



Ad-hoc query on directive 2011/36/EU

Requested by EE EMN NCP on 27th June 2012

Compilation produced on 13th August 2012

Responses from Belgium, Bulgaria, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Poland, Spain, Sweden, United Kingdom plus Norway (20 in Total)

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1. Background Information

Directive on preventing and combating trafficking in human beings and protecting its victims 2011/36/EU of the European Parliament and of the Council is to be adopted by April 2013. Estonian Ministry of the Interior is planning on enacting changes to present practice and would therefore like to find out Member States' practice in this regard, if possible by **13th July 2012**.

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2. Responses

		Wider Dissemination? ¹	<ol style="list-style-type: none"> 1. Which institutions in your Member State have the official capacity to identify victims of human trafficking, both in the case of EU citizens as well as third country nationals? 2. In case of third country nationals (incl. unaccompanied minors) do you detain or restrict the freedom of movement of the potential victim during the official reflection period? If yes, then how much, for how long, where do you keep them during that time, and on what legal grounds? 3. What kinds of services do the member states provide to victims of human trafficking in different stages of the investigation? Additionally, do the services differ depending on whether the victim has agreed to co-operate (as opposed to the reflection period), and if yes, how? 4. How do you deal with victims of human trafficking who refuse to co-operate and decline assistance?
	Belgium	Yes	<p>1. The Magistrate at the Public Prosecutor's Office is the only competent authority for granting the status of Victim of Trafficking (or victim of smuggling under aggravated circumstances) to third country nationals as well as EU-citizens (the same procedure is applicable). In his decision the Magistrate should take into consideration the advice given by the other actors in the field, i.e. Immigration Services, Police and Inspection services and the specialized reception centres.</p> <p>In order to take an accurate decision an answer should be formulated on the five following questions:</p> <ul style="list-style-type: none"> • Is the investigation or court proceeding still ongoing? • Can the concerned person, in this stage, be considered as a victim of an act of human trafficking or smuggling (under aggravated circumstances), as determined by the applicable law? • Is the victim willing to cooperate? • Did the victim put an end to all ties with the alleged perpetrators? • Can the victim be considered as a potential threat for public order or national security? <p>2. There is no detention and no restriction of movement of a potential victim during the official reflection period. The person can be placed in a specialized reception centre from where the person is allowed to move freely. However, victims must act in accordance with the 'terms of guidance/assistance' (for eg respect curfew, end all ties with the alleged perpetrators). Minors will be placed in reception centres that are specialised in unaccompanied minors (Currently, Belgium does not have specialised reception centres for minors that are victims of human trafficking). Unaccompanied minors from third countries will be appointed a legal guardian.</p>

¹ A default "Yes" is given for your response to be circulated further (e.g. to other EMN NCPs and their national network members). A "No" should be added here if you do not wish your response to be disseminated beyond other EMN NCPs. In case of "No" and wider dissemination beyond other EMN NCPs, then for the [Compilation for Wider Dissemination](#) the response should be removed and the following statement should be added in the relevant response box: "This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further."

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			<p>3. Belgium has three specialised reception centres for victims of human trafficking. They provide victims of trafficking with information on the assistance they can offer and will provide more details about the specific procedure for victims of trafficking in human beings (and victims of smuggling under aggravated circumstances).</p> <p>These are the following : PAG-ASA : Brussels – info@pag-asa.be PAYOKE : Antwerp – admin@payoke.be SÛRYA : Liège – info@asblsurya.be</p> <p>They offer victims of trafficking a safe shelter, although being in a shelter is no prerequisite for being accompanied. Victims may submit another address provided that their housing is not related to their exploitation or the alleged perpetrator. The centres provide victims of trafficking with three types of assistance: 1) reception and safe shelter; 2) medical, social and psychological assistance and 3) administrative and legal assistance.</p> <p>Once the reflection period has passed, these services will only be rendered to those victims being granted the status of Victim of Trafficking (see question 1). One of these prerequisites is providing the police/competent authorities with relevant information on those who exploited the victim.</p> <p>4. In general when victims refuse to provide the police with relevant information or decline assistance (for various reasons such as fear, etc) the reception centres will provide them with their contact details, in case the victim wants to contact them at a later time when feeling more at ease to cooperate.</p> <p>However, if a person refuses to cooperate, he or she will be treated as every other person who is in an irregular situation on the territory, meaning that they will receive an order to leave the territory. If there is no voluntary return, the person may be detained prior to his or her deportation.</p>
	Bulgaria	Yes	<p>1. The Chief Directorate "Combating Organized Crime" is a specialized operation and search service of the Ministry of Interior (MoI) for combating and dismantling the criminal activity of local and transnational criminal structures in many fields of organized crime, including illegal human trafficking;</p> <p>2. Persons who declared being victims of trafficking are placed in open-type shelters. They shall be accommodated in the shelter within 10 days after their request. Children - victims of trafficking are placed in separate premises from adults.</p> <p>3. The Temporary shelters provide normal conditions for living and personal hygiene; provide accommodated persons with food and medicine, emergency medical and psychological assistance, provide support for the persons accommodated in establishing contacts with their relatives, as well as with agencies and organizations.</p> <p>The victims of trafficking are provided with information on administrative and judicial procedures governing the promotion and protection of victims of trafficking in understandable language; the victims are provided with specialized psychological and medical assistance. For the children - victims of trafficking, education is provided in state or municipal schools under the terms and conditions of</p>

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			<p>the Education Act.</p> <p>Persons, who are victims of trafficking and have agreed to cooperate in detecting the perpetrators of trafficking, are provided with special protection for the duration of criminal proceedings, which includes:</p> <ul style="list-style-type: none"> - granted permission for stay in the country of foreign nationals; - extension of accommodation period in the shelters. <p>The long-term residence is issued under the Law for Foreigners in the Republic of Bulgaria by the services for administrative control of Ministry of Interior.</p> <p>The residence permission is not granted to individuals who do not have identity documents and refuse to co-operate for their identification.</p> <p>NGOs can assist the Commission's activities within their available resources.</p> <p>Children -victims of trafficking are treated according to the Law on Child Protection.</p> <p>4. In case the third country nationals after the official reflection period refuse to participate in the investigation, they shall be returned to the country of origin.</p>
	Cyprus	Yes	<p>1. Which institutions in your Member State have the official capacity to identify victims of human trafficking, both in the case of EU citizens as well as third country nationals?</p> <p>According to the article 39(1) of the anti trafficking Law 87(I)/2007, the competent authority to identify victims of human trafficking are the Police. All victims of trafficking in human beings are identified as such by the Police even if they are EU citizens or third country nationals.</p> <p>2. In case of third country nationals (incl. unaccompanied minors) do you detain or restrict the freedom of movement of the potential victim during the official reflection period? If yes, then how much, for how long, where do you keep them during that time, and on what legal grounds?</p> <p>The one month reflection period is granted to victims since most of them are in bad psychological or physical condition, or they are traumatized and need to recover and escape the influence of the perpetrators of the offence. In that way, the victim can take an informed decision as to whether to cooperate with the competent authorities for the investigation of the offence or the judicial process. These victims are supported by the Social Welfare Services and are accommodated at a shelter. Because of their vulnerable situation and the risk they run if they move freely, they are advised not to leave the shelter for a reasonable time, according to individual risk assessments.</p> <p>3. What kinds of services do the member states provide to victims of human trafficking in different stages of the investigation? Additionally, do the services differ depending on whether the victim has agreed to co-operate (as opposed to the reflection period), and if yes, how?</p> <p>According to the Law for Combating Trafficking, Exploitation of Human Beings and for the Protection of Victims [L. 83(I)/2007], victims of trafficking, as a basic principle, are protected from penalisation in case where the offence is directly related to their status as victims.</p> <p>Additionally, all victims enjoy the following rights irrelevant to whether they have entered the Republic legally or not:</p> <p>Victims have one month reflection period with the possibility of renewal. No fees are required for the issue of the relevant temporary residence permit. During this period the victims have the following rights:</p>

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			<ul style="list-style-type: none"> • protection from deportation • medical care • the right to information concerning their rights and possibilities provided for by the Law • public allowance • psychological support • protection by the police • free translation and interpretation services • protection of personal data • access to programmes provided by the State or by NGOs in cooperation with the State (if available) for rehabilitation of the social life of the victims (e.g. vocational training) • change sector of employment <p>Legal support is provided by Legal Support Fund considering the relevant conditions are met. Medical and/or psychological support is provided by the Ministry of Health and the Department of Psychological Services.</p> <p>Minor victims (children), are put under the protection of Social Welfare Services, have access to education and specialised medical and other care.</p> <p>Since November 2007, victims of sexual exploitation, have access to the shelter for female victims of sexual exploitation which is operating under the responsibility of the Social Welfare Services. The shelter provides safe accommodation, psychological support and counselling with an individualized treatment plan and legal advice to victims of sexual trafficking.</p> <p>In cases where the victims have decided to cooperate with the authorities for the prosecution of the perpetrators they maintain the aforementioned rights all along the period of judicial proceedings.</p> <p>4. How do you deal with victims of human trafficking who refuse to co-operate and decline assistance?</p> <p>In all trafficking cases, one of the most important Police's efforts is to provide victims all means necessary to facilitate their cooperation. Even if the victim refuses to co-operate and decline assistance, repeated efforts are made by the Police as to convince the victim that is in his/her best interest to cooperate with the authorities. If his/her final decision is not to cooperate, the victim is repatriated. Exceptions are the cases where the victim is under medical or psychological treatment.</p>
	Czech Republic	No	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further
	Estonia	Yes	<ol style="list-style-type: none"> 1. In both cases, it is the District Attorney's Office. 2. No, the person would be placed in the reception centre for the duration of the reflection period, from where the person is allowed to freely leave. 3. Pre-investigation, only some NGO based services are available to the victim. Once the official reflection period has started, and after obtaining a residence permit, the victim will be provided with necessary medical care, housing, food, counselling, translator, and as other urgently required services.

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			4. If the person has a legal right to be in the country and if there are no legal grounds for detainment, then the person will be released. In the case of third country nationals, if after the official reflection period the individual refuses to participate in the investigation, then the person will be returned to the country of origin. In the case of minors, a legal guardian will either be located or appointed and all proceedings will be guided by the best interests of the child.
	Finland	Yes	<p>1. Existing Finnish legislation does not determine specifically the authorities that have the official capacity to identify victims of human trafficking or complete the identification process. In practice the institutions that have the capacity are Police, Border Guard, Finnish Immigration Service, National Bureau of Investigation, National Assistance System for Victims of Trafficking and the court of law.</p> <p>2. No, we do not detain or restrict the freedom of movement of potential victims during the official reflection period and there is no legal grounds for this either. However, if the potential victim is an unaccompanied minor, these cases fall under our national child welfare legislation and in such cases the person in question might be subject to some restrictions of movement according to this legislation.</p> <p>3. Services and support measures may include depending on the needs of the individual victim: legal and other advice, crisis therapy, social and health care services, interpreter's services and other support services, accommodation or housing, social assistance and other necessary care, and support for safe return. In addition when providing services and support measures, the special needs arising from the age, vulnerable position, and physical and psychological state of the victim are taken in to account, as well as the security of the victim and the personnel providing services and support measures. The services do not differ depending on whether the victim has or has not agreed to co-operate given that the victim is still willing to receive assistance and there is reasonable grounds to believe that the person is a victim of human trafficking.</p> <p>4. The services of the National Assistance System for Victims of Trafficking are voluntary for the victim. However in case of minors the child welfare legislation is taken into account. The investigating authorities deal the cases according to their mandate and possibilities. The victim may rely on public social and health care services depending on his/her status in Finland although he/she has declined the services of the National Assistance System.</p>
	France	Yes	<p>1. In France, the fight against human trafficking falls within the competence of all investigating services. The <i>Central Office for the Fight against Human Trafficking</i> (Office Central pour la Répression de la Traite des Êtres Humains = OCRTEH) coordinates and conducts the operation to fight against human trafficking for the purpose of sexual exploitation. The <i>Central Office for the Fight against Illegal Work</i> (Office Central de la Lutte contre le Travail Illégal = OCLTI) partially takes into account the fight against forced labour. The <i>Central Office for the Fight against Environmental and Public Health Damage</i> (Office Central contre les Atteintes à l'Environnement et à la Santé Publique = OCLAESP) coordinates and conducts actions against trafficking in human organs. The <i>Central Office for the Fight against Irregular migration and the Employment of illegally staying third-country nationals</i> (Office Central pour la Répression de l'Immigration Irrégulière et de l'Emploi des Étrangers sans Titre = OCRIEST) has the official capacity to identify victims of human trafficking in the case of third country nationals. For a few years, it has considered all the issues related to human trafficking.</p> <p>2. No. According to article R316-2 of the Code on Entry and Residence of Foreigners and Right of Asylum (<i>Code de l'entrée et du séjour des étrangers et du droit d'asile</i> = CESEDA), the prefect issues a 30-day acknowledgment ("<i>récépissé</i>") to the potential victim allowing him/her to work.</p>

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	Germany	Yes	<p>1. In Germany, there is no 'official capacity' for identifying victims of trafficking. In general, victims of trafficking are identified by the competent police investigation authorities.</p> <p>2. The mere fact that a person has become the victim of trafficking does not justify measures involving deprivation of liberty. However, it is possible to accommodate the person in a reception or other social facility for reasons of protection and/or care.</p> <p>3. Victims of trafficking receive support (medical care, accommodation, subsistence, counselling, language assistance) pursuant to the general legal provisions applicable, as long as they are staying in Germany; this is not subject to any 'official reflection period'. There are no specific legal provisions for victims of trafficking.</p> <p>4. If the victim of trafficking is a foreign national, the provisions of the German Residence Act are applicable. If the person in question does not fulfil or no longer fulfils the conditions for stay in Germany pursuant to these provisions, he or she may be expelled and removed.</p>
	Hungary	Yes	<p>1. Which institutions in your Member State have the official capacity to identify victims of human trafficking, both in the case of EU citizens as well as third country nationals?</p> <p>In both cases it is the Hungarian Victim Support Service.</p> <p>2. In case of third country nationals (incl. unaccompanied minors) do you detain or restrict the freedom of movement of the potential victim during the official reflection period? If yes, then how much, for how long, where do you keep them during that time, and on what legal grounds?</p> <p>No, the person would be accommodated in one of the reception centres of the National Bureau of Immigration and Naturalisation.</p> <p>3. What kinds of services do the member states provide to victims of human trafficking in different stages of the investigation? Additionally, do the services differ depending on whether the victim has agreed to co-operate (as opposed to the reflection period), and if yes, how?</p> <p>The National Crisis Management and Information Service (NCMIS) provides support for persons in different kinds of crisis situations. In relation to trafficked persons the referral to the shelter may be made through the NCMIS that operates as a dispatcher in relation to the shelter facilities. NCMIS is available 24-hour free of charge every point in the country. The NCMIS is a State agency. It is part of the National Family and Social Policy Institute, which belongs to the Ministry of National Resources. The NCMIS filters the calls from potential trafficked persons or support organizations in order to map out whether the person is presumably trafficked and is in need of safe accommodation. In this event the NCMIS contacts the NGO running the shelter to forward the relevant information on the presumably</p>

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			<p>trafficked person and registers the received feedback from the shelter in relation to the accommodation of the presumably trafficked person. In the event the presumably trafficked person/foreign support organisation contacts NCMIS, they are referred to the IOM's office in the respective country and the IOM Budapest Office is informed about the case at the same time. In these events the IOM Budapest Office also alerts the other Office of IOM to draw their attention to the case. The NCMIS is also accessible via e-mail.</p> <p>The shelter for victims of human trafficking is run by an NGO that is contracted by the Ministry of National Resources. The contract provides the funds necessary for the NGO to run the shelter and provides the Ministry with the right to monitor and evaluate the operation of the shelter. The shelter is accessible for victims with disabilities. For safety reasons only the NCMIS and the police may send trafficked persons to the shelter. The shelter provides its services both for women and men.</p> <p>The shelter provides assistance to meet needs of the trafficked persons based on risk assessment and care agreement between the shelter and the trafficked person. These services include: secure accommodation with full board, material support and psychological support. Medical services are provided with the use of the Hungarian health system. When needed the shelter facilitates the trafficked person's transfer and assists them in relation to administrative procedures (e.g. replacement of lost ID documents).</p> <p>According to the Act CXXXV of 2005 on Crime Victim Support and State Compensation (hereinafter referred to as: Ást.), victim can be the injured party of a crime committed in the territory of Hungary or any natural person who has suffered injury as a direct consequence of a criminal act, in particular physical or emotional harm, mental shock or economic loss. According to Section 1 Subsection 1 point e) of the act, the victim of trafficking in human beings may also be eligible to victim support, as long as the crime was committed in Hungary. Victim support services are available for victims of every type of crimes. Only victims of violent intentional crimes may be eligible for state compensation.</p> <p>Pursuant to the Ást., the Hungarian Victim Support Service provides the following services to victims:-</p> <ul style="list-style-type: none"> - complete information, - providing help for assertion of interests, - legal aid, - instant monetary aid, - state compensation. <ol style="list-style-type: none"> 1. Trafficking victims may be entitled to instant monetary aid. This aid may cover the victim's extraordinary expenses in housing, clothing, nutrition and travel, medical and funeral expenses, should the victim be unable – as a consequence of being victimized in a crime – to cover such ones. The application for this aid shall be submitted within 5 days after the crime was committed. The victim may be entitled to this aid irrespective of his/her financial standing. Maximum amount of the aid changes every year (according to the nationwide gross monthly average income in Hungary). In 2012, the maximum amount is 87.118 HUF (approximately 380 USD), in 2011 it was 85.914 HUF (appr. 5 USD less than this year). 2. Trafficking victims are entitled to state compensation if as a direct consequence of the crime, their physical integrity or health has been seriously damaged. Compensation may also be provided to a natural person who is next of kin, adoptive parent, foster parent, adopted child, foster child, spouse or common-law spouse of the deceased or injured victim of a violent intentional crime and was living with the victim as a domestic partner at the time of the crime. Furthermore, compensation may be provided to a natural person for whom such a victim is or was obligated to fend on the basis of a legal regulation, an enforceable court order or official decision or a valid contract. Compensation may also be provided to the natural person who bore the costs of the funeral of such a victim. <p>Victims have to be indigent to be entitled to compensation. Indigence is defined by the income position of the applicant. Should the victim receive certain social welfare benefits or participate in a refugee procedure in Hungary, his or her state of indigence is</p>
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			<p>presumed by the law. The compensation can be a lump-sum cash payment (if it aims at compensating economic loss caused by the crime) or it may consist of regular monthly installments (if it aims at compensating the diminution of regular income). The above-mentioned services were provided by the government. Victim Support Service can secure psychological assistance for crime victims directly (by providing the help of a mental health professional) or indirectly (by paying for the costs of such treatment). In the reporting period, there was a direct availability of such professionals at four county branches, and there are plans for spreading this form of help nationwide. Also, if medical costs unfunded by the social insurance system arise, the victim may apply for state compensation to cover such costs. Services provided to third country nationals identified as victims of human trafficking aim at meeting the special needs of third country national victims in relation to social integration or voluntary return.</p> <p>The services are:</p> <ul style="list-style-type: none"> - accommodation and full board; - health services; - access to education and training; - free meals at school, if the victim attends school; - once-off self-accommodation grant; - back to school grant, where applicable; - rent allowance; - voluntary return allowance; - Access to the labour market;- - reimbursement of the costs of health screenings related to employment; - reimbursement of the costs of certification of professional qualifications. <p>In relation to Hungarian citizens encountered outside Hungary, it should be noted that their formal identification is conducted in accordance with the NRM rules of the country of destination. In many cases these victims spend months or even years abroad in the victim assistance system of the country of destination, which obviously influences what services need to be provided by the Hungarian organisations and what actions need to be taken by Hungarian authorities.</p> <p>Victims who return with the assistance of IOM do so under the respective Assisted Voluntary Return and Reintegration mechanisms of the IOM missions in the country where they return from. A common element of these mechanisms is that victims receive departure assistance by IOM when leaving, arrival assistance at the airport of arrival and their travel costs are fully covered. In most cases the sending missions have funds to cover onward transportation to wherever the victim wishes to return or to the shelter.</p> <p>Victims who return from Switzerland are entitled to reintegration assistance in the value of CHF 3,000, which can be complemented with an additional amount of CHF 2,000 if need be and necessary to make the reintegration sustainable. IOM Budapest administers this fund and help victims to use the allowance. Reintegration may entail a host of different services, the funds may be used towards financing vocation training courses, housing costs, renovation or furnishing of residence, medical and dental interventions, etc. The fund may not be used to buy consumable goods or paid in cash. IOM Budapest either uses the services of social services providers (for a service fee) or pays the costs towards suppliers, service providers directly.</p> <p>Victims returning from the Netherlands are eligible to receive reintegration support in the value of €500, which can be spent the same way, except that consumables may also be purchased. IOM usually administers this fund directly.</p> <p>4. How do you deal with victims of human trafficking who refuse to co-operate and decline assistance?</p> <p>The necessary measures are identified on a case by case basis.</p>
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	Ireland	Yes	<p>1. In both cases, it is a member of An Garda Síochána not below the rank of Superintendent in the Garda National Immigration Bureau of An Garda Síochána (Irish police).</p> <p>2. No, the person would be offered accommodation in a reception centre for the duration of the reflection period, from where the person is allowed to freely leave.</p> <p>3. A person is considered to be an alleged victim of human trafficking once they or someone acting on their behalf makes a claim of having been trafficked to the Garda Authorities (Irish police). At this point, they are offered and, if required, provided with access to a range of services including accommodation, medical care and planning, material assistance, legal services, interpretation services and access to education. In the majority of cases, alleged victims of human trafficking have a pre-existing legal basis to be present in Ireland e.g. having made an application for asylum. However, in a small number of cases, persons have no prior legal basis to remain in the State, and in such circumstance, may be granted a 60 day period of recovery and reflection for the purposes of regularising their presence. After the 60 day recovery and reflection period has elapsed, the person may be granted a six (6) months temporary residency (renewable) where they have agreed to co-operate with a police investigation. It is at this point that the person may be granted the right to work. However, it should be noted that persons in the asylum process are not permitted to work as is set out under Section 9 (4) of the Refugee Act 1996.</p> <p>4. A person (third country national), who has been identified as a victim of human trafficking, but who does not wish to assist in an investigation, may remain in the State if they are legally entitled to do so. However, where the person has no permission to remain in the State and does not wish to assist with a police investigation he/she can be removed from Ireland. In the case of minors, a social worker is appointed to act on behalf of the child and all proceedings is guided by the best interests of the child.</p>
	Italy	Yes	<p>1. In both cases, it is the officer in charge of police force, public order and relative administrative services (<i>Questore</i>), on his own initiative or on proposal of the Prosecutor of the Republic/social services/organizations authorized to conduct activities to assist victims of trafficking.</p> <p>2. The victims are entrusted to public or private structures recorded in a specific register that, after official approval, receive an authorization by a National Commission set up by the Department for Equal Opportunities of the Presidency of the Council of Ministers. Reception facilities are intended to protect victims and therefore, victims willing to leave are entitled to do so. However, leaving the facility generally implies ending of the shelter program and related benefits, such as the issuance of a special permit. Normally the duration of the protection program is equal to six months but, according to actual needs, this can be extended. Only in cases where the victims of trafficking are also responsible for crimes leading to arrest, it is possible to limit their freedom in a prison facility as provided for by the Penal Code.</p> <p>3. Permission to stay in Italy for reasons of protection and related measures adopted by bodies or authorized organizations do not have a rewarding value for the contribution to the course of criminal investigations and subsequent proceedings. The rule (Article 18 of 1998 Immigration Act) pursues, in fact, the need to ensure the immediate protection at social level to the weak party (the alien victim of trafficking, but also of violence or serious exploitation), to enable the person concerned to escape violence and avoid the influences of organized crime, as well as to participate in a program of assistance and social integration. Therefore, although the measures of protection and assistance are ensured when the victim has accepted the protection program and has obtained a residence permit, in cases of particular urgency and necessity essential measures are arranged immediately.</p> <p>The victim who refuses or renounces the program of assistance and protection is in the same condition as any other foreign national present in Italy. If irregular, s/he can be removed or allowed to stay temporarily as a witness in criminal proceedings.</p>
	Latvia	Yes	<p>1. Victims of trafficking can be officially recognised/identified in 4 ways:</p>

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			<ol style="list-style-type: none"> 1) by a decision of an investigator (State Police), a public prosecutor or a member of an investigative group that a person is recognized as a victim within a criminal proceeding; 2) by a statement of law enforcement agency that a person has suffered from human trafficking; 3) by a person's assessment report of the provider of services (NGO) in order to assess the compliance of a person with the criteria of a victim of the trafficking in human beings, a provider of services shall establish a commission of the specialists, which include a social worker, a psychologist, a lawyer, a medical practitioner, an official of the State Police; 4) by a statement of foreign law enforcement agency that criminal proceeding is initiated or other activities are performed which may be as a reason for the Commission to take a decision that a person complies with the criteria of a victim of human trafficking. <p>2. During the official reflection period the potential victim is not detained and his freedom of movement is not restricted.</p> <p>3. The society "Shelter "Safe "House"" (Since December 2008 there is only one NGO providing state funded social rehabilitation services to victims of human trafficking in Latvia) provides the following <u>social rehabilitation services</u>:</p> <ul style="list-style-type: none"> - performing of return of a victim of human trafficking from foreign country, a person's informing about the course of rehabilitation, - repatriation of a victim of human trafficking if a person is identifies as a victim of human trafficking, - getting of the client to the social service provider if the client cannot do it independently, covering the transportation expenses, - meeting of a victim of human trafficking and the first interview to gather information about urgent needs, - transportation of a victim of human trafficking to a safe shelter, provision of urgent needs, - preparation of a person's assessment report by the commission of the specialists established by a service provider, - development of a client rehabilitation plan, determining the necessary amount of social services and the length of receipt of social services, - psycho-social assistance and individual specialist consultations (for example, social worker, psychologist, lawyer, medical practitioners) in conformity with the rehabilitation plan, - support for the client during criminal proceedings and, if necessary, also afterwards, - material assistance to develop and improve social skills, - assistance to renew a person's identification documents, - translation of person's identification documents of a victim of human trafficking or a minor accompanied by that person; - development of cooperation between a victim of human trafficking and social services of municipality or institutions determined by the rehabilitation plan, as well as law enforcement institutions, - assessment of client's situation at her/his factual place of residence, - preparation of a statement of specialists-experts about the psychological and medical state of a victim to submit the Legal Aid Administration an application for compensation for moral and physical injuries, - psychological assessment of a victim, preparation of statement for the State Police to facilitate investigation of human trafficking case, - involvement of the client in training and education programmes, which facilitate the reintegration of the client into society, - improvement of self-care and self-service skills, - five free of charge consultations for the client after the end of the social service course. <p>The provision of services is terminated in cases if person does not comply with the procedures or violates the requirement to co-</p>
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			<p>operate in the implementation of the rehabilitation plan developed by the social service provider.</p> <p>4. The Criminal Procedure Law Section 96 Paragraph 3 provides that a person may be recognised as a victim only with the written consent of such person or the representative thereof. A person who does not want to be a victim shall obtain the status of a witness.</p> <p>A person can have a status of a victim of human trafficking out of criminal proceeding and to receive all the state funded rehabilitation services provided for a victim of human trafficking.</p>
	Lithuania	Yes	<p>1. Law enforcement authorities (courts) have the official capacity to recognise a person as a victim of trafficking. Victims of trafficking can be identified by law enforcement officials (e.g. police), NGOs.</p> <p>2. No. The person is to be offered a shelter.</p> <p>3. Victims of trafficking who cooperate with law enforcement officials are issued a temporary residence permit (for 6 months) and has limited funds is to be provided with medical and social assistance by the state. Victims of trafficking may receive additional support from NGOs.</p> <p>If the victim does not cooperate and does not have legal grounds for staying in the country (s)he must leave the country.</p>
	Luxembourg	Yes	<p>1. The Grand ducal police is the only authority that can identify a human trafficking victim (HTV), independent if he/she is an European Union national or a third country national, but the « discovery » of such victims can be made by other authorities, organisations or persons.</p> <p>A potential victim is detected by his/her deposition in this sense and/or by the verifications of evidence that will allow to suspect that the situation corresponds to a human trafficking case. It is not relevant that the person who is intercepted or detained makes immediately a deposition for being considered as a victim. The evidence collected in this sense is sufficient. It is important to mention that the person that has not been identified by the police as a victim of human trafficking will not have access to the means of assistance.</p> <p>2. No, there are no restrictions. Third country nationals identified as possible victims of human trafficking are granted an authorisation to stay in Luxembourg during the reflection time without being granted a residence permit (article 93 of the Law of 28 August 2008 on free circulation of persons and immigration)</p> <p>3. The victims are entitled to assistance, protection and security measures provided by associations funded from the government in order to allow them to recover physically and psychologically.</p> <p>The government encourages victims to participate in the investigation and prosecution of trafficking offenders during the reflection period, though the granting of the reflection period is not conditional on victims' cooperation with authorities. During the 90 day reflection period, victims are entitled to protection and assistance measures. After the reflection period, victims are granted a residence permit for a renewable six month period if the conditions in immigration legislation are met².</p> <p>The assistance measures consist on hosting, social assistance, welfare-, socio educative -, material- and financial assistance, language assistance and legal aid. The assistance depends on the needs of the identified victims. Who assumes the responsibility for a case depends on factors like age or sex of the victims.</p>

² The conditions to grant the resident permit (and for its renewal) are:

- The victim must have made a complaint or give a statement to the Luxembourgish authorities concerning the persons responsible for the offence
- The presence of the victim in Luxembourg must be necessary for the investigation
- The victim must have broken all connections with the trafficking offenders
- The victim must not be a danger to public order or to the internal security.

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			<p>The associations that have a convention with the Ministry for Equal Opportunities and that have approved services will guarantee the support and assistance of the victims of human trafficking.</p> <p>According with article 4 of the Law of 8 May 2009, the victim who is an EU national can work in Luxembourg in the activities established by article 42 paragraphs (1), points 3 and 4 of the Law of 29 August 2008.</p> <p>The assistance services will not only assist and support the victim to the extent that he can reestablish himself/herself physically, psychologically and socially but also if the person wishes, to integrate himself/herself socially and professionally in the host country.</p> <p>In the case that a victim is an unaccompanied minor, article 3 of the Law of 8 May 2009 that deals with the guardianship of unaccompanied minors who are victims of human trafficking establishes:</p> <p>“In case where a minor victim coming from another Member State of the European Union, an assimilated State or a third country who is unaccompanied and not look after by a responsible adult in accordance with the law that will be able to ensure its safety and protection, he/she will be represented by a guardian (tutor) as long as this situation continues or until it will be taken care by an authority of its country of origin that will be responsible to act in its best interests. ”</p> <p>Under Article 92 (2) of the Law of August 29, 2008 on the free movement of persons and immigration, the minor victim who "enters on Luxembourgish territory without being accompanied by a responsible adult according to the law, will be assigned an ad-hoc administrator that will assist him/her in the administrative procedure and in the criminal procedure.</p> <p>In practice, the assistance services seek to integrate educationally, socially and professionally the minor victims in the scope that they can stay if they wish so in the host country.</p> <p>4. If the victim refuses to cooperate and does not ask for any assistance, la police will draw up a report indicating the refusal of cooperation and assistance and will send it to the public prosecutor office. From that moment on, the person will not benefit of the victim status. In case of aid refusal, the third country national cannot be withheld in Luxembourg.</p> <p>If the person has a legal right to be in the country and if there are no legal grounds for detention, then the person will be released. In the case of third country nationals, if after the official reflection period the individual refuses to participate in the investigation, then the person can be returned to the country of origin. If the victim refuses to collaborate with the authorities or renews his or her relationship with the trafficking offenders the residence permit can be withdrawn and the person can be expelled from the territory.</p>
	Malta	Yes	<p>1. Victims of trafficking may be identified and referred by a number of entities; however it is the Police authorities that may formally open a human trafficking case against an offender, whereas Agenzija Appogg, Malta’s social welfare agency, coordinates the provision of support and assistance to victims. It should be noted that Agenzija Appogg does not only provide assistance to victims of human trafficking and that the provision of assistance is not conditional or dependent upon official identification.</p> <p>2. When potential victims of human trafficking are identified they are offered safe refuge in one of the shelters housing victims of</p>

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			<p>domestic violence, or else other accommodation arrangements are sought. In special circumstances potential victims may be placed in private lodging and monitored with a view to protect them from their traffickers. In the case of unaccompanied minors (although so far we never experienced a case of human trafficking involving minors) they are issued with a Care Order and subsequently placed in any residential home providing for minors on Care Order. When a minor is issued with a Care Order he/she is appointed with a legal guardian who acts in the best interest of the minor. Subsidiary Legislation (S.L. 217/07) provides for giving victims of trafficking or illegal immigrants who cooperate with the Maltese authorities, a permit to reside in Malta for a period of six months, which permit is renewable, in accordance with EU legislation. This legislation also provides for a reflection period of up to two months, prior to the granting of the six-month residence permit. The legislation in question does not provide for detention in connection with the reflection period. At the same time, efforts would be made to prevent contact between the potential victim and his or her trafficker; notwithstanding this the victim's freedom of movement is not restricted.</p> <p>3. At all times during the investigation process victims of trafficking are provided with any services required which are mainly provided by the national Agency for Social Welfare Services, Agenzija Appogg, with support from NGOs and health care services. Assistance provided includes food and lodging, translation services and professional support (e.g. psychological). .</p> <p>4. Every effort is made to encourage victims to cooperate with the authorities. However, if a person refrains from cooperating but has a legal right to stay in the country he or she is allowed to stay in Malta and to live in the place of his or her choosing. It should be noted that in Malta victims of trafficking are not detained, although they may be supervised with a view to prevent contact between them and their traffickers. Third country nationals who do not or no longer fulfil conditions to stay in Malta and who refuse the reflection period and/or who decline participation in the investigation process are returned to their country of origin.</p> <p>All proceedings in the case of an unaccompanied minor will be guided in the best interests of the child.</p>
	Poland	Yes	<p>1. In both cases – victims of THB Poland has special <i>Programme for Support and Protection Victim/Witness of Trafficking in Human Beings</i> for foreigners. Victims identified by LEAs (Police or Border Guards), as well as Prosecutor are entitled to by supported within it. Cases on THB are carried by LEAs but the Prosecutor is taking a decision on qualifications of crimes.</p> <p>2. The time for reflection period is 3 months, and on the basis on it, victims staying illegally in Poland are entitled to legalize their stay. They can be placed in the shelter run by the National Consultation and Intervention Center for Victims of THB (public task financed from the state budget) or be placed in the crisis intervention center – from both they are allowed to freely leave. Victims included in the Programme for foreigners and officially identified as victims of THB are entitled to receive support within so-called crisis intervention:</p> <ul style="list-style-type: none"> - Diagnosis of the victim's need by the Foundation worker; - Case-management (consultations, advising, support, providing safety, organisation of aid while working individually with a person); - Providing an interpreter; - Transport of a victim on the territory of Poland; - Safe shelter (transport, accommodation, satisfying the basic life needs: food, clothes, hygienic measures) and change of appearance; - Medical and psychological consultations, medical examinations and purchase of medicines. <p>As well as:</p>

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			<ul style="list-style-type: none"> - Assisting the victim during the contacts with enforcement agencies and Area of Justice – legal consultation, - Organisation of the residence legalisation, - Organisation of a safe return of a victim to the country of origin. <p>This kind of support is the same also after victim's agreement to cooperate with LEAs.</p> <p>The difference is important when the person is not officially identified by LEAs, but should be in the opinion of the experts from the center. Then the person is allowed to the same support, but s/he can't legalise her/his stay.</p> <p>Since 2011 safe return for victims of THB can be also organise by IOM, even if the person is not in the Programme but is identified by LEAs.</p> <p>3. See point 2: The difference is important when the person is not officially identified by LEAs, but should be in the opinion of the experts from the center. Then the person is allowed to the same support, but s/he can't legalise her/his stay.</p> <p>If the victim of THB is a third country national, and s/he after the reflection period decline to cooperate with LEAs, her/his return to the country of origin will be organised. Currently, there are works undertaken to create, on some conditions, the possibility of permanent stay for victims of THB. In the case of minors, legal guardian will be appointed to represent the child in the court in order to guided the best interest of the child. Then the court will decide where the child will be placed, if, of course, the child can not return to parents in the country of origin.</p>
	Spain	Yes	<ol style="list-style-type: none"> 1. Victims of trafficking are identified by specialized personnel of the different police forces. The reflection period for victims of trafficking is recognized by the Government Delegate in the province, following a proposal from the National Police. 2. During the identification phase and the reflection period, return procedures cannot be started or have to be suspended. This means that detention has to end (in fact, for persons under detention the procedure to recognize the reflection period is shortened from 5 days to 1 day). A temporary stay authorisation is issued. 3. According to law, the competent national, regional and local authorities shall provide for subsistence and security of victims and their children (and eventually other relatives). Involvement of NGOs is arranged. Social, medical and legal assistance is provided, and contact or presence of the traffickers in the victim's environment must be avoided. This may include housing, basic products, psychological or psychiatric assistance, interpretation, education, etc. During the judicial process, witness protection measures can be applied. 4. Illegally staying third country nationals have their return procedures started or restarted, unless their personal circumstances open the possibility for issuing a residence authorisation for exceptional circumstances.
	Sweden	Yes	<ol style="list-style-type: none"> 1. If there is a suspicion that a person is a victim for human trafficking, the Migration Board among others should/can give information to the police authority, which is in charge for investigation about human trafficking. Regarding children there is a demand to hand over the suspicions to the social services department. 2. No. If the victim wants to cooperate during the preliminary investigation, the leader of the preliminary investigation applies for a temporary residence permit. 3. The residence permit gives the victim about the same rights as if he/she is living in Sweden. The municipalities hosting the victim will be reimbursed from the state sector for the costs. There is also a possibility to give 1 month residence permit for time of consideration over participating in the investigation. <p>They are supposed to leave the country.</p>
	United Kingdom	Yes	<ol style="list-style-type: none"> 1. Which institutions in your Member State have the official capacity to identify victims of human trafficking, both in the case of EU citizens as well as third country nationals?

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			<p>The UK's two designated 'Competent Authority' decision makers are: The UK Human Trafficking Centre (UKHTC) which is based in the Serious Organised Crime Agency (SOCA). The UKHTC Competent Authority deals with cases where the person is a UK or EEA national, or where there is an immigration issue but the person is not yet known to UK Border Agency. The UK Border Agency who deal with situations where trafficking is raised as part of an asylum claim or in the context of another immigration process.</p> <p>2. In case of third country nationals (incl. unaccompanied minors) do you detain or restrict the freedom of movement of the potential victim during the official reflection period? If yes, then how much, for how long, where do you keep them during that time, and on what legal grounds?</p> <p>The UK's policy is to not detain identified victims of trafficking except in exceptional circumstances such as on grounds of public order or protection in line with Article 13(3) of the Council of Europe Convention on Action against Trafficking in Human Beings</p> <p>3. What kinds of services do the member states provide to victims of human trafficking in different stages of the investigation? Additionally, do the services differ depending on whether the victim has agreed to co-operate (as opposed to the reflection period), and if yes, how?</p> <p>In England and Wales we have contracted the provision of support to identified adult victims of human trafficking to the Salvation Army. As the prime contractor the Salvation Army receives all referrals for support and undertakes an assessment of the individual's support needs before placing them with a sub contracted support provider best placed to meet those needs. The initial needs assessment is followed up with further assessments to ensure that the victim's recovery is monitored and additional needs are catered for as they become apparent. Support is provided during the recovery and reflection period regardless of whether the person is cooperating with a law enforcement investigation.</p> <p>Responsibility for the care, protection and accommodation of child trafficking victims falls within the designated responsibilities of local authorities for safeguarding and promoting the welfare of all children under the provisions of the 1989 and 2004 Children Acts.</p> <p>At the end of the recovery and reflection period if the person is conclusively found to be a victim of trafficking, then those who are subject to control may be eligible for a residence permit if their personal circumstances warrant them remaining in the UK or if they are cooperating with the authorities in a criminal investigation or proceedings.</p> <p>4. How do you deal with victims of human trafficking who refuse to co-operate and decline assistance? We cannot force victims of any crime to accept the help on offer or even to recognise themselves as victims. Those who agree to enter our identification process and are formally identified but decline assistance will still be granted a period of recovery and reflection during which we won't detain or remove them. Those who decline to enter the identification process all together are subject to standard immigration processes.</p>
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			<p>In addition, you may be interested to see the UK trafficking policy guidance.</p> <ul style="list-style-type: none"> • Guidance for frontline staff: http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumprocessguidance/specialcases/guidance/trafficking-guidance?view=Binary • Guidance for competent authority decision makers: http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumprocessguidance/specialcases/guidance/competent-guidance
	Norway	Yes	<p>1) In principle all agencies and organisations, and individuals, who find themselves with grounds for concern that a person may be in a human trafficking situation have a responsibility for identifying and referring the person to the responsible authorities and assistance programmes.</p> <p>2) The permit that is given restricts the person to stay in Norway, other than that, the person may move freely.</p> <p>3) In Norway we do not make a distinction between the different stages in a potential human trafficking case. If a person is identified as potential victim the person may be entitled to free legal aid, a reflection period, a safe place to live, medical attention, living expenses, activities, and help to a safe return and re-establishment in the home country. These rights are independent of any cooperation with the police or investigation of the case, and in so far any cooperation with any authorities. The offer of assistance and protection is voluntary if the person is <u>over</u> 18 years old. If the person is <u>under</u> 18 years old the assistance and protection is not voluntary. The child welfare services in Norway are responsible for the follow-up of identified potential victims of human trafficking under 18 years old.</p> <p>4) See Q 3 and the distinction between minors and adults. If the potential victim is over 18 years old, neither the Norwegian authorities or organizations can force the person to accept assistance. But the authorities and organizations can motivate the potential victim to accept help and make sure he/she gets information about which rights potential victims of human trafficking can be entitled to.</p>
