European Commission

Identification of victims of trafficking in human beings in international protection and forced return procedures

European Migration Network Study March 2014

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The Focussed Study was part of the 2013 Work Programme for the EMN.

EXPLANATORY NOTE

This Synthesis Report was prepared on the basis of National Contributions from 24 EMN NCPs (**Austria**, **Belgium**, **Czech Republic**, **Cyprus**, **Estonia**, **Finland**, **France**, **Germany**, **Greece**, **Hungary**, **Ireland**, **Italy**, **Latvia**, **Lithuania**, **Luxembourg**, **Malta**, **Netherlands**, **Poland**, **Slovak Republic**, **Slovenia**, **Spain**, **Sweden**, **United Kingdom**, **Norway**) according to a Common Template developed by the EMN and followed by EMN NCPs to ensure, to the extent possible, comparability.

National contributions were largely based on desk analysis of existing legislation and policy documents, reports, academic literature, internet resources and reports and information from national authorities. Statistics were sourced from Eurostat, national authorities and other (national) databases. The listing of Member States in the Synthesis Report results from the availability of information provided by the EMN NCPs in the National Contributions.

It is important to note that the information contained in this Report refers to the situation in the above-mentioned (Member) States up to and including 2013 and specifically the contributions from their EMN National Contact Points. More detailed information on the topics addressed here may be found in the available National Contributions and it is strongly recommended that these are consulted as well.

EMN NCPs from other (Member) States could not, for various reasons, participate on this occasion in this Study, but have done so for other EMN activities and reports.

EXECUTIVE SUMMARY

Key points to note:

- **EU legislation provides a holistic framework for the improved identification and protection of victims**. Directive 2011/36/EU obliges Member States who have opted into the Directive to set up systems for the early detection, identification and assistance to victims, and the recently adopted EU asylum acquis introduces obligations to identify and provide additional support to vulnerable applicants *including* victims of trafficking in human beings. Both sets of provisions strengthen the possibilities for victims to seek protection.

- **Around half of all (Member) States have some data on victims detected when in international protection procedures**, but the data sources are inconsistent and incomplete making it difficult to give a comprehensive picture of the scope of the problem at EU level. Nonetheless the fact that there is evidence of victims going unidentified may mean they are not granted the protection and/or assistance available to them under EU law.

- In view of this, **proactive methods of detection in (Member) States can be considered good practice** and a number of (Member) States implement such methods as **screening of all applicants for international protection, training of case workers, and provision of information to facilitate self-reporting**.

- Many (Member) States logically place **greater emphasis on detection in international protection procedures than in forced return procedures**, in order to detect victims at the earliest stage possible. However, recognising that the authorities competent to enforce return may also come into contact with victims, most (Member) States also provide these actors with relevant training on identification and detection.

- **All (Member) States offer the possibility to refer identified victims onto service providers for support and some offer a choice of protection possibilities**. Where a victim of trafficking is seeking international protection, but is also identified as a victim of trafficking in human beings, there is no obligation on the victim to switch to procedures for a residence permit as a victim of trafficking in human beings. Indeed, some (Member) States have reported that victims prefer to stay in international protection procedures rather than switch to procedures for victims of trafficking in human beings. This suggests that there is a need for the holistic protection possibilities being gradually introduced into (Member) States.

Aims of the study

This Synthesis Report presents the main findings of the Third 2013 EMN Focussed Study on "Identification of Victims of Trafficking in Human Beings in International Protection and Forced Return Procedures". The aim of the Study was to examine whether, and how, potential victims of trafficking in human beings are detected and identified in these procedures in (Member) State. The study concerned both applicants for international protection and 'failed' applicants in forced return procedures who have received a (final) negative decision on their application(s) for protection or have abandoned the procedure. The Synthesis Report is based on the findings presented in 24 National Reports and developed in collaboration with the European Commission, EMN NCPs and the EMN Service Provider.

Background and context

Trafficking in human beings is recognised as "the slavery of our times", a severe violation of fundamental rights – as outlined in Article 5(3) of the EU Charter on Fundamental Rights - and a serious form of crime. In order to prevent this crime and to help those who have fallen victim to it, the EU recognises the need to detect and identify persons who have been subjected to trafficking and to offer them access to assistance, support and protection. Given the clandestine nature of trafficking and the many factors which may deter a victim from reporting the crime, victims can and do go undetected. For this reason, the EU has 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".[1] Such officials include police officers, border guards, immigration officials, public prosecutors, lawyers, members of the judiciary and court officials, labour inspectors, social, child and health care personnel and consular staff.

Scale and scope of the problem and national frameworks to respond to it

More than half of all EU Member States (AT, BE, DE, ES, FI, FR, IE, LU, MT, PL, SE, SK, UK) and Norway demonstrate evidence that potential victims of trafficking in human beings have been detected in international protection procedures in the past five years. A further five Member States (EE, HU, LV, LT, SI) have detected no instances. Two Member States (FI, SK) have statistical evidence of third-country national potential victims detected in forced return

[1] EU Strategy towards the Eradication of Trafficking in Human Beings 2012-2016

procedures, albeit small numbers (only one in SK). Relevant statistics are not available for the remaining Member States.

Most (Member) States (BE, CY, CZ, DE, EE, ES, FI, HU, IE, LV, LT, LU, MT, NL, SE, SK, UK, NO) have standardised practices in place for detecting, identifying and referring victims of trafficking in human beings when they are detected in international protection procedures. In many cases, these practices are outlined in guidelines (BE, DE, EE, FI, IE, LU, NO, UK), soft law (CZ, EE, ES, IE, LV, NL, SE, SK, NO) or even in legislation (HU). At least five (Member) States (BE, EE, FR, LU, IT) are currently preparing or updating (e.g. EE) their guidelines to support the identification of victims of trafficking in international protection procedures.

Similarly, all Member States except for seven (AT, DE, EL, FR, IE, MT, PL) have standard practices in place to detect, identify and refer potential victims who are in forced return procedures onto actors responsible for providing support. Indeed, four (Member) States (HU, IT, UK, NO) have outlined these mechanisms in law, a further ten in soft law (CZ, EE, ES, LV, NL, SK) or guidelines (EE, FI, LV, LU, NL, UK, NO) to support officials in forced return procedures to detect potential victims. At least a further four (Member) States (AT, FR, LU, SI) are preparing guidelines to support the identification in forced return procedures.

Detection and identification

How are victims detected?

Recognising that applicants for international protection may have faced different forms of persecution and exploitation (including trafficking), half of the reporting (Member) States proactively 'screen' either all applicants (CY, CZ, DE, ES, FI, LV, MT, NL, SK, UK) or applicants with specific profiles – e.g. women from specific countries, men / women in prostitution, unaccompanied minors (BE, IT, NO) for indications of trafficking. Screening entails the targeted gathering of information to assess possible victimisation through a series of questions and/or the assessment of information about the applicant against specific indicators and it can be performed upon registration (ES, NL), during the processing of the application (DE, ES, LV, NL), during the applicant's stay at the reception facility (by the facility's staff – NL, SK). Some (Member) States (e.g. ES, FR, LT) report that the general vulnerability assessment (e.g. medical screening) carried out in many reception facilities also facilitates detection.

Where proactive screening is not undertaken during the international protection procedure, the assessment of facts and circumstances within international protection procedures may still provide an opportunity to detect possible victimisation, since information is gathered on the country of origin, information on persecution or harm, personal circumstances, etc. which might also be indicative of the applicant having been a victim of trafficking. However, this still relies on both the victims providing the right amount and type of evidence to facilitate detection and on the authorities being adequately trained to recognise reported exploitation as trafficking. To enhance victims' capacity to self-report / self-identify, some (Member) States (e.g. BE, CZ, ES, FI, IE, PL, SK, SE, UK) disseminate information materials to applicants for international protection to raise awareness on the phenomenon of trafficking and the opportunities for assistance to facilitate self-identification and encourage self-reporting. The Czech Republic, Estonia, Hungary, Italy, Netherlands, Poland, Sweden and the United Kingdom have established hotlines where potential victims of trafficking can obtain advice and self-report. Training of asylum officials is described below.

What happens next?

Following detection, the asylum authorities will either consult immediately with (one of) the authorities competent to either officially identify a victim (CY, EE, EL, ES, IE, LT, LU, NL, PL) and/or provide assistance (IT, MT) without undertaking any further investigation, or will undertake a secondary assessment of suspected victimisation before consulting with other actors (e.g. BE, CZ, DE, FI, HU, SE, SK, UK, NO). In three Member States (FI, SK, UK) and Norway, the asylum authorities are competent to (officially) identify a victim, thus no consultation is necessary. One of the advantages of immediate referral is that the identification procedure will be undertaken by someone who is professionally trained in assessing the signs of trafficking. However, in cases where this official authority is exclusively a law enforcement body (as in CY, EE, HU, IE, LV, LT, LU, NL, PL), this can mean that the victim is obliged to 'cooperate' to some extent with the authorities and this may be traumatic for the applicant (e.g. s/he may mistrust the law enforcement officer, etc.). In (Member) States where NGOs or social services may identify victims (CZ, IT, LV), or where a specialist NRM is in place (UK), this stress may be somewhat reduced.

Do mechanisms for detection still apply even if an applicant is subject to 'Dublin' procedures?

If an applicant for international protection has previously applied for international protection in another (Member) State, and an application is judged to be the responsibility of that (Member) State in accordance with the Dublin III Regulation, the risk of a victim going undetected increases in some (Member) States. Only some (Member) States (CY, CZ, FI, HU, IE, NL, UK, NO) have mechanisms in place for the proactive detection of (potential) victims of trafficking in Dublin procedures, particularly as in (Member) States where the application of the Dublin procedure is assessed before the first interview, the opportunity for the authorities to screen the victim and/or otherwise detect possible victimisation is not available. Article 5 of the Dublin III Regulation introduces a new provision to conduct a personal interview with all applicants prior to deciding on the (Member) State responsible for

processing the claim in all cases except where the applicant has already provided the information relevant to determine the Member State responsible by other means and except when the applicant has absconded. In most Member States a Dublin transfer no longer applies if a person is suspected to be a victim of trafficking either case to case (AT, CY, EL, EE, FI, MT, NL, PL) or at the discretion of the competent authority (BE, FR, SE, UK), or on specific grounds outlined in national law (CY, FI, SI, UK, NO). In such cases, the hosting Member State takes responsibility for processing the application. In remaining (Member) States, a transfer can only be stopped on grounds of being a victim of trafficking if a different administrative process is considered to apply – i.e. if a victim is granted a reflection period / residence permit for victims (BE, EE, FI, FR, IE, LU, NL, SE, UK, NO), if a (pre-trial) criminal investigation into the crime is initiated (DE, EE, FI, FR, IE, IT, LU, NL, SE, UK, NO) or if official identification processes have been initiated (FR).

If a failed applicant who is a victim enters into forced return procedures does there remain an opportunity for detection and identification?

As compared to international protection procedures, third-country nationals in forced return procedures are much less likely to be proactively screened for indications of trafficking. In the case of Ireland and the United Kingdom, this is because it is expected that, since failed applicants will have already gone through previous stages of the applicant process, all necessary assessments in relation to the personal circumstances of the person that might have been relevant will have already been completed. The most common way in which victims are detected in forced return procedures is by actors who have been specifically trained - and/or who otherwise have expertise - in how to recognise signs of victimisation (e.g. as for section 4.1.2, specialist NGOs, health workers, legal advisors, etc. as well as the police). In some (Member) States (EE, FR, IE, NL, UK) this includes the authority responsible for enforcing return. Specialised NGOs also play an important role in detecting victims of trafficking in forced return procedures since they often have a focus on advocating for the rights of returnees and for monitoring the welfare of returnees. Such NGOs come into contact with victims through visits to detention facilities, through outreach work, or through their participation in the implementation of forced return (in some Member States some NGOs are permitted to act as independent observers of forced returns).

Authorities in forced return procedures seem to play a bigger role in official identification of victims than the authorities in international protection procedures. This is because authorities implementing forced return are usually necessarily law enforcement officers, and so they also have the power to investigate crime (including trafficking). Because of the implications of identifying (or not identifying) a victim in forced return procedures, a thorough assessment of suspected victimisation is undertaken before official identification in these procedures (as in CY, EE, IT, LV, NL, PL, SE, UK). In four (Member) States (AT, FR, HU, NO) the authority responsible for return is competent to identify victims. In only five Member States (BE, EE, EL, MT, SK) are the authority(s) responsible for identification contacted immediately to conduct further investigation / secondary screening and no standard procedures exist in three others (IE, LT, SI).

What needs to be done to suspend the return order?

In all (Member) States there are mechanisms in place to suspend the return order at least until it is determined whether the victim is eligible for a residence permit / protection status as a victim of trafficking in human beings. A secondary assessment is taken in either by the criminal investigative authority / NRM (CY, EE, FI, FR, LT, LV, SK, UK) or by the authority competent to suspend a return order (AT, BE, ES, FI, IE, IT, NL, PL, SE, SI, NO). In Ireland, the identified victim must first apply to the courts or the minister for a suspension of their return.

If a third-country national subjected to forced return self-reports, and the authorities responsible for return assess their declaration as false, an official appeal can be launched against the negative decision in the courts (e.g. through judicial review) in a few (Member) States (ES, HU, IE, LT, NL, UK). However, this can be problematic for victims who will have to go through a long and sometimes difficult procedure. This underlines the importance of facilitating detection through adequate training of those coming into contact with potential victims in international protection procedures before they are issued a return order.

What kinds of training are provided to authorities responsible for international protection and forced return?

Most Member States provide some form of specialised training to support asylum authorities to detect victims of trafficking in international protection procedures (e.g. training in indicators of trafficking or profiling techniques) and in ten Member States this training is provided mandatorily. However, there is still room to introduce training to these authorities on a more regular and frequent basis in most (Member) States. Member States who provide training in how to interview vulnerable persons may also indirectly facilitate detection by creating an environment in which victims are more able to self-report. Indeed, in reception centres, staff are often trained in communication methods, relationship-building and counselling to potential victims.

Training to actors involved in forced return procedures is mandatory in only two (Member) States. However, this appears to be an emerging process since several Member States (FR, HU, NL, LU, PL, SK) are planning to introduce it in the coming years.

All national authorities responsible for preventing trafficking of human beings play an important role in

encouraging and implementing training to asylum and return authorities. In several (Member) States, NGOs or international organisations are partners in the training programmes, and EASO plays an important role in providing training in many (Member) States. The involvement of EU Agencies and international organisations helps also to harmonise the approach in line with international standards.

Referral

What systems of referral are in place?

In the majority of (Member) States (AT, BE, CY, ES, FI, FR, ES, HU, IE, IT, LV, LU, MT, PL, SE, SI, SK, UK, NO), assistance specific to the needs of victims of trafficking in human beings can be provided while the (potential) victim of trafficking in human beings is still in the international protection procedure, without referral to other procedures for protection / residence. This statutory assistance is provided either through tailored assistance in reception centres (e.g. specialist counselling), through specific state programmes for victims of trafficking in human beings or vulnerable persons, by state-funded non-governmental organisations or through the state welfare system (e.g. in the form of additional (targeted) benefits). The pre-conditions on access to this support vary between (Member) States and in some cases the pre-conditions (e.g. where they involve cooperation with the authorities) can deter victims from seeking assistance. In these situations, NGOs may play a role in informing the victim and supporting them through the process. Other (Member) States report that there is also a need to standardise practices in how to refer potential victims of trafficking in human beings onto such support systems, and that this could be done through greater awareness-raising with the authorities.

Some Member States (CY, EE, ES, FI, FR, HU, IT, LV, LT, LU, MT, PL, SE, UK) provide the possibility to applicants to simultaneously apply for international protection and to be granted a residence permit under Directive 2004/81/EC or permissions of stay under equivalent national measures. In all of these (Member) States, an official identification procedure is required for the victim to be granted the reflection period, even if they remain in international protection procedures (except in FI and SE). Evidence suggests, however, that most victims choose to stay in the process for international protection until a final decision on that application has been reached. Indeed, in at least two Member States (NL, PL), the procedure under Directive 2004/81/EC is temporarily suspended until a decision on the international protection application is issued first.

In eight (Member) States (AT, BE, EL, IE, NL, SI, SK, NO) it is not possible for applicants to remain in international protection procedures whilst accessing rights and services provided by Directive 2004/81/EC or equivalent national procedures.

If, following withdrawal, the victim is not granted a residence permit under Directive 2004/81/EC or equivalent national procedures, s/he can re-open the asylum procedure in some of these Member States (AT, BE, EL, IE, SI), although the victim is obliged to provide new evidence to support the claim and (in IE) to request permission from the Minister or (in SI) to prove that the statement of withdrawal was given under coercion or duress.

1 Introduction

This Synthesis Report presents the main findings of the Third 2013 EMN Focussed Study on "Identification of Victims of Trafficking in Human Beings in International Protection and Forced Return Procedures". The aim of the Study was to examine whether, and how, potential victims of trafficking in human beings are detected and identified in these procedures in (Member) State. The study concerned ongoing applicants for international protection and 'failed' applicants in forced return procedures who have received a (final) negative decision on their application(s) for protection or have abandoned the procedure.

The Synthesis Report is based on the findings presented in 24 National Reports and developed in collaboration with the European Commission, EMN NCPs and the EMN Service Provider.

1.1 BACKGROUND AND CONTEXT

Trafficking in human beings is recognised as "the slavery of our times", a severe violation of fundamental rights and a serious form of crime.[2] The EU recognises the need to **detect and identify** persons who have been subjected to trafficking and to offer them access to assistance, support and protection. Further, it has recently called on Member States to **increase their capacity** to identify victims of trafficking in human beings through legislation (see section 1.2).

This study concerns the identification of victims of trafficking in human beings specifically in international protection procedures and – where it concerns former applicants of international protection – in forced return procedures.

There has been little research conducted to date into the identification of victims of trafficking in international protection procedures. Historically, the mechanism for providing support to victims of trafficking in human beings has existed within the migration and/or criminal law frameworks, therefore applicants for protection who may also be victims may have been overlooked in protection procedures. Even more so, there has been a paucity of research on the experience of protection for applicants with other special needs for example trafficking victims subject to the Dublin Regulation[3] and forced return procedures. In the case of the latter, anecdotal evidence and in some cases national research (see section 2) do suggest that victims may not have been identified as such in return procedures and indeed may have been returned without being granted appropriate assistance.

1.2 EU LEGISLATIVE FRAMEWORK

This section outlines EU legislation relevant to the identification of victims of trafficking in international protection and return procedures. It begins by describing anti-trafficking legislation, followed by relevant elements of the Common European Asylum System (CEAS) and legislation on return. Whilst the 2011 Directive on Trafficking in Human Beings (from here on the Trafficking Directive)[4] introduces the concept of detection and identification of victims in all situations, the fact that mechanisms within instruments for international protection and forced return procedures are not explicitly provided for may in practice lead to lower detection rates within these procedures. The recast asylum acquis goes some way to improving this situation as described in section 1.2.2 below, although there may be room to improve provisions for victims of trafficking in human beings who are in Dublin or forced return procedures.

1.2.1 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 treaties, and in a number of legal documents. The Treaty on the Functioning of the EU (TFEU) situates the EU's power to act on trafficking in relation to its nature as (i) a migratory phenomenon and (ii) a cross-border crime. Several Directives within the migration acquis either focus on or have implications for (some) third-country national victims of trafficking in human beings. Most notably, Directive 2004/81/EC sets out the legal framework for granting residence permits to non-EU victims of trafficking (and smuggling) – however, only in cases where the victim cooperates with the authorities (see below).[5]

Under more recent policy and legislative developments, the EU has adopted a victim-centred '**human rights approach**'. The key piece of EU

[2] See The EU Strategy towards the Eradication of Trafficking in Human Beings 2012–2016, COM(2012) 286, available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2012:0286:FIN:EN:PDF

[3] European Council of Refugees (ECRE) (2013) Dublin II Regulation "Lives on Hold" – a European Comparative Report, February 2013. Available at: www.ecre.org/component/downloads/downloads/701.html

[4] Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims

[5] Other relevant Directives within the migration acquis include Directive 2009/52/EC which outlines a framework for Member States to issue sanctions against employers who knowingly employ illegally staying third country workers (and hence also against employers who exploit third-country national workers) and the proposed Seasonal Workers and recast Students Directives seek to respectively prevent the labour exploitation of low-skilled temporary migrant workers and (some) migrant domestic workers in the EU

legislation framing this approach is the Trafficking Directive. The Directive provides for a common definition of the criminal offence of trafficking, and obliges Member States to "*establish appropriate mechanisms aimed at the early identification of, assistance to and support for victims, in cooperation with relevant support organisations*".[6] The deadline for transposition of this Directive was April 2013 and this present study provides a first opportunity to assess the extent to which Member States are adapting their legislation, policy and practice to fit with the Directive's provisions. A total of **27 EU Member States take part in the Directive.**[7] The deadline for transposition of the Trafficking Directive in Member States was 6th April 2013 and to date some 20 Member States (**Austria**, Bulgaria, **Czech Republic**, Croatia, **Estonia**, **Finland**, **France**, **Greece**, **Hungary**, **Ireland**, **Latvia**, **Lithuania**, **Malta**, **Netherlands**, **Poland**, Portugal, Romania, **Slovak Republic**, **Sweden**, **United Kingdom**) have notified the Commission of their full transposition of the Directive. The Commission has formally requested that **Cyprus**, **Spain**, **Italy** and **Luxembourg**, ensure their full compliance with their obligations under EU legislation on human trafficking.[8]

Cyprus, **Italy** and **Luxembourg** at the time of the study have reported that they are still in the process of transposing the Directive (i.e. relevant bills have been submitted to the national parliamentary bodies).[9] **Norway** does not transpose this legislation, although its national legislation, soft law, guidelines or practices provides for the identification of and assistance to victims, and the prosecution of perpetrators.

To support the transposition and implementation of the Directive, the EU in 2012 launched the EU Strategy towards the Eradication of Trafficking in Human Beings 2012-2016 (EU Strategy). It calls for Member States to adopt *inter alia*:

1. A **systematic approach to victim identification, protection and assistance** (Strategy Priority A),
2. A more diverse group of actors than before in policymaking (Strategy Priority D) *inter alia* **police officers**, **border guards**, immigration and **asylum officials**, public prosecutors, lawyers, members of the judiciary and court officials, housing, labour, health, social and safety inspectors, and **Civil Society Organisations**
3. **Formal, functional national referral mechanisms** (NRMs) describing procedures to better identify, refer, protect and assist victims and including all relevant public authorities and civil society (Strategy Priority A – Action 1)

Table 1.1 illustrates which Member States have NRMs in place to support identification and referral of victims of trafficking in human beings detected in the EU.

Table 1.1 Establishment of NRMs in Member States[10]

Use of NRMs	Member States	Total
Formal NRM or equivalent in place which is used for identification and referral	AT, BE, CZ, DE, EE, EL, IE, LV, LT, MT,PL, SE, SK, UK[11]	13
Formal NRM in place but used predominantly for coordination not identification / referral	HU, SI	2
Formal NRM planned for near future	AT, FI, IT, NL	4
No NRM in place and no plans for one as yet.	CY, FR,LU, NO	4

Before the Trafficking Directive, Directive 2004/81/EC was the only piece of EU legislation providing for assistance to third-country national victims of trafficking in the EU. This 2004 Directive sets out a framework for Member States to **grant residence permits and specific forms of assistance and rights to third-country national victims of trafficking in human beings** (and optionally persons who have been the subject of an action to facilitate irregular migration), **when these persons cooperated with the authorities** competent to start pre-trial investigations and convict the perpetrator (i.e. the police, prosecution or judicial authorities). The Directive thus provides for the victim to remain in the State while the relevant judicial or pre-trial investigative proceedings are ongoing. Denmark, **Ireland**, **Norway** and the **United Kingdom** do not participate in and therefore are not bound by the 2004 Directive, although all three have similar national provisions in place for granting reflection periods and permissions of temporary residence based on a victims' cooperation with the authorities.

Six Member States (Croatia, **Finland**, **Italy**, **Netherlands, Portugal**, **Spain**) have provided for the possibility to grant residence permits to victims even in cases where they do not cooperate with authorities,[12]

[6] See Article 11(4)
[7] Denmark is not taking part in Directive 2011/36/EU
[8] See Commission MEMO and press release, October 2013: http://ec.europa.eu/anti-trafficking/EU+Policy/Cyprus_Spain_Italy_Luxembourg_to_enact_EU_rules
[9] See National Reports

[10] Information only included for the 23 (Member) States participating in the Study.
[11] In **Austria** this takes the form of informal, but established working practice between the authorities and NGOs assigned to provide assistance to victims. In **Sweden**, it takes the form of established channels for inter-agency cooperation – however, the system in place varies from region to region and are therefore more like regional referral mechanisms than national ones.
[12] See Article 4 of Directive 2004/81/EC on more favourable provisions.

e.g. when the victim is considered to be particularly vulnerable. While the Directive provides that Member States should grant a temporary 'reflection period' of *un*conditional stay and assistance – usually of between 30 and 90 days – to allow the victim to "recover and escape the influence of the perpetrators of the offences so that they can take an informed decision as to whether to cooperate with the competent authorities" (Art. 6), the fact that the reflection period usually follows an official identification process by the law enforcement authorities can mean that in practice, some level of cooperation is already implied. Since victims are often too frightened to cooperate with such authorities, due to pressures from their traffickers or their own preconceptions about authorities, and particularly when their right to remain on the territory post-trial is not guaranteed, many victims have not been able or have chosen not to access the possibilities offered by this Directive.[13]

According to the Trafficking Directive, "*a person should be provided with assistance and support 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***".[14] The Directive goes on to state that in cases where the victim does not already reside lawfully in the Member State the assistance and support should be provided unconditionally at least during the reflection period but can be stopped 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. The 2011 Directive, however, recognises that in addition to residence on the basis of cooperation, victims of trafficking may also be eligible for international protection.[15]

1.2.2 THE EU ASYLUM ACQUIS

The EU asylum acquis comprises four Directives and two Regulations controlling different aspects of the international protection procedure, including which country has responsibility for processing each application ('Dublin' Regulation),[16] the type of persons who can qualify for international protection and the rights related to the international protection status (Qualification Directive),[17] the common standards that Member States should have in place for granting and withdrawing refugee status (Asylum Procedures Directive),[18] and the common standards of living that applicants should be granted to guarantee them a dignified standard of living (Reception Conditions Directive)[19]. **Ireland** and the **United Kingdom** are not bound by all elements of the recast acquis.[20] For example Ireland and the United Kingdom are bound by the recast Dublin and Eurodac Regulations, but have chosen not to opt in to the recast Directives on Qualification for International Protection, Asylum Procedures or Reception Conditions, although both Member States remain bound by the earlier versions of the Qualifications and Asylum Procedures Directive and the United Kingdom remains bound also by the earlier version of the Reception Directive. **Norway** has opted to participate in the Dublin Regulation and considers that its asylum legislation is broadly harmonised with that of the EU.

The EU asylum acquis has recently been 'recast' and changes to all legal acts were introduced. Of relevance to this present study, a large number of the new provisions introduced grant **enhanced rights** to victims of trafficking found in the international protection system. While the previous version of the EU asylum acquis granted specific rights (accelerated or prioritised processing of applications,[21] necessary medical care and other assistance,[22] necessary treatment of damages caused by torture, rape or other serious acts of violence[23]) to persons with special needs, victims of trafficking in human beings were not explicitly listed amongst those classified as persons with special needs / vulnerable persons,[24] although persons who had been subjected torture, rape or other serious forms of psychological, physical or sexual violence *were* explicitly listed, thereby covering some victims of trafficking in human beings. Now the recast Qualification Direction and Reception Conditions Directive **explicitly recognise victims of trafficking as vulnerable persons**[25] whose situation should be assessed to see whether they are in need of special reception needs.[26] The recast Asylum Procedures Directive does not explicitly refer to victims of trafficking as potential applicants in need of special procedural guarantees.[27] However, the recast Directive

[13] See: Opinion No 4/2009 of the Group of Experts on Trafficking in Human Beings set up by the European Commission on a possible revision of Council Directive 2004/81/EC of 29 April 2004, p. 2, which states that the framework presents "inherent flaws in securing the human rights of victims"
[14] See Recital 18 of Directive 2011/36/EU
[15] See Article 11(6) of Directive 2011/36/EC
[16] Regulation 343/2003 recast to Regulation 604/2013
[17] Directive 2004/83/EC recast to Directive 2011/95/EU
[18] Directive 2005/85/EC recast to Directive 2013/32/EU
[19] Directive 2003/9/EC recast to Directive 2013/33/EU
[20] As permitted by the Protocol on the Position of the United Kingdom and Ireland in Respect of the Area of Freedom, Security and Justice – see: http://www.lisbon-treaty.org/wcm/the-lisbon-treaty/protocols-annexed-to-the-treaties.html
[21] See Article 23(3) of Directive 2005/85/EC
[22] See Article 15(2) of Directive 2003/9/EC
[23] See Article 20 of Directive 2003/9/EC
[24] See Article 17 of Directive 2003/9/EC and Article 29(3) of Directive 2004/83/EC
[25] See Article 20(3) of Directive 2011/95/EU (Qualifications Directive) and Article 21 of Directive 2013/33/EU (Reception Conditions Directive)
[26] Article 22; see also Article 25
[27] See Recital 29 and Article 2d) of Directive 2013/32/EU (Asylum Procedures Directive)

introduces a general obligation to identify applicants with special procedural needs, which may therefore include victims of trafficking.

The deadline for the transposition of the new Qualification Directive elapsed on 21st December 2013, and the new Dublin Regulation became applicable from 1st January 2014. However, the deadline for transposition of the two main Directives that introduce provisions for the identification and treatment of vulnerable persons (the Asylum Procedures Directive and the Reception Conditions Directive) is mid-2015.

Some Member State already provide for the possibility of granting different forms of international protection on grounds of the applicant being a victim of trafficking in human beings. These are outlined in Table 1.2 below. The table also outlines the different forms of non-protection residence permissions available to victims. **Refugee status** can only be granted when an applicant is assessed as having a well-founded fear of being persecuted for reasons of race, religion, nationality, political opinion or membership of a particular social group, when outside the country of nationality and unable or, owing to such fear, the applicant is unwilling to avail himself or herself of the protection of that country.[28] **Subsidiary protection** is granted when an applicant is assessed as facing a real risk of suffering serious harm if returned to his or her country of origin / former habitual residence.[29]

Table 1.2 Forms of international protection and residence permits that may be granted to third-country national victims of trafficking in human beings in EU Member States and Norway[30]

Protection status / residence permit	Member States	Total
Refugee status[31]	AT, BE, DE, EE, FI, *FR*,[32] IE, NL, PL, SE, SK, NO	11
Subsidiary protection[33]	AT, DE, EE, FI, FR, IE, NL[34]	7
(Non-EU harmonised) humanitarian protection	FI, HU, SE, UK, NO	5
"International protection status" (*not specified which*)	CY	1
No international protection statuses are granted on the grounds of being a victim of trafficking in human beings	*BE,[35] IT, LV, PL, SI, SK*	*6*
Residence permit on the basis of cooperation with the authorities	All except AT[36]	23
Residence permit granted in in accordance with Directive 2004/81/EC can be granted *without* cooperation in exceptional cases (e.g. vulnerability)	ES, FI, IT, NL	4
Other residence permit on compassionate / humanitarian grounds	BE, DE, EL, FI, NL, LU, SE	7
Other kinds of residence permits (*see below*)	DE, FR, UK	3

Four Member States grant non-protection related residence permits to victims of trafficking for reasons related to their being a victim, which are not linked to criminal proceedings:

- **Various Member States** (BE, DE, EL, FI, NL, LU, SE) grant residence permit on compassionate / humanitarian grounds. In the case of **Luxembourg** this authorisation of stay "for private reasons" can be granted to victims of trafficking after expiration of their temporary residence permit (in accordance with Directive 2004/81/EC).
- **Germany** grants permits of 'tolerated stay' to victims whose return is impossible in law or in practice and where the obstacle to return is not likely to be removed in the foreseeable future. In March 2013, the German Bundestag's Committee on Petitions began to advocate for the introduction of a residence permit for victims of human trafficking which is not conditional on cooperation with law enforcement;

[28] See Article 2(d) of Directive 2011/95/EU (Qualifications Directive) which reflects the Geneva Convention of 1951.
[29] See Article 2(f) of Directive 2011/95/EU
[30] Information only included for the 24 (Member) States participating in the Study.
[31] The granting refugee status on grounds of trafficking is theoretically possible in BE, NL, SE and SK, but in practice there have been no cases.
[32] There have been four cases since 2011. However, each of these have been annulled by the Supreme Court; a final decision by the national court of asylum (CNDA – second instance asylum authority) is still being awaited – see Box 1.
[33] The **United Kingdom** does not offer the possibility of granting subsidiary protection. **Norway** is not bound by the EU Qualification Directive and has no protection status called "subsidiary protection". According to Norwegian Law, an asylum applicant who does not qualify for status as refugee under art 1 A of the 1951 Convention, but still faces a real risk of being subjected to a death penalty, torture or other inhuman or degrading treatment or punishment upon return, is granted refugee status. The two groups have equal rights and benefits.
[34] A victim of trafficking in human beings may be granted subsidiary protection in NL if it is assessed that he/she is facing a real risk of serious harm if returned to the country of origin. Being a victim of trafficking alone is not sufficient to be granted subsidiary protection in NL.
[35] However, see Box 1 below.
[36] The Austrian residence title for victims does not explicitly require cooperation with authorities, but depends on the initiation of criminal or civil proceedings connected to the crime.

- **France** grants temporary residence permits to victims "for reasons relating to private or family life" in some cases only at the discretion of the prefectural authority, and may also grant a ten-year residence permit to victims who *have* cooperated with the authorities when the cooperation has led to the prosecution of the perpetrator; and

The **United Kingdom** may grant discretionary leave to remain (a temporary permission of stay) to victims who have raised a legitimate claim for compensation through the civil courts when it would be unreasonable for them to be outside of the UK to pursue that claim.

Box 1. The granting of refugee status on grounds of trafficking in human beings

A total of eleven (Member) States (**Austria**, **Belgium**, **Estonia**, **Finland**, **France**, **Ireland**, **Germany**, **Netherlands**, **Poland**, **Slovak Republic**, **Sweden**, **Norway**) provide for the possibility of granting refugee status to victims of trafficking in human beings on the grounds of their being a victim of this crime. In the case of **Germany**, refugee status has only been granted to victims of trafficking in a handful of cases. The administrative courts of Würzburg and Wiesbaden ruled in favour of granting refugee status for reasons of **gender-based persecution** (where gender is considered to constitute a social group) in two cases of human trafficking (VG Wiesbaden 2011; VG Würzburg 2005). In **Netherlands**, whilst a refugee status *could* be applied to victims of trafficking in human beings, there are currently no precedents. In most cases a permit on humanitarian grounds is granted instead.

In **Belgium**, in 2010, the Council for Alien Law Litigation recognised that refugee status pursuant to the Geneva Convention *could* be made available to victims of trafficking in human beings in cases where the alleged facts (e.g. several years of forced prostitution, limited freedom of movement, maltreatment) are judged **sufficiently serious by their repetitive nature and character as to constitute persecution** and where the applicant's fear of persecution is **based on her membership in the social group 'women'**, the acts being **directed against them as a result of gender**.[37]

In **France** in July 2013, the State Council ruled that while victims of trafficking in human beings could be granted refugee status as a result of being members of a particular social group they could only be considered so in cases where there existed a **social perception of this group in the asylum seekers' country of origin**.

In the case of **Estonia**, **Finland**, **Ireland**, **Poland** and **Norway** refugee status can be granted on ground of trafficking in cases where the applicant has been judged to be persecuted by his / her traffickers due to being a member of a particular social group and there is a **recognised risk of future persecution from the traffickers** upon return in the form of e.g. re-trafficking and/or assaults from exploiters against which state protection or internal relocation do not provide a remedy.

1.2.3 THE DUBLIN REGULATION

The Dublin III Regulation (Regulation 604/2013) establishes the criteria for identifying the (Member) State responsible for the examination of an asylum claim in Europe. Where another (Member) State other than the one in which the applicant is currently residing is found to be responsible for processing the application, the applicant will usually be *transfer*red (back) to that (Member) State. In cases where a victim has been exploited in the first (Member) State in which s/he sought asylum, it can be traumatic for them to return to the (Member) State, even though in accordance with the Dublin Regulation they should be transferred there.

That said, so-called "Dublin" transfers to the responsible (Member) State do not take place in cases where the applicant is an Unaccompanied Minor (see Article 8(4)) or where a (Member) State decides to exercise discretion to take responsibility for an application for asylum lodged by a third-country national itself, for example:

- On the basis of a national decision (Article 17(1)– the so-called 'sovereignty clause'),
- On humanitarian grounds based in particular on family or cultural considerations (Article 17(2))

In accordance with a 2011 ruling of the EU Court of Justice (CJEU),[38] and made explicit in the Dublin III Regulation, the Regulation also provides that where it is impossible to transfer an applicant to the responsible (Member) State because there are substantial grounds for believing that there are systemic flaws in the asylum procedure and in the reception conditions for applicants in that (Member) State, resulting in a risk of inhuman or degrading treatment within the meaning of Article 4 of the Charter of Fundamental Rights of the European Union,[39] the determining (Member) State shall continue to examine the criteria set out in the hierarchy of criteria in order to establish whether

[37] Council for Alien Law Litigation, 20 October 2010, No 49.821, *Rev. dir. étr*. 2010, No 160, pp. 501-505, quoted in the Belgian National Report.

[38] http://www.dublin-project.eu/dublin/Resources/CJEU-December-21-2011-Cases-NS-vs-SSHD-C-411-10-and-MEea-C-493-10

[39] See Article 3(2) of Regulation 604/2013

another Member State can be designated as responsible. It applies to all applicants whether or not they claim to be victims of trafficking.

However, such a decision not to proceed with a transfer to another (Member) State (within the time limits set by the Dublin III Regulation) does not automatically apply in all cases where a transferee is a victim of trafficking in human beings (see section 5.3). 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. The Dublin III Regulation also goes some way to improving possibilities for detection, since it introduces a new provision to conduct a personal interview "in order to facilitate the process of determining the Member State responsible" (see Article 5 of the Dublin III Regulation).

Where a Dublin transfer is delayed or discontinued, introducing a safeguarding mechanism could allow for the safe transfer of victims to persons who can provide assistance in the (Member) State responsible for processing the application for protection. The new Dublin III Regulation introduces new 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", but does not introduce new provisions relevant to adults who are (potential) victims of trafficking in human beings within Dublin procedures.

1.2.4 LEGISLATION ON RETURN

Directive 2008/115/EC on common standards and procedures in Member States for returning illegally staying third-country nationals (hereafter the Return Directive) sets out a horizontal set of rules applicable to all third-country nationals who do not or who no longer fulfil the conditions for entry, stay or residence in a Member State, fully respecting the principle of non-refoulement. Denmark, **Ireland** and **United Kingdom** do not take part in the Directive and are not bound by its rules.

In addition to outlining provisions on return, the Directive also offers the possibility for Member States to grant international protection to third-country nationals staying illegally on their territory for "compassionate, humanitarian or other reasons" at the discretion of the national authority. In such a case, no return decision will be issued, or where one has already been issued, it may be withdrawn or suspended.[40] Under Directive 2004/81/EC, potential victims of trafficking who have been issued a reflection period cannot be returned for the duration of this period (see section 1.2.1).

The Return Directive explicitly provides for the application of entry bans, stating that return decisions shall be accompanied by an entry ban under specific circumstances;[41] however, it also explicates that victims of trafficking in human beings (who have been granted a residence permit under Directive 2004/81/EC) will not be subject of an entry ban without prejudice, provided that there is no threat to public policy, public security or national security. It notes also that Member States may refrain from issuing, withdraw or suspend an entry ban in individual cases for humanitarian reasons. Detection and identification mechanisms for victims of trafficking in human beings are left to (Member) States to define, and once identified, it is at the discretion of national authorities to decide whether a victim should be returned or not.

Unidentified victims who are returned may be subject unnecessarily to a re-entry ban, which could prejudice their future opportunities for legitimate work in the EU therefore it is important that both potential victims and staff working in contact with them, are aware of the potential long term risks to individuals whose victimisation goes undetected.

1.3 THE ROLE OF THE EU ANTI-TRAFFICKING COORDINATOR AND THE EU AGENCIES

In 2010, the European Commission appointed an EU Anti-Trafficking Coordinator (EU ATC) to improve coordination and coherence amongst EU institutions, its agencies, Member States and international actors in implementing EU legislation and policy against trafficking in human beings. Since the appointment of the EU ATC, focus has been placed on the implementation of the Trafficking Directive and the EU Strategy towards the Eradication of Trafficking in Human Beings 2012-2016.[42] The EU ATC has a key role in coordinating the work of relevant Justice and Home Affairs (JHA) agencies in this area, such as EASO and Frontex.[43]

In accordance with its establishing Regulation 439/2010, EASO provides continuous support to Member States in the form of common training and training material, Country of Origin Information (COI), and practical cooperation amongst other activities. Within EASO, the Officer on Gender and Vulnerable Persons is responsible for mainstreaming consideration for the rights and specific needs of victims of trafficking throughout all EASO activities. In response to the EU Strategy, in 2013 EASO updated its training

[40] See Article 6(4) of Directive 2008/115

[41] See Article 11 of Directive 2008/115

[42] The EU Strategy towards the Eradication of Trafficking in Human Beings 2012–2016, COM (2012)286 final.

[43] For more information, see: http://ec.europa.eu/anti-trafficking/download.action?nodePath=/EU+Policy/joint_statement_final_18_oct_2011.pdf&fileName=joint_statement_final_18_oct_2011.pdf&fileType=pdf

module on 'Interviewing Vulnerable Persons' and 'Interviewing Children' to cover situations in which applicants may be victims of trafficking.[44]

Frontex also play a role in training national border authorities in how to detect, identify and engage with victims of trafficking. In 2011 Frontex Training Unit developed an anti-THB training package for European border guards.[45] It is accompanied by a handbook on risk profiles which will further help raise awareness of specific indicators of trafficking.

2 Scope and scale of the problem

There are a variety of reasons for which victims of trafficking in human beings might find themselves in international protection procedures *inter alia*:

1. They may be applying for protection due to a well-founded fear of persecution or a risk of serious harm *from actors other than their traffickers* should they be returned to their country of origin;
2. They may be applying for protection (asylum or subsidiary protection), because they are at risk of persecution or harm *from their traffickers* should they be returned to their country of origin;
3. They may be applying for protection (humanitarian) as a victim of trafficking in human beings *because they are in need of assistance and protection*, but may not necessarily be at risk of persecution or harm in their country of origin;
4. They may be applying for protection *with a false story under the duress of their traffickers* in order to legalise their stay so that the exploitation can continue.

In each of the scenarios above, the applicant may not be aware that s/he is a "victim of trafficking" per se – that is they may not have an adequate understanding of the concept of this crime and the sorts of status and protection it can entail if they are identified as such; they may be simply applying for protection as a means to escape the exploitation or, in the case of (1), to escape a different form of persecution to which they have been subjected. If the victim is unaware of the kind of evidence they are supposed to provide in order to be identified as a victim of trafficking, or indeed if they do not want to declare this information and/or do not see it as relevant to their application for international protection, they may not provide evidence of their exploitation to the authorities (i.e. they may not 'self-identify' nor even 'self-report'). This emphasises the need for asylum authorities and those coming into contact with victims to be able to *detect* indications of trafficking in applicants for international protection, even in cases where it is clear that the application for international protection as presented to the competent authority is unfounded (as in scenario (4)).

2.1 EVIDENCE FROM NATIONAL STUDIES

At EU level, no research has been conducted to date into the extent to which victims of trafficking go undetected in international protection and forced procedures. However, evidence of a problem in Member States is reported in several of the National Reports developed for this study:

- A project funded by the European Refugee Fund (ERF) and co-implemented by the UN High Commissioner for Refugees (UNHCR)[46] in **Germany** involved an ex-post evaluation of 164 asylum decisions pertaining to Nigerians 2009-2010. The applicant information was checked against indicators of trafficking in human beings. Of the 164 cases assessed, 53 showed indications of possible victimisation; however in all but one of the cases, the applicant had been denied protection on the grounds that the applicants' statements were implausible, unsubstantiated, incomprehensible, or too vague. This study suggested the possibility that victims of trafficking were going undetected in procedures for international protection. In the later phases of this project, the UNHCR provided in-depth training to authorities responsible for assessing international protection applications in order to increase their capacity to detect victims.
- In the 2013 Report on the *implementation of the Council of Europe Convention on Action against Trafficking in Human Beings in* ***France***[47] NGOs reported the likelihood that victims of trafficking in human beings have been *returned* without being identified. The National Consultative Committee on Human Rights in **France** also conducted a study in which it found that certain procedural obstacles, such as fast-tracking, prevent detection and identification of victims.[48]

[44] M. Kovalakova (2013). The Role and Activities of EASO with Regard to Trafficking in Human Beings'. Presentation given on the occasion of the EMN Ireland Conference *"Challenges and Responses to identifying Victims of Trafficking",* 29 November 2013, Dublin

[45] http://frontex.europa.eu/feature-stories/combating-human-trafficking-at-the-border-training-for-eu-border-guards-rRzpfI

[46] IOM (2010) *Identification and Protection of Victims of Human Trafficking in the Asylum System* For more information see: http://www.iom.int/germany/en/downloads/CT%20Asyl/120606%20Projektbeschreibung%20eng%20LANG_2.pdf

[47] Group of Experts on Action against Trafficking in Human Beings (GRETA) (2013) *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by France*, January 2013

[48] National Consultative Committee on Human Rights (CNCDH), *La traite et l'exploitation des êtres humains en France*, La documentation française, 2010,

- Various reports of independent National Rapporteurs and other regulatory bodies have reported on legal challenges that prevent the identification of victims of trafficking in human beings in Dublin procedures (**Finland**), low numbers of detected victims in international protection procedures (**Austria**), and the need for greater training to enable asylum authorities (**Austria**, **Belgium**, **Sweden**) and detention centre staff (**Austria**, **Belgium**) to detect trafficking in human beings.

The results of such evaluations and reports suggest or in some cases demonstrate that victims have gone through the international protection procedures without being identified and this then suggests that in these and likely other (Member) States current systems of detection / identification are unsatisfactory.

2.2 NATIONAL STATISTICS

Quantitative data on the number of victims of trafficking in human beings identified in international protection procedures are rare. Seventeen Member States (AT, BE, EE, ES, FI, FR, HU, IE, LV, LT, LU, MT, PL, SE, SI, SK, UK) and Norway were able to provide data relevant to the study (see annex 1 and below); this comprises data on referrals by asylum authorities to the authorities responsible for identification (LU), to the NRM (MT, SK, UK), or to the institution responsible for assisting victims (ES, FI, PL); other data on potential victims detected by the asylum authorities (SE); data on applicants who have withdrawn from the international protection procedure because they were granted a reflection period as victims of trafficking in human beings (LU, NO) or who were granted a residence permit after having had their application for international protection rejected (ES, FI, FR) and data on victims detected in reception centres (BE). No instances of victims of trafficking in human beings have been detected in international protection procedures: **Estonia**, **Hungary**, **Latvia**, **Lithuania** and **Slovenia.** Whilst this provides some insights into the potential scale of the issue, what has been measured is not comparable, and is thus insufficient to allow for a full comparison of the situation across the EU. Overall, however, the numbers of victims reported were small.

2.2.1 DETECTION OF VICTIMS WHEN IN INTERNATIONAL PROTECTION PROCEDURES

Data is available on victims of trafficking detected when in international protection procedures in eight Member States (BE, ES, FI, IE, LU, SE, SK, UK). In the **United Kingdom**, the body responsible for international protection, enforcing forced returns and managing reception centres (formerly UKBA and since 2013, the Home Office) is responsible for the largest proportion of referrals to the UK NRM: in 2012, 512 (43%) were made by this authority – however not all of these victims were necessarily in international protection procedures. In **Spain**, 58 referrals have been made by asylum authorities to the authorities responsible for assisting victims of trafficking since March 2011. In **Sweden**, the Migration Board detected 48 cases of presumed trafficking in human beings in 2012. Most detections were made by officers dealing with asylum examinations. By contrast, lower numbers have been detected in other Member States: in the **Slovak Republic** 5 referrals by the asylum authorities all in 2012) [49] and in **Finland**, between 2008 and 2012, 3 referrals to the centralised National Assistance System for Victims of Trafficking (2% of the total) were by asylum authorities and 17 referrals (10%) were made by staff in reception centres. The asylum authorities in **Ireland** referred 36 suspected victims 2010 (46% of total); 32 in 2011 (56% of total); 8 in 2012 (17% of total).Between 2008 and 2012, the authority responsible for processing asylum claims in **Luxembourg** referred three presumed victims to the police for identification. In **Belgium**, the number of third-country national (potential) victims who were in international protection procedure or in closed centres when a residence permit was requested by specialised reception centres to the MINTEH cell in 2012 was 12 (9 males / 3 females), the majority coming from three countries: China (3), Nepal (3) and Russian Federation (2).

2.2.2 THIRD-COUNTRY NATIONALS GRANTED A REFLECTION PERIOD OR RESIDENCE PERMIT HAVING BEEN THROUGH OR HAVING MOVED FROM INTERNATIONAL PROTECTION PROCEDURES

In some (Member) States, applicants for international protection who are identified as victims of trafficking in human beings are obliged or otherwise decide to change to procedures for residence as a victim of trafficking in human beings under Directive 2004/81/EC or equivalent measures (see section 8.1 and 8.2). In **Norway,** the number of applicants who have withdrawn from the international protection procedure to apply for a reflection period as victims of trafficking in human beings has increased year on year from 30 in 2010 to 43 in 2012. In **Luxembourg** in 2011, the number was 1. Third-country nationals who were granted a residence permit as victim of trafficking in human beings after having had their application for international protection rejected were reported in **Finland** (8 between 2011-2012), **France** (76 between 2008-2012); **Ireland** (5 between 2010 and 2012) and **Spain** (6 in 2012). In **Belgium**, four residence permits specifically for victims of trafficking

p.248:http://www.cncdh.fr/sites/default/files/etude_traite_et_exploitation_des_etres_humains_en_france.pdf.

[49] The total numbers reported by UK include EU citizens as well as third country nationals

were requested for persons who were in closed centres in 2012.

2.2.3 THIRD-COUNTRY NATIONALS GRANTED AN INTERNATIONAL PROTECTION STATUS ON GROUNDS OF BEING A VICTIM OF TRAFFICKING

Where a person who is a victim of trafficking in human beings is granted a protection status for this reason, this does not necessarily mean that s/he was *detected* when in the procedure. Nonetheless data on victims granted a protection status again reinforces the links between international protection in general and the specific systems of protection available to victims of trafficking in human beings in the EU. Third country nationals who were victims of trafficking and granted a protection status between 2009 and 2012 were reported in **Austria** (50[50]); **Norway** (27); and between 2008 and 2012 in **Finland** (4). In **Spain**, the number for 2013 in this category was 2 persons.

2.2.4 THIRD-COUNTRY NATIONALS DETECTED IN FORCED RETURN PROCEDURES

With regard to forced return, between 2008 and 2012, 11 referrals (7%) to the National Assistance System for Victims of Trafficking in **Finland** were made by the authorities responsible for return. During the same reporting period, in the **Slovak Republic** there was only one referral from a detention facility to the NRM (in 2011). Data is not available for other Member States.

3 National Frameworks

The majority of (Member) States have outlined mechanisms for detection and identification in **soft law** (e.g. recommendations), **guidelines,** or report to have **standard practice** in place. The table below further provides an overview of the **legislative framework** for mechanisms to detect and identify procedures.

Table 3.1 Legislative framework for detection and identification procedures

	International protection procedures	Forced return procedures
Mechanism outlined in legislation	HU	HU, IT, UK, NO
Outlined in soft law	CZ, EE, ES, IE, LV, NL, SE, SK, NO	CZ, EE, ES, LV, NL, SK, NO
Outlined in guidelines	BE, DE, EE, FI, LU, NO, UK	EE, FI, LV, UK, NL, NO
Standard practice in place	CY, LT, MT, SI, NO	BE, CY, LU, SI, SE, NO
Have not established	AT, EL, FR, IT,	DE, EL, FR, IE,
protocols	PL, SI	MT, PL

In addition to the legislation being developed by **Cyprus**, **Italy** and **Luxembourg** to transpose the Trafficking Directive, **Austria** is planning future legislation on the identification of victims of trafficking. **France** and **Finland** have set up working groups to develop national policy in this area: **Finland** will evaluate the functionality of current legislation related to assistance to victims of trafficking in human beings with a view to making proposals for change and **France**'s 'harmonisation committee' will seek to bring the practices of various departments of the organisation on cross-cutting themes such as THB into line. The French asylum authority (OFPRA) has also launched a consultation on the theme of vulnerable persons and has proposed, amongst other measures, to establish an early referral mechanism for asylum applications with a view to identifying those who are particularly vulnerable. **Greece** overhauled its procedures for granting asylum with the establishment of a new Asylum Service (operating independently from the police) which became operational in June 2013.

At least five (Member) States (**Belgium**, **France**, **Luxembourg**, **Italy**) are currently preparing or updating (**Estonia**) guidelines to support the identification of victims of trafficking in international protection procedures and/or at least a further three (Member) States (**Austria**, **France**, **Slovenia**) are preparing guidelines to support the identification in forced return procedures. In **Luxembourg**, this document has been prepared by the police and though still not officially adopted as standard practice, is already being used by the migration and asylum authorities. The authorities in **Poland** have set up an expert group to prepare and implement a special procedure and indicators which are to enhance identification of potential victims at the international protection procedures.[51] **Spain** has developed a general protocol for detection/identification of victims, by agreement of the Ministries of Justice, Interior, Employment and Migration, Health and the governing body of the Spanish judiciary. Specific protocols for detection/identification in reception centres are being developed.

3.1 PROTOCOLS FOR CHILDREN

Some (Member) States have developed different protocols and/or practices for detection/identification that apply to children (**Czech Republic, Greece, Estonia**) specifically in international protection proceedings (**Belgium**, **Ireland**, **Netherlands**, **Spain, Sweden**, **Norway**) and in forced return proceedings (**Cyprus**, **Czech Republic, Hungary**,

[50] The number reported in Austria in 2008 was 112.

[51] The procedure and indicators were finally implemented in February 2014.

Ireland, **Latvia**, **Malta**, **Slovenia**, **Spain, United Kingdom**, **Norway**). In **Slovak Republic**, protocols/practices in place for adults relating to international protection as well as forced return procedures contain also specific provisions for minors.

In the **Czech Republic** and **Netherlands**, a separate identification and referral process is also in place for children. Reception and counselling services are tailored and a separate policy framework applies. The guardianship agency assesses whether an unaccompanied child is a victim of trafficking in human beings, and if so, places the child in a specialised reception facility designed specifically to protect residents from finding themselves in a situation of exploitation. Other UAM's (not identified as victims) are placed in "regular" reception facilities for minors. **Belgium** has established Centres for Observation and Orientation (COO) of unaccompanied minors which have developed specific protocols for detection of child victims of trafficking, in cooperation with the NGO-led Esperanto Centre.

In **Norway**, information must be provided in an age-sensitive manner and concerns of a child should be reported to the child welfare services who are subsequently obliged to assess the child's risk situation and needs and take appropriate action to safeguard the child's care and safety. Similarly, in **Sweden**, the Swedish Migration Board is obliged to inform local social services, to appoint a guardian and public counsel to represent the minor during asylum procedures.

In the following (Member) States the following **safeguards** are in place which can assist in the detection of child victims of trafficking in human beings when they are in international protection procedures:

- Appointment of a guardian (**Belgium**, **Cyprus, Estonia, Finland, Netherlands, Latvia, Poland**, **Slovak Republic**, **Slovenia, Norway**) or ad-hoc administrator (**France, Luxembourg**) to guide the child through the procedure
- Interviews conducted by specifically trained staff (**Belgium**, **Estonia, Finland, Ireland, Latvia, Lithuania, Luxembourg**, **Slovak Republic, Norway**)
- Monitoring of the situation (**France**)
- Provision of an additional information session (**Slovenia**)

In some Member States (**Belgium**, **Czech Republic, France**, **Hungary**, **Ireland**, **Italy**, **Luxembourg**, **Malta**, **Slovak Republic**, **Slovenia**, **Spain United Kingdom**) minors are not subject to forced return procedures. According to Article 10 of the Return Directive, before deciding to issue a return decision to an unaccompanied minor, the authority must grant assistance with due consideration being given to the best interests of the child and before removing them must be satisfied that the child will be returned to a member of his or her family, a nominated guardian or adequate reception facilities in the State of return.

3.2 GENDER-SPECIFIC PROTOCOLS

As to **specific gender protocols**, the **Slovak Republic**'s instructions to ensure the identification of potential victims of trafficking in human beings in international protection procedures outlines specific questions that should be asked when the applicant is female. Other (Member) States also apply gender-sensitive measures such as appointing a same sex officer to conduct the interview (**Czech Republic, Estonia, France**, **Greece**, **Lithuania**, **Netherlands**, **Sweden**, **Slovak Republic**, **Spain**, **United Kingdom**, **Norway**), providing women with targeted information including on trafficking in human beings (**Belgium**), or organising an additional information session for the victim (**Slovenia**). Whereas appointment of the same-sex officer to conduct the interview is standard practice in **Lithuania**, **Sweden** and the **Slovak Republic**, in **France** and the **United Kingdom**, the applicant can make a request for it which is then examined on a case-by-case basis. At least thirteen (Member) States (**Cyprus**, **Czech Republic, Estonia**, **Finland**, **Lithuania**, **Malta**, **Netherlands**, **Poland**, **Sweden**, **Slovak Republic**, **Spain**, **United Kingdom**, **Norway**) provide training to international protection officials on gender-sensitive approaches to engaging with victims as compared to only five (Member) States (**Cyprus**, **Estonia**, **Slovak Republic**, **Spain**, **Sweden**) that provide it to authorities enforcing return (see section 7 for more information).

4 Detection and identification in international protection procedures

This section provides an overview of the mechanisms that are used to detect and identify victims in the procedure for international protection. According to the Trafficking Directive, Member States have an obligation to ensure that a person is provided with assistance and support **as soon as the competent authorities have a reasonable-grounds indication** for believing that the person might have been subjected to trafficking. Member States are also obliged to establish appropriate **mechanisms aimed at the early identification of victims**, but it does not state exactly what form these mechanisms should take.

Explicit mechanisms for the identification of victims of trafficking are also not outlined in the existing asylum acquis, although the following stages of the international protection procedure may feasibly allow for the detection of victims:

- The **assessment of facts and circumstances** (Article 4 of Directive of 2005/85/EC);
- **Personal interview** on the application (Article 12);
- **Special needs assessment** (Article 17(2) of Directive 2003/9/EC).

The different ways in which these are implemented results in variation between (Member) States.

4.1 MECHANISMS FOR DETECTING VICTIMS OF TRAFFICKING IN HUMAN BEINGS

The asylum authorities in some (Member) States and/or staff responsible for running reception centres are among the national authorities **tasked to proactively detect such victims** through targeted screening. In other Member States, detection is not necessarily one of the responsibilities of these actors. However, as persons who are likely to come into contact with potential victims, they are likely to be **trained and have the capacity to detect indications of trafficking**, e.g. during the course of the asylum interview or needs assessment, conducted on arrival at the reception facility. In other cases, **detection occurs exclusively or predominantly through self-reporting or through other actors** in contact with applicants. In view of the obstacles that can impede self-reporting, proactive detection by trained authorities should be viewed as good practice. Each of the mechanisms is described in more detail below.

4.1.1 PROACTIVE SCREENING

Thirteen out of 24 (Member) States (**Belgium**, **Cyprus**, **Czech Republic, Germany**, **Finland**, **Italy**, **Latvia**, **Malta**, the **Netherlands**, **Slovak Republic**, **Spain**, **the United Kingdom**, **and Norway**) to varying degrees **proactively screen applicants for indications of trafficking.** Whereas most (**Cyprus**, **Czech Republic, Germany**, **Finland**, **Malta**, **Netherlands**, **Slovak Republic**, **Spain**, the **United Kingdom**) screen *all* applicants and in doing so also pay particular attention to specific profiles, others exclusively screen specific profiles (**Belgium**, **Italy**, **Norway**). **Latvia** screens all applicants, without paying specific attention to applicants with a particular profile. In **Finland**, for example, the possibility of trafficking is taken into account in all cases in the asylum procedure. If any indication of trafficking in human beings emerges, matters are investigated proactively without the victim having to self-identify.

Methods for screening **differ** between (Member) States with regard to **timing** (i.e. the stage of the asylum procedure at which the screening takes place) and accordingly **the type of authorities that undertake screening**. In the **Netherlands** and **Spain** screening of all applicants is performed both upon **registration** (by the aliens police/border control authority) as well as **during the processing of the application** (by the Immigration and Naturalisation Service and the Spanish Office for Asylum and Refugees respectively). In other (Member) States (**Germany**, **Latvia**) screening is **solely performed during the processing of the claim** by the competent authority deciding on the application. In the **Slovak Republic**, initial screening of applicants is performed by **staff at reception facilities** (and if any indications are detected, this information is passed on to the case-worker who will investigate the suspicion further during the asylum interview).

Screening for indications of trafficking involves the establishment of the applicant's identity, his/her travel route, and details of his/her entry into the (Member) State, with any indication for trafficking warranting further investigation (see section 4.2 below on identification mechanisms). Thus, screening usually involves questions being asked in relation to the applicant's country of origin, identity, decision to leave the country and how travel to the (Member) State was undertaken. In the **Netherlands**, for example, the applicant is asked the following questions:

- Did you make the decision to leave your country by yourself?
- Has anyone persuaded you to leave the country?
- How did this person persuade you? Were you, for example, promised a better future? (etc.)

Typical profiles to which particular attention is paid during screening of applicants for international protection, include, amongst others:

- Women from African countries, most notably from Nigeria, Cameroon, Democratic Republic of Congo and Guinea (**Belgium**, **Czech Republic**, **Germany**, **Finland**, **Italy**, **Malta**, **Netherlands**)
- Women from the Balkans, e.g. Albania (**Belgium**, **Spain**) and from Latin America (**Spain**)
- Women or men in prostitution (**Norway**)
- Asylum seekers with low wages (**Finland**)
- Minor applicants (**Slovak Republic**), in particular those in criminal environments and those who have remained illegally in the (Member) State (**Norway**)
- Pregnant girls and teenage mothers (**Belgium**) identified in centres for unaccompanied foreign minors.

Pro-active screening of applicants for international protection and **detection by other actors** may be considered **good practice** and is particularly important as an additional tool for detection in view of the obstacles to self-reporting, also because potential victims are often not aware that they are victims of trafficking in human beings. However, actors require training in *how* to screen for victimisation in order for the screening to be effective. Examples of good practice in this regard include in **Belgium**, where training of centre staff takes place to facilitate the identification of minor victims of trafficking in human beings.

4.1.2 DETECTION THROUGH THE RECOGNITION OF INDICATIONS OF TRAFFICKING

In all (Member) States victims have the possibility to be detected by the authorities responsible for processing their application for international protection and to be detected by other actors in contact with the victim (e.g. NGOs, health workers, legal representatives, etc.) where such actors have an awareness of the signs of trafficking in human beings. Detection by other actors exemplifies **a holistic and multi-disciplinary approach** to combatting such trafficking, the necessity of which is emphasised in

various international instruments, including the Trafficking Directive as well as the EU Strategy.

The **registration period** and **personal interviews** provide *possible* **opportunities to detect** instances of past victimisation when the applicant provides evidence of his/her reasons for the application (i.e. description of any persecution incurred). As part of the assessment of facts and circumstances, information is gathered on the country of origin, information on persecution or harm, personal circumstances, including background, gender and age are collected, which might also be indicative of the applicant having been a victim of trafficking.

Under the new Asylum Procedures Directive (Article 15(3)a), personal interviews should be conducted by persons competent to take account of the personal and general circumstances surrounding the application, including the applicant's cultural origin, gender, sexual orientation, gender identity or vulnerability. Such interviews would allow for more opportunities to detect that a person may have been a victim of trafficking in human beings.

During stay at a **reception facility**, an applicant who is a potential victim may come into contact with different actors who may fulfil an important role in contributing to the detection and identification of potential victimisation in view of the **time spent at a facility** and opportunities to **build relationships of trust**. These include staff at reception facilities, medical staff/health workers, social workers, psychologists, NGO representatives, as well as legal representatives. All (Member) States report that such actors can indeed contribute to the detection of potential victims, particularly where their awareness of key signs is increased by **training** or where victims can **self-report** to such actors.

However, in very few (Member) States (only in the **Czech Republic**, **Netherlands** and **Slovak Republic**) do staff responsible for managing reception facilities **pro-actively screen** for specific signs of trafficking amongst applicants for international protection (see above). In some (Member) States (e.g. the **Czech Republic**, **France**, **Lithuania**, **Spain**) the applicant's arrival at reception facilities provides an opportunity for detection in that a general vulnerability assessment is carried out (e.g. medical screening). One particular reception centre in **France** demonstrates promising practice in tailored assessments (see Box 2 below).

Box 2. Promising practice in improving capacity for detection and identification through cooperation

Since February 2013, the reception platform for vulnerable asylum seekers 'France Terre d'Asile' in Paris has been providing a committee room for victims of trafficking in human beings implemented by NGO Association Foyer Jorbalan (AFJ) through a cooperation agreement. The service enables a qualified psychologist working for the NGO to assess residents identified as possible victims of sexual exploitation to identify whether the person is a victim of trafficking.

The outcomes of the service are twofold: (i) the NGO's psychologist is able to identify victims; and (ii) the reception centre staff is provided informal training as, through the partnership, the reception centre staff learns how to better detect certain signs during interviews with asylum seekers and how to engage and communicate with potential victims of trafficking.

Where **such general assessments are not specifically tailored to signs of trafficking in human beings, there is a risk that victims may remain undetected.** However, to facilitate detection by staff that come into contact with applicants, most (Member) States provide some degree of training to assist in the recognition of such victims. This training is described in more detail in section 7.

4.1.3 SELF-REPORTING

In all (Member) States victims have the possibility to report their past victimisation to competent authorities. "**Self-reporting**" can take the form of "self-identification" in which victims identify themselves as a victim of the crime of trafficking. More commonly, a victim will describe the exact exploitation they have been subjected to and this will be recognised as a situation of trafficking in human beings by the authority or actor to whom they reported. As with the other forms of detection, this again underlines the importance of raising awareness amongst those in contact with potential victims of the characteristics and definition of trafficking in human beings.

Self-reporting can occur at different stages during the asylum procedure and accordingly victims have the possibility to report to different authorities. Victims who self-report upon registration are likely to do so to the police or border control authorities. Over time, victims may also confide in other actors that they are in contact with during the application procedure, such as legal representatives, medical staff or staff at the reception centres (see section 4.1.2 above).

Several (Member) States (e.g. **France**, **Germany, Italy**, **Spain**) emphasise that self-reporting is rare in practice for various reasons. Most notably traffickers exert extensive control over their victims, manipulating an attachment to the trafficker which can deter the victim from coming forward. In addition, the following reasons constitute obstacles to self-reporting:

- Lack of awareness that s/he has been a victim of this particular crime
- Mistrust/fear of the police and asylum authorities
- Fear of being identified as irregular and returned to the country of origin, to face (possible) stigmatisation by society
- Lack of country of destination language skills
- Lack of information on legal rights
- A first claim may have been rejected due to it being false, making it legally problematic for the applicant to make a new claim.

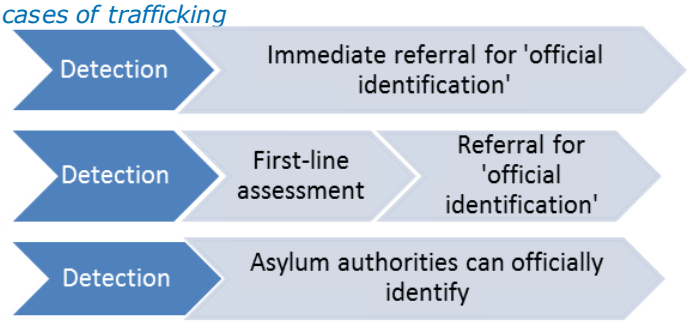
Some (Member) States (e.g. **Belgium**, **Czech Republic**, **Finland**, **Ireland, Poland**, **Slovak Republic**, **Spain**, **Sweden**, **United Kingdom**) **disseminate information materials** such as brochures, DVDs, websites etc. **to raise awareness** on the phenomenon of trafficking and the opportunities for assistance to **facilitate self-identification** and **encourage self-reporting**. Furthermore, (Member) States (e.g. **the Czech Republic**, **Estonia**, **Hungary**, **Italy**, **Netherlands**, **Poland**, **Sweden**, **and the United Kingdom**) have established hotlines where potential victims of trafficking can obtain advice and self-report. In **Hungary** these lines are open at all times of the day and night, weekdays and weekends.

4.2 SYSTEMS IN PLACE TO FOLLOW UP ON SUSPECTED CASES OF TRAFFICKING

Once there is a suspicion that an applicant may be a victim of trafficking in human beings, (Member) States again vary as to the practice they take.

- In some (Member) States, **actors are obliged to immediately inform** the authorities responsible for official identification – see 4.2.1.
- In others, the asylum authority / staff at the reception centre **first make their own assessments** before referring the victim onto other authorities for official identification – see 4.2.2.
- In (Member) States where it is possible to grant international protection to victims of trafficking (see section 1.2.2), **asylum officials may also have competence to 'identify' victims** for the purpose of assigning the protection status – see 4.2.3. Identification by the asylum authorities usually differs from the formal identification undertaken by law enforcement or judicial authorities.

Figure 4.1 Systems in place to follow up on suspected cases of trafficking



Each of these scenarios is further detailed below.

4.2.1 IMMEDIATE REFERRAL ONTO OFFICIAL IDENTIFICATION PROCEDURES

In twelve (Member) States (**Cyprus**, **Estonia**, **Greece**, **Ireland**, **Italy, Lithuania**, **Luxembourg**, **Malta**, **Netherlands**, **Poland**, **Spain**, **United Kingdom**), on detecting a potential victim of trafficking in human beings, the authority concerned is required to refer the indications of trafficking to the authority competent to either official identify a victim (CY, EE, EL, ES, IE, LT, LU, NL) and/or provide assistance (IT, MT, UK) without undertaking any further investigation.

For example, in **Malta** whenever a person, including an applicant for international protection, may be a potential victim of trafficking in human beings, there are automatically referred to the *Agenzija Appogg* for safe shelter, support and assistance. Further investigation and official identification is the responsibility of the Police however referral to the Police is done only if the potential victim so requests. Similarly, in **United Kingdom,** any **authority detecting a potential victim** must make referral to the National Referral Mechanism who will determine whether the applicant should be recognised as a victim.

One of the advantages of this immediate referral is that it means the identification procedure will be undertaken by someone who is professionally trained in assessing the signs of trafficking. However, in cases where this official authority is exclusively a law enforcement body (as in **Cyprus**, **Estonia**, **Hungary**, **Latvia**, **Lithuania**, **Luxembourg, Netherlands**, **Poland**), this can mean that the victim is obliged to 'cooperate' to some extent with law enforcement and this may be traumatic for the applicant (e.g. s/he may mistrust the law enforcement officer, etc.). By contrast, in (Member) States where NGOs or social services may identify also (**Malta**, **Italy**, **Latvia**), or where a specialist NRM is in place (**United Kingdom**), this stress may be somewhat reduced.

4.2.2 ASSESSMENT BY ASYLUM AUTHORITIES / (SPECIALISED) RECEPTION CENTRE STAFF

In several Member States (e.g. **Belgium**, **Czech Republic**, **Germany**, **Hungary**, and **Sweden**) the asylum authorities / (specialised) reception centre staff use indicators for further screening to collect more information about possible victimisation. Such screening usually immediately follows detection screening and can take place during the same asylum interview (e.g. through follow-up questions). In **Sweden**, the police / prosecutor are responsible for formal identification, but a certain amount of evidence should first be collected by the Swedish Migration Board to be able to start official identification procedures.

Although in most of these cases the secondary screening is obligatory, it could be considered good practice in that it allows the vulnerable victim more time to provide evidence in support of his/her application for protection without having to be immediately referred onto law enforcement authorities.

Box 3. Use of indicators for the identification of victims of trafficking in human beings

For the identification of potential victims of trafficking, most (Member) States make use of a **list of indicators** against which potential victims are checked. Whereas half of the (Member) States

(**Belgium, Czech Republic, Estonia, Finland, Germany, Ireland, Latvia, Luxembourg, Malta, Spain**, **Sweden, Slovak Republic, United Kingdom, Norway**) apply a standard set of indicators, others have not standardised (**Austria, Cyprus, Italy, Lithuania, Netherlands, Poland, Slovenia**) or centralised (**Finland**) their indicators (i.e. these are not used by all relevant actors in the (Member) State). Indicators are based on international standards, such as those published by UNHCR, UNODC, Interpol, ILO, in eight (Member) States (**Finland, Germany, Ireland, Italy, Latvia, Netherlands**, **Slovak Republic, United Kingdom**).

In the other (Member) States, indicators were developed by national actors often through a joint process of collaboration involving all relevant stakeholders.

Poland plans to implement a set of indicators for identification of victims of trafficking in international protection procedures, to be used by the Border Guard, the Police and the Office for Foreigners.[52] A planned guidebook in **Slovenia** will also include indicators for detection and identification of victims.

Few Member States have undertaken specific evaluations of their detection and identification procedures, and specifically, the effectiveness of indicators used. Although, standardised indicators can potentially be considered good practice, **Norway** notes that even when they exist, there can be diverging interpretations of these amongst different stakeholders and even within the same organisation by different staff members. Such divergent application may be underpinned by the lack of specific guidelines on how to apply the indicators, underscoring necessity of supplementing a list of indicators with protocols and guidelines as to how these should be interpreted in order to ensure harmonised application. A 2010 evaluation undertaken by **Sweden,** where standardised indicators are implemented, highlighted the importance of awareness raising and cooperation amongst relevant actors, internal communications and training to ensure effectiveness. All of these aspects were improved as a result of the evaluation.

4.2.3 (OFFICIAL) IDENTIFICATION BY ASYLUM AUTHORITIES / RECEPTION CENTRE STAFF

In **Finland**, **Slovak Republic** and **Norway**, asylum authorities are themselves competent to (officially) identify a victim. In the **United Kingdom** this is also the case since the asylum authorities are one of the main actors involved in the NRM. Therefore, once signs of trafficking are detected, the asylum authorities will further investigate these (e.g. during an interview) with the aim to determine victimisation. Accordingly, the list of indicators are applied with the aim to "identify" (i.e. recognise) a victim. In the **Slovak Republic**, the asylum authorities can be accompanied by a cooperating not-for-profit organisation (e.g. one which is contracted by the State to supply care services to victims of human trafficking) to support the identification process.

4.2.4 ALTERNATIVE ASSESSMENTS AND THE ROLE OF OTHER ACTORS IN THE IDENTIFICATION PROCESS

Where third-country nationals self-report, but are **not recognised as victims** of trafficking in human beings by the asylum and/or forced return authorities, several (Member) States (**Belgium, Czech Republic, Estonia, Finland, Italy, Lithuania, Netherlands, Poland, Sweden, Slovak Republic and Norway**) highlight the possibility for them to seek **alternative assessments**. In **Greece**, if a victim is not officially identified, s/he will have to provide new evidence in order to have his / her case reassessed.

Belgium, Czech Republic, Estonia, Italy, Lithuania, Poland, Spain, **Slovak Republic**, **Sweden** and **Norway**, report that potential victims may contact other actors such as NGOs, legal representatives, social workers etc. who can contribute evidence to the official authority capable of identification in order to support possible re-assessment. Other possibilities for alternative assessment include the submission of a complaint to the police or border control authorities (*Royal Marechaussee*) (the **Netherlands**). In several Member States, they may lodge an appeal to an administrative court (e.g. in **Finland**, **Lithuania**, **Netherlands**).

Other actors thus play a role in the identification process in providing possibilities for alternative assessments. However, these situations entail the seeking of the alternative assessment through the courts or a regulatory body. Such processes can be time-consuming and may risk 're-victimisation' of the victim as s/he has to re-tell his/her story to numerous actors. It may therefore be considered good practice that in many (Member) States (**Austria Belgium, Cyprus, Germany, Hungary, Estonia, Finland, France, Greece, Ireland, Italy, Latvia Poland, Slovak Republic, Spain, Sweden, Slovenia, United Kingdom, Norway**) other actors (e.g. NGOs) may be involved in supporting the identification process from the beginning.

5 Detection and identification in "Dublin" procedures

This section outlines information regarding possible mechanisms for detection and identification of victims of trafficking amongst applicants for international protection whose application has been judged to be the responsibility of another (Member) State in accordance with the Dublin III Regulation. Overall, it shows that (Member) States demonstrate some weaknesses in the systems in place to allow for detection of victims of trafficking in human beings in

[52] These were implemented early 2014

Dublin cases. Further, it demonstrates that there is variation between (Member) States with regard to the criteria for assessing the Member State responsible for the asylum application in Dublin cases when a victim is identified as a victim of trafficking.

5.1 MECHANISMS FOR DETECTION IN DUBLIN PROCEDURES

Several (Member) States (**Cyprus**, **Czech Republic, Finland**, **Hungary**, **Ireland**, **Netherlands**, **United Kingdom**, **Norway**) have **mechanisms in place for the proactive detection of (potential) victims of trafficking** in Dublin procedures. In **Cyprus**, **Hungary**, **Luxembourg**, **Spain**, **Sweden** and the **United Kingdom**, as the application of the Dublin Regulation is assessed after the first interview, the victim has already had a chance to make a statement, and provide information on the migration route taken, personal history, etc. providing at least some opportunity to detect exploitation. Specifically, in the **United Kingdom's** screening interview, potential victimisation is assessed. In **Finland** and **Norway**, when the authority competent for enforcing Dublin procedures is faced with a particular profile of returnee (i.e. women (or men) in prostitution, minors in criminal environments, etc.), it screens for (further) indications of trafficking.

The *stage* in the asylum process at which the application of the Dublin Regulation in terms of possible transfer to another (Member) State is assessed (and the *method* through which it is assessed) **can therefore have a big impact on whether possible victimisation can be detected or not**. As mentioned, the Dublin III Regulation may improve this situation in Member States which are party to the Regulation and which previously determined the Member State responsible for processing the claim *before* the personal interview was conducted, since Article 5 of the Regulation introduces a provision to conduct a personal interview with the applicant in all cases except where "the applicant has already provided the information relevant to determine the Member State responsible by other means" (see Article 4).

All (Member) States permit **self-reporting** of victimisation by applicants in Dublin procedures. It is perhaps, however, **more common that other actors play a role in the reporting**. Such actors include NGOs specialising in helping asylum seekers (**Czech Republic**, **Estonia**, **Finland**, **France**, **Norway**), legal representatives (**Czech Republic**, **Estonia**, **Finland**, **Norway**), health workers (**Czech Republic**, **Norway**), reception centre / detention centre staff (**Czech Republic**, **Estonia, France, Norway**) other persons coming into contact with the applicant (**Czech Republic**, **Slovak Republic**). At least four (Member) States reported that **victims of trafficking have been rarely detected in Dublin procedures** (**Belgium**, **Germany**, **Italy**, **and Malta**).

5.2 ASSESSMENT OF SUSPECTED CASES

In Dublin procedures, in at least a few (Member) States (**Finland**, **Netherlands**, **Poland**, **Sweden**, **Slovak Republic**, **Slovenia**, **United Kingdom**), the same authority who processes asylum applications assesses any cases of suspected trafficking, as it is this authority that decides whether or not to proceed with the transfer (see section 5.3). If an applicant whose asylum application has been judged to be the responsibility of another (Member) State is suspected to be a victim of trafficking, some (Member) States refer the case immediately to the actor responsible for investigation of the crime (**Austria**, **Estonia**, **Finland** (if Article 17(1) is not applied), **Italy**, **Spain**) or the body otherwise officially responsible for second-line screening/identification (**Belgium**, **Cyprus**, **Ireland**, **Luxembourg**, **Malta**, **Netherlands**). As with other procedures, there are advantages to both immediate referral for identification and secondary assessment before referral. With regard to Dublin, the most important thing for the victim is whether or not detected victimisation will lead to a decision not to proceed with the transfer (see below).

5.3 DECISION NOT TO PROCEED WITH A DUBLIN TRANSFER

Being a victim of trafficking in human beings is not a criterion for establishing the Member State responsible in Dublin cases. As described in section 1.2.3. So-called 'Dublin transfers' may not apply if the (Member) State in which the applicant is present decides to take responsibility for the application by making use of the "sovereignty clause" (Article 17(1)) or on humanitarian grounds (Article 17(2)). In some (Member) States, the competent authorities may decide to apply these articles in situations where an applicant is identified as a victim of trafficking in human beings. Dependent on the (Member) State, Dublin transfers may also be discontinued in other situations too as described in the Table below.

Table 5.1 Triggers for the discontinuation of Dublin transfers in cases of identified victimisation[53]

Article 17(1) Dublin III	CY, FI, SI, UK, NO
The granting of a reflection period / residence permit for victims	BE, EE, FI, FR, LU, SE, NL, UK, NO
The initiation of a criminal investigation	DE, EE, FI, FR, IE, IT, LU, NL, SE, UK, NO
The initiation of the official identification process	FR

[53] Response in National Reports to the question, "*if being a victim of trafficking in human beings does not trigger Article 17(1) or Article 17(2) in your Member State can Dublin transfers be suspended anyway?*"

Humanitarian reasons at the discretion of the authority responsible for granting residence permits	BE, FR, SE, UK
Case-by-case assessment	AT, CY, CZ, EL, ES, EE, FI, MT, NL, PL
No / little practical experience	BE, LV, LT, PL
Confirmed indication of victimisation by competent Migration Office staff and/or cooperating non-profit organization	SK

Where discontinuation of the Dublin transfer is dependent on the initiation of a criminal investigation, this can be highly problematic when the crime occurred in a different (Member) State or indeed another country, as the host (Member) State would not have jurisdiction and therefore would not be able to start a criminal investigation in the first place. Applying clauses 17(1) or 17(2) to cases where victims of trafficking have been identified and to discontinue the transfer on *humanitarian grounds* could potentially result in a more 'victim-centred' approach.

As there appears to be little standard practice / protocol in place for the decisions to discontinue Dublin transfers in cases of trafficking, victims of trafficking identified in one (Member) State may be transferred to the other without first receiving support.

An individual assessment of each case is required in most (Member) States in order to decide whether to proceed with a Dublin transfer; in three Member States (**Belgium**, **Cyprus**, **Poland**) no specific level of evidence is needed. By contrast, in **Ireland** a potential victim may appeal a Dublin decision to the Refugee Appeals Tribunal and can apply to the Refugee Applications Commissioner not to transfer.

6 Detection and identification in return procedures

As outlined in section 1.2.4, return of irregular migrants (including rejected applicants for international protection) can be suspended for humanitarian reasons, which could include also a returnee identified as a victim of trafficking in human beings. This section outlines the extent to which (Member) States have established systems to allow for and/or facilitate detection and identification of victims amongst failed applicants for international protection in forced return procedures.

6.1 MECHANISMS FOR DETECTION OF VICTIMS IN FORCED RETURN PROCEDURES

6.1.1 PROACTIVE SCREENING OF RETURNEES

As compared to international protection procedures, this study has found that third-country nationals in forced return procedures are much less likely to be proactively screened for indications of trafficking. In the case of **Ireland** and the **United Kingdom**, this is because it is expected that, since failed applicants will have already gone through previous stages of the applicant process, all necessary assessments in relation to the personal circumstances of the person that might have been relevant will have already been completed. In **Belgium**, the authorities question the feasibility (due to limited resources) and desirability (due to possible misuse of screening as a last attempt to avoid return) of screening all returnees for indications of trafficking.

Only in the **Czech Republic** and the **Slovak Republic**, do the authorities responsible for return screen for indications of trafficking. This is done through an interview undertaken with all third-country nationals subject to forced return to prepare a pre-return report. While 'screening' per se is not carried out in **Estonia** and **Hungary**, in both of these Member States pre-return risk assessment interviews are conducted in which information is requested regarding the failed applicant's identity, travel route and entry into the country, which can lead to the detection of indications of trafficking. In **Greece**, NGOs operating in detention facilities screen all detainees.

6.1.2 DETECTION THROUGH THE RECOGNITION OF INDICATIONS OF TRAFFICKING

The most common way in which victims are detected in forced return procedures is by actors who have been specifically trained - and/or who otherwise have expertise - in how to recognise signs of victimisation (e.g. as for section 4.1.2, specialist NGOs, health workers, legal advisors, etc. as well as the police). In some (Member) States (**Estonia**, **France**, **Ireland**, **Netherlands**, **United Kingdom**) this includes authority responsible for enforcing return.

Specialised NGOs also play an important role in detecting victims of trafficking in forced return procedures since they often have a focus on advocating for the rights of returnees and for monitoring the welfare of returnees. Such NGOs come into contact with victims through visits to detention facilities, through outreach work, or through their participation in the implementation of forced return (in some Member States some NGOs are permitted to act as independent observers of forced returns).

6.1.3 SELF-REPORTING

As with international protection procedures, all (Member) States allow for the possibility for third-country nationals in forced return procedures to self-report if they are a victim of trafficking. However, where the third-country national is a failed applicant for international protection in some (Member) States the applicant is expected to have disclosed information which could have provided a positive outcome to their case in previous stages of the application procedure (**Estonia**, **Finland**) although there may be valid reasons why this did not take place earlier. Further, it is sometimes considered that some applicants may try to avoid removal from the country by providing the authorities with false information. By contrast, in the **Slovak Republic**, the authorities can take measures

to facilitate self-reporting by making relevant information leaflets available to returnees that might help any potential victims to self-identify.

6.2 SYSTEMS IN PLACE TO FOLLOW UP ON SUSPECTED CASES OF TRAFFICKING

6.2.1 SECONDARY ASSESSMENT / IDENTIFICATION

Authorities in forced return procedures seem to play a bigger role in official identification of victims than the authorities in international protection procedures. This is because authorities implementing forced return are usually necessarily law enforcement officers, and so they also have the power to investigate crime (including trafficking).

Following detection, the following scenarios for secondary assessment / identification apply in (Member) States:

- **Official identification is carried out immediately**, as the body responsible for return is competent to identify: AT, ES, FI, FR, HU, NO
- **Further investigation / secondary screening is undertaken** by the authority responsible for return to assess whether the potential victim is referred onto a different authority(s) for official identification: CY, EE, IT, LV, NL, PL, SE, SK, UK
- **Further investigation / secondary screening is undertaken** by the authority(s) responsible for identification to assess whether there should be referral: BE, EE, EL, MT, SK
- **No standard procedures** exist: IE, LT, SI

Where secondary screening / assessment is undertaken by the authority responsible for return, the following mechanisms are used:

- **Investigative interview**: CY, EL, ES, FI, PL, SE,
- **Use of indicators**: EE, ES, FI, LV, PL, SK, UK
- **Meta-assessment** / report: IT
- **Consultation** with relevant actors: FI, NL,[54] PL

In the **Netherlands** and **Poland**, following consultation and before official identification, the return authority also informs the third-country national that the possible victimisation has been detected, and the potential victim is informed of the possibilities for assistance and support. If available in a language the foreign national can understand, the authority also provides written information.

Because of the implications of identifying (or not identifying) a victim in forced return procedures, there appears to be a greater focus on thorough assessment of suspected victimisation in these procedures. Where a (Member) State allows NRMs or NGOs to carry out such **secondary** assessment of suspected victims (as in **Belgium**, **Malta**, and **Slovak Republic**), this can be considered good practice, as the potential victim will have access to assistance as well as possible a more trusting environment in which to provide information that will support their identification.

Where no standard procedures for responding to suspected cases of trafficking in forced return procedures exist, this creates the possibility that a potential victim when detected, but faced with a deportation could be returned before being formally identified (i.e. if an investigative procedure is not started).

6.2.2 SUSPENSION OF THE RETURN ORDER

Where a third-country national subject to a return order is identified as a victim of trafficking in human beings and there is the possibility for referral (see section 8.2), in most (Member) States there are mechanisms in place to suspend the return order at least until it is determined whether the victim is eligible for a residence permit / protection status as a victim of trafficking in human beings. The following processes for suspension exist in (Member) States:

- The return order is suspended, if the victim is **immediately referred to the criminal investigative authority / NRM**: CY, EE, FR, LT, LV, SK, UK
- The return order is suspended and further steps are taken **by the same authority** (responsible for returns as well as for the identification of victims**:** ES
- **Further assessment** is undertaken by authorities competent to suspend a return order before a final decision is taken: AT, BE, ES, FI, IT, NL, PL, SE, SI, NO
- The identified victim must **first apply to the courts** or the **ministry** for a suspension of their return order, : IE

Belgium takes additional steps in the identification process to verify detected victimisation before the return order is suspended: further assessment is undertaken by specialised reception centres, often in cooperation with public prosecutors who initiate an investigation, and in contact with other key stakeholders (e.g. police, National Anti-Trafficking Coordinator) to cross-check information). In **Lithuania**, if a (potential) victim were detected, the person would be included in a list of vulnerable persons. The head of Reception facility would notify this fact to the Migration Department and a pre-trail investigating body, which would take a decision on the legal status of the person concerned.

[54] These actors include repatriation officials, counsellors and the medical service present at the detention centres.

6.2.3 ALTERNATIVE ASSESSMENTS IN CASE OF NON-IDENTIFICATION

In cases where a third-country national subjected to forced return self-reports, there is a possibility that the authorities responsible for return will assess their declaration as false. In such a case, an alternative assessment can be sought in at least seven Member States through:

- An official appeal against the negative decision in the courts (e.g. through judicial review) (**Hungary**, **Ireland, Lithuania**, **Netherlands**, **Spain**, **United Kingdom**),
- By submission of a complaint to the police or (if concerning minor) to the National Ombudsman for children (**Netherlands**),
- Self-reporting to another institution (e.g. an NGO (**Latvia**, **Poland**); in **Latvia**, in such a case, the NGO would organise a multi-disciplinary commission for identification, in which a representative of the State police would also be involved.

As with alternative assessment in Dublin procedures, in most cases alternative assessments are dependent on an appeal to the judiciary and/or law enforcement (in all cases except for the **Netherlands** in forced return procedures). As stated before, this can be problematic for victims who will have to go through a long and sometimes difficult procedure.

Conversely, in **Finland**, a victim can submit an application to the Finnish Immigration Service to have his/her asylum application re-examined or apply for a residence permit solely on the basis of Section 52a of the Finnish Aliens Act, in the event that victimisation was not raised during earlier stages of the application / appeal phases, or on compassionate grounds.

7 Training of officials in contact with potential victims of trafficking

This section outlines current practices with regard to training of officials in the international protection and forced return procedures in (Member) States. It shows that training has been somewhat more extensive for actors involved in international protection procedures than in forced return procedures. However, it also shows that (Member) States are increasingly training more actors in both these areas. There is, however, still a notable lack of mandatory and frequent training to these actors. Indeed, (Member) States recognise a lack of training in these procedures as a problem (see section 2) and for that reason, a number of them are making plans to introduce more frequent training (see section 7.1 and 7.2).

7.1 TRAINING TO ACTORS IN INTERNATIONAL PROTECTION PROCEDURES

Training to actors in international protection procedures is ***mandatory*** in eleven (Member) States (**Czech Republic, Finland**, **Lithuania**, **Germany**, **Luxembourg**, **Malta**, **Poland**, **Slovenia**, **Slovak Republic**, **Spain**, **United Kingdom**). For example, actors responsible for processing applications for international protection receive mandatory training as part of their induction training in **Belgium** (since September 2013), **Finland**, **Lithuania**, the **Netherlands**, **United Kingdom** and on an annual basis in **Poland**. In other Member States this training is provided on a more ad-hoc basis e.g. through training seminars or one-off courses which are often optional. In **Belgium**, **Ireland** and **Norway** some kinds of training are provided on voluntary basis, while others are mandatory. Such training is not at all mandatory in other (Member) States.

For what concerns the ***frequency*** of the training for both actors in international protection and forced return procedures, in nine (Member) States it takes place regularly, in some case on annual basis, also depending on the periods and on specific needs of the actors. This is the case for **Austria**, **Belgium**, **Cyprus**, **Czech Republic, Estonia**, **Malta**, **Netherlands**, **Poland**, **Sweden**, **Slovak Republic** and **Norway**. Training is given one off basis (usually on starting the professional career) in **Finland, Lithuania, Slovenia** and **United Kingdom**, but may be updated as needed throughout the official's career. In **Germany** some trainings are provided on annual basis, or even twice a year, and others only one off.

An aspect emerging, from the National Reports is the increasing development of seminar and workshop organised at transnational level with the collaboration of several (Member) States with the aim of sharing practices and peer reviewing approach to victims of trafficking in international protection procedures (see, for example, the National Reports from **Hungary** and **Italy**). These and other similar events are sometimes co-funded or promoted by several Member States or by the European Commission or other international organisations. The importance of these events is that they foster European and international cooperation on the field, aiming to share experiences and increase exchange of knowledge on trafficking in human beings and related issues.

Table 7.1 below outlines the content of training provided to **actors in international protection procedures** in (Member) States.

Table 7.1 Mapping of training provided to actors in international protection procedures

Content of the training	Training to authority responsible for processing IP applications	Training to staff in reception centres
Indicators for detecting / identifying victims	AT, CY, CZ, DE, EE, ES, FI, FR IE, LT, MT, NL, PL, SE, SI, SK, UK, NO	BE, CZ, ES, FI, FR, NL, SE, EE, PL, SK
Profiling techniques	AT, CY, CZ, DE, EE, FI, MT, NL, PL, SK, NO	CZ, FR, NL, PL, SK

Gender-sensitive approaches for engaging with victims	CY, CZ, EE, FI, LT, MT, NL, PL, SE, SK, UK, NO	CZ, PL, SE, SK
Building trust and engaging with (potential) victim	CY, CZ, EE, FI, FR, MT, NL, PL, SE, SK, UK, NO	CZ, FI, FR, NL, SE, EE, PL, SK
Other training topics	AT, BE, CY, DE, FI, FR, IE, LU, NL, PL, SE, SI, SK, UK	NL, PL, SE, SK

It is interesting to note that a **specific focus on methods for interviewing vulnerable categories is often part of the training provided to those responsible for processing applications.** Looking at guidance provided to staff in reception centres, the perspective changes and we find that recurrent issues are communication methods, ways of building successful relationships, counselling to potential victims and how to build trust with authorities. According to the information provided **Czech Republic, Finland**, **Netherlands**, **Poland, Spain** and **Sweden** do provide a specific training for reception facilities staff, while **Luxembourg** is going to introduce it.

The most common ***type*** of guidance provided to actors in international protection procedures in reporting (Member) States are focused training/seminar courses. Such guidance is foreseen in 16 (Member) States (**Austria**, **Belgium**, **Cyprus**, **Czech Republic, Germany**, **Estonia**, **Finland**, **France**, **Ireland**, **Lithuania**, **Luxembourg**, **Malta**, **Netherlands**, **Poland**, **Slovenia**, **Spain**, **Sweden**, **United Kingdom**, and **Norway**). Other types of training are less used such as the use of guidelines (**Belgium**, **Estonia**, **Finland**, **Ireland**, **Malta**, **Norway**) and the circulation of brochures or other written explanative material (**Belgium**, **Germany**, **Estonia** and **Poland**).

Training for authorities in international protection procedures is planned in **Greece** to be provided by EASO.

7.2 TRAINING OF ACTORS RESPONSIBLE FOR ENFORCING RETURNS

Training for actors involved in forced return procedures is **not mandatory** in all (Member) States sampled, except for **Luxembourg**, the **Netherlands** and the **Slovak Republic**.[55] Providing guidance to these actors appears arguably to be an emerging process since some Member States (**France**, **Hungary**, the **Netherlands**, **Luxembourg**, **Poland** and **Slovak Republic**) are planning to introduce it in the coming years. **Hungary** in particular, is planning to train 100 policemen from 2014 to develop knowledge and skills of referral and identification of victims. **France** intends to establish unified training across the country for law enforcement authorities likely to enter into contact with (potential) victims. The **Netherlands** intends to incorporate a standard course on detecting victims into the training programme for supervisors. **Poland** plans training in the identification of potential victims of trafficking organized for the officers of the Border Guard and the employees of the Office for Foreigners. Training activities for members of the Police Force including those who implement measures related to forced returns are also planned in **Slovak Republic**. **Latvia** offers specific training course (with associated qualifications) to members of the State Border Guard.

Table 7.2 below outlines the content of training provided to actors enforcing forced return in (Member) States.

Table 7.2 Mapping of training provided to actors in forced return procedures

Content of the training	Training to actors responsible for enforcing returns	Training to staff in detention facilities
Indicators for detecting / identifying victims	CY, EE, ES, FR, IE, LV, NL, SE, SI, SK, UK	AT, CZ, EE, ES, FI, NL, PL, SE, SK
Profiling techniques	CY, EE, ES, LV, NL, SI, SK	AT, CZ, ES, NL, PL, SK
Gender-sensitive approaches for engaging with victims	CY, EE, ES, SE, SK	CZ, PL, SE, SK
Building trust and engaging with (potential) victim	CY, EE, ES, LV, NL, SE, SI, SK	CZ, ES, NL, PL, SE, SK
Other training topics	IE, SE, SK	PL, SE, SK

Austria, **Czech Republic, Finland**, **Netherlands**, **Poland**, **Spain** and **Sweden** also provide for training to staff in detention facilities. While in **Austria**, the **Netherlands**, **Spain** and **Sweden** and the content has no relevant difference with the guidance provided to police staff enforcing returns, **Poland** provides tailored courses to detention centre staff which consider the precise role of those. The experience of **Poland** shows the peculiarity of addressing courses with the partnership of NGOs, not only to officers of the Border Guard and to the staff of the Office for Foreigners but as well to members of NGOs working with refugees. These courses focus on the definition of trafficking in human beings, operation methods used by traffickers, rights and protection of victims of trafficking, children in particular.

7.3 PROVIDERS OF TRAINING AND COOPERATION

The ***providers*** of training may change according to the national system of each (Member) State, however in all of them guidance is provided by the national competent authority for preventing and fighting trafficking of human beings. This is either a specific governmental office part of a Minister or an ad hoc body. In **Sweden** the training is provided by actors

[55] Although the training is provided on an irregular and unsystematic basis in Luxembourg in spite of being mandatory.

both at national and local levels under the coordination of a National Coordinator. In some Member States (**Austria**, **Belgium**, **Czech Republic, Estonia**, **France, Germany**, **Lithuania**, **Malta**, **Netherlands**, **Poland**, **Slovak Republic**), NGOs or international organisations, such as the IOM, the Red Cross and the UNHCR, are partners in the training programmes. EASO has also played an important role in providing training. In this case these entities not only provide informative session but they distribute as well informative material and guidelines adopted at international level with the result of helping harmonising the approach with international standards.

At least seven (Member) States (**Austria**, **Estonia**, **Finland**, **Malta**, **Slovenia**, **Sweden**, **Norway**), organise joint training sessions of trainees from different backgrounds *e.g.* staff working in procedures related to international protection, forced return together with victims of trafficking. In other Member States (**Estonia**, **Finland**, **Hungary**, **Luxembourg**, **Malta**, **Spain**, **Sweden**, **United Kingdom**) joint sessions are occasionally organised with experts in the field of asylum and trafficking in human beings to train on some specific aspects the staff working in both fields.

Cooperation in delivery of training means also multi-disciplinary training delivered by experts from different backgrounds. Member States which provide for trainings to staff from different backgrounds do not always adopt as well the method of multi-disciplinary trainings with experts from different fields. **Belgium**, **Czech Republic** and **Poland**, for example, provide multidisciplinary trainings held by a range of experts form different institutions or law enforcement authorities. **Estonia**, **Finland**, **Malta Hungary**, **Spain**, **Sweden**, **United Kingdom** and **Norway** also adopt a cooperative and multilateral approach in training both at level of trainers and at that of participants. In **Netherlands**, the IND will develop (new) training modules for all IND staff members who may come into contact with possible victims of human trafficking and human traffickers, from January 2014. Experts of partner organisations of the IND, such as the Public Prosecution Service, NGOs, the legal profession, judicial authorities, and the police will also form part of the training courses.

8 Referral

This section outlines scenarios and procedures for referral of third-country nationals recognised as victims of trafficking onto procedures to grant them access to specialised assistance. As described in section 1.2.1, according to the Trafficking Directive once a victim is identified as such, they should be provided with assistance and support. However, (Member) States vary as to the procedures for referral, the conditions under which the referral can occur, and the mechanisms used to facilitate the referral. These differences are described below.

This section first provides information on the **possibilities for referral** from international protection and forced return procedures. This is followed by a description of the **tools used to facilitate referral**, and ends with a discussion of the effectiveness of referral, based on evaluations which have been conducted in some Member States.

8.1 POSSIBILITIES FOR REFERRAL TO ASSISTANCE FOR VICTIMS IN INTERNATIONAL PROTECTION PROCEDURES

When a (potential) victim of trafficking in human beings is identified while in international protection procedures, one of three scenarios apply with regard to the victims' referral to other procedures:

- The **victim can remain in the *same* international protection procedure** as before but **at the same time access assistance specific to their recovery from the trauma of being a victim of trafficking**. This is possible in cases where either (i) access to specialised assistance is granted to the applicant in addition to the general services they can access as an applicant of international protection (**Austria**, **Belgium**, **Cyprus**, **Estonia**, **Finland**, **France**, **Hungary**, **Ireland**, **Italy**, **Latvia**, **Luxemburg**, **Malta**, **Poland**, **Slovak Republic**, **Slovenia**, **Spain**, **Sweden**, **United Kingdom**, **Norway**) and/or (ii) in cases where it is possible to access procedures for residence as a victim of trafficking in human beings in parallel to international protection procedures (**Cyprus**, **Estonia**, **Finland**, **France**, **Hungary**, **Italy**, **Latvia**, **Lithuania**, **Luxembourg**, **Malta**, **Poland, Spain**, **Sweden, United Kingdom**).

Figure 8.1: flow chart illustrating the possibilities for referral to assistance for victims in international protection procedures

- The **victim changes procedure** because s/he decides (or is obliged) to change to procedures for a residence permit as a victim of trafficking in human beings and cannot remain in international protection procedures at the same time (**Austria**, **Belgium**, **Ireland**, **Netherlands**, **Slovenia**, **Slovak Republic**, **Norway**)
- Assessment for granting protection status as a victim of trafficking in human beings is carried out within the same procedure for international protection (**Finland**, **Sweden**, **and United Kingdom**).

Figure 8.1 describes the possibilities for referral in (Member) States. Each of these three scenarios is described in greater detail below

8.1.1 PROVISION OF ASSISTANCE WITHOUT CHANGES TO PROCEDURE

8.1.1.1 Victims access specialised assistance without referral

In the majority of (Member) States (**Austria**, **Belgium**, **Cyprus**, **Finland**, **France**, **Greece**, **Hungary**, **Ireland**, **Italy**, **Latvia**, **Luxemburg**, **Malta**, **Poland**, **Sweden**, **Slovak Republic**, **Slovenia**, **Spain**, **United Kingdom**, **Norway**) assistance specific to the needs of victims of trafficking in human beings can be provided while the (potential) victim of trafficking in human beings is still in the international protection procedure, without formal referral to other procedures. This is not the case in the **Lithuania** where only persons who have been granted a reflection period (i.e. those who have been referred onto procedure for victim of trafficking – see section 8.1.1.2 below) are entitled to special support and protection.

Statutory assistance without referral can be provided by state and non-state institutions through the following methods:

- **Tailored assistance provided in reception centres** (e.g. specialist medical services and psychological counselling): CY, FI, IE, IT, LU, SI, NO
- **Specific state programmes for victims of trafficking in human beings or vulnerable persons:** EE, FI, HU, IT, MT, PL, SK,[56] UK
- **Assistance provided by state-funded non-governmental organisations**: AT, BE, ES, FR, IE, IT, LV, LT, LU, PL, UK, NO
- **Access to state welfare services** (e.g. healthcare services and shelter): CY, EE, EL, FI, IE, IT, LT, LU, MT, SE, SI, NO

Most (Member) States apply **pre-conditions for accessing assistance without referral**. In all (Member) States, the victim should also consent to the support. In some, access may also be provisional on:

- Formal identification as a victim of trafficking in human beings (**Latvia**, **Lithuania**, **Luxembourg**)

[56] The state programme for victims of trafficking in human beings in the **Slovak Republic** is implemented by contracted non-profit organizations which provide assistance to victims.

- Breaking contact with the perpetrators (**Belgium, Slovak Republic**),
- Cooperation with regard to criminal proceedings with the police (**Belgium**, **Estonia**),
- The discretion of the competent authorities (**Sweden** and **United Kingdom**).

The person **does not** have to be formally identified as a victim of trafficking in human beings by the competent national authority (e.g. law enforcement authority) in order to access assistance without referral in **Austria**, **Belgium**, **Cyprus**, **Finland**, **Greece**, **Hungary**, **Ireland**, **Italy**, **Malta**, **Poland**, **Slovenia, Slovak Republic**, **Sweden** and **Norway**. In some cases these pre-conditions can deter victims from seeking assistance. In these situations, NGOs may play a role in informing the victim and supporting them through the process. The lack of well-established practices (**Estonia**, **Lithuania**), the lack of clear and uniform practice of international protection authorities in the case of dealing with a potential victim of trafficking in human being (**Poland**) and the lack of proactive screening of all applicants for international protection (**Slovenia**) are identified as other types of obstacles to effective referral.

8.1.1.2 Victims access procedures for residence permits and remain in international protection procedures at the same time

Some Member States (**Cyprus**, **Estonia**, **Finland**, **France**, **Hungary**, **Italy**, **Latvia**, **Lithuania**, **Luxembourg**, **Malta**, **Poland**, **Spain, Sweden**, **and United Kingdom**) provide the possibility to applicants to simultaneously apply for international protection and the residence permit under Directive 2004/81/EC or permissions of stay under equivalent national measures. In all of these (Member) States, an official identification procedure is required for the victim to be granted the reflection period, even if they remain in international protection procedures, except in **Finland**, (although in practice, the Immigration Service usually requests the view of law enforcement as to whether the issuance of a residence permit on the grounds of a pre-trial investigation or court proceedings is justified. In **Poland** and the **Netherlands**, the procedure for granting international protection has the priority and the procedure under Directive 2004/81/EC is temporarily suspended until a decision on the international protection application is issued first.

With regard to the (potential) victims of trafficking in human beings' choice between the international protection procedure and the procedure under Directive 2004/81/EC, **Luxembourg**, **Slovak Republic** and **Slovenia** acknowledge that in practice victims of trafficking prefer to remain in the international protection as the status granted under Directive 2004/81/EC provides a smaller scope of rights. In **Belgium** if the application for international protection is likely to lead to the granting of the refugee or subsidiary protection status, the presumed victim is generally advised / inclined to **continue on this path**. In this case, the application for international protection is examined objectively and independently of the fact that the applicant is a presumed victim of trafficking.

8.1.2 PROVISION OF ASSISTANCE THROUGH CHANGES IN PROCEDURE

8.1.2.1 Victims are referred to procedures for the residence permit for victims of trafficking

In eight (Member) States (**Austria**, **Belgium**, **Greece**, **Ireland**, **Netherlands**, **Slovenia**, **Slovak Republic**, **Norway**) it is not possible for applicants to remain in international protection procedures whilst accessing rights and services provided by Directive 2004/81/EC or equivalent national procedures. In at least two cases (**Greece**, **Netherlands**) this is because a victim who is granted the permit has lawful residence in the Member State and so is no longer eligible for international protection. In all cases, except for the **Netherlands**, the victim can still access specialised assistance for victims of trafficking (see 8.1.1.1). In no (Member) State is an applicant *obliged* to switch procedures following identification. In **Belgium**, the applicant is informed of the requirements and consequences of each option before deciding in his/her own interest on one of the procedures. In **Slovenia** it is rare for applicants for international protection to switch to procedures for victims of trafficking since the scope of rights granted through the latter are smaller. Similarly, applicants for international protection who are likely to receive refugee or subsidiary protection are encouraged to stay in these procedures.

In **Austria**, **Belgium**, the **Netherlands** and **Ireland**, if, following withdrawal, the victim is not granted a residence permit under Directive 2004/81/EC or equivalent national procedures, s/he **can re-open the asylum procedure**. In **Austria**, **Belgium** and **Greece** the applicant would have to lodge a new application and specifically highlight new evidence / motives that had not been presented in former applications, for the application to be valid. In **Ireland**, the applicant would first have to request permission from the Minister under Section 17 of the *Refugee Act 1996* in order to re-enter the asylum process, highlighting new evidence which significantly adds to the likelihood of their qualifying as a refugee. Only when such permission is forthcoming may an applicant submit a fresh application for asylum. In **Slovenia,** the applicant can re-enter the procedure only in exceptional cases – i.e. if he/she can prove that the statement of withdrawal was given under coercion or duress.

8.1.3 NO REFERRAL IS NEEDED AS PROTECTION AND RESIDENCE POSSIBILITIES ARE ASSESSED AT THE SAME TIME

In **Finland**, **Sweden** and the **United Kingdom**, as asylum authorities screen all applicants for instances of trafficking and assess the appropriateness of all possible protection (and residence) statuses at once,

changes in the procedure are not required once the past victimisation is identified. For information on possibilities of referral once a victim is identified following a final decision, see section 8.2.

8.1.4 NO REFERRAL IS NEEDED AS THIRD-COUNTRY NATIONALS CAN BE GRANTED INTERNATIONAL PROTECTION ON GROUNDS OF TRAFFICKING IN HUMAN BEINGS

As stated in section 1.2.2, many (Member) States can grant protection statuses on grounds that the applicant is a victim of trafficking. In most (Member) States (**Finland, France, Ireland, Netherlands, Sweden** and **Norway**), victims of trafficking in human beings do not need to be formally identified by a law enforcement officer to obtain international protection as a victim of trafficking. Nonetheless, identification by the police may be considered supporting evidence for an application of protection on this basis (e.g. as reported in **Ireland**). In **Germany**, while victims can receive international protection as a victim of trafficking, if the victim is identified once the procedures have begun and it is considered that the evidence should have already been presented in the earlier application, it may invalidate the information.[57]

8.2 REFERRAL FROM FORCED RETURN PROCEDURES

In all (Member) States, it is possible for a rejected applicant of international protection to open a procedure as foreseen under Directive 2004/81/EC or equivalent measures; however, **in all cases this is dependent on the return order being suspended**, which is some (Member) States can be a difficult and/or lengthy process (see section 6.2.3).

8.3 MECHANISMS AND TOOLS FOR REFERRAL

(Member) States employ a number of tools or systems for referring identified victims onto relevant procedures. The main mechanisms are as follows:

- Information is provided to the victim and they are left to access relevant procedures independently.
- The authority that has detected and/or identified the victimisation contacts the authority responsible for the subsequent procedure.
- There is a National Referral Mechanism which coordinates the referral.

These mechanisms differ slightly depending on the situation. In some (Member) States more than one mechanism for referral can be optionally used. The different possibilities are presented in Table 8.1 in more detail.

Table 8.1 Tools to facilitate referral in (Member) States

	International protection procedures	Forced return procedures	Reception / detention facilities
Information is provided to the victim who independently accesses procedures	AT, EL, ES, FR, HU, IE, IT, LV, MT, NL, PL, SI, NO	AT, CY, ES,FR, LV, NL, PL, NO	AT, EL, ES,IE, IT, LV, NL, PL, SI, SE, NO
The authority that has identified the victimisation organises the referral	AT, CY, EE, ES,IE, IT, LT, LU, LV, NL, PL, SE, SK, NO	AT, EE, ES,LV, LU, NL, SK, SE, NO	AT, EE, EL, ES,IE, IT, LV, LT, LU, MT, NL, PL, SK, SE, NO
A National Referral Mechanism coordinates the referral	BE, CY, ES,LV, LT, MT, PL, SK	BE, CY, ES,LV, LT, MT, SK	BE, EL, ES,LV, LT, MT,PL, SK, UK
Specialised support services for victims coordinate the referral	AT, BE, CY, NO	AT, BE, NO	BE, FI, FR, PL, NO
No referral is necessary	FI, UK	IT, SI	

There is much variation between (Member) States in the referral tools used. It seems that except in cases where an NRM exists, practice is not standardised.

8.4 TRANFER OF PERSONAL DATA

Notwithstanding cases in which the same authority has responsibility for more than one procedure (e.g. for assessing applications for international protection and applications for residence as a victim of trafficking), it is possible in most (Member) States (**Austria**, **Belgium**, **Finland**, **Ireland**, **Italy**, **Latvia**, **Lithuania**, **Luxembourg**, **Malta**, **Slovenia**, **Slovak Republic**, **Spain**, **Sweden**, **United Kingdom**, **Norway**) to transfer (part of) the dossier / evidence gathered in international protection procedures (e.g. the application, evidence gathered in the asylum interview, etc.) to other actors for use in other procedures (e.g. procedures for investigating the crime, identification procedures and/or procedures for granting a reflection period / residence permit in accordance with Directive 2004/81/EC). In the **Czech Republic**, the same authority (Department for Asylum and Migration Policy) is responsible for both international protection and procedures for granting residence to victims of trafficking; however, the authority is restricted from transferring the dossier from one procedure to the other due to the sensitive nature of the data. In **Lithuania**, the information can only be transferred for use by a pre-trial investigation body or the court, but the information cannot be made

[57] In **Germany**, should the applicant be aware during the initial procedure that she can prove she is a victim of human trafficking, yet has failed to state such, this information can, purely as a technicality, be rejected in subsequent procedures as having been presented too late. It is necessary for the applicant, not acting with gross negligence, to have been unable to assert the grounds for revisiting during the earlier procedure (Section 51, Subs. 2 and 3 VwVfG). This means that only new facts can be included in a subsequent procedure.

available to the public (e.g. at a public court hearing). In **Finland**, information gathered in connection with the asylum process is information under the Finnish Act on the Register of Aliens and authorities using the register who also happen to be those responsible for other relevant procedures (i.e. the police, the border control authority, the Finnish Immigration Service) have a right of access. In **Spain** information can only be exchanged in the best interest of the victim, and files will remain separate.

In **Cyprus**, **Estonia**, **France**, the **Netherlands** and **Poland**, **the transfer of such personal information is only possible if the applicant consents to disclosing it**. This can be considered good practice. **Austria** notes while transference of files is permitted, it does not always happen in practice. These two cases demonstrate the need for coordination between departments responsible for the different procedures.

9 Conclusions

This study has shown that most (Member) States have in place systems to allow victims of trafficking to be detected, identified and referred onto appropriate procedures. A recent strengthening of the legal framework for the provision of assistance to victims of trafficking at EU level (through the adoption of the Trafficking Directive and the recast asylum acquis) and at national level shows that the EU and its Member States are active in tackling the issues. The study highlights some good practices but also shows that since legislation is often new, Member States are still implementing changes. In view of this, the study also shows that there are opportunities for Member States to learn from each other and share good practice to improve harmonisation for victims to receive equal treatment in all (Member) States.

Recent EU legislation provides a holistic framework for the improved identification and protection of victims

Both the Trafficking Directive and the recast Reception Conditions Directive 2013/33/EU introduce new obligations on (Member) States to identify and provide immediate assistance to victims of trafficking in human beings. Although the recast Asylum Procedures Directive does not explicitly refer to victims of trafficking in human beings, it introduces a new general obligation to identify applicants with special procedural needs, which may therefore include victims of trafficking. While the Trafficking Directive acknowledges that some victims of trafficking may be eligible for international protection status, the recast asylum acquis recognises that victims who are also in international protection procedures are likely to be highly vulnerable and for this reason should be guaranteed an assessment of their vulnerabilities and be granted appropriate assistance accordingly. Together then, these three Directives have the potential to provide a holistic framework for protecting victims.

If a rejected applicant finds him/herself in forced return procedures, the Trafficking Directive applies in relation to the obligation on border forces and other relevant authorities to detect and identify the victim. Complementary legislation in relation to return guarantees that any return order issued to persons identified as a victim within the provisions of Directive 2004/81/EC will not be enforced (for the duration of the reflection period), but this provision places significant onus on (Member) States to effectively identify victims so that the re-entry ban cannot apply.

In short, the EU legislative framework 'frontloads' the obligation(s) on national authorities to identify victims at the earliest possible stage – i.e. when they first enter international protection procedures. It does not, however, prescribe how such detection and identification should be undertaken and this means that there is variation between (Member) States in method and effectiveness.

There is evidence of victims going unidentified and this may mean they are not granted the protection and/or assistance available to them under EU law

Statistics on the number of victims in international protection and forced return procedures are rare and where available non-comprehensive; however, more than half of the reporting (Member) States present some evidence of victims of trafficking in international protection procedures. Some also (through national research and/or anecdotal evidence) show that victims can pass through international protection procedures without being identified. As a result, undetected victims in international protection procedures may lose out on certain rights including support / assistance, and in some cases residence or assisted return, as provided within the EU asylum and migration acquis.

Proactive methods of detection in (Member) States can be considered as good practice

For a range of reasons, including lack of understanding of his / her legal rights, mistrust or fear of national authorities, and/or a lack of country of destination language skills, it is rare for victims to self-report their victimisation. However, fewer than half of all (Member) States have in place a mechanism to proactively screen for indications of trafficking amongst applicants for international protection. By contrast, proactive screening has meant that almost 50% of all victims entering the NRM have been referred by the asylum and migration authority in at least one (Member) States.

Screening entails that the facts of the application will be assessed against a number of indicators of trafficking and/or that victims will be asked to respond to specific questions designed to elicit evidence of possible past victimisation. The training of asylum case workers in how to proactively detect signs of trafficking in the course of processing asylum applications and/or interview is an effective measure in enhancing detection skills. Training for authorities responsible for assessing applications for international

protection is currently mandatory in fewer than half of all (Member) States. However, as (Member) States increasingly begin to implement the provisions of the Trafficking Directive it is expected that such training will increase. This is evidenced by the fact that a number of (Member) States are planning future training programmes and/or the development of guidelines.

Some Member States have recently initiated evaluations, whereas other (Member) States already have mechanisms in place to monitor their systems on an ongoing basis, e.g. through regular evaluation by National Rapporteurs. Better monitoring and evaluation of the systems for detection and identification should help to raise awareness amongst practitioners, supported by training and also through the increased visibility of NRMs and organisations providing support.

Where (Member) States have tools at hand to help them detect and identify victims of trafficking, procedural challenges may prevent this from happening effectively

In Dublin procedures, when the applicability of Dublin is assessed before the asylum interview, the chances of the authorities detecting past victimisation may be reduced. However, new provisions on a personal interview, introduced through the 2013 Dublin III Regulation may go some way to improving this situation. In other (Member) States, if a victim self-reports after a first decision on their initial application has been made the credibility of the application may be damaged as it may be considered that they should have declared the victimisation at an earlier stage. This further highlights the need for early detection and identification through mechanisms such as screening, increasing the detection skills of asylum authorities, and effective needs-assessment for applicants.

Similar mechanisms enable the detection of victims in forced return procedures, although the authorities' suspicion around possible misuse may act as a potential barrier to detection in some cases

A failed applicant who has gone through international protection procedures is much less likely to be screened if s/he enters into forced return procedures in most (Member) States. In some (Member) States this is because the relevant authorities consider that screening should have been carried out at an earlier stage and/or are concerned that by facilitating self-reporting they could inadvertently encourage misuse of the system of identification and referral (in order to avoid return). Nonetheless, pre-return risk assessment interviews can offer the opportunity for return authorities to detect possible (past) victimisation, especially if they have been trained in how to recognise and assess indicators of trafficking. Specialised NGOs also play an important role in detecting victims of trafficking in forced return procedures since they often have a focus on advocating for the rights of returnees and for monitoring their welfare.

All (Member) States offer the possibility to refer identified victims onto systems for obtaining support and some offer a choice of protection possibilities

When the authorities in international protection procedures have a reasonable indication that a third-country national is a victim of trafficking, there exists in all (Member) States the possibility to refer the victim onto procedures for accessing a residence permit as a victim of trafficking in human beings. In some (Member) States, this referral system is more developed than in others.

Some (Member) States offer not only the possibility to access a residence permit specifically for victims of trafficking dependent on cooperation with the authorities, but also residence permits on compassionate grounds and/or international protection (humanitarian, subsidiary or asylum). However, whereas access to residence permits for victims of trafficking is set out in the EU acquis and adopted by almost all Member States,[58] access to international protection for victims of trafficking appears to be more specific to a smaller number of Member States. For example, (Member) States differ greatly in the extent to which they consider that refugee status can, in some cases, be applied to victims of trafficking.

Where a victim of trafficking is eligible for protection, but is also identified as a victim of trafficking in human beings, there is no obligation on the victim to switch to procedures for a residence permit as a victim of trafficking in human beings. Indeed, it is likely that the victim will be provided with sufficient information to make a balanced choice as to the procedure s/he wished to stay in; and in 14 (Member) States, the victim is not obliged to switch at all, being able to remain in the international protection procedures whilst accessing rights and services in accordance with national legislation transposing Directive 2004/81/EC or equivalent measures.

In all (Member) States, it is possible for a rejected applicant of international protection to open a procedure as foreseen under Directive 2004/81/EC or equivalent measures; however, in all cases this is dependent on the return order being suspended, which is some (Member) States can be a difficult and/or lengthy process.

This study shows some pockets of good practice and evidence of ongoing improvements to national systems

Overall, this study has shown that many (Member) States have put in place practices to detect and identify victims of trafficking in human beings who find themselves in international protection procedures. There is evidence that in those (Member) States that

[58] All except for Denmark, **Ireland** and the **United Kingdom**; although equivalent measures apply in these Member States.

could provide statistics, there are situations where victims of trafficking in human beings are detected, identified and in some cases, referred on to alternative provision. However, it is clear that this remains an under-studied and under-reported subject. (Member) States have, or plan to, implement measures to improve the detection of victims of trafficking in human beings in asylum and return procedures, without which, it is possible that victims may go undetected.

In some (Member) States NRMs have been implemented to ensure that such victims are also referred onto appropriate support options. Indeed, some (Member) States offer a variety of options to third-country nationals identified as victims of trafficking in human beings, including international protection for reasons of being a victim of trafficking. Nonetheless, the study highlights some deficiencies in national systems (lack of proactive screening, reliance on self-reporting, insufficient training, and legal loopholes).

Recent EU legislation, notably the Trafficking Directive and the recast asylum acquis have set in place a considerably more robust framework to tackle this issue in the future and the work of EU agencies such as EASO and Frontex in guiding Member States in their implementation of these Directives will continue to be highly important. Indeed, (Member) States are already implementing approaches and practices that demonstrate good practice in tackling this complex and challenging issue; however, it is hoped that by raising awareness of this issue, also through this study, more victims will be identified in order to ensure their access to the support that meets their needs and fits with the EU's human-rights and victim-centred approach to tackling trafficking in human beings.

Annex 1 Statistics

Table A1.1 Availability of data on trafficking

	AT	BE	CY	CZ	DE	EE	EL	ES	FI	FR	HU	IE	IT	LV	LT	LU	MT	NL	PL	SE	SI	SK	UK	NO
TCNs identified as (potential) victims, who have withdrawn from or stopped procedures for international protection	N	N	N	N	N	Y	N	N	Y	N	N	N	N	N	N	N	N	N	N	N	N	N	N	Y
TCNs identified as (potential) victims, who have received a (final) negative decision	N	N	N	N	N	Y	N	Y	Y	N	N	N	N	N	N	Y	N	N	N	N	N	N	N	N
Referrals to NRM / actor responsible for identification / body responsible for assistance	N	Y	N	Y	N	N	N	N	Y	N	N	N	N	N	Y	Y	Y	N	N	N	N	Y	N	N
TCNs granted a protection status or residence permit on grounds of trafficking in human beings	Y	Y	N	N	Y	N	N	N	Y	N	N	Y	N	N	N	N	N	N	Y	N	N	N	N	Y
TCNs granted a residence permit as a victim (in accordance with Directive 2004/81/EC or equivalent procedures)	Y	Y	N	N	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y
Other statistics on victims detected in international protection procedures	N	Y	N	N	Y	N	N	N	N	N	N	N	N	N	N	N	N	Y	N	Y	N	N	Y	N
Other statistics on victims detected in forced return procedures	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	Y	N	N	Y	N

Key: *TCN = Third-country national; NI = no information; N = No statistics available; Y = statistics included in the National Report.*

Statistics available

- Third country nationals who were victims of trafficking in human beings who applied for or were granted a residence permit after having withdrawn from international protection procedures:
  - In **Norway**, the number of applicants who have withdrawn from the international protection process to *apply for a* reflection period were as follows: 30 (2010), 35 (2011), 43 (2012)
  - In **Luxembourg**, one female was granted a reflection period after receiving a negative decision on the application for international protection in 2011
- Third country nationals who were victims of trafficking in human beings granted a residence permit after having been rejected from international protection procedures:
  - **Finland** provides estimates that one permit was granted under such circumstances in 2011 and 7 were granted in 2012
  - In **France**, of the 324 third-country nationals who received a residence permit as a victim of trafficking in human beings 2008-2012, 76 (nearly a quarter), had made an initial application for asylum which had been rejected.
  - In **Ireland** in 2010 two persons and in 2012 three persons were granted residence permits after having been through international protection procedures, although it is not possible to say if they were rejected or withdrew.
  - In **Spain** in 2012 six persons were granted residence permits.
- Third country nationals who were victims of trafficking granted a protection status:
  - **Austria**: 112 (2008), 12 (2009), 8 (2010), 18 (2011), 12 (2012)
  - **Finland**: 1 (2008), 0 (2009), 1 (2010), 1 (2011), 1 (2012)
  - **Norway** 7 (2009), 3 (2010), 6 (2011), 11 (2012)
  - **Spain:** 2 (2013)
- Referrals of third-country nationals to the NRM from asylum authorities, authorities enforcing return and staff at reception and detention facilities:
  - **Slovak Republic**: 5 referrals by asylum authorities in 2012, and 1 referral by a detention facility in 2011.

    United Kingdom: in 2012, 512 referrals to the NRM (43% of the total number of referrals) * were made by UK Border Authority (UKBA) – the body responsible for international protection, enforcing forced returns and managing reception centres. **Total numbers referred to the UK NRM include EU citizens*
- Referrals from the asylum and/or return authorities to the authorities responsible for identification:
  - **Finland**: 2008-2012 – 3 referrals (2%) were by asylum authorities to the Assistance System for Victims of Trafficking; 11 referrals (7%) were by the authorities responsible for return and 17 referrals (11%) were made by reception centres.
  - **Luxembourg**: 3 referrals by asylum authorities to the police for identification 2008 – 2012
  - **Spain**: 58 referrals by asylum authorities since March 2011
  - **Sweden**: 48 referrals from Swedish Migration Board to the National Bureau of Investigations in 2012, of which: 17 were detected by staff in charge of asylum examinations, 13 by staff dealing with reception of asylum seekers, and 6 by units dealing with the processing of applications for residence permits in the framework of legal immigration. Another 6 cases were reported by Dublin units, 3 by detention centre staff, two by migration courts and one by a unit dealing with administrative procedures. Of these presumed victims, 13 came from Mongolia, five each from Nigeria and Georgia and four from Russia.
  - In **Belgium**, in 2012 12 third-country nationals (9 males / 3 females) were residing in closed (asylum) reception centres when a residence permit was requested by specialised reception centres to the MINTEH cell. The majority of these were from China (3), Nepal (3) and Russian Federation (2).
  - **Ireland**: 36 referrals by asylum authorities in 2010 (46% of total); 32 in 2011 (56% of total); 8 in 2012 (17% of total).
  - Organisations in the **Netherlands** collect some information on whether victims were residing in asylum reception centres at the time of applying for the residence permit as a victim of trafficking in human beings.

Annex 2 Glossary

- **ERF:** European Refugee Fund

- **NRM:** National Referral Mechanism. These are mechanisms aimed at identifying, protecting and assisting victims, through referral, and involving relevant public authorities and civil society. Source: *derived from the Conclusions on the new EU Strategy towards the Eradication of Trafficking in Human Beings 2012–2016 of the 3195th Justice and Home Affairs Council meeting, October 2012*[59]

- **Offences concerning Trafficking in Human Beings**: The recruitment, transportation, transfer, harbouring or reception of persons, including the exchange or transfer of control over those persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Source: *Article 2(1) of Directive 2011/36/EU*

- **Detection**: The process of identifying possible situations of trafficking Source: *Varandas, I. & J. Martins (2007) Signalling Identification Integration of Victims of Trafficking for Sexual Exploitation: Construction of a Guide)*

- **Detention facility**: A specialised facility - different from prison accommodation - used for the detention of a third-country national in accordance with national law. In context of the EU's Return Directive (2008/115/EC), a facility to keep in detention a third-country national who is the subject of return procedures in order to prepare the return and/or carry out the removal process, in particular when: (a) there is a risk of absconding; or (b) the third-country national concerned avoids or hampers the preparation of return or the removal process. Source: *EMN Glossary 2.0*

- **Dublin procedure**: The process of determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national under Council Regulation (EC) No 343/2003. Source: *derived from Article 4(1) of the Regulation*

- **Dublin transfer**: i) The transfer of responsibility for the examination of an asylum application from one Member State to another Member State; and (ii) the transfer of an applicant to the Member State responsible for examining the application following a Dublin procedure. Source: *Part (i) is taken from the EMN Glossary 2.0 and part (ii) is derived from Article 19(1) of Council Regulation 343/2003.*

- **Forced return**: The compulsory return of an individual to the country of origin, transit or third country [i.e. country of return], on the basis of an administrative or judicial act. Source: *EMN Glossary V.02*

- **Formal Identification:** The identification of a person as a victim of trafficking in human beings by the relevant formal authority (often law enforcement), according to the national system. Source: *Varandas, I. & J. Martins (2007) Signalling Identification Integration of Victims of Trafficking for Sexual Exploitation: Construction of a Guide)*

- **GRETA:** The Council of Europe Group of Experts on Action against Trafficking in Human Beings

- **Identification**: The process of confirming and characterising any situations of trafficking for further implementation of support. Source: *Varandas, I. & J. Martins (2007) Signalling Identification Integration of Victims of Trafficking for Sexual Exploitation: Construction of a Guide)*

- **International protection:** In the EU context encompasses the refugee and subsidiary protection status as defined in the Qualification Directive. In a global context, the actions by the international community on the basis of international law, aimed at protecting the fundamental rights of a specific category of persons outside their countries of origin, who lack the national protection of their own countries. Source: *Adapted from the definition in EMN Glossary 2.0*

- **(Potential) victim**: A person who is identified as a victim of trafficking in human beings in order to be granted access to specific procedures and/or rights on this basis without ruling out the possibility that the person's status

[59] http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/jha/133202.pdf

will later be assessed otherwise (i.e. not identified / confirmed as a victim). *Source*: *Definition formulated for the purpose of this Study*

- **Presumed victim**: 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 who has declined to be formally or legally identified as trafficked. *Source: Derived from Eurostat (2013) Working Papers: Trafficking in Human Beings*

- **Reception centre**: A location with facilities for receiving, processing and attending to the immediate needs of refugees or applicants for international protection as they arrive in the Member State where they have received / are applying for protection. *Source: derived from the definition of 'reception centre' in EMN Glossary 2.0*

- **Referral**: The process of transferring a person from one procedure onto another. *Source*: *Definition formulated for the purpose of this Study*

- **Rejected applicant**: Persons who have received a (final) negative decision on their application(s) for international protection or who have abandoned the procedure. *Source*: *Definition formulated for the purpose of this Study*

- **Screening**: the process of checking for a particular attribute or ability. In the migration context, a preliminary (often cursory) review to determine if a person is 'prima facie' eligible for the status applied for. *Source: Definition formulated for the purpose of this Study*

- **Self-identification:** the recognition by victims that they have been subject to the crime of trafficking in human beings specifically. *Source*: *Definition formulated for the purpose of this Study*

- **Self reporting**: The reporting of exploitation / abuse by victims of trafficking in human beings *without* the recognition that the exploitation / abuse was a form of trafficking in human beings. *Source*: *Definition formulated for the purpose of this Study*

- **Subsidiary protection**: The protection given to a third-country national or a stateless person who does not qualify as a refugee but in respect of whom substantial grounds have been shown for believing that the person concerned, if returned to his or her country of origin, or in the case of a stateless person, to his or her country of former habitual residence, would face a real risk of suffering serious harm as defined in Article 15 of 2004/83/EC, and to whom Article 17(1) and (2) of 2004/83/EC do not apply, and is unable, or, owing to such risk, unwilling to avail himself or herself of the protection of that country. *Source: EMN Glossary 2.0*

Annex 3 Competent authorities

MS	Authority responsible for:					
	... registering / processing applications for international protection	... Dublin cases	... enforcing return	... official identification	... granting of residence permits to victims	... granting assistance to victims
AT	Federal Office for Aliens Affairs and Asylum	Federal Office for Aliens Affairs and Asylum	Police officers	Federal Minister of the Interior	Federal Office for Aliens Affairs and Asylum	N/A
BE	Immigration Office - Office of the Commissioner General for Refugees and Stateless Persons (CGRS)	Immigration Office (Dublin Unit) Immigration Office (Interview & Decision cell)	Immigration Office (Removals Unit) and Federal Police (practical implementation of returns)	Public prosecutors	Immigration Office (Minors and trafficking in human beings cell) (MINTEH)	Specialised reception centres for victims of trafficking
CY	The Asylum Service	The Asylum Service	Migration Department and Immigration Department	The Office of Combating Trafficking in Human Beings in the Police	Civil Registry and Migration Department	N/A
DE	Federal Office for Migration and Refugees	Federal Office for Migration and Refugees	Federal Criminal Police Office	Federal Criminal Police Office	Foreigners Authority (ABH)	N/A
EE	Police and Border Guard Board	Police and Border Guard Board	Police and Border Guard Board	Police and Border Guard Board department of Central Criminal Police	Police and Border Guard Board	Estonian National Social Insurance Board
ES	Spanish Office for Asylum and Refugees	Spanish Office for Asylum and Refugees	National Police	National Police	Immigration Services	Ministry of Employment and Social Security
FI	Finnish Immigration Service Police and Border authorities	Finnish Immigration Service Police and Border authorities	National Police	N/A	Finnish Immigration Service	National Assistance System for Victims of Trafficking
FR	French Office for the Protection of Refugees and Stateless Persons	Regional prefectures	Regional prefectures and Law enforcement services	Law enforcement services	Regional prefectures	N/A
HU	Office for Immigration and Naturalisation (OIN)	Office for Immigration and Naturalisation (OIN)	Office for Immigration and Naturalisation (OIN) Police (when by air)	Health care services Public education authorities, Police, Labour authority, Consular staff, Migration authority Asylum authority	Office for Immigration and Naturalisation (OIN)	Regional victim support services Health care institutions Secured shelters OKIT Hotline
IE	Office of the Refugee Applications	Office of the Refugee Applications	Minister for Justice and Equality	An Garda Síochána (the police) "not less than	Garda National Immigration Bureau	N/A

MS	Authority responsible for:					
	… registering / processing applications for international protection	… Dublin cases	… enforcing return	… official identification	… granting of residence permits to victims	… granting assistance to victims
	Commissioner (ORAC)	Commissioner (ORAC)		the rank of Superintendent in the Garda National Immigration Bureau"	(GNIB) / Minister for Justice and Equality	
IT	Territorial Commission for the recognition of international protection	Territorial Commission for the recognition of international protection	The police headquarters (Questura)	The police headquarters (Questura) Public Prosecutors	The police headquarters (Questura)	NGOs financed by the Ministry of Interior / Department of Rights and Equal Opportunities
LV	Office of Migration and Citizenship Affairs	Office of Migration and Citizenship Affairs	State Border Guard	State Police Provider of social services (NGO)	Office of Migration and Citizenship Affairs	Ministry of Welfare
LT	Migration Department	Migration Department	State Border Guard	Pre-trial investigation body	Migration department	The Ministry of Social Security and Labour, NGOs
LU	Directorate of Immigration – Refugee Department	Directorate of Immigration – Refugee Department	Grand-Ducal Police – Immigration section	Grand-Ducal Police – Organised Crime section	Directorate of Immigration – Third Country Nationals Department	Ministry for Equal Opportunities
MT	Office of the Refugee Commissioner	Office of the Refugee Commissioner	Police	Police Vice Squad	Chief Immigration Officer	Aġenzija Appoġġ (national social welfare agency)
NL	Immigration and Naturalisation Service	Immigration and Naturalisation Service	The Repatriation and Departure Service	The Police and the Royal Netherlands Marechaussee (*Koninklijke Marechaussee*, KMar	Immigration and Naturalisation Service	CoMensha, COA, NGO's
PL	Office for Foreigners	Office for Foreigners	Border Guard	Police or Border Guard officers (law enforcement)	Voivoideship Office	National Consulting and Intervention Centre (KCIK)
SK	Migration Office of the Ministry of Interior	The Dublin Centre of the Migration Office of the Ministry of Interior	Bureau of the Border and Aliens Police of the Police Force Presidium	Authorised staff of the Migration Office, cooperating non-profit organizations (3 NGOs + IOM).	Bureau of the Border and Aliens Police of the Police Force Presidium	National coordinator for combating trafficking in human beings – State Secretary of the Ministry of Interior of the Slovak Republic
SI	Internal Administrative Affairs, Migration and Naturalization	Internal Administrative Affairs, Migration and Naturalization	Internal Administrative Affairs, Migration and Naturalization Directorate of	The police	Internal Administrative Affairs, Migration and Naturalization	NGO Ključ

MS	Authority responsible for:					
	… registering / processing applications for international protection	… Dublin cases	… enforcing return	… official identification	… granting of residence permits to victims	… granting assistance to victims
	Directorate of the Ministry of Interior	Directorate of the Ministry of Interior	the Ministry of Interior		Directorate of the Ministry of Interior	
SE	Swedish Migration Board	Swedish Migration Board	Swedish police	Swedish Migration Board Swedish police	Swedish Migration Board	Swedish municipalities (sometimes assisted by NGOs)
UK	Home Office	Home Office	Home Office	Home Office UK Human Trafficking Centre (UKHTC)	Home Office	Salvation Army – and funded by the NGO UKHTC to provide assistance
NO	Norwegian Directorate of Immigration (UDI)	Norwegian Directorate of Immigration (UDI)	The National Police Immigration Service	Norwegian Directorate of Immigration (UDI) Norwegian police The Child Protection Services	Norwegian Directorate of Immigration (UDI)	*No NRM - Assistance mainly provided by the ROSA-project (national specialised agency for assistance), The Child Protection Services, the municipalities and the reception centres*