within the Intake and Registration (I&amp;R) procedure of first asylum applicants, performed by the Netherlands Police at the reception centres, there is attention for signs of human trafficking.<sup>145</sup> In first and consecutive asylum procedures all other organisations involved in the start of the asylum procedure have measures in place to detect signs of (potential) victims of trafficking in human beings.</p> <p>The IND has developed a work instruction specifically for asylum employees in order to help them detect human trafficking.</p> <p>Within the asylum procedure, the employees of the different organisations are alert to signs of human trafficking. At all the Application Centres in the Netherlands, the IND provides contact points for trafficking in human beings where all information will be compiled and shared with the Netherlands Police. The police will receive all available information in relation to the possible human trafficking case, while the other organisations (in accordance to the General Data Protection Regulation (GDPR)) will only receive an indication that the applicant might be a victim of trafficking in human beings. Possible victims are detected during the asylum procedure through contact with the applicants. Indicators for possible victims are deviant behaviour, information provided by the applicant, or a nationality that is marked as a high risk for victimisation of trafficking. However, it should be noted that many of the</p>

<sup>144</sup> This information was provided by the Netherlands Police on 7 July 2021.

<sup>145</sup> This information was provided by the Netherlands Police on 17 September 2021.

	<p>behavioural signs of victimhood of human trafficking can also be seen in other traumatised persons, which means that information provided by the applicant is of great importance to recognize the source of the trauma and to provide the necessary support. <sup>146</sup></p>
<p>Proactive screening in migration procedures</p>	<p>In every migration procedure there is awareness for signs of human trafficking, but in most cases contact with the applicants is remote, through either a digital application or a written response. This makes it more difficult to perceive the subtle signs of possible victimization. <sup>147</sup></p> <p>However, since 2017 the Ministry for Foreign Affairs uses an information based system for deciding on visa applications. This system uses risk and chance profiles to determine if additional investigations are necessary before the application is approved or denied, and can be used to detect possible victims of trafficking in human beings in an early stage. <sup>148</sup></p> <p>Furthermore, personnel at the Dutch embassy's, consulate-general or external service providers have received training to detect signs of trafficking in human beings.</p> <p>The IND has Immigration Liaison Officers (ILO's) stationed in thirteen locations abroad who are involved in early detection of possible/presumed victims of trafficking in human beings in migration procedures. <sup>149</sup></p>
<p>Other</p>	<p>The <b>Central Agency for the Reception of Asylum Seekers (Centraal Orgaan opvang Asielzoekers - COA)</b> has a reporting structure where (soft) signs of trafficking in human beings and the smuggling of humans can be reported. This information is sent in a secure way to the police (for trafficking in human beings) or the KMar (for human smuggling). <sup>150</sup> To educate all employees in recognizing indications of trafficking (and smuggling) of human beings, COA provides training. This training also teaches employees how to support the (/presumed) victim. At every reception centre, a contact person is appointed to this task. Twice a year, COA organises an information day for the contact persons where a certain aspect of trafficking in human beings will be highlighted or explained further.</p> <p>There is a similar system in place within the IND where (soft) signs are accumulated at the <b>Enforcement Information Hub (Handhavingsinformatie Knooppunt - HIK)</b></p>

<sup>146</sup> Interview with IND (Asylum and International Protection Unit), 23 August 2021.

<sup>147</sup> Interview with IND (Asylum and International Protection Unit), 23 August 2021.

<sup>148</sup> National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, 'Slachtoffermonitor mensenhandel 2014-2018, <https://www.nationaalrapporteur.nl/publicaties/rapporten/2020/10/16/slachtoffermonitor-mensenhandel-2014-2018>, last accessed on 22 October 2021

<sup>149</sup> Immigration and Naturalisation Service, Corporate Brochure, Immigration and Naturalisation Service The admissions organisation of the Netherlands, <https://ind.nl/en/Forms/6071.pdf>, last accessed on 22 October 2021

<sup>150</sup> This information was provided by the Central Agency for the Reception of Asylum Seekers on 23 September 2021.

	that will send this information to either the Netherlands Police or the KMar (this does not include the information that has been sent to the Netherlands Police as part of the detection of (possible) victims in the asylum procedure (as described above at 'proactive screening in asylum procedures'), though this information is also registered at the HIK.) <sup>151</sup>
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**b. What measures are in place to promote and facilitate self-reporting by (presumed) third-country national victims of trafficking in human beings?**

All organisations involved in the combat of human trafficking, or which might come in contact with victims of trafficking in human beings, provide information on their websites for victims to report their situation or to redirect them to the police for protection and shelter.<sup>152</sup>

In every training given to civil servants and other workgroups who might come in contact with (potential) victims, attention is paid to give the (potential) victim the necessary information to report the crime and to get the needed help and shelter.<sup>153</sup>

However, self-reporting is not very common as victims of trafficking in human beings often do not see themselves as victims or find it difficult to speak about the situation in which they find themselves.<sup>154</sup>

**c. Please indicate whether (and in what way) these specific measures differ for any of the cases below.**

Specific measure to detect (presumed) third-country national victims of trafficking in human beings:	Details
within asylum procedures	<p>If during the asylum interviews there are subtle signs of possible victimhood, the applicant will be informed about the possibility to report this information to the Netherlands Police and that the reception of a residence permit as a victim of trafficking in human beings is an option. The procedure for this permit is shortly explained to the victim, but for further information the applicant is referred to the Netherlands Police.</p> <p>As described before in question 3a, any signs of human trafficking within the asylum procedure are shared with the Netherlands Police according to the attested protocol, and an</p>

<sup>151</sup> Workinstruction IND/DV 2017/1, 'Melden en afhandelen fraude- en handhavingssignalen in INDIGO', last accessed on 7 October 2021.

<sup>152</sup>The National Coordination Centre against Human Trafficking, 'Hulp nodig?' (Help needed?), <https://www.comensha.nl/hulp-nodig>; Slachtofferwijzer, sexual violence, <https://slachtofferwijzer.nl/slachtoffer/mensenhandel-in-de-seksindustrie/>; Wegwijzer Mensenhandel, do you think that you might be a victim, <https://engelsch.wegwijzermensenhandel.nl/victim/index.aspx>; Defence for Children, Meld misbruik, <https://www.defenceforchildren.nl/wat-doen-we/thema/seksuele-uitbuiting/meld-misbruik/>, last accessed on 7 October 2021.

<sup>153</sup> The National Coordination Centre against Human Trafficking, 'Mensenhandel Academy' (Human Trafficking Academy), <https://www.comensha.nl/mensenhandel.nl/mensenhandel-academy/>; FairWork, FairWork Academy, <https://www.fairwork.nu/en/fairwork-academy/>, last accessed on 7 October 2021.

<sup>154</sup> National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children <https://www.nationaalrapporteur.nl/mensenhandel>.

	indication is given to the other organisations involved in the asylum process. <sup>155</sup>
within other migration procedures (e.g. seasonal workers, domestic workers, au pairs, students)	No additional measures are applied.
who are voluntary returnees	The International Organisation for Migration (IOM) in the Netherlands pays special attention to migrants who are in a vulnerable situation, including victims of human trafficking. They can provide the necessary information for getting help in the Netherlands and in the destination country. The IOM can also provide voluntary return assistance. <sup>156</sup>
who fall under other categories included in the definition of vulnerable persons adopted for this study (e.g. minors, unaccompanied minors, disabled people, elderly people, pregnant women)?	<p>There are extra measures in place for vulnerable persons during the asylum/migration procedures, but not specifically on promoting or facilitating self-reporting. However, if there are subtle signs of possible victimhood, the applicant will be informed about the possibility to report this information to the Netherlands Police and that a residence permit as a victim of trafficking in human beings is an option. The procedure for this permit is shortly explained, but for further information the applicant is referred to the Netherlands Police (see also 'within asylum procedures').</p> <p>Nidos is the guardian organisation in the Netherlands for unaccompanied minors (UAM's). They provide a guardian who is responsible for the minor and can advise the minor to report any indications of being a victim of human trafficking. Nidos is also the organisation who places UAM's in Protected Reception if there is the slightest indication that the UAM might be a victim of trafficking in human beings (see section 3 for more information).</p>
who are in an irregular situation	<p>In the Netherlands it is possible for irregularly staying migrants who are a victim or a witness of a crime to safely report the alleged crime. This policy is called 'safe reporting'. According to this procedure, irregularly staying migrants can freely walk into any police station and walk freely out of the police station again (except when they are registered as a suspect of a crime themselves).</p> <p>The information about the mechanism is available via the website of the police. This means that it is available for irregular migrants, as almost all migrants have a smartphone to find the relevant information online. However, the community police officer will also share information about this policy with relevant persons in his community who can pass it onto to relevant persons.</p>

<sup>155</sup> Interview with the IND (Asylum and International Protection Unit), 23 August 2021.

<sup>156</sup> International Organisation for Migration, Voluntary Return, are you in a Vulnerable Situation, <https://iom-nederland.nl/en/voluntary-return/victims-of-trafficking>, last accessed on 25 October 2021.

	In addition, most (irregular) migrants are in contact with lawyers, the Dutch Council for Refugees, churches and other organizations who can explain this policy or help with reporting the crime. <sup>157</sup>
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**d. What procedural safeguards exist for each category presented above?**

Within the asylum procedure there are several procedural safeguards to detect vulnerabilities and to provide appropriate support to the applicants for international protection. All employees within the asylum procedure, from the identification and registration procedure at the beginning of the application process to the final decision and during the stay of the applicant in a reception centre, are trained to detect signs of trafficking in human beings and to report the information to the designated persons or services.

Within other migration procedures (e.g. seasonal workers, domestic workers, au pairs, students), the safeguards are not as explicit as in the asylum procedure. However, if a deviant situation occurs and is recognised as such by an employee of the IND, this information is passed on to the HIK. When the applicant for a visa or residence permit is still abroad and the Dutch Embassy, consulate-general or external service providers employee encounters indications that applicant might be a potential victim of trafficking in human beings this information is passed on to the IND and the Immigration Liaison Officer (ILO) of the IND in the respective region. Via the ILO-Backoffice the information is shared with the HIK. If deemed necessary, the employees of the HIK will pass the information on to either the Netherlands Police or to the ISZW for further investigation.

**The Repatriation and Departure Service (Dienst Terugkeer en Vertrek – DT&V)** and IOM employees are trained to detect subtle signs to detect victims of trafficking in human beings who want to return voluntary. When detected, (presumed) victims of trafficking in human beings can be redirected to the Netherlands Police or receive additional information and help.

For (potential/presumed) victims of trafficking in human beings who fall under other categories included in the definition of vulnerable persons adopted for this study (e.g. minors, unaccompanied minors, disabled people, elderly people and pregnant women), the same safeguards as for all asylum applicants are in place. However, persons who fall under the definition of vulnerable persons are given extra care. Unaccompanied minors who are (potential) victims of trafficking in human beings are placed in a protected reception centre where specific care is available.

The most important safeguard for (potential/presumed) victims of trafficking in human beings who are in an irregular situation is that with the slightest indication of being a (potential/presumed) victim of trafficking in human beings, the reflection period is offered and they can be placed in the so-called Categorical Shelter for Victims of Human Trafficking (**Categoriale Opvang Slachtoffers Mensenhandel - COSM**) where they receive specialized care. Furthermore, every irregular migrant who wants to report a crime can report alleged crime safely as explained above at question 3.c.

**e. What organisations / authorities are trained / competent to detect (presumed) third-country national victims of trafficking)?<sup>158</sup>**

Organisation / authorities	Trained to detect (presumed) third-country national	Competent to detect (presumed) third-country national victims of trafficking? Y/N	Details
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<sup>157</sup> This information was provided by the Netherlands Police on 6 January 2021 for EMN inform Separated and Missing Migrants.

<sup>158</sup> EMN NCPs are invited to address this question by using as source the European Commission, Study on reviewing the functioning of Member States' National and Transnational Referral Mechanisms, 2020, [https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/study\\_on\\_reviewing\\_the\\_functioning\\_of\\_member\\_states\\_national\\_and\\_transnational\\_referral\\_mechanisms.pdf](https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/study_on_reviewing_the_functioning_of_member_states_national_and_transnational_referral_mechanisms.pdf), last accessed on 15 May 2021.

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	victims of trafficking? Y/N		
Police	Yes	Yes	Specifically the Netherlands Police, Aliens Police Department, Identification and Human Trafficking ( <i>Afdeling Vreemdelingen, Identificatie en Mensenhandel van de Nationale Politie - AVIM</i> ), with experts on trafficking in human beings. Recently training to all first-line responders is offered. However there is no specific training in recognising indications for human trafficking during the <i>Identification &amp; Registration process</i> (I&R process, the start of the asylum procedure in which information about the identity of the asylum seeker is gathered) for the Netherlands Police.
Border guards	Yes	Yes	The KMar is trained to recognise indications of human trafficking during the I&R process at airport Schiphol
Labour inspectors	Yes	Yes	
Migration services	Yes	Yes	The DT&V has a human trafficking contact person in each department who receives indications and knows how to act on indications of human trafficking that occur during departure interviews. <sup>159</sup>  The IND has a system to report within the organisation signs of irregularities including trafficking in human beings to the HIK, who supplies the information to the

<sup>159</sup> This information was provided by the Repatriation and Departure Service on 16 September 2021.

			Netherlands Police, Kmar or ISZW.
Asylum case officers	Yes	Yes	<p>Each Application Centre of the IND has contact points who have followed the <b>European Asylum Support Office (EASO)</b> training to detect victims of trafficking in human beings. They are supposed to pass this training on to their colleagues at the Application Centre, although due to a high workload there is not always enough time for training or courses.<sup>160</sup></p> <p>In addition to courses there are “walk in cafe’s” where a contact point can be asked questions or where specific information is shared.<sup>161</sup></p> <p>At the COA reception centres, personnel is trained to detect signs of trafficking in human beings and the smuggling of humans. Every COA location has a contact person who has had additional training. Twice a year, an educational day is organised where expertise is shared between the contact persons.<sup>162</sup></p>
General practitioners		Yes	CoMensha gives training to general practitioners to detect signs of human trafficking in clients and gives information on how to report without compromising their professional confidentiality. <sup>163</sup>

<sup>160</sup> Interview with the IND (Asylum and International Protection Unit), 23 August 2021.

<sup>161</sup> Interview with the IND (Asylum and International Protection Unit), 23 August 2021.

<sup>162</sup> Interview with the Central Agency for the Reception of Asylum Seekers, 17 August 2021.

<sup>163</sup> National Coordination Centre against Human Trafficking, Mensenhandel Academy, Algemeen, Training voor professionals, <https://www.comensha.nl/mensenhandel-academy/trainingen-algemeen/trainingen-door-comensha/>, last accessed on 7 October 2021.



Other health workers		Yes	CoMensha gives training to health workers to detect signs of human trafficking in clients and information on how to report without compromising their professional confidentiality. <sup>164</sup>  The website <a href="https://wegwijzermensenhandel.nl">wegwijzermensenhandel.nl</a> provides practical manuals and toolkits specifically for health-care professionals. <sup>165</sup>
Employers		Yes, if they have followed the available courses. But this is voluntary.	There are online courses available for employers and employees in the Human Trafficking Academy (Mensenhandel Academy) on the website of Comensha. <sup>166</sup>  Fairwork also has educational programmes in their FairWork Academy
Trade unions		Yes	
Civil society organisations		Yes	There are online courses available for employers and employees in the Human Trafficking Academy (Mensenhandel Academy) on the website of Comensha.  Fairwork also has educational programmes in their FairWork Academy. <sup>167</sup>

<sup>164</sup> National Coordination Centre against Human Trafficking, *Mensenhandel Academy, Algemeen, Training voor professionals*, <https://www.comensha.nl/mensenhandel-academy/trainingen-algemeen/trainingen-door-comensha/>, last accessed on 7 October 2021.

<sup>165</sup> National Referral Site for Human Trafficking, *Detection of trafficking in human beings, manual detecting trafficking in human beings Wegwijzer Mensenhandel, Signalering van mensenhandel, Handreiking Signalering Mensenhandel: voor werkers in de gezondheidszorg*, <https://wegwijzermensenhandel.nl/signaleren-van-mensenhandel/signaleren-van-mensenhandel>, last accessed on 7 October 2021.

<sup>166</sup> The National Coordination Centre against Human Trafficking, *'Mensenhandel Academy' (Human Trafficking Academy), Algemeen, Training voor professionals*, <https://www.comensha.nl/mensenhandel-academy/trainingen-algemeen/trainingen-door-comensha/>, last accessed on 7 October 2021

<sup>167</sup> FairWork, *FairWork Academy*, <https://www.fairwork.nu/en/fairwork-academy/>, last accessed on 7 October 2021.

Others	Yes	Yes	<p>Training is offered to employees of the Netherlands Chambers of Commerce (which advises and supports businesses and manages the Commercial Register), and to front desk staff and supervisors of municipalities by CoMensha.<sup>168</sup></p> <p>Training is also offered to the hotel branch and employees of vacation parks by either CoMensha or FairWork and the civil servants of municipalities.</p>
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f. Please describe how national referral mechanisms (or alternative mechanisms in absence of one) have evolved in the detection of (presumed) third-country national victims of trafficking in human beings?<sup>169</sup>

In October 2013, the project **National Referral Mechanism Victims of Human Trafficking** (*Nationaal Verwijsmechanisme Slachtoffers Mensenhandel*) was initiated, coordinated by the Ministry of Social Affairs and Employment and the Ministry of Justice and Security.<sup>170</sup> This project was launched among other reasons because there was a lack of a structured overview of the support and protection that is offered to victims of human trafficking. Moreover, the criminal justice system and migration system were insufficiently connected in the field of human trafficking. In order to provide accessible and structured information for professionals, citizens, and victims, a website was launched: [Wegwijzer mensenhandel](http://Wegwijzer mensenhandel). On this website professionals and citizens can find the necessary information on how to detect victims of human trafficking and how to proceed when indications of human trafficking are identified. On the website they are referred to the relevant organisations that can be contacted. This information is also available for victims of human trafficking. Moreover, during the project in 2013 the tasks and roles of different organisations (such as CoMensha and Victim Support Netherlands) in the Netherlands were discussed and better coordinated, as it was not always clear which organisation needed to act in at what moment.

In 2015 the commission Lenferink has recommended to install a country wide network of care coordinators. Within the programme *Samen tegen Mensenhandel* (Together against Trafficking in Human Beings) launched in December 2018 and still in progress, this was initiated together with CoMensha and the municipalities.<sup>171</sup> The care coordinator coordinates the care for

<sup>168</sup> Interview with the National Coordination Center against Human Trafficking, 16 August 2021.

<sup>169</sup> Ibid (this is a footnote from the original empty template).

<sup>170</sup> Letter from the Minister of Justice and Security of 23 June 2014, 28638, 122.

<sup>171</sup> Government of the Netherlands (2018). Programme Together against Human Trafficking. <https://english.wegwijzermensenhandel.nl/News/News/programme-together-against-human-trafficking.aspx#:~:text=Integrated%20programme%20approach%20The%20%E2%80%98Together%20Against%20Human%20Trafficking%E2%80%99,further%20developed%20and%20expanded%20with%20concrete%20new%20initiatives.> Consulted on 13-09-2021

(presumed) victims of trafficking in human beings and is the link between the different parties involved within the prosecution process and healthcare as the overarching case manager.<sup>172</sup>

Through the interviews conducted for this study it became clear that the referral mechanism does not fulfil its potential. This is based mainly on experiences with the previous version of the website [Wegwijzer mensenhandel](#).

The website [Wegwijzer mensenhandel](#) was improved and launched again on 1 September 2021. The new and improved site has the possibility to find local care coordinators specialized in trafficking of human beings and provides information about partner organisations within the domain of combatting trafficking in human beings or taking care of victims of human trafficking. It also provides more information on how to detect and provide care for (presumed) victims of trafficking in human beings and about the relevant parties is involved in the different processes.<sup>173</sup>

The (re)directing of (presumed) victims of trafficking in human beings is mainly done regionally and the care coordinators have a crucial role in delivering customized care and solutions.<sup>174</sup>

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<sup>172</sup> Regional Intervention and Expertise Centre, Regionaal Interventie en Expertise Centrum (RIEC), Nieuwsbrief Codegeel 2018-5, [Oog voor slachtoffers | Code Geel](#), <https://magazines.riec.nl/codegeel/2018/05/oog-voor-slachtoffers>, last accessed on 7 October 2021.

<sup>173</sup> National Referral Site for Human Trafficking, Wegwijzer Mensenhandel, actueel, nieuws, <https://www.wegwijzermensenhandel.nl/actueel/nieuws/2021/09/01/nieuwe-website-wegwijzer-mensenhandel>, last accessed on 29 September 2021.

<sup>174</sup> This information was provided by the Programme Together Against Trafficking on 23 September 2021.

## Section 2: Identification of (presumed) third-country national victims of trafficking in human beings

**Q4.** Please describe the national procedures to identify (presumed) third-country national victims of trafficking in human beings, by answering to the following questions:

**a)** What organisations / authorities are competent to identify (presumed) third-country national victims of trafficking?

Organisation / authorities	Competent to identify (presumed) third-country national victims of trafficking? Y/N	Details
Police	Yes	In the Netherlands presumed victims of human trafficking are not formally identified (see section 1, box). However, once there is only the slightest indication that someone might be a victim of human trafficking, the Netherlands Police is authorised to offer the reflection period of maximum three months to the presumed victim.
Border guards	Yes	The Royal Netherlands Marechaussee ( <i>Koninklijke Marechaussee- KMar</i> ) is also authorised to offer the reflection period to the presumed victim.
Labour inspectors (certified detective human trafficking)	Yes	The Labour Inspectorate ( <i>Inspectie Sociale Zaken en Werkgelegenheid, iSZW</i> ), which is part of the Ministry of Social Affairs can offer the reflection period when there are the slightest indications that someone might be victim. For the subsequent procedure the Netherlands Police is involved.
Migration services	Yes (because a residence permit can be offered, which is seen as identification, see box 1)	Employees at the Immigration- and Naturalisation Service ( <i>Immigratie- en Naturalisatiedienst- IND</i> ) are trained to detect indications of human trafficking and have to inform the Netherlands Police when suspicions arise, which will act accordingly. The IND can issue a residence permit to (presumed) victims.
Asylum case officers	No	
Civil society organisations	No	
Others	N/A	

**b)** Are there specific measures in place to identify (presumed) third-country national victims of trafficking in human beings?  Yes  No

If so, please elaborate.

In the Netherlands there is no official identification and no clear distinction between detection and identification of presumed third-country national victims of human trafficking (see section 1, box 1). Moreover, the emphasis of most measures is on the detection of potential victims of trafficking in human beings and less so on actual identification. However, as explained in Box 1, in this study the offering of a reflection period and the reporting of the crime are considered as measures in order to identify victims.

*Reflection period*

The Netherlands Police and KMar can offer a reflection period to the presumed victim (except for persons in the Dublin procedure). This is done already at the slightest indications that a person is a victim of human trafficking. In this reflection period the victim is allowed to take time in order to decide whether or not to report the crime and cooperate in the Netherlands Police investigation. For more information see section 3, question 8a until 8e.

*Residence permit under the Residence Regulation for Trafficking in Human Beings*

The residence permit under the Residence Regulation for Trafficking in Human Beings (B8), that is granted after a victim reports the crime of human trafficking to the Netherlands Police, grants the permission to stay in the Netherlands in exchange for cooperation with authorities in the ongoing criminal proceedings into the human trafficking case.<sup>175</sup> There is an exception to the requirement of cooperation with an ongoing criminal investigation which is called *schrijnend pad (distressing path)*, where vulnerable victims can still obtain a specific non-renewable residence permit for one year without cooperating with authorities.<sup>176</sup> For more information about the residence permit and *schrijnend pad* see section 3, question 8g.

c) Please indicate whether (and in what way) these specific measures differ for any of the cases below.

Specific measure to identify (presumed) third-country national victims of trafficking in human beings:	Details
within asylum procedures	In the asylum procedure there are measures in place to detect (presumed) victims of trafficking in human beings (see section 1, question 3a and 3e). When the KMar or the Netherlands Police detects indications of human trafficking, they can offer a reflection period. Moreover, the residence permit under the Residence Regulation for Trafficking in Human Beings is granted by the IND when the victim reports the crime to the Netherlands Police.
within other migration procedures (e.g. seasonal workers, domestic workers, au pairs, students)	In other migration procedures IND employees are also trained to detect signs of human trafficking. However, this is often more difficult as there are less physical contact moments in other migration procedures. When the IND offers a residence permit to the (presumed) victim, this can be seen as identification.
who are voluntary returnees	As soon as the <i>Repatriation and Departure Service (Dienst Terugkeer en Vertrek- DT&amp;V)</i> recognises that someone might

<sup>175</sup> AHQ 2019.63 Access of victims of trafficking to their rights.

<sup>176</sup> LaStrada International, 'Residence Permits, International Protection and Victims of Human Trafficking', 22 February 2021. <https://documentation.lastradainternational.org/lisidocs/3387-REST%20Report%20Residence%20Permits%20-%20International%20Protection%20and%20Victims%20of%20Human%20Trafficking%20-%20FEB%202021.pdf>, last accessed on 6 October 2021.

	<p>be a victim of trafficking in human beings, the relevant contact persons that receive these indications (see section 1) inform the possible victim of the residence permit procedure under the Residence Regulation for Trafficking in Human Beings. Furthermore, the Netherlands Police is informed and the reflection period can be offered to the presumed victim.</p>
<p>who fall under other categories included in the definition of vulnerable persons adopted for this study (e.g. minors, unaccompanied minors, disabled people, elderly people, pregnant women)?</p>	<p>This is mostly the same as in above mentioned migration procedures. The so-called <i>schrijnend pad (distressing path)</i> can be used if someone is not able to cooperate with the Netherlands Police (for example, when someone is minor or traumatized) and in this case it is possible to receive a residence permit without admitting a police report or participating in the criminal investigation. See section 3, question 8g.</p>
<p>who are in an irregular situation</p>	<p>This is mostly the same as in the above procedures. As soon as someone in an irregular situation is detected as a possible victim of human trafficking, the Netherlands Police or the KMar is informed and the reflection period can be offered. However, in practice this can be difficult, as not everyone detecting someone in an irregular situation has the knowledge on how to act and what steps to take.</p>

**d) Does a (presumed) third-country national victim have to be formally identified by a competent authority in order to apply for / be granted a reflection period / residence permit / protection status?**  
 Yes  No

In the Netherlands a person is not formally identified as a victim of trafficking in human beings (see section 1, box 1). Thus, a (presumed) third-country national victim does not have to be formally identified by a competent authority in order to be granted the reflection period, but there must be indications that the person is a victim of trafficking. The Netherlands Police or KMar offer a reflection period as soon as there are the slightest indications that someone might be a victim of human trafficking practices. However, it can be difficult to define what a 'slightest indication' is. In order to be granted a residence permit or protection status, there is no need for formal identification. However, the (presumed) victim needs to report the crime of human trafficking to the Netherlands Police or cooperate in another way and criminal proceedings must commence for the victim in order to receive a residence permit. Only then a residence permit is granted. A permanent residence permit based on humanitarian grounds can be received if the Public Prosecution Service decides to prosecute and the reported trafficking is part of the indictment, or if a person is holder of a temporary residence permit for three consecutive years.<sup>177</sup> For victims who, because of threats or psychological consequences of the trafficking or because of being a minor, are unable to cooperate with the authorities, a one-year temporary residence permit is granted (*schrijnend pad* or *distressing path*). This happens after the Netherlands Police indicates that this person might be a victim of trafficking and there is confirmation of existing threats by the Netherlands Police,

<sup>177</sup> LaStrada International, 'Residence Permits, International Protection and Victims of Human Trafficking', 22 February 2021. <https://documentation.lastradainternational.org/lisidocs/3387-REST%20Report%20Residence%20Permits%20-%20International%20Protection%20and%20Victims%20of%20Human%20Trafficking%20-%20FEB%202021.pdf>, last accessed on 6 October 2021.

confirmation of psychological consequences by health professionals or confirmation of being a minor. For more information, [see section 3, question 8g](#).

Thus, in the Netherlands the recognition of victimhood is largely connected with the criminal investigation. In case there is no prosecution, there is no mechanism in place to determine victimhood. This is despite the fact that someone may also be a victim without a prosecution.

**e)** Please describe how national referral mechanisms (or alternative mechanisms in absence of one) have evolved in the identification of (presumed) third-country national victims of trafficking in human beings?<sup>178</sup>

[Please see section 1, question 3f](#). Here the mechanism in place to provide accessible and structured information for professionals, citizens and victims is described. However, because in the Netherlands a person is not formally identified as a victim, this information is mainly aimed at how to detect (presumed) victims of trafficking in human beings and how to proceed when human trafficking is detected.

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<sup>178</sup> Ibid.

### Section 3: Protection of (presumed) third-country national victims of trafficking in human beings

**Q5.** In line with the Anti-trafficking Directive, please describe in the table below what kind of assistance, support and protection (presumed) third-country national victims of trafficking in human beings are given access to in your Member State who are in the reflection period, in the Dublin III procedure, in the asylum procedure or who have a valid authorization to stay (residence permit, short term visa or visa-free stay) respectively. Please also indicate, for each type of assistance the competent authority that can trigger its provision.

Type of assistance	Reflection period	Dublin III procedure	Asylum procedure	Residence permit holders	Short term visa/visa-free stay
Information on risks and protection mechanisms	In the Netherlands, we treat every potential victim of trafficking in human beings as a presumed victim in the procedures. Therefore, the term presumed victims will be used. After a (presumed) victim has declared that they want to make use of the reflection period, the Netherlands Police will give them an application form (M55) for the scheme for benefits for certain categories of third-country nationals ( <i>Regeling Verstrekkingen bepaalde categorieën Vreemdelingen</i> ).	When (presumed) third-country national victims falling under the Dublin III Regulation receive information on the Dublin procedure, they are not actively informed by officials on the possibilities they have for types of assistance. <sup>180</sup>			

<sup>180</sup> EMN, 'Identification of victims of human trafficking, Dutch template', 2013, last accessed on 14 September 2021.



	<p>The Netherlands Police will fill in the declaration form as well and will send it to the IND.<sup>179</sup> The National Coordination Centre against Human Trafficking (<i>Nationaal Coördinatiecentrum Mensenhandel – CoMensha</i>) is in charge of placement of a (presumed) victim in the specialised shelters for persons in the reflection period.</p>				
Appropriate and safe accommodation	<p>(Presumed) victims who do not have a safe place to stay are able to stay in care facilities provided by the government during their reflection period.<sup>181</sup> These are called Categorical Shelter for Victims of</p>	<p>Third-country nationals in the Dublin procedure have accommodation based on the Dublin III Regulation.<sup>184</sup></p>	<p>Third-country nationals in the asylum procedure already have a place to stay in asylum centres.<sup>185</sup> Underage third-country nationals that are considered to be at risk of human trafficking can</p>	<p>Persons with a residence permit who are presumed victims have the same rights as other Dutch citizens for shelter. They are offered a place to stay in a shelter. Municipalities are responsible for providing these shelters.<sup>187</sup></p>	<p>Persons with a visa can also stay in a shelter, but this is more difficult since it is uncertain how long their stay will be.<sup>188</sup></p>

<sup>179</sup> Section B/8.3 of the Aliens Act Implementation Guidelines (Vc) 2000.

<sup>181</sup> Government of the United States, 'Trafficking in Persons report', 2021, <https://www.state.gov/reports/2021-trafficking-in-persons-report/>, last accessed 13 August 2021.

<sup>184</sup> Government of the United States, 'Trafficking in Persons report', 2021, <https://www.state.gov/reports/2021-trafficking-in-persons-report/>, last accessed 13 August 2021.

<sup>184</sup> Section B/8.3 of the Aliens Act Implementation Guidelines (Vc) 2000.

<sup>184</sup> Interview with IND (Strategy and Implementation Advice Directorate), 12 August 2021.

<sup>185</sup> Interview with IND (Strategy and Implementation Advice Directorate), 12 August 2021.

<sup>187</sup> Interview with the National Coordination Center against Human Trafficking, 16 August 2021.

<sup>188</sup> Interview with the National Coordination Center against Human Trafficking, 16 August 2021.

	<p>Human Trafficking (<i>Categorale Opvang Slachtoffers Mensenhandel - COSM</i>).<sup>182</sup> CoMensha helps to find an appropriate place to stay for (presumed) victims. If a person is found after office hours, the Netherlands Police can search for regional care facilities or emergency beds. CoMensha will determine if this shelter is appropriate on the next working day. If it is not suitable to stay for a longer time, the person will be transferred to a place that is appropriate to stay in. For instance, CoMensha will see if someone is safe in a certain region. If not, CoMensha will search for availability in shelters in other regions. The</p>		<p>be placed in a protected shelter (<i>beschermde opvang</i>) of COA. Most unaccompanied children that are 14 years old or younger are placed in foster families. This is arranged by Nidos. Children of 15 years and older are placed in small shelters. This is regulated by COA and Nidos.<sup>186</sup></p>		
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<sup>182</sup> Interview with the National Coordination Center against Human Trafficking, 16 August 2021.

<sup>186</sup> GRETA, '10th Annual Report', 2021, <https://rm.coe.int/10th-general-report-greta-activities-en/1680a21620>, last accessed on 16 August 2021.

	(presumed) victim must report themselves monthly at a regional office or to the Royal Netherlands Marechaussee (Koninklijke Marechaussee - KMar) in the district that they are living in. <sup>183</sup>				
Necessary medical treatment	The care coordinator of CoMensha is also responsible for having the (presumed) victim medically examined and treated when necessary. A Tuberculosis examination is also part of the medical check. <sup>189</sup> If a victim does not have a residence status yet because of the reflection period, the victim is insured based on the Arrangements Medical Care Asylum seeker	The (presumed) victim is entitled to have necessary medical care. <sup>191</sup> If a victim does not have a residence status yet because of the asylum procedure, the victim is insured based on the Arrangements Medical Care Asylum seeker (Regeling Medische Zorg Asielzoekers). <sup>192</sup>	Ibid.	A person with a residence permit has the obligation to have health insurance, <sup>193</sup> just as other Dutch citizens. <sup>194</sup> Consequently, they have access to health care.	Ibid.

<sup>183</sup> Section B/8.3 of the Aliens Act Implementation Guidelines (Vc) 2000.

<sup>189</sup> Section B/8.3 of the Aliens Act Implementation Guidelines (Vc) 2000.

<sup>191</sup> AHQ 2012 on Directive 2011/36/EU on preventing and combatting trafficking in human beings and protecting its victims

<sup>192</sup> Government of the Netherlands, 'Zorg voor slachtoffers van mensenhandel (care for victims of human trafficking)', <https://www.wegwijzermensenhandel.nl/ondersteunen-van-slachtoffers/zorg-voor-slachtoffers>, last accessed on 4 October 2021.

<sup>193</sup> This information was provided by the National Coordination Center against Human Trafficking on 24 September 2021.

<sup>194</sup> Interview with the IND (Strategy and Implementation Advice Directorate), 12 August 2021.

	(Regeling Medische Zorg Asielzoekers). <sup>190</sup>				
Counselling and information	The care coordinators of CoMensha are the first point of contact for presumed victims in certain regions in order to help them with all kinds of procedures (such as applying for health care). <sup>195</sup> The care coordinator is responsible for informing the (presumed) victim on legal consequences after reporting or cooperating with criminal investigations. <sup>196</sup> Additionally, there are care workers present in the COSM that provide daily guidance. <sup>197</sup> Information leaflets are also	Third-country nationals falling under the Dublin III Regulation receive general information during Dublin procedure, but they miss the specific information that people receive in the reflection period. <sup>200</sup> Through their lawyer, the third-country national can receive information about procedures or the lawyer can refer the person to the Netherlands Police. In the border procedure, the KMar can give information as well. If the person does not have a lawyer (yet), they can	Third-country nationals in the asylum procedure receive general information during the procedure, but miss specific information that people receive in the reflection period. <sup>202</sup> Through their lawyer, the third-country national can receive information about procedures or the lawyer can refer the person to the Netherlands Police. In the border procedure, the KMar can give information as well. If the person does not have a lawyer (yet), they can	The (presumed) victim is entitled to counselling, <sup>204</sup> and information leaflets are available in the coordination centers. <sup>205</sup>	Ibid.

<sup>190</sup> Government of the Netherlands, 'Zorg voor slachtoffers van mensenhandel' (care for victims of human trafficking), <https://www.wegwijzermensenhandel.nl/ondersteunen-van-slachtoffers/zorg-voor-slachtoffers>, last accessed on 4 October 2021.

<sup>195</sup> The National Coordination Centre against Human Trafficking, 'Zorgcoördinatie en opvang' (Care coordination and reception), <https://www.comensha.nl/over-ons/wat-doen-wij/zorgcoördinatie-en-opvang/>, last accessed on 20 October 2021.

<sup>196</sup> Article B/8.3 of the Aliens Act Implementation Guidelines (Vc) 2000.

<sup>197</sup> This information was provided by the Central Agency for the Reception of Asylum Seekers on 23 September 2021

<sup>200</sup> Interview with academic expert on human trafficking (Tilburg University), 2 September 2021.

<sup>202</sup> Interview with academic expert on human trafficking (Tilburg University), 2 September 2021.

<sup>204</sup> AHQ 2012 on Directive 2011/36/EU on preventing and combatting trafficking in human beings and protecting its victims

<sup>205</sup> Interview with the National Coordination Centre against Human Trafficking, 16 August 2021.

	available <sup>198</sup> and third-country nationals can always get information from the Netherlands Police. <sup>199</sup>	always go to the Netherlands Police. <sup>201</sup>	always go to the Netherlands Police. <sup>203</sup>		
Legal assistance	CoMensha and Fairwork can support victims and advise them on judicial processes. These organisations can also refer to other organizations or a lawyer. The Legal Aid Council ( <i>Raad voor de Rechtsbijstand</i> ) can appoint a lawyer to a victim of human trafficking. <sup>206</sup> When legal advice is needed, a legal aid worker ( <i>rechtshulpverlener</i> ) can get involved. This is financed by the Legal Aid Council. <sup>207</sup> The (presumed) victim has the right to be informed on the progress and	Ibid.	Ibid.	Ibid.	Ibid.

<sup>198</sup> Interview with the National Coordination Center against Human Trafficking, 16 August 2021.

<sup>199</sup> This information was provided by the IND (Strategy and Implementation Advice Directorate) on 14 October 2021.

<sup>201</sup> This information was provided by the IND (Strategy and Implementation Advice Directorate) on 14 October 2021.

<sup>203</sup> This information was provided by the IND (Strategy and Implementation Advice Directorate) on 14 October 2021.

<sup>206</sup> This information was provided by the National Coordination Center against Human Trafficking on 24 September 2021.

<sup>207</sup> Article B/8.3 of the Aliens Act Implementation Guidelines (Vc) 2000.

	<p>course of a criminal case.<sup>208</sup>                  The victim is provided with a special victim's lawyer with a lot of expertise on this matter. Victims are also protected against secondary victimization during the criminal proceedings.<sup>209</sup></p>				
<p>Translation and interpretation</p>	<p>The (presumed) victim can get translation and interpretation when they do not speak Dutch and need support in communicating in Dutch. The costs of an interpreter are not paid by the victim; CoMensha receives funds for translators.<sup>210</sup>                  The shelters are in contact with the interpreters and can call them when needed. During procedural hearings, the victim can receive assistance from an interpreter.</p>	<p>Ibid.</p>	<p>Ibid.</p>	<p>Ibid.</p>	<p>Ibid.</p>

<sup>208</sup> AHQ 2012 on Directive 2011/36/EU on preventing and combatting trafficking in human beings and protecting its victims.

<sup>209</sup> Interview with the Public Prosecution Service, 15 September 2021.

<sup>210</sup> This information was provided by the Ministry of Justice and Security on 23 September 2021.

	<p>The victim receives information about this by the Public Prosecutor Service and they will call them when needed.<sup>211</sup></p> <p>An appointed lawyer can also make use of an interpreter. These costs are paid by the Legal Aid Council.<sup>212</sup></p>				
Psychological assistance	<p>When necessary, the victim can receive psychological assistance, just like any other Dutch national.<sup>213</sup> They can receive specialized care for victims of human trafficking as well.<sup>214</sup> All</p>	<p>Victims in the Dublin procedure can receive psychological care provided by the Health Care Asylum Seekers (<i>Gezondheidszorg Asielzoekers</i> -GZA) or Mental Health Care (<i>Geestelijke Gezondheidszorg – GGZ</i>), but</p>	<p>Victims in the asylum procedure can receive psychological care provided by the Health Care Asylum Seekers (<i>Gezondheidszorg Asielzoekers</i>-GZA) or Mental Health Care (<i>Geestelijke</i></p>	<p>When necessary, the victim can receive psychological assistance, just like any Dutch national.<sup>218</sup></p>	<p>Ibid.<sup>219</sup></p>

<sup>211</sup> AHQ 2012 on Directive 2011/36/EU on preventing and combatting trafficking in human beings and protecting its victims; Interview with the National Coordination Center against Human Trafficking, 16 August 2021.

<sup>212</sup> Government of the Netherlands, 'Zorg voor slachtoffers van mensenhandel (*care for victims of human trafficking*)', <https://www.wegwijzermensenhandel.nl/ondersteunen-van-slachtoffers/zorg-voor-slachtoffers>, last accessed on 4 October 2021.

<sup>213</sup> LaStrada International, 'Residence Permits, International Protection and Victims of Human Trafficking', 22 February 2021, <https://documentation.lastradainternational.org/lsidocs/3387-REST%20Report%20Residence%20Permits%20-%20International%20Protection%20and%20Victims%20of%20Human%20Trafficking%20-%20FEB%202021.pdf>, last accessed on 6 October 2021.

<sup>214</sup> Interview with academic expert on human trafficking (Tilburg University), 2 September 2021.

<sup>218</sup> LaStrada International, 'Residence Permits, International Protection and Victims of Human Trafficking', 22 February 2021, <https://documentation.lastradainternational.org/lsidocs/3387-REST%20Report%20Residence%20Permits%20-%20International%20Protection%20and%20Victims%20of%20Human%20Trafficking%20-%20FEB%202021.pdf>, last accessed on 6 October 2021.

<sup>219</sup> LaStrada International, 'Residence Permits, International Protection and Victims of Human Trafficking', 22 February 2021, [https://documentation.lastradainternational.org/lsidocs/3387-REST%20Report%20Residence%20Permits%20-](https://documentation.lastradainternational.org/lsidocs/3387-REST%20Report%20Residence%20Permits%20-%20International%20Protection%20and%20Victims%20of%20Human%20Trafficking%20-%20FEB%202021.pdf)

	COSM locations have a partnership with a certified mental health facility (GGZ- <i>instelling</i> ) which can offer screenings and treatments for possible mental health issues of victims. <sup>215</sup>	often miss specialized psychological assistance for the criminal proceedings. <sup>216</sup>	<b>Gezondheidszorg – GGZ</b> ),, but often miss specialized psychological assistance for the criminal proceedings. <sup>217</sup>		
Subsistence (material assistance)	The (presumed) victim is entitled to food and housing, for which they receive financial compensation. <sup>220</sup>	Ibid.	Ibid.	Victims have the same rights as other Dutch citizens. <sup>221</sup>	Victims have the same rights as other Dutch citizens. <sup>222</sup> People with a short visa are entitled to financial compensation when they are (presumed) victims of trafficking in human beings. <sup>223</sup>
Social and economic integration	During the reflection period, (presumed) victims cannot	Dublin claimants do not have the right to work. <sup>226</sup>	During the asylum procedure, a person can work after six months but only	(Presumed) victims are provided with financial support based on the Law of Societal Support	Third-country national victims with a short stay

[%20International%20Protection%20and%20Victims%20of%20Human%20Trafficking%20-%20FEB%202021.pdf](#), last accessed on 6 October 2021.

<sup>215</sup> This information was provided by National Rapporteur on Human Trafficking and Sexual Violence against Children on 21 October 2021.

<sup>216</sup> Interview with an academic expert on human trafficking (Tilburg University), 2 September 2021.

<sup>217</sup> Interview with an academic expert on human trafficking (Tilburg University), 2 September 2021.

<sup>220</sup> AHQ 2012 on Directive 2011/36/EU on preventing and combatting trafficking in human beings and protecting its victims.

<sup>221</sup> Interview with the IND (Asylum and International Protection Unit), 23 August 2021.

<sup>222</sup> Interview with the IND (Asylum and International Protection Unit), 23 August 2021.

<sup>223</sup> This information was provided by an academic expert on Human Trafficking (Tilburg University) on 20 September 2021.

<sup>226</sup> This information was provided by an academic expert on human trafficking (Tilburg University) on 20 September 2021.



	work, <sup>224</sup> but they are provided with financial support. <sup>225</sup>		for 24 weeks per year. <sup>227</sup>	( <i>Wet Maatschappelijke Ondersteuning</i> ). <sup>228</sup> Victims that have a residence permit under the Residence Regulation for Trafficking in Human Beings permit can work, <sup>229</sup> and they have the right to education. <sup>230</sup>	visa cannot work. <sup>231</sup>
Protection against re-victimisation	The victim can be placed in a shelter that is far from the place of their victimization. Victims can be provided with extra security or an extra phone. Presumed victims that are underage are placed in a protected shelter to protect them against re-victimisation. <sup>232</sup>		Victims can be provided with extra security, sometimes the phone can be taken away for safety in the protected shelters for minors. Vulnerable minors can be placed in a protected shelter to protect them against re-victimisation. <sup>233</sup> However, Nidos can also offer		

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<sup>224</sup> Government of the United States, 'Trafficking in Persons report', 2021, <https://www.state.gov/reports/2021-trafficking-in-persons-report/>, last accessed 13 August 2021.

<sup>225</sup> European Commission, 'Communication on the EU Directive 2004/81', <https://ec.europa.eu/transparency/reqdoc/rep/1/2014/EN/1-2014-635-EN-F1-1.Pdf>, last accessed on 03 November 2021.

<sup>227</sup> This information was provided by an academic expert on Human Trafficking (Tilburg University) on 20 September 2021.

<sup>228</sup> Interview with the IND (Strategy and Implementation Advice Directorate), 12 August 2021

<sup>229</sup> This information was provided by an academic expert on Human Trafficking (Tilburg University) on 20 September 2021.

<sup>230</sup> Interview with the National Coordination Center against Human Trafficking on 16 August 2021.

<sup>231</sup> This information was provided by an academic expert on human trafficking (Tilburg University) on 20 September 2021.

<sup>232</sup> Interview with the Central Agency for the Reception of Asylum seekers, 16 August 2021; interview with Nidos, 7 September 2021.

<sup>233</sup> Interview with Nidos, 7 September; Interview with the Programme Together Against Human Trafficking, 2 September.

			protective measures and care without a minor reporting the crime. <sup>234</sup>		
Other		When a person has been granted a residence permit on humanitarian grounds, such as human trafficking, it will no longer be possible to transfer the person to another country based on the Dublin Regulation. The Netherlands will then be responsible for the application and assessment. <sup>235</sup>	(Presumed) victims of human trafficking can be exempted from the accelerated asylum procedure. <sup>236</sup>		

**Q6.** How does your Member State apply the principle of non-refoulement for victims of trafficking in human beings? Please indicate whether (and in what way) specific measures differ from general practice. (general victims)

In the Netherlands, the principle of *non-refoulement* **applies to third countries only**. No asylum seeker will be sent back to a country where they run the risk of persecution based on race, religion, nationality, membership of a particular social group, or political opinion, or where they could be faced with degrading and inhumane treatment. The IND assesses *non-refoulement* as part of making a decision about the application of international protection.<sup>237</sup> If a victim expresses a fear of persecution, they will be offered the opportunity to apply for asylum. With regard to other EU Member States, **the principle of mutual trust** (*interstatelijke vertrouwensbeginse!*) applies, which means that the Netherlands trusts another Member State that they will treat the person well. This is focused on the question whether the Member State has facilities for the victim (e.g. that the person has access to procedures and facilities, that there is a complaint procedure),<sup>238</sup> and less on the question whether a person should be sent to

<sup>234</sup> This information was provided by aNidos on 15 October 2021.

<sup>235</sup> EMN, 'Identification of victims of human trafficking, Dutch template', 2013, last accessed on 14 September 2021.

<sup>236</sup> LaStrada International, 'Residence Permits, International Protection and Victims of Human Trafficking', 22 February 2021, <https://documentation.lastradainternational.org/Isidocs/3387-REST%20Report%20Residence%20Permits%20-%20International%20Protection%20and%20Victims%20of%20Human%20Trafficking%20-%20FEB%202021.pdf> last accessed on 6 October 2021.

<sup>237</sup> Interview with academic expert on Human Trafficking (Tilburg University), 2 September 2021.

<sup>238</sup> Interview with the National Coordination Center against Human Trafficking, 16 August 2021.

a certain country.<sup>239</sup> This was clarified in the M.S.S. versus Belgium and Greece case, the N.S. versus the UK case,<sup>240</sup> and RVS versus Greece.<sup>241</sup>

**Q7.** How does your Member State implement Article 60 and 61 of the 'Istanbul Convention'?<sup>242</sup> (women in particular)

In general, the Netherlands has a **gender sensitive asylum procedure**. The Netherlands pays specific attention to themes such as human trafficking, genital mutilation, domestic violence, and LGBTQ.<sup>243</sup> However, there is **no specific attention** for article 60 and 61 of the Istanbul Convention.<sup>244</sup>

**Q8.** Please describe what typology(ies) of reflection periods, residence permit(s), protection status(es) and national programme(s) are available to protect (presumed) third-country national victims of trafficking, by answering the following questions.

**a)** What organisations / authorities are competent to trigger the request for a (presumed) victim to remain on the territory of your Member State? Please indicate if the organisations / authorities differ between cases of presumed and identified third-country national victims of trafficking in human beings.

The **Netherlands Police** and **KMar** can offer a reflection period, as well as the **Labour Inspectorate** (*Inspectie Sociale Zaken en Werkgelegenheid – ISZW*).<sup>245</sup> This is done when any of these three organisations see even minor indications that a person is a victim of human trafficking.<sup>246</sup> Since there is no formal identification, there is no difference between presumed and identified third-country national victims.<sup>247</sup>

**b.** Can third-country national victims of trafficking in human beings submit a request for a reflection period themselves?  Yes  No

**c.** Does your Member State provide for a reflection period also for presumed third-country national victims of trafficking in human beings?  Yes  No

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<sup>239</sup> This information was provided by the National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children on 21 October 2021.

<sup>240</sup> This information was provided by an Academic Expert on Human Trafficking (Tilburg University) on 20 September 2021.

<sup>241</sup> This information was provided by the Netherlands Police on 24 September 2021.

<sup>242</sup> Council of Europe, 'Convention on Preventing and Combating Violence Against Women and Domestic Violence', 2011, <https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168008482e>, last accessed on 9 May 2021.

<sup>243</sup> IND, 'Evaluatie gendergerelateerd vreemdelingenbeleid in Nederland (*evaluation gender related alien policy in the Netherlands*)', 2008, [https://ind.nl/documents/evaluatie\\_gender\\_juli\\_2008.pdf](https://ind.nl/documents/evaluatie_gender_juli_2008.pdf), last accessed on 10 November 2021.

<sup>244</sup> Interview with the Directorate for Migration Policy, 18 August 2021.

<sup>245</sup> Interview with the National Coordination Center against Human Trafficking, 16 August 2021; this information was provided by the Labour Inspectorate of the Ministry of Social Affairs and Employment on 19 October 2021.

<sup>246</sup> Interview with IND (Strategy and Implementation Advice Directorate), 12 August 2021; GRETA, '10th Annual Report', 2021, <https://rm.coe.int/10th-general-report-greta-activities-en/1680a21620> last accessed on 16 August 2021.

<sup>247</sup> Government of the United States, 'Trafficking in Persons report', 2021, <https://www.state.gov/reports/2021-trafficking-in-persons-report/>, last accessed 13 August 2021.

<sup>247</sup> Article B/8.3 of the Aliens Act Implementation Guidelines (Vc) 2000.

<sup>247</sup> Interview with IND (Strategy and Implementation Advice Directorate), 12 August 2021.

In the Netherlands, there is **no formal identification** of a victim (see section 1, box 1), so presumed and identified victims are treated the same. The reflection time is intended for (presumed) third-country national victims of trafficking in human beings who have no lawful residence in the Netherlands. Dublin claimants and asylum seekers already have a lawful residence by virtue of their status and therefore cannot make use of the reflection period (see section 4, question 9d).<sup>248</sup>

**d.** How long does the reflection period last to decide if presumed third-country national victims of trafficking in human beings want to cooperate with the authorities? Does it have the same duration in case it is provided to identified victims?

For both types of victims (presumed and identified), the maximum duration of the reflection period is **three months** and there is no minimum duration.<sup>249</sup>

**e.** Are (presumed) third-country national victims of trafficking in human beings expected to cooperate with the authorities during the reflection period?  Yes  No

**f.** What type of residence permit(s) are available specifically for (presumed) victims of trafficking in human beings in your Member State? Please indicate if this possibility exists for both cases of presumed and identified third-country national victims of trafficking in human beings and the extent to which they differ.

There are two permits: humanitarian **temporary** residence permit for victims and witnesses of human trafficking (B8) and a humanitarian **non-temporary** residence permit after stay as a victim or witness of human trafficking (B9).

#### *Temporary*

When there are even minor indications of human trafficking, a reflection period is offered to the victim that does not have a legal right to stay based on chapter B8/3 from the Aliens Acts Implementation Guidelines (this reflection period is thus not offered to people in the asylum procedure unless they stop their procedure or Dublin claimants, see question 9b section 4). In this period of maximum three months, the person can decide to report the crime or otherwise cooperate with the authorities or not. When the victim reports the crime, they immediately receive a **Residence permit under the Residence Regulation for Trafficking in Human Beings** (within 24 hours), a temporary residence permit for the duration of the criminal investigation and prosecution. For those in the Dublin procedure a decision is not taken within 24 hours and a residence permit is only granted if the cooperation of the person is needed for criminal proceedings according to the **Public Prosecutor Service (Openbaar Ministerie)** (See section 4, question 9d).

After the temporary permit is revoked or extension is denied, the victim can apply to any form of residence permit. This application will be processed as any other application.<sup>250</sup>

A special procedure for people that cannot contribute to the judicial procedures also exists. This is called **schrijnend pad (distressing path)**.<sup>251</sup> In this procedure, the temporary residence

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<sup>248</sup> Information Message IND (Strategy and Implementation Advice Directorate), IB 2019/80, 'Aanpassing Verblijfsregeling mensenhandel', [https://ind.pucoverheid.nl/doc/PUC\\_10107490000\\_1/1/](https://ind.pucoverheid.nl/doc/PUC_10107490000_1/1/), last accessed on 14 September 2021; Interview with the Directorate for Migration Policy, 18 August 2021.

<sup>249</sup> EMN, 'Identification of victims of human trafficking, Dutch template', 2013, last accessed on 14 September 2021.

<sup>250</sup> This information was provided by the IND (Policy and Implementation Advice Unit) on 21 September 2021.

<sup>251</sup> This information was provided by the Ministry of Justice and Security, 23 September 2021.

permit cannot be extended, instead after one year the victims can apply for the non-temporary residence permit (B9 permit)).<sup>252</sup>

#### *Non-temporary*

A non-temporary **residence permit** for victims of human trafficking (B9 permit) exists for victims of trafficking in human beings in the case that a victim has been staying in the Netherlands on a residence permit under the Residence Regulation for Trafficking in Human Beings permit for three years or when the Public Prosecution Service has decided to prosecute a case of human trafficking or when human trafficking is part of the indictment.<sup>253</sup>

**g.** What are the conditions for getting these permit(s) granted? Do conditions differ between presumed and identified (i.e. not yet identified) third-country national victims of trafficking in human beings?

#### *Temporary residence permit*

The residence permit under the Residence Regulation for Trafficking in Human Beings grants the permission to stay in the Netherlands in **exchange for cooperation with authorities** in the ongoing criminal investigation into the perpetrator's human trafficking case.<sup>254</sup> If a person has reported the crime, either as a victim or as a witness, a residence permit will be granted for the maximum of one year.

There is an **exception to the requirement of cooperation** with an ongoing criminal investigation in exchange for a residence permit. This path is meant for victims that are not able to cooperate with authorities due to various reasons such as age, disorders or threat from traffickers. This is called **schrijnend pad (distressing path)**, where victims can still obtain a specific non-renewable residence permit for one year, and an extended residence permit after that, without cooperating with authorities.<sup>255</sup>

For Dublin claimants, a temporary residence permit is only granted when it is **necessary for the criminal investigation and prosecution** of the human trafficking case that this person is **present in the Netherlands**.<sup>256</sup>

#### *Non-temporary residence permit*

A non-temporary residence permit (B9) can only be granted when:

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<sup>252</sup> This information was provided by the National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children on 21 October 2021.

<sup>253</sup> This information was provided by an academic expert on Human Trafficking (Tilburg University) on 20 September 2021.

<sup>254</sup> AHQ 2019.63 Access of victims of trafficking to their rights; Interview with the National Coordination Center against Human Trafficking, 16 August 2021.

<sup>255</sup> LaStrada International, 'Residence Permits, International Protection and Victims of Human Trafficking', 22 February 2021. <https://documentation.lastradainternational.org/Isidocs/3387-REST%20Report%20Residence%20Permits%20-%20International%20Protection%20and%20Victims%20of%20Human%20Trafficking%20-%20FEB%202021.pdf>, last accessed on 6 October 2021; AHQ 2019.63 Access of victims of trafficking to their rights

<sup>256</sup> LaStrada International, 'Residence Permits, International Protection and Victims of Human Trafficking', 22 February 2021. <https://documentation.lastradainternational.org/Isidocs/3387-REST%20Report%20Residence%20Permits%20-%20International%20Protection%20and%20Victims%20of%20Human%20Trafficking%20-%20FEB%202021.pdf> last accessed on 6 October 2021.

- the victim has been staying in the Netherlands on Residence permit under the Residence Regulation for Trafficking in Human Beings **for three years**, or
- when human trafficking is **part of the indictment**.

This permit can be withdrawn at any point in the year when the investigation or prosecution discontinues.

There is another possibility for a person to apply for an extended stay after a temporary residence permit without applying to a non-temporary residence permit. The third country national has to argue that there are **exceptional individual circumstances** in place that are connected to human trafficking, due to which it cannot be expected that they leave the Netherlands. Factors could be: consequences in the country of origin, running the risk of persecution in the country of origin, social and societal integration possibilities et cetera.<sup>257</sup>

**h.** Are other protection status(es) and national programme(s) offered to protect (presumed) third-country national victims of trafficking in human beings?  Yes  No

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<sup>257</sup> This information was provided by the IND (Strategy and Implementation Advice Directorate) on 15 October 2021.

## Section 4: International cooperation between Member States and with third countries in addressing detection, identification and protection of (presumed) third-country national victims of trafficking in human beings?

**Q9.** Please describe how your Member State cooperates within the scope of the Dublin III Regulation:

**a)** How does your Member State deal with cases of (presumed) third-country national victims of trafficking in human beings that fall under the Dublin III Regulation?

Like other presumed third-country national victims of trafficking in human beings, persons in the Dublin procedure generally have the right to file a police report.<sup>258</sup> Subsequently, the Netherlands Police and the **Public Prosecution Service (Openbaar Ministerie)** investigate whether there are sufficient indications for initiating a criminal procedure in the Netherlands, and whether the presence of the third-country national is required.<sup>259</sup> If the Public Prosecution Service concludes that these requirements are met, the third-country national will receive a temporary residence permit under the Regulation for Trafficking in Human Beings and his or her Dublin status is discarded.<sup>260</sup> If these requirements are not met, the **Immigration and Naturalisation Service (Immigratie- en Naturalisatie Dienst – IND)** may proceed with the Dublin procedure. In the latter case, the relevant information concerning the presumed victimhood of human trafficking will be shared by the Netherlands Police with Europol and local authorities in the Dublin country.<sup>261</sup> For further information, see question 9b below.

**As explained in section 1 of this report**, the procedure for determining whether a third-country national in the Dublin procedure is entitled to a temporary residence permit under the Regulation for Trafficking in Human Beings was amended in 2019.<sup>262</sup> Previously, (presumed) third-country nationals falling under the Dublin III procedure received such a permit within 24 hours after filing a police report, as is the case for other presumed third-country national victims of human trafficking. However, this meant that under the Dublin III Regulation any further (asylum) procedures fell under the responsibility of the Netherlands.<sup>263</sup> Therefore, persons in the Dublin procedure no longer receive a temporary residence permit under the human trafficking regulation within 24 hours after filing a police report, but only if the police and the Public Prosecution Service conclude that the presence of the third-country national is required for a criminal procedure in the Netherlands.

Finally, as mentioned in **section 3 of this report**, in exceptional situations it is possible for presumed victims of trafficking in human beings to receive a residence permit under the human trafficking regulation without cooperating with the authorities (i.e. the so-called **distressing path or schrijnend pad**). In theory, this could also apply to cases falling under the Dublin III Regulation. However, in

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<sup>258</sup> Interview with the IND (Strategy and Implementation Advice Directorate), 12 August 2021. However, if (presumed) third-country national victim falling under the Dublin III Regulation expresses his or her willingness to file a police report when he or she has already been referred to the Departure and Repatriation Service, the transfer is not halted for this purpose (see section B8/3.1 of the Aliens Act Implementation Guidelines (Vc) 2000. For further elaboration on this point, see section 4, question 9b below).

<sup>259</sup> *Parliamentary Papers II*, 2018-2019, 28638, no. 165.

<sup>260</sup> Section B8/3.1 of the Aliens Act Implementation Guidelines (Vc) 2000.

<sup>261</sup> *Parliamentary Papers II*, 2018-2019, 28638, no. 165.

<sup>262</sup> See section B8/3.1 of the Aliens Act Implementation Guidelines (Vc) 2000.

<sup>263</sup> In 2019, a substantial increase in police reports issued by third-country nationals falling under the Dublin III Regulation was observed: within the first four months of 2019, the police received 475 requests to issue a police report regarding human trafficking, of which 80% were issued by persons in the Dublin procedure. However, in the vast majority of these cases (90-95%), there were insufficient indications for initiating a criminal procedure in the Netherlands; see *Parliamentary Papers II*, 2018-2019, 28638, no. 165.

practice the distressing path is hardly ever applied to (presumed) third-country national victims of human trafficking (see also section 3).<sup>264</sup>

**b) What is the national policy and practice regarding Dublin transfers of (presumed) third country national victims of trafficking in human beings?**

According to official policy, Dublin transfers will not take place if presumed third-country national victims of trafficking in human beings are granted a temporary residence permit under the human trafficking regulation.<sup>265</sup> As mentioned above, the IND only issues such a residence permit to persons in the Dublin procedure if the third-country national files a police report, and the Public Prosecution Service concludes that there are sufficient indications for initiating a criminal procedure in the Netherlands for which the presence of the third-country national is required.<sup>266</sup> The IND usually awaits the decision of the Public Prosecution Service before deciding whether to issue a temporary residence permit.<sup>267</sup> However, if a police report has not been filed within three months after the asylum application in the Netherlands, the IND is not obliged to await the decision of the Public Prosecution Service.<sup>268</sup> A presumed third-country national victim's expressed willingness to file a police complaint is not sufficient to postpone the transfer to another EU member state.<sup>269</sup>

In cases where the third-country national has already been referred to the **Repatriation and Departure Service (Dienst Terugkeer en Vertrek- DT&V)** and the last possible date of transfer (**Uiterste Overdrachtsdatum – UOD**) is approaching (i.e. within less than ten weeks), the Netherlands Police and the Public Prosecution Service will be asked to use a fast-track procedure to determine whether the presence of the third-country national is required for a potential criminal procedure. If a fast-track procedure is not possible, the IND inquires whether there are substantial reasons to await the decision of the Public Prosecution Service. If such substantial reasons exist, the (presumed) third-country national falling under the Dublin III Regulation receives a temporary residence permit under the human trafficking regulation and the transfer will be cancelled. If, however, there are no substantial reasons to await the decision of the Public Prosecution Service, the person in the Dublin procedure will not receive a residence permit and the DT&V may proceed with the transfer.<sup>270</sup> If a the third-country national who has already been referred to the DT&V expresses an interest to file a police report regarding human trafficking but has not yet done so, the DT&V is not obliged to halt the Dublin transfer for this purpose.<sup>271</sup>

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<sup>264</sup> Interview with the National Coordination Centre against Human Trafficking, 16 August 2021; interview with the IND (Asylum and International Protection Unit), 23 August 2021.

<sup>265</sup> Section B8/3.1 of the Aliens Act Implementation Guidelines (Vc) 2000.

<sup>266</sup> Section B8/3.1 of the Aliens Act Implementation Guidelines (Vc) 2000.

<sup>267</sup> Note that Dublin transfers will in any case be halted until the IND has reached a decision on whether or not to issue a residence permit under the human trafficking regulation. *Process Description IND (Strategy and Implementation Advice Directorate)*, 'Slachtoffers van mensenhandel op wie de Dublinverordening van toepassing is' (victims of human trafficking to whom the Dublin Regulation is applicable), 1 December 2020.

<sup>268</sup> Section B8/3.1 of the Aliens Act Implementation Guidelines (Vc) 2000. However, the general aim is to await the decision of the Public Prosecution Service, insofar as this is possible and will not lead to the expiration of the last possible date of transfer; see *Process Description IND (Strategy and Implementation Advice Directorate)*, 'Slachtoffers van mensenhandel op wie de Dublinverordening van toepassing is' (victims of human trafficking to whom the Dublin Regulation is applicable), 1 December 2020.

<sup>269</sup> This information was provided by an academic expert on human trafficking (Tilburg University) on 22 September 2021; see also *Process Description IND (Strategy and Implementation Advice Directorate)*, 'Slachtoffers van mensenhandel op wie de Dublinverordening van toepassing is' (victims of human trafficking to whom the Dublin Regulation is applicable), 1 December 2020.

<sup>270</sup> *Process Description IND (Strategy and Implementation Advice Directorate)*, 'Slachtoffers van mensenhandel op wie de Dublinverordening van toepassing is' (victims of human trafficking to whom the Dublin Regulation is applicable), 1 December 2020.

<sup>271</sup> Section B8/3.1 of the Aliens Act Implementation Guidelines (Vc) 2000.



In practice, most cases in which persons in the Dublin procedure file a police report regarding human trafficking offer insufficient leads to initiate a criminal procedure in the Netherlands. This means that third-country nationals who are in the Dublin procedure will usually not receive a residence permit under the human trafficking regulation, and Dublin transfers can take place.<sup>272</sup> Finally, it should be noted that persons in the Dublin procedure may apply for a review of the decision taken by the IND. However, this will only lead to a halt on the transfer if the IND has already issued a decision to transfer.<sup>273</sup>

**c) How does identification and referral take place during the Dublin Procedure?**

If a suspicion of victimhood arises during the asylum or Dublin procedure, the IND detects and reports indications of human trafficking to the Netherlands Police as in other cases.<sup>274</sup> Similarly, the methods used for the detection, identification, and referral by the **Central Agency for the Reception of Asylum Seekers (Centraal Orgaan opvang asielzoekers - COA)**, as well as any other parties relevant to the detection of human trafficking, do not differ for third-country nationals falling under the Dublin III Regulation (for further information on detection and identification, see sections 1 and 2).<sup>275</sup>

If a suspicion of victimhood arises after the completion of the Dublin procedure (i.e. when the third-country national has already been referred to the DT&V), this information will be shared with the Netherlands Police as well as relevant parties present at the claimant's location of stay (e.g. COA-employees, medical staff or the care coordinator, the **Dutch Council for Refugees (VluchtelingenWerk Nederland - VWN)**, or NIDOS). During the departure interview, the DT&V informs the third-country national about the possibility of filing a police report and about the Dutch policy regarding presumed third-country national victims of human trafficking falling under the Dublin III Regulation.<sup>276</sup>

If the (presumed) third-country national falling under the Dublin III Regulation decides to file a police report, and the Netherlands Police does not see any leads for a criminal investigation in the Netherlands, this will be collected and processed by the **National Coordination Center (Landelijk Coördinatiecentrum B8 - LCC)**<sup>277</sup>.<sup>278</sup> If the LCC concludes that there are insufficient indications for initiating a criminal procedure in the Netherlands, the case will be referred to the Public Prosecution Service, which examines and confirms this decision.<sup>279</sup> If, on the other hand, the LCC concludes there are sufficient indications for initiating a criminal procedure in the Netherlands, the case will be sent back and further dealt with by the Netherlands Police.<sup>280</sup> As mentioned above, the

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<sup>272</sup> Interview with the IND (Strategy and Implementation Advice Directorate), 12 August 2021; interview with the IND (Asylum and International Protection Unit), 23 August 2021; interview with the Netherlands Police, 8 September 2021.

<sup>273</sup> See section B1/7.2 of the Aliens Act Implementation Guidelines (Vc) 2000. This information was confirmed by the IND (Strategy and Implementation Advice Directorate) on 24 September 2021.

<sup>274</sup> Interview with the IND (Strategy and Implementation Advice Directorate), 12 August 2021.

<sup>275</sup> Interview with the Central Agency for the Reception of Asylum Seekers, 17 August 2021; this information was supplemented by the National Coordination Center against Human Trafficking on 24 September 2021 and the IND (Strategy and Implementation Advice Directorate) on 24 September 2021.

<sup>276</sup> This information was provided by the Repatriation and Departure Service on 24 September 2021.

<sup>277</sup> The National Coordination Center (**National Coordination Center (Landelijk Coördinatiecentrum B8 – LCC)**) was established in 2019, in order to deal with the increase of police reports concerning trafficking in human beings issued by third-country nationals (see *Parliamentary Papers II*, 2019-2020, 28638, no. 183).

<sup>278</sup> *Parliamentary Papers II*, 2019-2020, 28638, no. 183.

<sup>279</sup> If the Public Prosecution Service cannot confirm the decision that there are insufficient indication for initiating a criminal procedure in the Netherlands, the case will be referred back to the National Coordination Center B8 and subsequently to the Netherlands Police. This information was provided by the Public Prosecution Service on 24 September 2021.

<sup>280</sup> National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, 'Slachtoffermonitor Mensenhandel 2015-2019' (victim monitor 2015-2019), 2020, <https://www.nationaalrapporteur.nl/publicaties/rapporten/2020/10/16/slachtoffermonitor-mensenhandel-2015-2019>, last accessed on 14 September 2021; Interview with the Netherlands Police, 8 September 2021.

IND will base the decision to issue a temporary residence permit under the human trafficking regulation on the conclusion of the Netherlands Police and the that the presence of the third-country national is necessary for the criminal procedure in the Netherlands.

**d)** Are presumed third country national victims of trafficking in human beings identified during the Dublin procedure entitled to a reflection period?  Yes  No

During the Dublin procedure, presumed third-country national victims of trafficking in human beings are not entitled to a reflection period. This is because the reflection time is intended for (presumed) third-country national victims of trafficking in human beings who have no lawful residence in the Netherlands. Persons in the Dublin procedure already have a rightful residence on the basis of their asylum procedure and the Dublin procedure (see section 3).<sup>281</sup>

However, a Dutch court has established that the exclusion of persons in the Dublin procedure from the reflection period appears to be in violation of Article 6.1 of Dir/2004/81 EG, according to which persons in the Dublin procedure cannot be excluded from a potential reflection period. Consequently, these preliminary questions have been referred to the Court of Justice of the EU in 2021.<sup>282</sup> It should be noted that the Dutch government disagrees with the ruling of the Dutch Court and has defended this position before the Court of Justice of the European Union.<sup>283</sup>

**e)** What, if any, are the situations in which Dublin transfers are halted for presumed third-country national victims of trafficking in human beings?

As mentioned in question 9b above, Dublin transfers will be halted in the following cases:

- Temporarily, in the period between the filing of the police report by the (presumed) third-country national victims falling under the Dublin III Regulation and the decision of the IND on whether to grant the third-country national a temporary residence permit under the human trafficking regulation;
- Temporarily, in the period during which the third-country national falling under the Dublin III Regulation may apply for a review of a decision by the IND not to issue a residence permit under the human trafficking regulation, as well as during the review process itself.<sup>284</sup>
- Permanently (i.e. cancellation of transfer), if the third-country national falling under the Dublin III Regulation receives a residence permit under the human trafficking regulation (see question 9b for the conditions), which discards the claimant's Dublin status;

**f)** Has your Member State used the humanitarian and sovereignty clauses under Articles 3 and 17 of Dublin III Regulation for cases of trafficking in human beings?  Yes  No

In cases of 'disproportionate hardship' (*onevenredige hardheid*), it is theoretically possible to apply Article 17 of the Dublin III Regulation to cases of human trafficking. However, no cases are known

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<sup>281</sup> Section B8/3.1 of the Aliens Act Implementation Guidelines (Vc) 2000; see also *Process Description IND (Strategy and Implementation Advice Directorate)*, 'Slachtoffers van mensenhandel op wie de Dublinverordening van toepassing is' (victims of human trafficking to whom the Dublin Regulation is applicable), 1 December 2020.

<sup>282</sup> Request for a preliminary ruling from the Rechtbank Den Haag, zittingsplaats Zwolle (Netherlands) lodged on 29 January 2021, O.T. E. v Staatssecretaris van Justitie en Veiligheid, Case C-66/21.

<sup>283</sup> This information was provided by the IND (Strategy and Policy Advice Directorate) on 13 October 2021.

<sup>284</sup> Note that an application for review will only lead to a temporary halt on the transfer if the decision to transfer the claimant has already been issued. See section B1/7.2 of the Aliens Act Implementation Guidelines (Vc) 2000. If a decision to transfer is issued during the review period, this also leads to a temporary halt on the transfer. This information was confirmed by the IND (Strategy and Implementation Advice Directorate) on 24 September 2021.

whereby the Netherlands has applied Article 17 of the Dublin III to cases of (presumed) victimhood of trafficking in human beings.<sup>285</sup>

Notably, indications of human trafficking are by themselves not a legitimate reason (based on Article 3 or Article 17 of the Dublin Convention) to discard the Dublin transfer and handle the asylum application as a responsibility of the Netherlands.<sup>286</sup>

**Q10.** What (other) intra-EU cooperation mechanisms are in place regarding detection, identification and protection of (presumed) third-country national victims of trafficking in human beings?<sup>287</sup>

The Netherlands is involved in several projects and intra-EU cooperation mechanisms regarding the detection, identification and protection of (presumed) third-country national victims of trafficking in human beings:

- The Netherlands currently leads the human trafficking programme of the security cooperation initiative 'European Multidisciplinary Platform Against Criminal Threats' (EMPACT) as part of EUROPOL.<sup>288</sup> Accordingly, the Netherlands Police actively participate in various projects and initiatives within EMPACT.<sup>289</sup> In addition, the Dutch government made efforts to increase the multidisciplinary nature of EMPACT activities, for example through involving more parties such as municipalities and NGO's.<sup>290</sup>
- In 2020, the Ministry of Justice and Security (*Ministerie van Justitie en Veiligheid – J&V*) installed police liaison officers in Croatia, Italy,<sup>291</sup> and Poland to monitor migrants who are vulnerable to human trafficking.<sup>292</sup> Furthermore, the Netherlands Police provides training and advise to relevant partners within the EU on an ad hoc base.<sup>293</sup>
- In 2020, the Netherlands held the presidency of the 'Benelux Union'. As such, the Dutch government worked together with Belgium and Luxemburg to enhance cooperation and information exchange regarding the protection of victims in the field of human trafficking. This was done, for example, by publishing an updated leaflet to raise awareness among potential victims and the public about legal protection and assistance programmes in the Benelux countries in cases of human trafficking.<sup>294</sup>
- The Dutch government continues to cooperate with Belgium and Hungary on the project *Referral of and Assistance for Victims of Human Trafficking in Europe (RAVOT-EUR)*. This project was initially set up in 2012 to provide knowledge and resources to social workers,

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<sup>285</sup> Interview with an academic expert on human trafficking (Tilburg University), 2 September 2021.

<sup>286</sup> Interview with the IND (Asylum and International Protection Unit), 23 August 2021; European Migration Network, 'Third Focussed Study 2013: Identification of victims of trafficking in human beings in international protection and forced return procedures', 2013, <https://emnnetherlands.nl/onderzoeken/herkennen-van-slachtoffers-mensenhandel>, last accessed on 14 September 2021.

<sup>287</sup> EMN NCPs are invited to address this question by using as source the EMN AHQ 2019.91 on *victims of trafficking of human beings exploited in another Member State*, requested by LU NCP on 10 October 2019, last accessed on 13 June 2021. The AHQ was not made publicly available on the EMN website.

<sup>288</sup> US Department of State (USDOS), '2021 Trafficking in Persons Report: Netherlands', 2021, <https://www.ecoi.net/de/dokument/2055248.html>, last accessed on 14 September 2021.

<sup>289</sup> Interview with the Netherlands Police, 8 September 2021.

<sup>290</sup> *Parliamentary Papers II*, 2019-2020, 28638, no. 176.

<sup>291</sup> For example, the placement of a new liaison officer in Rome in 2019, see: *Parliamentary Papers II*, 2019-2020, 28638, no. 176.

<sup>292</sup> US Department of State (USDOS), '2021 Trafficking in Persons Report: Netherlands', 2021, <https://www.ecoi.net/de/dokument/2055248.html>, last accessed on 14 September 2021.

<sup>293</sup> Interview with the Netherlands Police, 8 September 2021.

<sup>294</sup> US Department of State (USDOS), '2021 Trafficking in Persons Report: Netherlands', 2021, <https://www.ecoi.net/de/dokument/2055248.html>, last accessed on 14 September 2021.

experts, and law enforcement, with a particular focus on Hungarian victims of human trafficking in the Netherlands and Belgium.<sup>295</sup>

- In 2019, the so-called **Regional Information and Expertise Centers (RIEC)** in the Netherlands established the **'Euregional Information and Expertise Center' (EURIEC)**, in collaboration with relevant agencies in Belgium and Germany.<sup>296</sup> EURIEC aims to support the exchange of information between local authorities and to encourage international cooperation, amongst other things regarding trafficking in human beings.<sup>297</sup>
- The Netherlands participates in training activities organised by the **European Asylum Support Office (EASO)** that are relevant to the detection, identification, and protection of (presumed) third-country national victims of human trafficking.<sup>298</sup>
- The Dutch National Coordination Center against Human Trafficking (**Coördinatiecentrum tegen Mensenhandel- CoMensha**) is member of La Strada International. La Strada is a European NGO Platform against human trafficking that aims to prevent human trafficking and to protect the rights of victims. This is done by providing access to adequate assistance and support to victims, through information and knowledge exchange, capacity building of NGOs and other stakeholders, as well as cross-sectoral cooperation. The focus lies on monitoring and advocacy to ensure the effective implementation of European anti-trafficking policies and regulations.<sup>299</sup> CoMensha is also member of the EU Civil Society Platform and ePlatform against trafficking in human beings.<sup>300</sup>

**Q11.** What cooperation mechanisms with third countries, if any, are in place in your Member State regarding detection, identification, and protection of (presumed) third-country national victims of trafficking in human beings?

The Netherlands actively participates in several cooperation mechanisms with third countries regarding the detection, identification, and protection of (presumed) third-country national victims of human trafficking. The Netherlands adopts a so-called 'four P-approach', referring to Prevention, Protection, Prosecution, and Partnerships in the context of trafficking in human beings.<sup>301</sup>

First, the Netherlands is involved in providing information and increasing awareness among vulnerable groups in countries of origin and transit about the risks of becoming a human trafficking victim. For this purpose, the Dutch Ministry of Foreign Affairs (**Ministerie van Buitenlandse Zaken**) cooperates with partners such as the International Organization for Migration (IOM).<sup>302</sup> In 2021, the

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<sup>295</sup> US Department of State (USDOS), '2021 Trafficking in Persons Report: Netherlands', 2021, <https://www.ecoi.net/de/dokument/2055248.html>, last accessed on 14 September 2021; see also RAVOT-EUR, 'Referral of and Assistance for Victims of Human Trafficking in Europe', <http://www.ravot-eur.eu/en/>, last accessed on 14 September 2021.

<sup>296</sup> *Parliamentary Papers II*, 2019-2020, 28638, no. 176.

<sup>297</sup> *Parliamentary Papers II*, 2019-2020, 28638, no. 176.

<sup>298</sup> Interview with the IND (Asylum and International Protection Unit), 23 August 2021; see also European Asylum Support Office (EASO), 'Training', <https://www.easo.europa.eu/asylum-support-training/training>, last accessed on 14 September 2021.

<sup>299</sup> This information was provided by the National Coordination Centre against Human Trafficking on 24 September 2021; see also 'La Strada International', <https://www.lastradainternational.org>, last accessed on 27 September 2021.

<sup>300</sup> This information was provided by the National Coordination Centre against Human Trafficking on 24 September 2021; see also European Commission, 'EU Civil Society Platform and ePlatform against trafficking in human beings', [https://ec.europa.eu/anti-trafficking/media-outreach-els/eu-civil-society-e-platform\\_en](https://ec.europa.eu/anti-trafficking/media-outreach-els/eu-civil-society-e-platform_en), last accessed on 27 September 2021.

<sup>301</sup> Interview with the Ministry of Foreign Affairs, 15 September 2021.

<sup>302</sup> Interview with the Ministry of Foreign Affairs, 15 September 2021.

IOM and the Ministry launched the **Cooperation on Migration and Partnerships for Sustainable Solutions initiative (COMPASS)**.<sup>303</sup> This project adopts an ecological approach to combating human trafficking and facilitating voluntary returns (**see question 12 below**). COMPASS focuses on the needs of individual victims, while recognizing that the consideration of their broader socio-cultural environment (such as their families and wider communities) is crucial for the development and implementation of sustainable solutions.<sup>304</sup>

In addition, the Netherlands participates in international (political) cooperation and knowledge exchange regarding trafficking in human beings. First, under the umbrella of EMPACT, judicial and intelligence cooperation is established on a case by case basis with third countries such as the United Kingdom (UK), Switzerland, Norway, Iceland, Nigeria, Niger, Morocco, China, Albania, Ukraine, Western Balkan countries, Vietnam, and South-American countries.<sup>305</sup> Second, in 2019 the Dutch government invested an additional € 10 million to combat human trafficking internationally. It did so through project-based cooperation in West Africa, the intensification of international migration dialogues,<sup>306</sup> as well as the strengthening of international cooperation between relevant operational services.<sup>307</sup> Third, from March 2020 until December 2021 the Netherlands holds the presidency of the Khartoum Process, which is a platform for political cooperation amongst countries along the migration route between the Horn of Africa and Europe.<sup>308</sup> Fourth, the Netherlands participates in the Rabat Process, a Euro-African dialogue on migration and development.<sup>309</sup> Fifth and last, the Netherlands provides expertise and trainings on the topic of human trafficking to third countries on an ad hoc base. This is done by identifying opportunities for collaboration in areas where the Netherlands can offer support.<sup>310</sup>

The Netherlands further provides assistance and training to local police, prosecutorial services, as well as immigration authorities in countries of origin and transit. For example, the Netherlands supports various law enforcement capacity-building projects regarding human trafficking (i.e. in Nigeria,<sup>311</sup> Egypt, Mali, Niger, Ghana, Zambia, Morocco and Côte d'Ivoire).<sup>312</sup> Thereby, special attention is paid to prevention and the protection of vulnerable groups, especially women and children.<sup>313</sup> Moreover, police liaisons have been placed in the Dutch embassies in Cambodia and Thailand. Their goal is to train staff working in immigration, hotels, or at the airport to identify victims as well as perpetrators of child sex tourism (which is not exclusively focused on, but related to, human trafficking).<sup>314</sup> The IND has also placed **Immigration Liaison Officers (ILO's)** in various

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<sup>303</sup> International Organisation for Migration (IOM), 'COMPASS', <https://www.iom.int/compass>, last accessed on 20 September 2021.

<sup>304</sup> Interview with the Ministry of Foreign Affairs, 15 September 2021.

<sup>305</sup> This information was provided by the Netherlands Police on 9 September 2021. Additions were made during the interview with the Public Prosecution Service, 16 September 2021.

<sup>306</sup> Hereby, prevention and capacity building regarding human trafficking is an important cornerstone.

<sup>307</sup> Interview with the Ministry of Foreign Affairs, 15 September 2021; see also *Parliamentary Papers II*, 2019-2020, 35300, no. 34.

<sup>308</sup> International Centre for Migration Policy Development (ICMPD), 'Khartoum Process Factsheet', <https://www.khartoumprocess.net/resources/library/reference/128-khartoum-process-factsheet>, last accessed on 21 September 2021. The Dutch Ministry of Foreign Affairs indicated that the inability to meet physically due to COVID-19 impeded the process, however four webinars were organized during the presidency of the Netherlands (Interview with the Ministry of Foreign Affairs, 15 September 2021).

<sup>309</sup> This information was provided by the Ministry of Foreign Affairs on 14 October 2021.

<sup>310</sup> Interview with the Ministry of Foreign Affairs, 15 September 2021.

<sup>311</sup> In particular, cooperation with the National Action Plan Trafficking in Persons (NAPTIP) in Nigeria; this information was provided by the Centre of Expertise on Human Trafficking and Human Smuggling on 21 September 2021.

<sup>312</sup> US Department of State (USDOS), '2021 Trafficking in Persons Report: Netherlands', 2021, <https://www.ecoi.net/de/dokument/2055248.html>, last accessed on 14 September 2021.

<sup>313</sup> *Parliamentary Papers II*, 2019-2020, 28638, no. 176.

<sup>314</sup> US Department of State (USDOS), '2021 Trafficking in Persons Report: Netherlands', 2021, <https://www.ecoi.net/de/dokument/2055248.html>, last accessed on 14 September 2021; this information was provided by the Netherlands Police on 25 October 2021.

countries of origin and transit to support local immigration authorities in the detection of trafficking in human beings.<sup>315</sup>

Lastly, the Netherlands actively engages within international organizations and platforms to strengthen the prevention of, and the fight against, trafficking in human beings:

- In 2019, the Netherlands advocated within the United Nations Security Council (UNSC) to install continued sanctions against leaders of human trafficking networks in important countries of origin and transit such as Libya.<sup>316</sup>
- In collaboration with Liechtenstein, Australia, the United Nations, and entities in the financial sector, the Netherlands participates in the Finance Against Slavery and Trafficking (FAST) initiative to explore methods to detect and disrupt financial flows associated with trafficking, and to engage the financial sector in the detection of human trafficking.<sup>317</sup>
- The Netherlands contributes € 4,7 million to the regional programme 'PROMIS' of the United Nations Office on Drugs and Crime (UNODC) and the Office of the United Nations High Commission for Human Rights (OHCHR). The programme supports countries of origin and transit countries in West-Africa and Sahel in developing a judicial framework to deal with human trafficking (including the promotion of human rights and judicial support for victims), as well as in the detection and prosecution of perpetrators.<sup>318</sup> Since February 2018, as part of the PROMIS project, UNODC has been supporting the deployment of African prosecutors to Italy and Spain to foster international judicial cooperation on cases concerning human trafficking, migrant smuggling, and other related crimes occurring between the countries of origin and the countries of destination.
- As mentioned in section 1 of this report, the Dutch **Expertise Centre for Human Trafficking and Human Smuggling (*Expertisecentrum Mensenhandel en Mensensmokkel – EMM*)** participates in international fora on the topic of trafficking in human beings, and in this way cooperates with third countries. The focus of plans for future cooperation lies mostly on the detection and exchange of information concerning perpetrators and criminal groups involved in human trafficking.<sup>319</sup>

**Q12.** Does your Member State cooperate with third countries in the context of voluntary return of (presumed) third-country national victims of trafficking in human beings?  Yes  No

**If so, in what way?**

In cooperation with the IOM and the United Nations High Commissioner for Human Rights (UNHCR), the Dutch Ministry of Foreign Affairs encourages and facilitates the voluntary return of (presumed) third-country national victims of human trafficking from countries of transit and destination to their countries of origin.<sup>320</sup> For example, the Netherlands supports the facilitation of voluntary returns through the COMPASS programme in collaboration with the IOM (**see also**

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<sup>315</sup> This information was provided by the Centre of Expertise on Human Trafficking and Human Smuggling on 21 September 2021.

<sup>316</sup> *Parliamentary Papers II*, 2019-2020, 28638, no. 176.

<sup>317</sup> Interview with the Ministry of Foreign Affairs, 15 September 2021; *Parliamentary Papers II*, 2019-2020, 28638, no. 176. See also: FAST Initiative, 'Finance Against Slavery and Trafficking', <https://www.fastinitiative.org/>, last accessed on 28 September 2021.

<sup>318</sup> Government of the Netherlands, 'Programme Together Against Human Trafficking' (*Samen Tegen Mensenhandel*), 2018, <https://www.government.nl/documents/reports/2019/04/09/together-against-human-trafficking>; *Parliamentary Papers II*, 2019-2020, 28638, no. 176.

<sup>319</sup> Interview with the IND (Strategy and Implementation Advice Directorate), 12 August 2021; this information was supplemented by the IND (Strategy and Implementation Advice Directorate) on 18 October 2021.

<sup>320</sup> *Parliamentary Papers II*, 2019-2020, 28638, no. 176.

question 11 above). The Netherlands has also cooperated with the IOM in other programmes concerning the facilitation of voluntary returns, such as the **Migrants Rescue and Assistance in Agadez Region (MIRAA) or REAN**.<sup>321</sup> However, it should be noted that these programmes apply to the voluntary return of migrants in general, and are not limited to (presumed) third-country national victims of human trafficking.<sup>322</sup>

**Q13.** Is your Member State considering any future cooperation mechanisms with third countries and with other Member States regarding detection, identification, and protection of (presumed) third-country national victims of trafficking in human beings?  Yes  No

**If so, please explain.**

The Netherlands aims to continue its various cooperation mechanisms with other EU Member States and with third countries regarding the detection, identification, and protection of (presumed) third-country national victims of trafficking in human beings.<sup>323</sup>

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<sup>321</sup> This information was provided by the Ministry of Foreign Affairs on 28 September 2021. See also: International Organisation for Migration (IOM), 'COMPASS', <https://www.iom.int/compass>, last accessed on 20 September 2021; IOM Netherlands, 'IOM en Nederlandse overheid bestendigen REAN regeling', <https://iom-nederland.nl/nieuws/iom-en-nederlandse-overheid-bestendigen-rean-regeling>, last accessed on 29 September 2021; IOM, 'UN Migration Agency Search and Rescue Missions in Sahara Desert Help 1,000 Migrants', <https://www.iom.int/news/un-migration-agency-search-and-rescue-missions-sahara-desert-help-1000-migrants>, last accessed on 29 September 2021.

<sup>322</sup> This information was provided by the Ministry of Foreign Affairs on 28 September 2021.

<sup>323</sup> Interview with the Ministry of Foreign Affairs, 15 September 2021; this information was provided by the Netherlands Police on 25 October 2021.

## Section 5: Key challenges and good practices in Member States, including in light of the COVID-19 pandemic

**Q14a.** What are the key challenges faced in the i) detection, ii) identification and iii) protection of (presumed) third-country national victims of trafficking in human beings?<sup>324</sup>

Please include one challenge per row and indicate the stage for which it applies in the tick boxes below. If needed, please add additional rows to the table below.

Challenge (Please list in order of importance or chronological order as instructed under the first question)	Stage
<p><b><u>Please note that the order of the challenges below does not reflect a strict hierarchy in their importance.</u></b></p> <p><b><i>1. Fragmentation in detection, identification and protection of victims of human trafficking and varying approach based on residence status of presumed victims</i></b></p> <p>The detection, identification, and protection of (presumed) third-country national victims of human trafficking is fragmented and varies significantly depending on the third-country national's residence status. First, various stakeholders noted that the mutual cooperation and communication on collecting and referring indications of human trafficking can be improved. In this regard, the GDPR regulations additionally complicate the sharing of relevant information between different parties. Second, the type of shelter and protection measures differs depending on the residence status of (presumed) third-country national victims of human trafficking.<sup>325</sup> Different actors involved in the protection of (presumed) victims on the central, regional, or municipal level may have varying approaches or levels of knowledge, resulting in the unequal treatment of (presumed) victims and uncertainties as to who is responsible in specific cases.</p> <p><b>Also</b> answer the following questions:</p> <p>a) For whom is this a challenge (e.g. policy-makers, competent authorities, third-country nationals, other stakeholders.)?</p> <p>Competent authorities and other stakeholders involved in the detection, identification, and protection of (presumed) victims of human trafficking (e.g. the National Coordination Center against Human Trafficking (Coördinatiecentrum tegen Mensenhandel- CoMensha the Netherlands Police, the Royal Netherlands Marechaussee (Koninklijke Marechaussee – Kmar), the Central Agency for the Reception of Asylum Seekers (Centraal Orgaan opvang Asielzoekers, – COA)).</p> <p>b) Why is it considered a challenge?</p> <p>If the multidisciplinary cooperation in the detection of human trafficking is not optimal, the indications and information collected may be insufficient to initiate a criminal investigation. In addition, relevant stakeholders will often not receive feedback on their reported</p>	<input checked="" type="checkbox"/> Detection <input checked="" type="checkbox"/> Identification <input checked="" type="checkbox"/> Protection

<sup>324</sup> Please note that the order of the challenges does not reflect a strict hierarchy in their importance.

<sup>325</sup> That is, only third-country nationals without a legal residence in the Netherlands are eligible for a reflection time and are entitled to stay in a special shelter (i.e. the COSM) before being transferred to municipal shelters. In contrast, asylum seekers who are (presumed) victims of human trafficking are in principle not entitled to a reflection period, and will remain within the COA reception centers.



indications, an issue which is also related to the privacy regulations. Moreover, the fragmentation of protection and the dependence on victims' residence status leads to uncertainties regarding (presumed) victims' right to residence, as well as their options for protection as victims of human trafficking. Because of the different types of shelter, and because it is not always clear which authority is responsible in a specific case, (presumed) third-country victims in many cases have to change their place of stay repeatedly.

- c) What is the source of the statement (e.g. based on input from experts, surveys, evaluation reports, other sources)?

Various stakeholders reported challenges related to the multidisciplinary cooperation and exchange of information, including CoMensha, the **Immigration and Naturalisation Service (Immigratie- en Naturalisatie Dienst – IND)**, COA, the Netherlands Police, an academic expert on human trafficking from Tilburg University, and the **National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children (National Rapporteur)**.<sup>326</sup>

**2. Lack of formal identification process separate from criminal investigation**

- Detection
- Identification
- Protection

In the Netherlands, there is no formal identification of a (presumed) victim of human trafficking (please see box 1 in section 1). A (presumed) third-country national victim does not have to be formally identified by a competent authority in order to be granted the reflection period, but there must be indications that the person is a victim of trafficking. The Netherlands Police or the KMar offer a reflection period as soon as there are the slightest indications that an individual might be a victim of human trafficking practices. However, it is not clear what 'slightest indications' are, and it is thus not transparent when this is considered to be the case. Additionally, the slightest indications assessment is often mixed up with an assessment of the indications to start a criminal investigation or prosecution. There is also no possibility for the victim or other parties to object in case no slight indications are seen by the Netherlands Police, the KMar or the **Labour Inspectorate of the Ministry of Social Affairs and Employment (Inspectie Sociale Zaken en Werkgelegenheid – ISZW)**. Moreover, this means that for (presumed) third-country national victims to be recognized as such and to receive a temporary residence permit, they are obliged to report the crime of human trafficking to the Netherlands Police and/or to cooperate with the criminal investigation, and criminal proceedings must in fact commence. Thus, the recognition of victimhood is largely connected to the criminal investigation, while various stakeholders (see below) indicate that there is a need for a more independent and victim-centered perspective. Without a criminal procedure, there is no mechanism in place to determine victimhood of human trafficking. For more information, see section 2, question 4d.

**Also** answer the following questions:

- a) For whom is this a challenge (e.g. policy-makers, competent authorities, third-country nationals, other stakeholders.)?

Third-country national victims of human trafficking, competent authorities such as the Netherlands Police, the KMar, or the ISZW, and other stakeholders working with (presumed) third-country national victims of human trafficking (e.g. CoMensha).

<sup>326</sup> This information was provided during a focus group meeting organised by EMN Netherlands on 20 September 2021; interview with the Netherlands Police, 8 September 2021.

<p>b) Why is it considered a challenge?</p> <p>The lack of a formal identification procedure is problematic because it can be long unclear whether (presumed) victims are in fact recognized ('identified') as such. In addition, since the identification and protection of third-country national victims of human trafficking is linked to the criminal procedure, the identification and adequate protection of victims is dependent on the success or failure of the criminal investigation.</p> <p>c) What is the source of the statement (e.g. based on input from experts, surveys, evaluation reports, other sources)?</p> <p>Various stakeholders reported this challenge, including the IND, an academic expert on human trafficking from Tilburg University, and the National Rapporteur.<sup>327</sup></p>	
<p><b>3. Reluctance of (presumed) victims to share experiences</b></p> <p>(Presumed) third-country national victims of human trafficking are often reluctant to share their experiences. This may be due to fear, cultural differences or taboos, or because the participation in criminal proceedings can be (re)traumatizing. This challenge can also be seen in relation to the lack of expertise of certain professionals coming into contact with (potential) victims (see challenge 6 below), for example on how to best approach potential victims of human trafficking. In addition, (presumed) third-country national victims of human trafficking who are also in an asylum procedure may not feel an incentive to share their experiences, since they anticipate to be granted asylum and do not see the added value of issuing a human trafficking report. Finally, some victims of human trafficking might not perceive themselves as being victims, which obstructs them to report and share their experiences.</p> <p><b>Also</b> answer the following questions:</p> <p>a) For whom is this a challenge (e.g. policy-makers, competent authorities, third-country nationals, other stakeholders.)?</p> <p>Competent authorities such as the KMar, the Netherlands Police or the IND, third-country national victims of human trafficking, as well as other support organisations involved in the detection and identification of potential victims of human trafficking.</p> <p>b) Why is it considered a challenge?</p> <p>Without the initiative and/or cooperation of potential victims, it can be difficult to detect and identify cases of human trafficking, as well as to successfully investigate and prosecute those cases.</p> <p>c) What is the source of the statement (e.g. based on input from experts, surveys, evaluation reports, other sources)?</p>	<p><input checked="" type="checkbox"/> Detection</p> <p><input type="checkbox"/> Identification</p> <p><input type="checkbox"/> Protection</p>

<sup>327</sup> This information was provided during a focus group meeting organised by EMN Netherlands on 20 September 2021.

<p>Various stakeholders reported this challenge, including CoMensha, the IND, the Netherlands Police, an academic expert on human trafficking from Tilburg University, the <b>Ministry of Foreign Affairs (Ministerie van Buitenlandse Zaken)</b>, and the National Rapporteur.<sup>328</sup></p>	
<p><b>4. Challenging criminal proceedings due to complex nature of human trafficking</b></p> <p>The investigation and criminal procedure in cases of human trafficking can be challenging, due to the complexity and the nature of the crimes. First, trafficking in human beings is not always visible, which means that the Netherlands Police must proactively investigate in cases where potential victims are often not willing to cooperate (<b>see also challenge 3 above</b>). Second, human trafficking is often transnational in nature, and therefore the Netherlands may not always have jurisdiction to prosecute cases. Third, investigations and prosecutions of human trafficking are time consuming and complex. Fourth and last, trafficking offenses are not always clearly defined, and it is not clear whether investigation and prosecution efforts will lead to a conviction. In recent years, there have been a number of complex human trafficking cases that have lead to dismissal or acquittals.</p> <p><b>Also answer the following questions:</b></p> <p>a) For whom is this a challenge (e.g. policy-makers, competent authorities, third-country nationals, other stakeholders.)?</p> <p>Policy-makers and competent authorities involved in the criminal investigations in cases concerning human trafficking (i.e. the Netherlands Police and the <b>Public Prosecution Service (Openbaar Ministerie)</b>).</p> <p>b) Why is it considered a challenge?</p> <p>Due to the complex and partially ‘hidden’ nature of human trafficking, investigations require much time investment and effort for law enforcement, and they do not always lead to convictions. In addition, if a case falls within the jurisdiction of another state, the Public Prosecution Service cannot itself pursue the criminal procedure. This is the case, for example, if human trafficking has occurred within another EU member state, since the Netherlands does not have jurisdiction to start a criminal investigation in those countries. In addition, several stakeholders raised their concern that relevant information is not always properly handed over to the state which has jurisdiction, and that the transfer of individuals to these states may raise questions regarding the principle of non-refoulement.</p> <p>c) What is the source of the statement (e.g. based on input from experts, surveys, evaluation reports, other sources)?</p>	<p><input type="checkbox"/> Detection  <input checked="" type="checkbox"/> Identification  <input checked="" type="checkbox"/> Protection</p>

<sup>328</sup> This information was provided during a focus group meeting organised by EMN Netherlands on 20 September 2021; interview with the Netherlands Police, 8 September 2021; interview with the Ministry of Foreign Affairs, 15 September 2021; interview with the Public Prosecution Service, 15 September 2021.

<p>Various stakeholders reported challenges arising from the complexity and nature of crimes related to human trafficking, including the Netherlands Police, the Public Prosecution Service, and an academic expert on human trafficking from Tilburg University.<sup>329</sup></p>	
<p><b>5. Lacking awareness of different forms of exploitation</b></p> <p>Stakeholders note that more awareness and expertise is required regarding different (potential) victim groups and forms of human trafficking. First, the focus often lies on sexual exploitation and less on other potential forms of human trafficking. In the case of criminal exploitation, the classification of types of exploitation as well as the differentiation and identification of victim- and perpetratorhood can be difficult. In addition, more attention is required for the possible transition from one form of exploitation into another.</p> <p><b>Also</b> answer the following questions:</p> <p>a) For whom is this a challenge (e.g. policy-makers, competent authorities, third-country nationals, other stakeholders.)?</p> <p>Policy-makers, third-country national victims of human trafficking, as well as competent authorities and stakeholders involved in the detection, identification, and protection of (presumed) victims of human trafficking (such as the Netherlands Police, the KMar, COA, or Nidos).</p> <p>b) Why is it considered a challenge?</p> <p>Challenges arise because the effective protection of third-country national victims of human trafficking requires expertise on various forms of human trafficking, as well as tailored responses to different victim groups.</p> <p>c) What is the source of the statement (e.g. based on input from experts, surveys, evaluation reports, other sources)?</p> <p>Various stakeholders reported challenges related to the awareness for different forms of human trafficking, including COA, CoMensha, Nidos, the Programme Together against Human Trafficking (<i>Samen tegen Mensenhandel</i>), the Public Prosecution Service, the Netherlands Police, the National Rapporteur, and the KMar.<sup>330</sup></p>	<p><input checked="" type="checkbox"/> Detection  <input checked="" type="checkbox"/> Identification  <input checked="" type="checkbox"/> Protection</p>

<sup>329</sup> This information was provided during a focus group meeting organised by EMN Netherlands on 20 September 2021; interview with the Netherlands Police, 8 September 2021; interview with the Public Prosecution Service,, 15 September 2021.

<sup>330</sup> This information was provided during a focus group meeting organised by EMN Netherlands on 20 September 2021; interview with the Public Prosecution Service,, 15 September 2021; interview with the Royal Netherlands Marechaussee, 16 September 2021; interview with the Netherlands Police, 8 September 2021; interview with Nidos on 7 September 2021.

**6. Insufficient training and expertise, especially in the detection of human trafficking**

- Detection
- Identification
- Protection

Relevant actors do not always possess sufficient expertise and have not always been sufficiently trained on the detection of human trafficking. For example, there is often a lack of capacity and time to provide and/or receive sufficient training. It is especially challenging for stakeholders to provide adequate knowledge with regard to diverse and/or new phenomena related to trafficking in human beings. For example, relevant authorities and stakeholders often have extensive knowledge of sexual exploitation, whereas the detection of other forms of criminal exploitation is more challenging. However, the Netherlands Police indicated that it is not merely insufficient expertise and training that play a role, but that detection is also difficult due to the nature of human trafficking. Victims often do not report the crimes and therefore the police has to actively search for signs of human trafficking (see also challenges 3 and 4 above). Moreover, multiple seemingly insignificant indications can form a significant indication of human trafficking when combined (see section 1, question 3a, 'DIGW'), although it is difficult to know when and what indications are connected. These factors make it difficult to detect human trafficking, even with sufficient expertise.

**Also** answer the following questions:

- a)** For whom is this a challenge (e.g. policy-makers, competent authorities, third-country nationals, other stakeholders.)?

Competent authorities involved in the detection of human trafficking, such as the KMar and the Netherlands Police.

- b)** Why is it considered a challenge?

The lack of knowledge and expertise is a challenge because it could lead to problems regarding the (correct) detection or interpretation of indications of human trafficking.

- c)** What is the source of the statement (e.g. based on input from experts, surveys, evaluation reports, other sources)?

Various stakeholders reported this challenge, including CoMensha, the IND, the Netherlands Police and the KMar, the Programme Together against Human Trafficking (*Samen tegen Mensenhandel*), an academic expert on human trafficking from Tilburg University, the National Rapporteur, and the Public Prosecution Service. This has also been confirmed by evaluation reports/ research.<sup>331</sup>

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<sup>331</sup> This information was provided during a focus group meeting organised by EMN Netherlands on 20 September 2021; Interview with the Public Prosecution Service,, 15 September 2021; interview with the Netherlands Police, 8 September 2021; interview with the Royal Netherlands Marechaussee, 16 September 2021; Rijken, C., Khadraoui, L., & Tankink, M. '(Preventing) Secondary Victimisation of Trafficking Victims through Law Enforcement interventions' (2021), *Journal of Human Trafficking, Enslavement and Conflict-Related Sexual Violence*, 2 (1), p 3-25; National Coordination Centre against Human Trafficking, Jeugdzorg Nederland, Landelijk Kenniscentrum Lvb and Netherlands jeugdinstituut 'Slachtoffers mensenhandel in de jeugdhulpverlening', 2020, <https://view.publitas.com/comensha/signalering-en-registraties-slachtoffers-mensenhandel-in-de-jeugdhulpverlening-conclusies-en-aanbevelingen/page/1> last accessed on 18 October 2021.

## 7. International cooperation

- Detection
- Identification
- Protection

Despite the abundance and efficacy of various international cooperation mechanisms (see Section 4 of this report), relevant stakeholders indicated that challenges in the international cooperation regarding trafficking in human beings remain. Regarding intra-EU cooperation, it was mentioned that every Member State has different methods for detecting, identifying, and protecting (presumed) third-country national victims of human trafficking, which complicates transnational cooperation. Furthermore, the effectiveness of judicial cooperation in concrete cases can be improved. In addition, difficulties regarding information sharing complicate intra-EU cooperation.

With regard to cooperation with third countries, it can be challenging to share relevant information with stakeholders in third states while guaranteeing the safety and well-being of (presumed) victims. In addition, many third countries that the Netherlands aims to support in the prevention and combat of human trafficking are facing a multiplicity of political and developmental challenges, which means it is not always possible for these states to prioritize human trafficking.

**Also** answer the following questions:

- a) For whom is this a challenge (e.g. policy-makers, competent authorities, third-country nationals, other stakeholders.)?

Challenges related to the intra-EU cooperation concern policy-makers (i.e. the Ministry of Justice and Security), competent authorities such as the IND, the KMar, the Netherlands Police or the Public Prosecution Service, as well as other stakeholders involved in the protection of victims (e.g. aid providers). The cooperation with third countries on the prevention and combating of trafficking in human beings falls under the responsibility of the Ministry of Foreign Affairs in close collaboration with the Ministry of Justice and Security.

- b) Why is it considered a challenge?

If (presumed) third-country national victims are transferred from one Member State to another, effective intra-EU cooperation is crucial to ensure that the presumed victims are adequately identified and protected in the state to which they were transferred. In addition, extensive judicial cooperation is required to successfully prosecute transnational cases of human trafficking.

- c) What is the source of the statement (e.g. based on input from experts, surveys, evaluation reports, other sources)?

Various stakeholders reported challenges regarding intra-EU cooperation, including the IND, COA, CoMensha, and an academic expert on human trafficking from Tilburg University.<sup>332</sup> In addition, the Ministry of Foreign Affairs reported the aforementioned challenges regarding the cooperation with third countries.<sup>333</sup>

<sup>332</sup> This information was provided during a focus group meeting organised by EMN Netherlands on 20 September 2021.

<sup>333</sup> Interview with the Ministry of Foreign Affairs, 15 September 2021.

**Q14b.** What are the specific challenges at any of the above stages concerning vulnerable persons or asylum applicants?

Please include one challenge per row and indicate the stage for which it applies in the tick boxes below. If needed, please add additional rows to the table below.

Challenge (Please list in order of importance or chronological order as instructed under the first question)	Stage
<p><b>1. Detection and interpretation of human trafficking indications</b></p> <p>The detection and interpretation of indications of human trafficking in cases concerning vulnerable persons or asylum applicants can be challenging. The IND and the KMar in particular often only have a short moment of contact with potential third-country national victims of human trafficking during which indications can be detected. Additionally, the interpretation of indications is also complicated by the fact that certain behaviours could also be caused by other types of trauma or cultural differences, instead of pointing towards victimhood of human trafficking. Moreover, as mentioned above in question 14a (challenge 3), victims of human trafficking often do not report the crime.</p> <p><b>Also</b> answer the following questions:</p> <p>a) For whom is this a challenge (e.g. policy-makers, competent authorities, third-country nationals, other stakeholders.)?</p> <p>Competent authorities (specifically the Netherlands Police, the KMar and the IND), as well as other stakeholders responsible for the detection of indications of human trafficking among vulnerable groups such as asylum seekers (e.g. COA, Nidos).</p> <p>b) Why is it considered a challenge?</p> <p>The short moment of contact with potential victims, the fact that victims often do not report the crime, as well as the difficulty of detecting indications of human trafficking and the complexity of (trauma-related) symptoms complicates the detection and correct interpretation of indications among vulnerable groups such as asylum seekers. Therefore, it is possible that possible indications are misinterpreted or not always detected, leading to an unknown dark number. The Netherlands Police indicates that this challenge is also connected to the issue of migrant smuggling, since migrants wanting to travel to Europe with the help of smugglers are particularly vulnerable and are often unwilling to contact the authorities.</p> <p>c) What is the source of the statement (e.g. based on input from experts, surveys, evaluation reports, other sources)?</p> <p>Various stakeholders reported this challenge, including the IND, the Netherlands Police and the KMar, COA, Nidos, and the Programme Together against Human Trafficking (<i>Samen tegen Mensenhandel</i>).<sup>334</sup></p>	<p><input checked="" type="checkbox"/> Detection</p> <p><input type="checkbox"/> Identification</p> <p><input type="checkbox"/> Protection</p>

<sup>334</sup> This information was provided during a focus group meeting organised by EMN Netherlands on 20 September 2021; interview with the Netherlands Police, 8 September 2021; interview with the Royal Dutch Marechaussee, 16 September 2021; interview with Nidos, 7 September 2021.

## 2. Amended procedure for persons in the Dublin procedure

- Detection
- Identification
- Protection

As mentioned in **the introduction and section 4** of this report, the policy regarding (presumed) third-country national victims of human trafficking falling under the Dublin III Regulation was amended in 2019. This new procedure, whereby (presumed) third-country national victims falling under the Dublin III Regulation will only receive a residence permit under the human trafficking regulation in case their presence is required for the criminal investigation, has led to criticism by civil society actors. Specifically, it has been argued that this insufficiently protects (presumed) third-country national victims of trafficking in human beings who fall under the Dublin III Regulation.<sup>335</sup>

**Also** answer the following questions

- a)** For whom is this a challenge (e.g. policy-makers, competent authorities, third-country nationals, other stakeholders.)?

This is seen as a challenge by civil society actors. In addition, it may be a challenge for policy-makers and law authorities in the sense that they must assure the Netherlands complies with international and European obligations and legislation.

- b)** Why is it considered a challenge?

The consequence of the new policy is that (presumed) third-country national victims of human trafficking falling under the Dublin III Regulation will no longer receive a temporary residence permit within 24 hours after filing a police report, but only if the Netherlands Police and the Public Prosecution Service conclude that the presence of the third-country national is required for the criminal investigation (**see also introduction and section 4 for further explanation**). Civil society organisations argue that this results in transferring third-country national falling under the Dublin III Regulation to the place where the exploitation has possibly occurred. They doubt that cases of human trafficking are adequately dealt with in all Member States and argue that there is the risk of re-victimization. According to some organisations, this raises questions regarding the conformity of Dutch policy with international obligations, such as the principle of non-refoulement.<sup>336</sup> Moreover, as explained earlier in this report, in the Netherlands the reception of a temporary residence permit under the human trafficking regulation is directly connected to the success of the criminal investigation. This is by some considered to be a challenge in itself (**see challenge 2 in question 14a**), but it is especially a challenge for third-country nationals falling under the Dublin III Regulation after the 2019 policy amendment. This is because the issuing of a police report is no longer sufficient to receive a temporary residence permit, but a third-country national in the Dublin procedure will only receive a permit if the Public Prosecution Service concludes that the presence of the third-country national is required for the criminal investigation in the Netherlands.<sup>337</sup>

However, it should be noted that policy-makers do not generally consider this to be a challenge.<sup>338</sup> They argue that even without the reflection period, there is sufficient time for persons in the Dublin procedure to file a police report. Besides this, the assessment of the Public Prosecution Service only focuses



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<sup>335</sup> US Department of State (in Persons Report: Netherlands', 2021, <https://www.ecoi.net/de/dokument/2055248.html>, last accessed on 14 September 2021.

<sup>336</sup> This information was provided during a focus group meeting organised by EMN Netherlands on 20 September 2021.

<sup>337</sup> This information was provided by the National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children on 21 October 2021.

<sup>338</sup> This information was provided by the IND (Strategy and Implementation Advice Directorate), on 7 October 2021.

on whether the case falls under Dutch jurisdiction and the victim's presence is necessary in case of a prosecution, and not on whether the person in question can be identified as a victim of human trafficking. Also, in cases where transfer is deemed necessary, the mental and physical wellbeing of the third-country national is always taken into account. For example, it is standard procedure in all cases falling under the Dublin III Regulation that an assessment is made by the Repatriation and Departure Service (*Dienst Terugkeer en Vertrek – DT&V*) whether there are special needs, both psychological or physical. Furthermore, Dutch law enforcement shares all investigation data with their counterparts in the country to which the third-country national is transferred in order to facilitate investigation and prosecution in the human trafficking case (see also section 4 of this report). Because of the principle of mutual trust, it is generally assumed that cases of human trafficking will be adequately dealt with in the Dublin country.<sup>339</sup>

- c) What is the source of the statement (e.g. based on input from experts, surveys, evaluation reports, other sources)?

This issue was raised in evaluation reports such as the 2021 Trafficking In Persons Netherlands report of the United States Department of States (USDOS).<sup>340</sup> It was reaffirmed by stakeholders, in particular an academic expert on human trafficking from Tilburg University.<sup>341</sup> In 2021, preliminary questions of the Dutch court on this topic have been referred to the Court of Justice of the EU (please see section 4, question 9d for further explanation).

**Q15.** What are the consequences of COVID-19 pandemic on the detection, identification, and protection of (presumed) victims?

Due to the COVID-19 pandemic, some of the plans and developments intended to strengthen and expand the approach to combatting trafficking in human beings were delayed or postponed. This is partially because the involved Ministries (i.e. the Ministry of Social Affairs and Employment and the Ministry of Health, Welfare and Sport) had other priorities due to COVID-19.<sup>343</sup>

*Detection and identification*

**Q14c.** What are the specific challenges with regard to traffickers / criminal organisations involved in trafficking in human beings using asylum procedures for means other than intended? (for example, to temporarily house victims in a reception centre before moving them to the intended country).

**Challenge** (Please list in order of importance or chronological order as instructed under the first question)

**Please describe the challenge.**

The IND is aware that criminal organisations abuse asylum procedures for means other than intended. This is particularly problematic because migrants are often vulnerable and therefore at a greater risk of becoming victims of human trafficking. In addition, there is a fine line between facilitation (e.g. of employment) and exploitation. However, it should be said that no specific challenges regarding traffickers/criminal organisations involved in trafficking in human beings using asylum procedures for means other than intended are known.<sup>342</sup>

**Also** answer the following questions:

- a) For whom is this a challenge (e.g. policy-makers, competent authorities, third-country nationals, other stakeholders.)?
- b) Why is it considered a challenge?
- c) What is the source of the statement (e.g. based on input from experts, surveys, evaluation reports, other sources)?

- Detection and identification of victims of human trafficking was more difficult, due to reduced visibility and reduced possibilities for physical contact and investigation. Due to the changed circumstances because of COVID-19, involved parties (such as the Netherlands Police and the ISZW) had to temporarily alter their approach to detecting and identifying human trafficking.<sup>344</sup> For example, the ISZW was only able to perform physical inspections

<sup>339</sup> US Department of State (USDOS), '2021 Trafficking in Persons Report: Netherlands', 2021, <https://www.ecoi.net/de/dokument/2055248.html>, last accessed on 14 September 2021; interview with the Programme Together against Human Trafficking, 2 September 2021.

<sup>340</sup> US Department of State (USDOS), '2021 Trafficking in Persons Report: Netherlands', 2021, <https://www.ecoi.net/de/dokument/2055248.html>, last accessed on 14 September 2021

<sup>341</sup> This information was provided during a focus group meeting organised by EMN Netherlands on 20 September 2021.

<sup>342</sup> Interview with the IND (Strategy and Implementation Advice Directorate), 12 August 2021.

<sup>343</sup> *Parliamentary Papers II*, 2020-2021, 28 638, no. 185.

<sup>344</sup> *Parliamentary Papers II*, 2020-2021, 28 638, no. 185.

or investigative work in very serious cases (i.e. accidents and labor exploitation, interviews with possible victims). Furthermore, the Netherlands Police were not able to physically perform all necessary tasks. Besides this, the IND and COA had less physical contact with potential victims due to the COVID-19 restrictions. As a consequence, the detection and identification of potential victims was more difficult. The current underutilisation of reception facilities for (presumed) victims is a possible consequence of this temporarily altered approach of involved organisations. The precise impact of COVID-19 on human trafficking practices is currently being researched by CoMensha. Also, it is important to note that human trafficking became more often an online practice, which meant that detection of victims was less visible and required more digital investigative work. The Netherlands Police already started investing in more digital expertise before the pandemic.<sup>345</sup>

### Protection

- Because of COVID-19, malpractices concerning labour migrants were magnified. The vulnerable position of labour migrants on the Dutch labour market became more clear during the pandemic. In particular, undocumented migrants proved to be a vulnerable group in this category.<sup>346</sup> Because of their illegal stay, these undocumented migrants often work in the informal labour market, where no work means no income. During the pandemic, there was an increase in requests for assistance from this group. Multiple organisations, such as Fairwork (a Dutch organization supporting victims of labour exploitation) and CoMensha have expressed their concern on the vulnerable situation of labour migrants during COVID-19.<sup>347</sup> A Taskforce was launched in May 2020 in order to ensure better protection for labour migrants, mainly focusing on low- and medium skilled EU labour migrants (see also question 17 below).

It should be noted that above-mentioned consequences are related to all victims of human trafficking, not only third-country national victims.

**Q16.** What new patterns and / or trends in trafficking in human beings have emerged because of the COVID-19 pandemic?

- As mentioned in question 15 above, human trafficking was increasingly found to take place online. For example, there was an increase in sexual exploitation on the internet.<sup>348</sup>
- Because of COVID-19, there were travel restrictions, and it was observed that there were a lot less travel movements. This could also explain the current underutilisation of the **shelters for victims of human trafficking (categoriale opvang slachtoffers mensenhandel - COSMS)**.<sup>349</sup>
- Organisations such as COA noticed that fewer indications of human trafficking were reported, especially in the beginning of the pandemic and during the lockdown periods.<sup>350</sup>

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<sup>345</sup> Interview with the Netherlands Police, 8 September 2021.

<sup>346</sup> National Rapporteur Trafficking in Human Beings and Sexual Violence against Children. 'Featured: labour market exploitation', <https://www.nationaalrapporteur.nl/publicaties/publicaties/2021/02/03/uitgelicht-arbeidsuitbuiting>.

<sup>347</sup> FairWork, 'brief arbeidsmigranten en COVID-19 (letter on labour migrants and COVID-19)', [www.fairwork.nu/2020/04/08/brief-arbeidsmigranten-en-covid-19/](http://www.fairwork.nu/2020/04/08/brief-arbeidsmigranten-en-covid-19/), last accessed on 30 September 2021.

<sup>348</sup> Interview with the Netherlands Police, 8 September 2021.

<sup>349</sup> Interview with the Programme Together against Human Trafficking, 2 September 2021.

<sup>350</sup> Interview with the Central Agency for the Reception of Asylum Seekers, 17 August 2021.

**Q17.** How has your Member State adapted its policies and procedures due to the challenges of the COVID-19 pandemic?

- Because labour market exploitation became more evident during the COVID-19 pandemic, the Minister of Social Affairs and Employment launched the Taskforce for the protection of labour migrants (*Aanjaagteam Bescherming Arbeidsmigranten*) in May 2020. The Taskforce mainly focused on low- and medium skilled EU-labour migrants. This interdepartmental team researches the position and protection of labour migrants during COVID-19. For example, they advised on how to improve registration of labour migrants with the Dutch authorities, on the better control of the temporary employment sector (such as an obligatory certification scheme for employment agencies), providing better housing, and improving and enforcing existing labour market regulations.<sup>351</sup>
- The Netherlands Police focused more on digital investigative work in order to detect victims of human trafficking.<sup>352</sup>

**Q18.** Regarding the challenges identified above, does your Member State have concrete plans or proposals in place for improvements to deal with them?

In general, there are continuous plans and developments intended to strengthen the approach to combating trafficking in human beings, for example by launching the Programme Together Against Trafficking. Stakeholders are structurally working together to improve identified challenges. Examples of this are the launch of the Taskforce for the protection of labour migrants (see question 17 above) in order to research the position and protection of labour migrants, and **Human Trafficking Academy** (*Mensenhandel Academy*) of CoMensha in order to provide more knowledge and information on the topic of human trafficking (please see question 20 below).

**Q19.** In light of possible new trends and developments, is your Member State anticipating any new challenges in the near future?  Yes  No

If so, please explain.

**Q20.** What good practices in relation to i) detection, ii) identification and iii) protection of (presumed) third-country national victims of trafficking in human beings exist in your Member State?

Please include one good practice per row and indicate the stage for which it applies in the tick boxes below. If needed, please add additional rows to the table below.

Good practice (Please list in order of importance or chronological order as instructed under the first question)	Stage
<b><u>Please note that the order of the good practices below does not reflect a strict hierarchy in their importance.</u></b>	<input checked="" type="checkbox"/> Detection <input checked="" type="checkbox"/> Identification <input type="checkbox"/> Protection
<p><b>1. Programme Together Against Human Trafficking</b></p> <p>On 4 December 2018, the Programme Together Against Human Trafficking (<i>Samen tegen Mensenhandel</i>) was launched.<sup>353</sup> This programme involves</p>	

<sup>351</sup> *Parliamentary Papers II*, 2019-2020, 29 861, no. 52.

<sup>352</sup> Interview with the Netherlands Police, 8 September 2021.

<sup>353</sup> Government of the Netherlands, 'Programme Together Against Human Trafficking' (*Samen Tegen Mensenhandel*), version November 2018; *Parliamentary Papers II*, 2019-2020, 28638, no. 176.

a wide variety of authorities and organisations that all participate in combatting trafficking in human beings and the detection, identification and protection of (presumed) victims of human trafficking (e.g. the Netherlands Police, KMar, municipalities and the IND). See e.g. introduction, question 1 for more information.

- a)** Who considers this a good practice (e.g. policy-makers, competent authorities, third-country nationals, other stakeholders.)?

Stakeholders working together within the programme Together Against Human Trafficking consider this to be a good practice.

- b)** Why is it considered a good practice?

The programme intensified existing efforts in policy and implementation, by strengthening cooperation between the different parties involved in combatting human trafficking. For example, one of the action points of the programme is to make available extra reception places for victims of human trafficking who are suffering from complex and multiple problems (psychological problems, addiction and/or intellectual disabilities). Accordingly, municipalities have started to make more reception places available, funded by the Ministry of Health, Welfare and Sport.<sup>354</sup>

- c)** What is the source of the statement (e.g. based on input from experts, surveys, evaluation reports).

This information was provided by the Programme Together Against Human Trafficking and by an academic expert on human trafficking (Tilburg University).<sup>355</sup>

## 2. Human Trafficking Academy (Mensenhandel Academy)

In 2018, CoMensha launched the Human Trafficking Academy, which is part of the CoMensha-website and is meant to offer complete training material on detecting human trafficking in a structured way. Many different professionals can find relevant material for their sector in the Academy.<sup>356</sup> The Human Trafficking Academy also includes specific e-learning modules for aid workers of migrants. Please see section 1 for more information.

- a)** Who considers this a good practice (e.g. policy-makers, competent authorities, third-country nationals, other stakeholders.)?

This is a good practice for (potential) third-country national victims of human trafficking, as well as for all kinds of professionals and other people interested in learning more on detecting human trafficking.

- b)** Why is it considered a good practice?

- Detection  
 Identification  
 Protection

<sup>354</sup> Association of Netherlands Municipalities. 'Reception for victims of human trafficking with multiple problems' (*Opvang voor slachtoffers mensenhandel met multi-problematiek*). <https://vng.nl/nieuws/opvang-voor-slachtoffers-mensenhandel-met-multi-problematiek>, last accessed on 10 October 2021.

<sup>355</sup> This information was provided during a focus group meeting organised by EMN Netherlands on 20 September 2021.

<sup>356</sup> Interview with the National Coordination Center against Human Trafficking, 16 August 2021.

The Human Trafficking Academy helps professionals and other interested stakeholders to learn how to detect human trafficking and how to act accordingly, by providing important information on this topic.

c) What is the source of the statement (e.g. based on input from experts, surveys, evaluation reports, other sources)?

This information was provided by CoMensha.<sup>357</sup>

### 3. Role of municipalities in combating human trafficking

In the Netherlands, municipalities play an important role in the integral approach to combating human trafficking. Municipalities are in continuous contact with different stakeholders and can use administrative resources to combat human trafficking. Moreover, there is a periodic (bi-weekly) consultation between the mayors of different municipalities on the topic of human trafficking.

a) Who considers this a good practice (e.g. policy-makers, competent authorities, third-country nationals, other stakeholders.)?

This is considered a good practice for all stakeholders cooperating with municipalities, such as the Netherlands Police, NGOs and the Netherlands Central Government.

b) Why is it considered a good practice?

This is a good practice for stakeholders in the process of detecting, identifying, and protecting (third-country national) victims of human trafficking, as the role of municipalities strengthens the integral approach to combating human trafficking.

c) What is the source of the statement (e.g. based on input from experts, surveys, evaluation reports, other sources)?

This information was provided by CoMensha and an academic expert on human trafficking from Tilburg University.<sup>358</sup>

### 4. Constructive conversation between NGOs and the Dutch government

The cooperation and dialogue between NGOs and the Dutch government on the topic of human trafficking is seen as a good practice. Despite at times differing viewpoints, it is always possible to openly discuss topics concerning human trafficking.

a) Who considers this a good practice (e.g. policy-makers, competent authorities, third-country nationals, other stakeholders.)?

- Detection
- Identification
- Protection

- Detection
- Identification
- Protection

<sup>357</sup> This information was provided during a focus group meeting organised by EMN Netherlands on 20 September 2021.

<sup>358</sup> This information was provided during a focus group meeting organised by EMN Netherlands on 20 September 2021.

CoMensha and the Netherlands Police consider this a good practice.

**b) Why is it considered a good practice?**

This is considered a good practice as it allows the consideration of different perspectives, and achieve a more balanced approach to combating human trafficking. The cooperation with NGO's also makes it easier to discover challenges that arise in practice, which can then be discussed and addressed.

**c) What is the source of the statement (e.g. based on input from experts, surveys, evaluation reports).**

This information was provided by CoMensha and an academic expert on human trafficking (Tilburg University).<sup>359</sup>

**5. National and international cooperation on the topic of human trafficking**

- Detection
- Identification
- Protection

There are many stakeholders involved in the detection, identification, and protection of (potential) third-country national victims of human trafficking. Stakeholders mention that both the national cooperation within the Netherlands, as well as the international cooperation with EU- and third countries has improved significantly over the years (see good practices 3, 4 and 5 for examples of national cooperation). The Netherlands is active in the approach to combating human trafficking in the EU, and relevant parties such as the police provide extensive training in other countries. Also, both within the Netherlands and internationally, the cooperation between care institutions for victims of human trafficking and the cooperation between investigation services is good. However, the cooperation between these care institutions and investigation services can still be improved, as this is not always optimal (see also challenge 7 in question 14a above).

Examples of the active involvement of the Netherlands in cooperation mechanisms with third countries are the **European Multidisciplinary Platform Against Criminal Threats programme (EMPACT)** on the EU-level, and the **Cooperation on Migration and Partnerships for Sustainable Solutions initiative (COMPASS)**. This project adopts an ecological approach to combating human trafficking and facilitating voluntary returns (see section 4, question 11 for more information).

**Also** answer the following questions:

**a) Who considers this a good practice (e.g. policy-makers, competent authorities, third-country nationals, other stakeholders.)?**

This a good practice for all stakeholders involved, such as the Netherlands Police, KMar, IND, the Programme Together Against Human Trafficking, the Ministry of Foreign Affairs, and the **Directorate for Migration Policy (Directie Migratiebeleid - DMB)** of the Ministry of Justice and Security.<sup>360</sup>

<sup>359</sup> This information was provided during a focus group meeting organised by EMN Netherlands on 20 September 2021.

<sup>360</sup> This information was provided during a focus group meeting organised by EMN Netherlands on 20 September 2021.



**b) Why is it considered a good practice?**

In general, stakeholders experience effective cooperation with other relevant parties, which is necessary in order to provide an integral approach to combating human trafficking.

**c) What is the source of the statement (e.g. based on input from experts, surveys, evaluation reports, other sources)?**

This good practice was reported by several stakeholders, such as the Netherlands Police, KMar, IND (Strategy and Implementation Advice Directorate), and the Programme Together Against Trafficking, the Ministry of Foreign Affairs and DMB.

**6. Expertise Centre for Human Trafficking and Human Smuggling (EMM)**

The EMM is a cooperation between the Netherlands Police, the KMar, the IND, the ISZW, and the Public Prosecution Service that was established in May 2005. On 6 April 2021, a new covenant has been signed to initiate more direct ways for information exchange between the partners in the combat against human trafficking. All information acquired by the partners in the field of trafficking in human beings and the smuggling of humans is shared with the EMM for analytical purposes. These analyses can be used to start criminal investigations, to detect possible victims, or to find new indicators for detecting victims or groups who are at risk of becoming victims, or as a base for the adaptation of policies in migration procedures or other policies in the field of combatting trafficking in human beings.

**a) Who considers this a good practice (e.g. policy-makers, competent authorities, third-country nationals, other stakeholders.)?**

The five partners within the EMM consider this a good practice.

**b) Why is it considered a good practice?**

Oftentimes, different types of exploitation are investigated by different law enforcement organisations. By bringing the different organisations together in one expertise center, it is possible to obtain an overview and integrate the different disciplines in analyses and reports.

**c) What is the source of the statement (e.g. based on input from experts, surveys, evaluation reports).**

The EMM has published a special edition of their newsletter in May 2021, which includes interviews with representatives of the different organisations involved.

**7. Fieldlab against human trafficking**

The **Fieldlab against Human Trafficking (Mensenhandel Field Lab - MFL)** is an initiative of the Public Prosecution Service that contributes to technological innovation in the fight against human trafficking. In the MFL, professionals (such as employees of the Netherlands Police and the Public Prosecution Service) learn how to develop new and effective methods for the prevention of

- Detection
- Identification
- Protection

- Detection
- Identification
- Protection

human trafficking, the criminal investigation and prosecution of traffickers, and the protection of victims.

- a) Who considers this a good practice (e.g. policy-makers, competent authorities, third-country nationals, other stakeholders.)?

This is considered a good practice by the Ministry of SZW.

- b) Why is it considered a good practice?

The Fieldlab contributes to developing new and effective methods involving technology in the fight against human trafficking.

- c) What is the source of the statement (e.g. based on input from experts, surveys, evaluation reports).?

This good practice was reported by the Ministry of SZW.<sup>361</sup>

- Detection
- Identification
- Protection

## 8. Manual against Labour Exploitation

The Manual against Labour Exploitation has been developed by the Centre for Crime Prevention and Safety (*Centrum voor Criminaliteitspreventie en Veiligheid - CCV*) at the request of the Ministry of Social Affairs and Employment and the Ministry of Justice and Security.<sup>362</sup> This manual offers tools to help combat exploitation of labour migrants by using various sample cases. The manual particularly stresses the importance of cooperation between the involved parties (such as the Ministry of SZW and the Netherlands Police).

- d) Who considers this a good practice (e.g. policy-makers, competent authorities, third-country nationals, other stakeholders.)?

This is considered a good practice by the Ministry of SZW.

- e) Why is it considered a good practice?

The manual offers tools and practical examples of how to combat exploitation of labour migrants.

- f) What is the source of the statement (e.g. based on input from experts, surveys, evaluation reports)?

This good practice was reported by the Ministry of SZW.<sup>363</sup>

<sup>361</sup> This information was provided by the Ministry of Social Affairs and Employment on 21 October 2021.

<sup>362</sup> Centre for Crime Prevention and Safety, <https://hetccv.nl/nieuws/publicatie-nieuwe-handreiking-over-integrale-aanpak-arbeidsuitbuiting/>, last accessed on 26 October 2021.

<sup>363</sup> This information was provided by the Ministry of Social Affairs and Employment on 21 October 2021.

