

## 5.5.1. Policy, legislative and judicial developments at the national level

### 5.5.1. Policy, legislative and judicial developments at the national level



In 2022, EU+ countries introduced policy and legislative changes to better identify, refer and protect victims. For example, the French Ministry of the Interior published an instruction in April 2022 requesting the prefects to harmonise practices related to victims who were trafficked for sexual exploitation.[1373](#) The Romanian government approved a national identification and referral mechanism for victims of human trafficking in January 2023.[1374](#)

Italy adopted a National Action Plan 2022-2025 with long-term strategies and actions aimed at raising awareness, better prevention and the social integration of victims of trafficking.[1375](#) In line with this, Italy's civil courts granted protection to two Nigerian women who were victims of sexual exploitation and prostitution, as they would either risk an act of persecution on grounds of membership of a particular social group or be re-trafficked if returned to the country of origin (see [here](#) and [here](#)). In another [case](#), a male trafficking victim from Nigeria, initially excluded from refugee protection, was recognised as eligible for subsidiary protection since he could suffer inhuman or degrading treatment by his family after having been a victim of human trafficking.

In Austria, the Constitutional Court [ruled](#) on the link between being the victim of human trafficking and belonging to a particular social group, and confirmed that a Nigerian woman could be regarded as being a member of a particular social group since she had been sexually exploited as a victim of trafficking and would be stigmatised, marginalised and discriminated against upon a return to Nigeria. In another case, the court [ruled](#) on the evidentiary value of the assessments undertaken by the national victim protection organisation and questioned the lower court's approach to disregard the detailed analysis submitted by that organisation.

Protection was also granted to a transsexual trafficking victim from India by the Administrative Court of Cologne in Germany. The court [noted](#) that the victim's return to the country of origin would not constitute a safe environment since the applicant would face family members or members of the Hijra community through whom she had experienced sexual abuse since childhood, violence and forced to prostitution.

In contrast, CALL in Belgium [reviewed](#) the case of a perpetrator of human trafficking who tried to obtain international protection. He claimed to have been threatened, arrested and abused by Hamas. He travelled to Belgium, where he was arrested on charges of human trafficking and participation in criminal groups. He was

sentenced to imprisonment and excluded from refugee and subsidiary protection status.

There were several developments with regard to referral mechanisms in EU+ countries. Ireland adopted a bill in July 2022 to amend the national referral mechanism to make it easier to identify victims and involve a broader range of actors to provide support.[1376](#) In Finland, legislative amendments were introduced and entered into force in January 2023 to improve the identification and referral of victims of trafficking and their right to services and assistance, irrespective of the progress of criminal proceedings.[1377](#)

Spain's Council of Ministers adopted a draft bill on trafficking and exploitation which focuses on prevention, assistance and the protection of victims by guaranteeing a series of rights and support measures. A national referral mechanism for potential trafficking victims will also be created.[1378](#)

In Estonia, a new Victim Support Act enters into force on 1 April 2023. The act will further improve the availability and quality of victim support services.[1379](#)

As part of a reform process, the Human Rights Initiatives Unit in Malta will develop a national strategy and action plan against human trafficking, which will then serve as the national referral mechanism.[1380](#) This initiative will receive the support of the Council of Europe through a 2-year project to help with the preparation of the new national anti-trafficking strategy and action plan.[1381](#)

[1373](#) Instruction N° DGCS/SDFE/DGEF/DIMM/2022/7 2022 du 13 avril 2022 relative à l'ouverture des droits dans le cadre du parcours de sortie de la prostitution et d'insertion sociale et professionnelle [Instruction N° DGCS/SDFE/DGEF/DIMM/2022/7 of 13 April 2022 on the opening of rights in the context of the exit from prostitution and social and occupational integration pathway], April 13, 2022.  
<https://www.legifrance.gouv.fr/download/pdf/circ?id=45322>

[1374](#) Hotărâre nr. 88 din 31 ianuarie 2023 pentru aprobarea Mecanismului național de identificare și referire a victimelor traficului de personae [Decision no. 88 of 31 January 2023 for the approval of a national mechanism to identify and refer victims of human trafficking], January 31, 2023.  
<https://legislatie.just.ro/Public/DetaliiDocument/264575>

[1375](#) Ministry of the Interior | Ministero dell'interno. (2022, October 19). Piano nazionale d'azione contro la tratta e il grave sfruttamento 2022-2025 [National action plan against trafficking and severe exploitation 2022-2025]. <https://www.integrazioneimmigranti.gov.it/AnteprimaPDF.aspx?id=3613>

[1376](#) Department of Justice | An Roinn Dlí agus Cirt. (2022, July 30). Minister McEntee welcomes new legislation as she marks World Day against Trafficking in Persons. <https://www.gov.ie/en/press-release/8535d-minister-mcentee-welcomes-new-legislation-as-she-marks-world-day-against-trafficking-in-persons/> Department of Justice | An Roinn Dlí agus Cirt. (2022, October 18). Minister McEntee marks EU Anti-Trafficking Day by emphasising importance of awareness. <https://www.gov.ie/en/press-release/01b52-minister-mcentee-marks-eu-anti-trafficking-day-by-emphasising-importance-of-awareness/>

[1377](#) Ministry of the Interior | Sisäministeriö, & Ministry of Social Affairs and Health | sosiaali- ja terveysministeriö. (2022, December 29). Ihmiskaupan uhreja autetaan rikosprosessin etenemisestä riippumatta [Assistance to be given to victims of human trafficking irrespective of the progress of criminal proceedings]. [https://intermin.fi/-/ihmiskaupan-uhreja-autetaan-rikosprosessin-etenemisesta-riippumatta?languageId=en\\_US](https://intermin.fi/-/ihmiskaupan-uhreja-autetaan-rikosprosessin-etenemisesta-riippumatta?languageId=en_US)

[1378](#) Government of Spain | Gobierno de España. (2022, November 29). El Gobierno aborda de manera integral la lucha contra la trata y explotación de seres humanos [The Government comprehensively addresses the fight against trafficking and exploitation of human beings].  
<https://www.lamoncloa.gob.es/consejodeministros/resumenes/Paginas/2022/291122-rp-cministros.aspx>

[1379](#) Ohvriabi seadus [Victim Assistance Act], December 14, 2022.  
<https://www.riigikogu.ee/tegevus/eelnoud/eelnou/60f3902f-47aa-43c5-b28f-88101027e454/Ohvriabi+seadus>

1380 Minister for Home Affairs, Security, Reforms and Equality. (2022). National Strategy and Action Plan Against Human Trafficking (2024 onwards).

[https://humanrights.gov.mt/en/Pages/Initiatives%20Unit/Human%20Trafficking/National-Strategy-and-Action-Plan-Against-Human-Trafficking-\(2024-onwards\).aspx](https://humanrights.gov.mt/en/Pages/Initiatives%20Unit/Human%20Trafficking/National-Strategy-and-Action-Plan-Against-Human-Trafficking-(2024-onwards).aspx)

1381 Council of Europe, Action against Trafficking in Human Beings. (2022, December 6). Launch of the Joint Project on “Supporting Malta in the design and implementation of a new National Anti-Trafficking Strategy”.