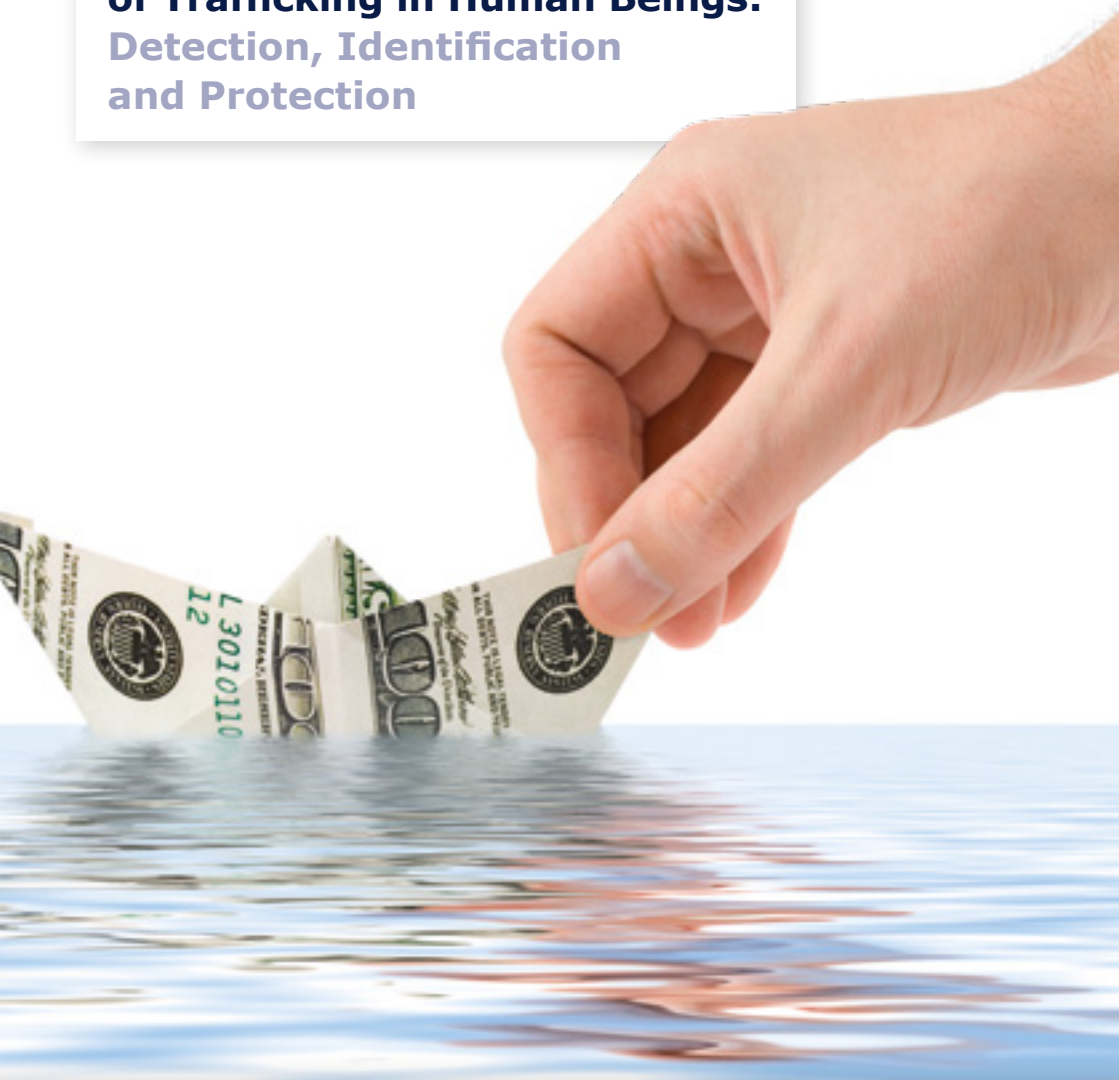


## Third-Country National Victims of Trafficking in Human Beings: Detection, Identification and Protection





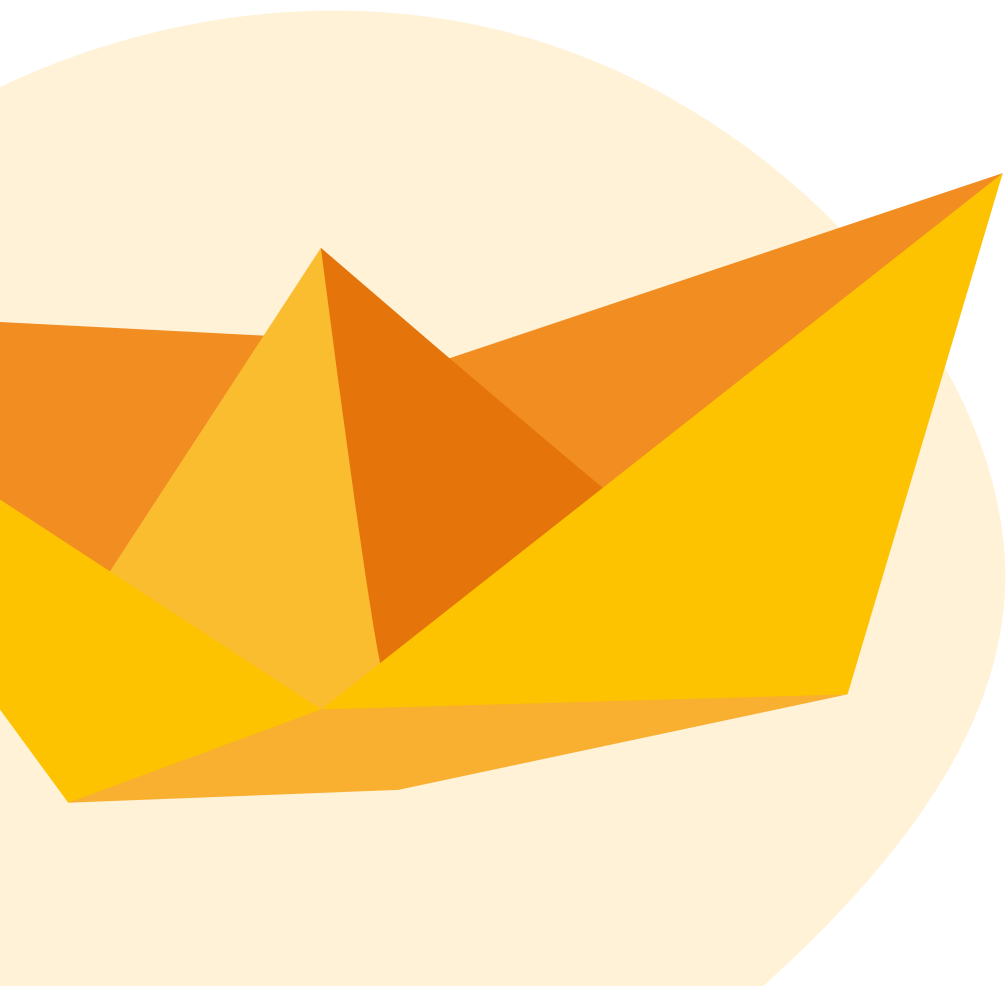
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**COMMON  
TEMPLATE**



# 1 BACKGROUND AND RATIONALE OF 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 (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>

- 1 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.
- 2 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.
- 3 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.
- 4 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.
- 5 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.
- 6 UN, International Covenant on Civil and Political Rights, 1966, <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>, last accessed on 10 May 2021.
- 7 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.
- 8 UN, Global Compact for Refugees, 2018, [https://www.unhcr.org/gcr/GCR\\_English.pdf](https://www.unhcr.org/gcr/GCR_English.pdf), last accessed on 9 May 2021.
- 9 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).

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

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10 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.

11 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 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.

13 The Counter Trafficking Data Collaborative, Global Data Hub on Human Trafficking, last accessed on 10 June 2012.

14 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.

15 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.

16 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.

17 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.



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>

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

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18 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.

19 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.

20 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.

21 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.

22 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.

23 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.

24 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.

25 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=IwAR2YgjiVDXeb0C-tOMDd1Qd9IOGBDw\\_pMZ0d7h5\\_NQF3-E3deluMOBDue4](https://documentation.lastradainternational.org/lisidocs/3387-REST%20Report%20Residence%20Permits%20-%20International%20Protection%20and%20Victims%20of%20Human%20Trafficking%20-%20FEB%202021.pdf?fbclid=IwAR2YgjiVDXeb0C-tOMDd1Qd9IOGBDw_pMZ0d7h5_NQF3-E3deluMOBDue4), last accessed on 10 May 2021.

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 known yet. 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 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>

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26 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.

27 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.

28 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.

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

30 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.

31 New EU Strategy.

## 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 cooperation with relevant support organisations“.<sup>36</sup> In 2020

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32 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.

33 Forced return is outside the scope of this study.

34 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.

35 TFEU, Article 83.

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

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>

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37 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.

38 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.

39 AT, BE, ES, HU, IT, LU, NL, PL, SK.

40 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.

41 Anti-trafficking Directive, recital 18 and Article 11(3).

42 Anti-trafficking Directive, recital 18.

43 Anti-trafficking Directive, Article 11(6).

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>

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

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44 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.

45 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.

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

47 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.

48 EU Strategy.

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.

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

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<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.

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

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51 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.

52 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.

53 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.

54 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.

55 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.

56 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.



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 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>

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57 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.

58 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.

59 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 (recast), (Qualification Directive), <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32011L0095>, last accessed on 15 May 2021.

60 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.

61 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.

62 Reception Conditions Directive, articles 21 and 22.

63 Asylum Procedures Directive, Article 31(7)(b).



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. Court of Justice (Hague) has referred several questions for a preliminary ruling, including whether a transfer decision pursuant to the Dublin Regulation during the

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64 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.

65 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.

66 Johanna Schliintl, 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=IwAR2YqjwIVDXeb0C-tOMDdJQd9IOGBDw\\_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=IwAR2YqjwIVDXeb0C-tOMDdJQd9IOGBDw_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.

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>

In a case 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

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67 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=IwAR2YgjiVdXeb0CtOMD-dJQd9IOGBDw\\_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=IwAR2YgjiVdXeb0CtOMD-dJQd9IOGBDw_pMZ0d7hS_NQF3-E3deluMOBdUed4), last accessed on 13 June 2021.

68 Dublin III Regulation, Article 8(4).

69 Dublin III Regulation, Article 17(1).

70 Dublin III Regulation, Article 17(2).

71 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.

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 crucial, 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,<sup>73</sup> 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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72 Dublin III Regulation, Article 3(2).

73 For instance, Case N. NL19.30940 mentioned above (footnote 63).

74 Dublin III Regulation, Article 5.

75 Dublin III Regulation, Article 6(3)(c).

76 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>

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

78 TFEU, Article 83(1).

79 Victims' Rights Directive, Recital 17.

80 Victims' Rights Directive, Article 22(3).

81 Denmark opted out from the Victims' Rights Directive.

82 Victims' Rights Directive, articles 8, 22 and 24.

### 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 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 RELEVANT SOURCES AND LITERATURE

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.
Dublin procedure	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).
Dublin transfer	<p>The transfer of responsibility for the examination of the merits of an application for international protection from one Member State to another Member State.</p> <p>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</p>
Identification of a victim of trafficking in human beings	The process of confirming and characterising a situation of trafficking in human beings for further implementation of support.
Identified victim of trafficking in human beings	A person who has been formally identified as a victim of trafficking in human beings according to the relevant formal authority in Member States.
International protection	<p>In the global context, the actions by the international community based on 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>
National referral/cooperation mechanisms	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>
Potential victim of trafficking in human beings	A person vulnerable to trafficking in human beings. <sup>85</sup>

83 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.

84 Article 11(4) of the Anti-trafficking Directive lays down an obligation on Member States the 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.

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

Detection of (a situation of) trafficking in human beings	The process of identifying a possible situation of trafficking in human beings.
Presumed victim of trafficking in human beings	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.
Protection of (presumed/ identified) victims of trafficking in human beings	The action of national authorities aimed at protecting the fundamental rights of (presumed) victims of trafficking in human beings. <sup>86</sup>
Reception centre	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.
Reflection period	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 offenses so that they can take an informed decision as to whether (or not) to cooperate with the competent authorities.
Registered victim of trafficking in human beings	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 organizations. <sup>87</sup>
Trafficking in human beings	The recruitment, transportation, transfer, harboring, 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.
Transfer of procedure	The process of changing from one migration procedure to another. <sup>88</sup>

86 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-grounded indication for believing that the person might have been subjected to trafficking in human beings.

87 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.

88 Definition elaborated by the Core AG for the purpose of this study.



Detection of (a situation of) trafficking in human beings	The process of identifying a possible situation of trafficking in human beings.
Victim(s) of crime	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>
Voluntary Return	The assisted or independent return to the country of origin, transit or third country, based on the free will of the returnee.
Vulnerable person	Minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, victims of trafficking in human 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.

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

## 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), last accessed on 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, last accessed on 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.

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<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.



The image features a stylized map of Europe in shades of blue. The Czech Republic is highlighted in a darker shade of blue, making it stand out from the rest of the map. The text is centered over the map.

# **CONTRIBUTION OF THE CZECH REPUBLIC**





The Czech Republic summarizes its current national policy in the area of Trafficking in human beings (hereinafter referred to as THB) in the National Strategy for Combating THB. The current strategy is prepared for the period of 2020-2023 and it is already the sixth strategic document in this area.

It is important to mention that the system of support and protection of victims of THB is non-discriminatory as regards the nationality of the victim. Third-country nationals, EU nationals as well as Czech citizens receive the same standard services.

All THB victims, including presumed victims if not proved otherwise, are considered by law as particularly vulnerable. As such they enjoy all victim support services, including legal aid free of charge, and may use special measures in order to protect themselves from secondary victimization during the criminal proceedings. Relevant provisions are included mostly in the Act no. 137/2001 Coll. (on Special Protection of Witnesses and Other Persons in Relation to Criminal Proceedings), Act no. 45/2013 Coll. (on Victims of Crime and on Amendment to Some Acts), and Act no. 141/1961 Coll. (the Criminal Procedure Code).

The Ministry of Interior is responsible for coordinating and financing the „Programme of Support and Protection of the Victims of trafficking in Human Beings“ (hereinafter referred to as Programme). The Programme exists since 2003 and establishes a system of comprehensive care for adult victims of human trafficking. Programme is designed for probable adult victims of THB, i.e. EU citizens trafficked within the Czech Republic, for third-country nationals trafficked within the Czech Republic, and for Czech citizens trafficked within the Czech Republic or abroad. The aim of such measures is to support victims and guarantee protection of their human rights and dignity, motivate the victims to testify and thus help the bodies responsible for penal proceedings to identify, prosecute, convict, and punish the offenders.

Every year, extensive preventive and informative activities on human trafficking are carried out by different stakeholders, mostly by NGOs. Most of these activities are financially supported by the Ministry of the Interior, the Ministry of Labour and Social Affairs, the Norwegian funds and the EU funds. Such campaigns are prepared after careful consideration and they focus on human trafficking from different angles. Each campaign is tailored to the specific needs of a target group and uses the best possible way to communicate the message (e.g. posters in/on the public transportation and in streets, internet campaigns (social media, designated websites), e-learning modules, fieldwork, workshops, etc).



## General overview of the national situation:

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).

Every year, extensive preventive and informative activities on human trafficking are regularly conducted. In addition, fieldwork for the purpose of information spreading among potential victims of THB and their detection throughout the Czech Republic are carried out by specialized NGOs and are subsidized by the Ministry of the Interior.

In 2015, organization La Strada CZ<sup>91</sup> in cooperation with IOM Slovakia and La Strada Poland realized a campaign to raise awareness about THB among persons endangered by exploitation working at constructions.

In 2016, La Strada launched an international project with partners from Austria (LEFO) and Germany (Ban Ying) called „Finding ways of contacting migrant women working in closed environments“ (the project was supported by the Daphne program of the European Commission) which was aimed at finding appropriate ways to ensure women working in closed environments (such as households, hotels, restaurants and other hard-to-reach places) have an access to information on their rights and the possibilities of using the social and legal services of La Strada.

In December 2017, La Strada launched a nationwide campaign aimed at THB and labour exploitation in construction, agriculture, and the sex

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<sup>91</sup> La Strada Czech Republic is a specialized NGO, which systematically tackles the problems of human trafficking and exploitation and provides access to adequate assistance and support to victims. It is a part of the La Strada International network.

business. Simultaneously, a campaign promoting the La Strada SOS Line was running. The campaign involved the installation of almost 70 city lights in public transport (mainly at metro stations) with 7 topics, 4 of which touched upon THB in general, and 3 targeted potentially trafficked persons. The same topics were posted inside buses and trams in Prague – a total of 2720 leaflets. The free newspaper „Metro” published three half-pages with the campaign topics, which should have reached 240 000 readers in Prague and Central Bohemia regions.

On 12 November 2017, the play „Honey” premiered at Jatka78, a multifunctional art space. The play is an untraditional take on a love story and is based on true events. As regards THB, it is a unique art project, since the story expressively and accurately portrays the relationship between a pimp („lover boy”) and his victim.

Since there was an increase in the number of THB victims from the Philippines in 2017 and 2018, the Czech Economic and Cultural Office in Taiwan and the Czech Embassy in the Philippines have established cooperation with La Strada in order to prevent further trafficking. This cooperation began with an exchange of general information and information materials (cards with basic data and a helpline number – in English) which were then distributed along with a short explanation to all applicants for long-term visas during interviews so that potential victims would be informed about whom they could contact.

With the adoption of Act No. 222/2017 Coll., amending Act No. 326/1999 Coll., on Residency of Foreigners in the Territory of the Czech Republic and on the Amendment of certain Acts, as amended, and other related acts, some changes concerning seasonal employment of foreigners were made to the Act on Employment, effective as of 15 July 2017. These changes are related to the transposition of the Directive 2014/36/EU of the European Parliament and of the Council (on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers). When a seasonal worker permit is issued, the regional labour inspectorate grants the foreigner written information about the rights and obligations of seasonal workers, including information about the steps to be taken when reporting the breach of labour law regulations by an employer. This measure should lead to better protection of seasonal workers – foreigners, who may not be aware of their rights and obligations during their brief stay in the Czech Republic and may thus constitute a vulnerable group.

On 1 July 2017, the Council of Europe Convention on Action against Trafficking in Human Beings came into effect in the Czech Republic (published under Ref. No. 33/2017 Coll.).

An updated handbook for assistance to victims of trafficking in human beings was issued in 2018 and is available on the website of the Ministry of the Interior. At the same time, it was published on the intranet of the Police of the Czech Republic and is also distributed in printed form. Handbook was also distributed among the workers of The Refugee Facilities Administration of the MoI and The State Labour Inspectorate.

On 1 March 2018, the Council of Europe Convention against Trafficking in Human Organs entered into force in the Czech Republic. It was published under No. 11/2018 Coll. and focuses on criminal law pertaining to trafficking in human organs, the protection of victims of trafficking in human organs, and support of cooperation at the national and international level.

On 4 May 2020 new National Strategy for Combating Trafficking in Human Beings in the Czech Republic for the Period 2020-2023 was adopted. The strategic goal is to combat THB, especially in raising awareness of the issue, improving cooperation between individual entities and prevention. Higher awareness will support both the identification and self-identification of victims. Planned training and other educational activities for people who may encounter presumed victims of trafficking in human beings will also lead to faster and more effective identification. The second strategic goal of stepping up assistance to victims of trafficking in human beings follows up on a higher number of identified persons.



**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.

Official statistics do not differentiate among victims according to the above-described characteristics. These data are gathered through Programme for the Support and Protection of Victims of THB and through annual reports from NGOs.

In 2017, a decrease in the number of (presumed) victims from the EU Member States and a rise in the number of (presumed) victims from third countries was recorded.

Comprehensive services were provided to presumed victims from Moldova, Ukraine, Nigeria, the Philippines, Vietnam, Pakistan, Ghana, Mongolia, Kyrgyzstan and Uzbekistan in last the 5 years. It should be emphasized that the majority of presumed victims were from the Philippines and Ukraine. Presumed victims from other countries were represented in less than 10 cases.

Within the Programme for Support and Protection of Victims of THB the following countries were reported as countries of origin in the last 5 years: the Philippines, Vietnam, Ukraine, Nigeria, Honduras, and Mongolia.

The most common form of THB of third-country nationals in the Czech Republic is trafficking for the purpose of sexual and labour exploitation. Presumed victims were forced to work in agriculture (picking seasonal produce), in factories, private homes as housekeepers and nannies, in massage parlours, nail studios and casinos.

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

**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

For better identification of victims of THB there are seminars and trainings for entities that can come into contact with the presumed victim of THB (social workers, police officers, labour inspectors).

There are also seminars for workers of the Refugee Facilities Administration of the Ministry of the Interior. At the same time, a manual, which is focused on the identification of victims and possibilities of help, was distributed among these workers. The manual was distributed also among police officers and labour inspectors.

Also, since 2019 a total of 17 participants (one judge, eight public prosecutors and eight members of court staff) have completed HELP Online Training Course, which is a free online course on human trafficking that has been developed by the European Programme for Human Rights Education for Legal Professionals (HELP) of the Council of Europe.

Seminars, workshops and other educational activities that are prepared by NGOs are also part of the training of staff in the Facility for Children-foreigners (a facility for unaccompanied minors). The topics connected with the problematics of THB are also an important part of educational and socializing activities provided for children-foreigners. During daily work with children, the staff sometimes detects indicators of THB. This information is immediately forwarded to Police to investigate and other services are provided to the minor according to his/her needs.

The issue of trafficking in human beings is always an integral part of consular education.

Field trips conducted by NGOs represent another very useful mechanism for the identification of victims.

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	NGOs register many cases of self-reporting.
However, it often seems difficult for victims to identify as trafficked, when perpetrators use a very effective combination of threats, violence, dishonesty, social coercion and manipulation to keep them in exploitative conditions.	<p>The transfer of responsibility for the examination of the merits of an application for international protection from one Member State to another Member State.</p> <p>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</p>
Awareness raising campaigns	Yes, awareness raising campaigns are in place as was described in question 1.
Collection of indicators	
Intelligence gathering by investigative services (e.g. police, labour inspectorate)	Yes, police and labour inspectorate perform joint controls.
Proactive screening in asylum procedures	Workers are trained on identification of victims of THB.
Proactive screening in migration procedures	Workers are trained on identification of victims of THB.
Other	

**b)** What measures are in place to promote and facilitate self-reporting by (presumed) third-country national victims of trafficking in human beings?

Fieldwork of NGOs and preventive campaigns.

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



Please note that there are no specific measures regarding these categories.

**d) What procedural safeguards exist for each category presented above?**

The procedural safeguards include various acts such as Act No. 326/1999 Coll., on the Residence of Foreign Nationals in the Territory of the Czech Republic; Act No. 325/1999 Coll., on Asylum; Act No. 45/2013 Coll., on Victims of Crime; Act No. 109/2002 Coll., on the performance of institutional care or protective education in school facilities and on preventive educational care in school facilities, etc. Aside from these, there are also other documents such as Standards for Quality in Social Services.

**e) What organisations / authorities are trained / competent to detect (presumed) third-country national victims of trafficking)?<sup>92</sup>**

Organisation / authorities	Trained to detect (presumed) third-country national victims of trafficking? Y/N	Competent to detect (presumed) third-country national victims of trafficking? Y/N	Details
Police	<input checked="" type="checkbox"/> Yes	<input checked="" type="checkbox"/> Yes	
Border guards*	<input checked="" type="checkbox"/> Yes	<input checked="" type="checkbox"/> Yes	
Labour inspectors	<input checked="" type="checkbox"/> Yes	<input checked="" type="checkbox"/> Yes	
Migration services	<input checked="" type="checkbox"/> Yes	<input checked="" type="checkbox"/> Yes	
Asylum case officers	<input checked="" type="checkbox"/> Yes	<input checked="" type="checkbox"/> Yes	
General practitioners	<input checked="" type="checkbox"/> Yes	<input checked="" type="checkbox"/> Yes	
Other health workers			
Employers			
Trade unions			
Civil society organisations	<input checked="" type="checkbox"/> Yes	<input checked="" type="checkbox"/> Yes	

<sup>92</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.

Organisation / authorities	Trained to detect (presumed) third-country national victims of trafficking? Y/N	Competent to detect (presumed) third-country national victims of trafficking? Y/N	Details
Staff in facility for Children-foreigners	<input checked="" type="checkbox"/> Yes	<input checked="" type="checkbox"/> Yes	

\* Please note that in the Czech Republic the equivalent to Border Guard represents Foreign Police, which, however, does not solely perform border security and its scope of activities is much wider. Foreign Police is a highly specialized unit of the Police of the Czech Republic, which carries out functions relating to the detection of irregular foreign-nationals, ensures application of punitive measures against foreigners staying in the Czech Republic in violation of the Foreigner Act, solves the crimes committed in connection with the crossing of the state border and cross-border crime, etc.

**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>93</sup>

Within the „National referral mechanism“ (NRM), the Ministry of Interior (and other ministries) cooperate together with the Police of CR (organized crime unit, criminal and alien police), non-governmental organizations and intergovernmental organizations. The National referral mechanism was formalized and the interdisciplinary working group involving representatives of the state bodies, police, non-governmental organizations and justice has been established in 2005. The task of the national coordinator is given to the Deputy Minister of Interior. The national referral mechanism in the Czech Republic is a protection and support system that includes identification; repatriation and social inclusion including residence regimes; and victim/witness protection. The main tasks of the national referral mechanism are identification and the appropriate treatment of trafficked persons; and the establishment of mechanisms designed to harmonize the assistance of trafficked persons with the investigation and prosecution efforts.

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93 Ibid.

**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	<input checked="" type="checkbox"/> Yes	
Border guards	<input checked="" type="checkbox"/> Yes	
Labour inspectors	<input checked="" type="checkbox"/> Yes	
Migration services	<input checked="" type="checkbox"/> Yes	
Asylum case officers	<input checked="" type="checkbox"/> Yes	
Civil society organisations	<input checked="" type="checkbox"/> Yes	
Facility for Children-foreigners	<input checked="" type="checkbox"/> Yes	

- b)** Are there specific measures in place to identify (presumed) third-country national victims of trafficking in human beings?

Yes       No

- c)** 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

**d)** 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>94</sup>

See our response to Q3 (f).

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94 Ibid.

**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	Police, NGO				
Appropriate and safe accommodation	Police, NGO				
Necessary medical treatment	Police, NGO				
Counselling and information	Police, NGO				
Legal assistance	Police, NGO				
Translation and interpretation	Police, NGO				
Psychological assistance	Police, NGO				
Subsistence (material assistance)	Police, NGO				
Social and economic integration	Police, NGO				
Protection against re-victimisation	Police, NGO				
Other					

\*\* Please note that any foreigners with any residence status who is identified as a (presumed) victim of THB and who enters the Programme may benefit from support, assistance and protection that this Programme offers (in compliance with the Anti-trafficking Directive 2011/36/EU).

**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.

The principle of non-refoulement is followed in all cases including the victims of trafficking in human beings. If the return of the victim of trafficking in human beings is necessary, the general practice is applied, i. e. it is assessed whether the return is in line with international obligations and the general safeguards are met.

**Q7** How does your Member State implement Article 60 and 61 of the 'Istanbul Convention'?<sup>95</sup>

First of all, it is necessary to mention that the Czech Republic is not a party state of the Istanbul Convention (the Istanbul Convention has not been ratified yet). However, Article 60 and 61 of the Convention are implemented in the Czech Republic.

According to Section 12 letter b) of the Asylum Act „Asylum shall be granted to a foreign national if it is established in the procedure for granting international protection that the foreign national has a well-founded fear of being persecuted on the grounds of gender“.

The asylum may also be granted for humanitarian reasons.

Moreover, the subsidiary protection may also be granted, where the person in question may face a serious harm after return to the country of origin. Serious harm is defined among others as a torture or inhuman or degrading treatment or punishment of the applicant for international protection.

The staff of the asylum centres as well as the staff of the determining authority is regularly trained also in the field of the needs of the victims of trafficking in human beings.

If necessary, the Ministry of the Interior shall arrange for the interview to be conducted by a person of the same gender and, if feasible on

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<sup>95</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>, last accessed on 9 May 2021.

the part of the Ministry of the Interior, interpreting shall be provided by a person of the same gender.

**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.

Police and NGO.

- b)** Is it used in practice?

Yes     No

If so, to whom? 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.

To Police and NGO - this possibility exists for both cases of presumed and identified third-country national victims.

- c)** Does your Member State provide for a reflection period also for presumed third-country national victims of trafficking in human beings?

Yes     No

- 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?

The reflection period lasts 60 days within the Programme for Support and Protection of Victims of THB and it has the same duration in case it is provided to presumed victims.

- 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.

Presumed victims and victims of trafficking in human beings may be granted a long-term residence permit for the purpose of protection, according to § 42e of Act no. 326/1999 Coll., on the Residence of Foreign Nationals in the Czech Republic and amending certain Acts.

A long-term residence permit for the purpose of protection is issued by the Ministry of the Interior with effect for the time necessary to achieve the purpose of a stay, at least for six months. This possibility is for both cases of victims (presumed and identified).

There is an exception regarding UAMs, who are granted a permanent residence permit and who has access to all services identical to those that are provided to Czech minors.



- 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?

According to § 42e of Act no. 326/1999 Coll., on the Residence of Foreign Nationals in the Czech Republic and amending certain Acts., the presumed victims of the crime of trafficking in human beings (§ 232a of the Criminal Code) have a period of one month to decide whether to cooperate with law enforcement authorities, if they decide to cooperate with them in a criminal proceeding and do not cooperate with the suspect of committing the crime, the Department of Asylum and Migration Policy of the Ministry of the Interior decides whether the long-term residence permit for the purpose of protection will be granted.

Presumed and identified third-country national victims of trafficking in human beings submit an application for a residence permit for the purpose of protection, which is provided with a certificate of authority participating in criminal proceedings that the conditions referred to in the paragraph above are met, to the Ministry of the Interior.

The application must contain: a travel document if the foreign nationals are holders of it (even with passed validity period); proof of accommodation during their stay in the territory and photos.

The conditions of issuing the residence permit do not differ between presumed and identified third-country national victims.

- 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

If so, please indicate the extent to which they differ between presumed and identified third-country national victims of trafficking in human beings.

Programme for Support and Protection of Victims of THB. There is no difference between presumed and identified third-country national victims of trafficking in human beings.



## 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?

The Czech Republic has little experience concerning presumed third-country national victims of trafficking in human beings in Dublin procedure. During the last five years, we have dealt only with one Dublin case.

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

The transfer has not been carried out in that particular case. Anyway, the Czech Republic would consider all circumstances of a case and would examine whether to apply humanitarian and sovereignty clauses.

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

Gathering information, social interview, psychological examination, communication with NGOs (La Strada).

d) Are presumed third country national victims of trafficking in human beings identified during the Dublin procedure entitled to a reflection period?

Yes  No

The reflection period is not stipulated in national law, however, based on individual circumstances and requests, the person is provided sufficient time for reflection.

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

No experience – anyway, in potential Dublin transfer current health/mental situation of a person could lead to a transfer cancellation.

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

Yes, in case mentioned above. Generally, if a person is a presumed third-country national victim of trafficking in human beings then it is considered a very relevant reason to use humanitarian and sovereignty clauses.

**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?

NGOs cooperation and police liaison officers.

**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?

Cooperation via EUROJUST, EUROPOL, INTERPOL.

**Q12** Does your Member States cooperate with third countries in the context of voluntary return of (presumed) third-country national victims of trafficking in human beings?

Yes  No

Voluntary returns are within the Programme of Protection and Support of Victims of THB provided by the International Organization for Migration so there is cooperation with the office of IOM in the country of origin of the victim.

**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 Czech Republic plans to establish better cooperation with the countries where most victims of trafficking come from.

## 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?

Challenge	Stage
<b>Please describe the challenge.</b>	<input type="checkbox"/> Detection
The perceived challenge is to ensure adequate training for all entities that may come into contact with victims of THB.	<input checked="" type="checkbox"/> Identification
Also answer the following questions:	<input type="checkbox"/> Protection
<b>a)</b> For whom is this a challenge (e.g. policy-makers, competent authorities, third-country nationals, other stakeholders.)?	
Competent authorities.	
<b>b)</b> Why is it considered a challenge?	
Due to the relatively high rate of employee turnover.	
<b>c)</b> What is the source of the statement (e.g. based on input from experts, surveys, evaluation reports, other sources)?	
Input from experts.	

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

There have not been identified any specific challenges.

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

There are no consequences.

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

No new trends have been observed yet.

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

There was no adaptation needed.

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

More prevention campaigns, more trainings for subjects in the first line who can encounter presumed victims of THB.

**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.

We expect that due to a significant socio-economic decline caused by measures related to the COVID-19, people will be more vulnerable to human trafficking.

**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?

<b>Good practice</b> (Please list in order of importance or chronological order as instructed under the first question)	<b>Stage</b>
<b>Please describe the good practice.</b>	<input type="checkbox"/> Detection
Programme for Support and Protection of Victims of THB	<input type="checkbox"/> Identification
Also answer the following questions:	<input checked="" type="checkbox"/> Protection
<b>a)</b> Who considers this a good practice (e.g. policy-makers, competent authorities, third-country nationals, other stakeholders.)?	
Policy-makers, police and NGO.	
<b>b)</b> Why is it considered a good practice?	
The Programme is a good measure for victims who need support and protection. The advantage is 60 days of the reflection period, when victims can decide whether they want to cooperate with law enforcement or not and they are still able to use all services which are provided within the Programme.	
Another advantage of this Programme is the possibility of voluntary returns which enable victims of THB to return safely, voluntarily, and free of charge to the country of origin. Voluntary returns are available to all victims of THB.	
<b>c)</b> What is the source of the statement (e.g. based on input from experts, surveys, evaluation reports, other sources)?	
Based on input from experts within annual reports.	



The content of this study

## **Third-Country National Victims of Trafficking in Human Beings: Detection, Identification and Protection**

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in cooperation with Crime Prevention Department  
of the Ministry of the Interior

Published by:

the Ministry of the Interior

Graphics:

Karmášek reklamní agentura & tiskárna

2022



9 788076 161276



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