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EU-level developments

Combatting the trafficking of human beings remained at the forefront of discussions in 2023. The continued arrival of displaced persons from Ukraine triggered further prevention and protection measures in 2022 and early 2023.

Following the European Commission's proposal from December 2022 to revise the Anti-Trafficking Directive,[1036] the European Parliament adopted its mandate for negotiations with Member States which started in November 2023 with the European Council.[1037] Subsequently, the European Parliament and Council reached an informal agreement on 23 January 2024 on expanding the scope of the current directive by including additional crimes, namely forced marriage, illegal adoption and surrogacy for the purposes of reproductive exploitation. This provisional agreement still needs to be formally adopted by both institutions. Once approved, Member States would have a transition period of 2 years to implement the changes when the new rules come into force.[1038], [1039]

ECRE stated that the proposed changes to the EU Anti-Trafficking Directive may improve understanding of the magnitude of trafficking; however, the organisation recommended that the European Commission should focus more on the rehabilitation and integration of trafficking survivors by issuing them a regular residence permit.[1040] La Strada International applauded that the directive now includes online trafficking activities, but it noted that the rights and protection of trafficking victims could have been improved.[1041]

Online exploitation, which rapidly progressed during the COVID-19 pandemic, continued and grew in 2023. In its annual report, the Council of Europe's Group of Experts on Action against Trafficking in Human Beings (GRETA) observed persisting gaps and new challenges due to the increased use of information and communications technologies.[1042] To shed more light on national situations, GRETA published various country reports during 2023, namely on Greece, Iceland, the Netherlands, Poland, Slovenia, Spain and Sweden. GRETA noted a low rate of prosecutions and convictions related to trafficking in human beings, which it believed to be linked to an overreliance on victim testimonies and the rapid return of victims to their countries

of origin.1043 GRETA emphasised the need for more concrete action and resources to tackle trafficking in human beings in Europe.1044

The IOM and the UN Office on Drugs and Crime (UNODC) released the first technical guidance on administrative data on trafficking in persons to support governments and other stakeholders in addressing information gaps. The guidance promotes a common approach for national data collections on human trafficking, information which would feed the development of policies and programmes to combat human trafficking.1045

The U.S. Department of State released its yearly report on trafficking in persons for 2023, with a comprehensive overview of the state of human trafficking in all EU+ countries. The report underlines the importance of working in partnerships with governments, law enforcement, civil society organisations and survivors to tackle human trafficking.1046

A report from the UN Special Rapporteur on trafficking underlines the obligation of states to ensure effective access to international protection for victims of trafficking and persons at risk of trafficking and to comply with the principle of non-refoulement. The report recommends the adoption of measures to prevent trafficking by expanding resettlement opportunities and complementary pathways, including humanitarian visas and family reunification.1047

National developments

In 2023 EU+ countries introduced changes to better identify, refer and protect victims of trafficking. Some also focused on monitoring the situation by commissioning studies to analyse the latest trends.

A revised national referral mechanism for victims of human trafficking in Ireland aims to establish clear definitions for identification and to clarify the rights of trafficking victims.1048 In addition to the current competent authority for identification, An Garda Síochána, other relevant authorities and registered charitable organisations will become involved in identifying victims. The Irish Ministry of Justice also launched a third national action plan on human trafficking in November 2023, which aims to provide victims with protection from removal and to increase awareness and the use of cultural mediators.1049

The Finnish Ministry of the Interior commissioned a study to examine the reflection period granted to victims of human trafficking and the impact of a suspicion of trading in sexual services on the denial of admittance or stay. The study confirmed the challenge of identifying victims of sexual exploitation and the obstacles for detection. For example, migrants selling sex may not report occurrences because they may fear being deported and receiving an entry ban. 1050 In addition, the Non-Discrimination Ombudsperson in Finland made a series of recommendations to the government, namely to amend the Aliens Act so that more victims can meet the conditions to obtain a residence permit.1051

The Lithuanian Ministry of the Interior published a report which includes an overview of the situation of trafficking in human beings in Lithuania and summarises measures taken by state institutions and NGOs and planned actions.1052

In the Netherlands, the Action Plan Together against Human Trafficking was launched in 2023, detailing the actions undertaken by different stakeholders as part of a joint approach.[1053] In addition, the Dutch Scientific Research and Documentation Centre published an evaluation of the changes introduced to the B8/3 residence scheme for victims and witnesses of human trafficking who report or cooperate in criminal proceedings. Amongst other elements, the evaluation looked into changes that impacted applicants in the Dublin procedure.[1054]

Italy updated its national referral mechanism for the identification, assistance and protection of victims of human trafficking and exploitation with a set of recommendations to ensure a timely identification of potential victims and through a multi-sectoral and multi-agency approach.[1055]

Furthermore, the Italian Ministry of the Interior published a handbook [xlviii] on identification, referral and care for applicants with vulnerabilities and special needs, including victims of trafficking. It provides guidance on uniform procedures to be adopted in asylum and reception systems.[1056]

In March 2023, the SMA in Sweden published data for 2022, which showed that the number of suspected cases of human trafficking (515) nearly doubled compared to the previous year. Forced labour continued to be the most common form of exploitation in Sweden. One-fifth of the cases involved trafficking for sexual exploitation, mostly involving women and young girls.[1057]

SAR in Bulgaria signed a framework agreement with the NGO Foundation A21 which will enable joint activities to implement campaigns, projects, training and other activities related to the identification of human trafficking victims.[1058]

IOM Slovakia held workshops on counter-trafficking and communication with potential victims for staff from various institutions.[1059]

The German federal government announced further steps to develop a National Action Plan to Combat Trafficking in Human Beings. It would address all forms of trafficking and cover four fields of action, namely prevention, protection and support to trafficked persons, prosecution and cooperation at the national, European and international levels. The federal government aims to have the national action plan adopted before the end of the legislative period.[1060]

As part of the measures from the national action plan, the French Inter-Ministerial Mission for the Protection of Women against Violence and Human Trafficking (MIPROF) and the Ministerial Statistical Service for Internal Security (SSMSI) jointly published the results of their annual survey of victims of human trafficking who are supported by civil society organisations in France. The study revealed that 7 out of 10 trafficking victims originated from Africa in 2022, although the share of victims from European countries (17%) and Latin American and Caribbean countries (10%) increased. Nigeria was the main country of origin of victims of trafficking in human beings, accounting for 52% of trafficked victims in France.

Likewise, the German NGO Network against Trafficking in Human Beings carried out a data collection of specialised counselling centres for trafficked persons and found that the majority of victims in Germany originated from West African countries, mainly Nigeria.[1061]

Case law related to victims of trafficking

National courts reviewed several trafficking cases involving women, mostly from the African continent. Considering COI, the courts noted that a return to the country of origin would pose a significant risk for the victims. For example, the Constitutional Court in Austria annulled a lower court decision and held that a mother of two children, a victim of trafficking for the purpose of sexual exploitation, would be at risk of being re-trafficked if returned to Nigeria.

In France, the CNDA granted subsidiary protection to a former victim from the Democratic Republic of the Congo who was trafficked by a Nigeria-based transnational sexual exploitation network.

The Court of Appeal of Palermo in Italy upheld the appeal of a Nigerian woman and ruled that the applicant would be at risk of stigmatisation and re-trafficking if returned. Consequently, the victim was granted refugee status and the right to remain in Italy. The Tribunal of Florence granted refugee status to a man who had been a victim of human trafficking and labour exploitation and noted his extreme vulnerability as disasters and climate change amplify the risks of falling victim to human trafficking.1062

In Czechia, the Regional Court in Ostrava assessed the case of a Nigerian woman whose asylum application was rejected twice. The asylum authority had considered that the woman became a victim of trafficking during her journey to Europe and could therefore safely return and get assistance in her home country. However, the regional court referred to relevant COI and international law to conclude that the woman had already fallen victim to trafficking in her country of origin, Nigeria, and not during her journey to Europe, and she could be at risk of being re-trafficked and persecuted if returned.

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