EUROPEAN
COMMISSION

Brussels, 19.12.2022
SWD(2022) 427 final

COMMISSION STAFF WORKING DOCUMENT

EVALUATION

of the

Proposal for a Directive of the European Parliament and of the Council

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

{COM(2022) 732 final} - {SEC(2022) 445 final} - {SWD(2022) 425 final} - {SWD(2022) 426 final} - {SWD(2022) 428 final}

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Glossary

Term or acronym	*Meaning or definition*
AMIF	Asylum, Migration and Integration Fund
EU ATC	EU Anti-trafficking Coordinator
CEPOL	European Union Agency for Law Enforcement Training
CSO	Civil Society Organisations
EUAA	European Asylum Support Office
EIGE	European Institute for Gender Equality
EMCDDA	European Monitoring Centre for Drugs and Drug Addiction
EMPACT	European Multidisciplinary Platform Against Criminal Threats
EUROSTAT	Statistical Office of the European Union
FRA	Fundamental Rights Agency
GRETA	Group of Experts on Action against Trafficking in Human Beings (at the Council of Europe)
ICMPD	International centre for Migration Policy Development
ILO	International Labour Organization
IOM	International Organisation for Migration
ISF	International Security Fund

JAD	Joint Action Day
JIT	Joint Investigation Team
LGBTIQ	Lesbian, gay, bisexual, transgender, intersex, non-binary and queer
NREM	National Rapporteurs or equivalent mechanisms
NRM	National Referral Mechanism
OSCE	Organization for Security and Cooperation in Europe
SOCTA	Serious and Organised Crime Threat Assessment
TFEU	Treaty on the Functioning of the European Union
THB	Trafficking in Human Beings
UN ICAT	The Inter-Agency Coordination Group against Trafficking in Human Beings

1. INTRODUCTION

Trafficking in human beings is explicitly prohibited under Article 5 of the Charter of Fundamental Rights of the EU. Trafficking in human beings is also among the "*areas of particularly serious crime with a cross border dimension*" for which Article 83(1) TFEU empowers the EU to establish *"minimum rules concerning the definition of criminal offences and sanctions"*. The main legislative instrument to combat trafficking in human beings in the EU is *Directive 2011/36/EU on preventing and combating trafficking in human beings, protecting its victims*[1] (hereinafter "the Directive" or "Anti-trafficking Directive"). It provides an overarching EU framework "to prevent and combat trafficking in human beings by establishing minimum rules concerning the definition of criminal offences and sanctions in the area of trafficking in human beings and by introducing provisions, taking into account the gender perspective, to strengthen the prevention of this crime and the protection of the victims"[2]. The Directive entered into force on 5 April 2011 and the deadline for Member States to transpose it was 6 April 2013.

The Directive does not contain any specific provisions concerning its evaluation. On 10 February 2021, the European Parliament adopted a Resolution[3] calling upon the Commission to assess the implementation of the Directive and to come forward with proposals to revise it. Furthermore, in the EU Strategy on Combatting Trafficking in Human Beings 2021-2025[4], presented on 14 April 2021 (hereinafter "the Strategy"), the Commission acknowledged that the Directive may no longer be fit for purpose. Accordingly, the Strategy identified as a key action the evaluation of the implementation of the Directive and, if necessary, its possible revision. The Strategy also set out that the Commission would assess the possibility of having minimum EU rules that criminalise the use of services exacted from victims of trafficking in human beings.

This report constitutes the first comprehensive evaluation of the Directive. The evaluation examines whether the tools to combat trafficking in human beings and support the victims provided for by the Directive correspond to the current needs, considering the social and economic changes since its transposition date. In compliance with the Better Regulation Guidelines, the evaluation assesses the effectiveness, efficiency, coherence, relevance, and EU added value of the Directive. It aims at identifying possible gaps and shortcomings, supporting the development of recommendations for possible future measures, including legislative options, to address such gaps. This evaluation is carried out "back-to-back" with an impact assessment.[5]

The scope of the evaluation covers the period between the date of transposition on 6 April 2013 and the end of the public consultation on 22 March 2022. Its geographical scope covers 27 EU

[1] Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA, OJ L 101, 15.4.2011, p. 1–11.
[2]European Commission, Combined Evaluation Roadmap/Inception Impact Assessment. Ref. Ares(2021)4984017 – 05/08/2021. Available at: link.
[3] 2020/2029(INI).
[4] EU Strategy on Combatting Trafficking in Human Beings 2021-2025, COM(2021) 171 final.
[5] Tool #50 of the Better Regulation Toolbox.

Member States[6].

The evaluation is based upon extensive desk research (see Annex 2) as well as a study carried out by an external contractor (EY/RAND) to support the evaluation of the Directive and an impact assessment for a legislative proposal on the topic. It uses data collected by EUROSTAT from the date of the transposition of the Directive until 2020. The evaluation also includes a transposition assessment, which updates the Commission's 2016 *Transposition report assessing the extent to which Member States have taken the necessary measures in order to comply with Directive 2011/36/EU*[7].

The evaluation takes into account the outcome of the extensive stakeholders consultations carried out by the external contractor and the Commission's public consultation (see Annex 4). The Commission also organised consultations in the context of the EU Network of National Rapporteurs and Equivalent Mechanisms and of the EU Civil Society Platform against trafficking in human beings. Separate consultations took place with the EU Agencies, which signed a Joint Statement of commitment to work together against trafficking[8]. Moreover, the EU Anti-trafficking Coordinator held bilateral discussions with national authorities, civil society organisations and international organisations, such as UNODC, IOM, UNHCR, the OSCE, the Council of Europe, and ICMPD.

The evaluation has limitations related to the nature of the crime and the weaknesses of the data collection. The threat picture and the quantitative assessments are undermined by the difficulties in detection and the low number of reports from victims, who are often emotionally or economically dependent on the trafficker. With low numbers of victim reports and, especially without victims' testimonies, it is challenging to formally charge and convict the perpetrators. This is also reflected in the low number of prosecutions and convictions within the EU. Moreover, despite the significant progress in the data collection in the last years, data is still not systematically collected in certain Member States or the gathering process may lead to double counting. Limited data is available also on the support and compensation received by victims. The gaps in the data collection make it difficult to measure the effectiveness of prevention measures (awareness raising campaigns, research, information) and the impact of the criminalisation of the use of exploited services on demand.

The evaluation is relevant to three Sustainable Development Goals (SDG), i.e. SDG 5.2 on eliminating all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation; SDG 8.7 on taking immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking

[6] When the Directive was adopted in 2011, Denmark held an opt-out from EU policies in relation to European Union justice and home affairs policies. Accordingly, the evaluation will not analyse the implementation of the Directive in Denmark. However, it might cover other information, such as statistics related to the fight against THB in Denmark.

[7] European Commission, Report assessing the extent to which Member States have taken the necessary measures in order to comply with Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims in accordance with Article 23 (1), COM(2016) 722 final.

[8] European Union Asylum Agency (EUAA), European Union Agency for Law Enforcement Cooperation (Europol), European Union Agency for the Operational Management of Large-Scale IT Systems (eu-LISA), European Monitoring Centre for Drugs and Drug Addiction (EMCDDA), European Union Agency for Criminal Justice Cooperation (Eurojust), European Institute for Gender Equality (EIGE), European Border and Coast Guard Agency (Frontex), European Union Agency for Fundamental Rights (FRA), European Union Agency for Law Enforcement Training (CEPOL), European Foundation for the Improvement of Living and Working Conditions (Eurofound).

and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms; and SDG 16 on ending abuse, exploitation, trafficking and all forms of violence against and torture of children.

The intervention logic of the Directive is described in Annex 7 to this Staff Working Document.

2. THE EXPECTED OUTCOME OF THE ANTI-TRAFFICKING DIRECTIVE

2.1 The Anti-trafficking instruments prior to the Anti-trafficking Directive

Prior to the adoption of the Directive, the response to trafficking in human beings was regulated by several EU and international legal instruments. The UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention against Transnational Organized Crime, adopted in 2000 and entered into force in 2003, was the first comprehensive international instrument dealing with trafficking in human beings. The European Union signed and approved the Protocol[9]. The Council of Europe Convention on Action against Trafficking in Human Beings, adopted in 2005, also provided a comprehensive and coherent framework covering prevention, cooperation between different actors, protection of and assistance to victims, and an obligation to criminalise trafficking in human beings[10]. The EU is not a party to the Council of Europe Convention.

At the EU level, on 19 July 2002, the Council adopted Council Framework Decision 2002/629/JHA on combating trafficking in human beings[11] (hereafter "the Framework Decision") and the EU Plan on best practices, standards and procedures for combating and preventing trafficking in human beings[12]. Member States made good progress towards transposing the Framework Decision into their national legislation and complying with its essential requirements[13]. However, the 2006 Commission's report and the 2008 Working document stated that "implementation of comprehensive anti-trafficking policy in [Member States] is still unsatisfactory." This was partly because Member States were not required to implement several of its provisions, as these allowed for exceptions and reservations. Identified gaps in the anti-trafficking policy at Member States level concerned the effective detection and prosecution of the offences, protection of and assistance to victims, and the monitoring of trafficking trends and anti-trafficking efforts.

2.2 The Anti-trafficking Directive and its objectives

At the time of the 2010 Commission Proposal[14], trafficking in human beings was already considered as a gross violation of human rights, a serious crime and an extremely profitable

[9] The European Union signed the Protocol on 12 December 2000 and approved it on 21 May 2004.
[10] Council of Europe Convention on Action against Trafficking in Human Beings (CETS No. 197).
[11] 2002/629/JHA: Council Framework Decision of 19 July 2002 on combating trafficking in human beings, OJ L 203, 1.8.2002, p. 1–4. Available at: link.
[12] EU plan on best practices, standards and procedures for combating and preventing trafficking in human beings, *OJ C 311, 9.12.2005, p. 1–12*. Available at: link.
[13] Commission Staff Working Document accompanying the Proposal for a COUNCIL FRAMEWORK DECISION on preventing and combating trafficking in human beings, and protecting victims, repealing Framework Decision 2002/629/JHA, Impact Assessment, COM(2009) 136 final.
[14] Proposal for a Directive on preventing and combating trafficking in human beings, and protecting victims, repealing Framework Decision 2002/629/JHA, COM(2010)95 final.

business for organised crime. The available figures at the time showed that an estimate of several thousands of people were trafficked into the EU or within the EU every year[15]. The majority of victims were women and girls, trafficked mostly for sexual exploitation, while the majority of men victims were trafficked for the purpose of labour exploitation. Children were found to be mainly trafficked to be exploited in criminal activities, including begging, and for sexual exploitation.

The identified drivers of the crime were the high profits generated, the socio-economic vulnerabilities of the victims and the demand for sexual services and cheap labour[16]. The institutional and policy response within the Member States was considered inadequate, not contributing much to the identification of, and support to, victims, and discouraging their participation in criminal proceedings. This led to very low numbers of prosecutions and convictions, in the absence of accurate sources of evidence, which could have enhanced the investigative response.

Cross-border cooperation was also considered insufficient and limiting the effectiveness of investigations in transnational cases. Effective tools, such as joint investigation teams[17] or other means typical of organised crime cases (financial investigations, phone tapping or electronic surveillance) were rarely used.

At the time of the intervention, the gaps in the available data did not allow a precise estimation of how trafficking in human beings would have evolved in the absence of EU action. Nevertheless, the Impact Assessment to the Directive[18] concluded that trafficking in human beings was expected to remain stable or even grow if no effective deterrents were put in place in the near future, due the large scale of the crime, the high profits generated for criminal networks and the links with other forms of serious crime (such as document fraud, money-laundering, drug trafficking and migrant smuggling).

Due to the physical and psychological health consequences of the crime, the importance of victims' testimonies to successful investigations and protection and the low number of victims' being assisted, the Commission considered that the protection of the rights of the victims had to be at the core of any proposals aimed at strengthening the EU action against trafficking.

The adoption of the Directive aimed at responding to two general objectives, namely (1) to combat crime, organised or otherwise, in particular trafficking in persons and offences against children, by building a more coherent framework for the fight against trafficking and (2) to increase the effectiveness of the framework. In addition the Directive was set to respond to five

[15] In the absence of any EU level data collection prior 2013 the IOM database included data collected from 12,627 victims who have been assisted by IOM worldwide from November 1999 to December 2007. Among the countries to which people are trafficked there are several EU countries: Italy (500 victims), Greece (105), Germany (136), Czech Republic (303), Bulgaria (204), Austria (101) and Poland (778). 188 recorded cases concern international trafficking, 2,389 are cases of internal trafficking. Concerning the type of exploitation, 72.46% were cases of sexual exploitation, 21.95% labour exploitation, 1.99 % mixed sexual and labour exploitation, 0.84 % low level criminal activities, 0.05 % labour and low level criminal activities and 2.72 % other types of exploitation.

[16] According to ILO estimates in 2005 in total, 31.6 billion US dollars were made yearly by exploiting trafficked victims.

[17] A joint investigation team is an international cooperation tool based on an agreement of the competent authorities of two or more states for a limited duration and for a specific purpose to carry out criminal investigations in one or more of the involved States (Council Resolution (2017/C18/01))

[18] Ibid no.12.

specific objectives:

1. **Introducing substantive criminal law provisions**, by aligning the definition with international instruments[19] and imposing an effective, proportionate and dissuasive level of penalties.

2. **Prosecuting trafficking-related offences**, by removing obstacles to cross-border and international cooperation and facilitating prosecution of traffickers when the offence is committed outside the jurisdiction of a Member State.

3. **Protecting victims' rights** by requiring the non-prosecution and non-punishment of victims for crimes committed as a direct consequence of being trafficked, by providing the presumed victims with unconditional individualised assistance before, during and after the criminal proceedings, by requiring individualised risk assessments, by increasing the protection of victims from secondary victimisation, by ensuring effective compensation and by establishing specific measures for children, including unaccompanied minors.

4. **Preventing trafficking**, by reducing vulnerability factors in countries of origin, by improving the resources and expertise of law enforcement and other public authorities likely to come into contact with potential victims and by sanctioning employers who knowingly employ trafficked persons, and clients who knowingly use sexual services from trafficked persons.

5. **Establishing effective monitoring systems,** by appointing National Rapporteurs or Equivalent Mechanisms, by establishing close cooperation between them and by requiring the Commission to report every two years on the progress made in the fight against trafficking in human beings.

3. THE DEVELOPMENTS DURING THE EVALUATION PERIOD

3.1. The Anti-trafficking Directive

The Directive contributed to creating an EU common minimum ground for the three dimensions of the fight against human trafficking covering the above mentioned objectives[20]: (i) criminalisation, investigation and prosecution of trafficking in human beings, including the definition of offences, penalties and sanctions; (ii) assistance and support to, and protection of, victims of trafficking in human beings; (iii) prevention of trafficking in human beings.

The Directive includes a common minimum set of offences, which expands the minimum list of forms of exploitation covered by previous EU legislation. Article 1(1) of the Framework Decision[21] was limited to "*forced or compulsory labour or services, slavery or practices similar to slavery or servitude, or for the purpose of the exploitation of the prostitution of others or other forms of sexual exploitation"*.

The Directive includes further advancements in comparison to the Framework Decision:

[19] 2003 Protocol on Trafficking in Person supplementing the UN Convention against Organized Crime, and Council of Europe Convention on Action against Trafficking in Human Beings.
[20] Survey: Q 38, 2 national competent authorities (FR, LU), 2 National Rapporteurs (EL, RO), 2 law enforcement authorities (EL, IE), 4 others (BG, 2 from ES, MT), 2 civil society organisations (BE, MT).
[21] Article 4 of COUNCIL FRAMEWORK DECISION of 19 July 2002 on combating trafficking in human being (2002/629/JHA).

- **Establishing minimum penalties for all trafficking offences** (Article 4), while Council Framework Decision 2002/629/JHA included minimum penalties only for aggravating circumstances. The Directive further raised the minimum penalties for aggravating circumstances from 8 to 10 years (Article 4(2)).

- **Expanding the scope of aggravating circumstances** by (i) adding the circumstance in which the offence is committed by public officials in the performance of their duties (Article 4(3)); and (ii) expanding the definition of vulnerable victims (Article 4(2)(a)). While Council Framework Decision 2002/629/JHA limited the concept of vulnerability to victims of sexual exploitation under the age of sexual majority, the Directive includes a wider range of vulnerable victims, by indicating child victims as a minimum.

- **Expanding the scope of investigation and prosecution** for trafficking in human beings (Article 9) by covering also seizure and confiscation (Article 7).

- **Expanding the assistance, support and protection measures for victims** (Articles 11 and 12), including the principle of non-prosecution and non-punishment of victims (Article 8), as well as specific assistance, support and protection measures for child victims (Articles 13-16) and addressing access to compensation (Article 17).

- **Expanding the scope of prevention measures** (Article 18), including by requiring Member States to consider criminalising the knowing use of exploited services (Article 18(4)).

- **Introducing and defining the role of the National Rapporteurs and Equivalent Mechanisms** on trafficking in human beings (Article 19).

- **Introducing the obligation** for Member States **to periodically report to the EU Anti-trafficking Coordinator** (hereinafter EU ATC), on the basis of which the EU ATC contributes to the reporting carried out by the Commission every two years on the progress made in the fight against trafficking in human beings (Article 20). The tasks of the EU ATC also include improving coordination and coherence between EU institutions and agencies as well as between Member States and international actors, avoiding duplication of efforts and contributing to developing existing or new EU policies and strategies relevant to the fight against trafficking in human beings.

The main categories of stakeholders responsible for the implementation of the Directive are 26 Member States[22], the Commission, the EU Anti-trafficking Coordinator, the EU Agencies and civil society organisations. The Directive encourages Member States to work closely with **civil society organisations**, in particular in policy-making initiatives, information and awareness-raising campaigns, research and education programmes, training, as well as in monitoring and evaluating the impact of anti-trafficking measures.

3.2. The transposition of the Anti-trafficking Directive by Member States

The main responsibility for combating trafficking in human beings lies with Member States, which are required to adopt legislation, regulations and administrative provisions necessary to

[22] In accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Directive and is not bound by it or subject to its application.

comply with the Directive by 6 April 2013[23]. In May 2013, the Commission sent 13 letters of formal notice in order to initiate infringement proceedings against Member States that had not communicated the transposition measures. In four instances, the Commission addressed reasoned opinions to the Member States concerned. Following this, all the Member States bound by the Directive communicated their transposition measures. Considering the wide-ranging scope of the Directive, most Member States chose to transpose its provisions in different types of legal instruments, mainly: criminal codes; specific acts concerning the fight against trafficking; legislation safeguarding victims of crimes; acts setting measures for the protection of children; legislation regulating the entry and residence of third country nationals.

In 2016, the Commission adopted a **report on the transposition of the Directive**[24]**.** The results of the report showed that, five years after its adoption, the Member States had made substantial efforts to transpose the Directive but significant room for improvement remained in particular as regards specific child protection measures; the presumption of childhood and the age assessment; protection before and during criminal proceedings; access to unconditional assistance; compensation; non-punishment principle; assistance and support to family members of child victims; and prevention.

The transposition assessment carried out in the context of this evaluation shows that Member States have fully or partially transposed most of the mandatory provisions of the Directive into their national legal systems[25]**.**

The correct and **complete transposition of the Directive and its full implementation** remained a priority for the Commission throughout the evaluation period. These are crucial to ensure that traffickers do not benefit from diverse approaches within the EU and that victims receive adequate protection and support irrespective of where they are. The Commission continued the engagement with the Member States after the adoption of the transposition report, and committed to use the powers conferred to it by the Treaties to ensure full transposition and implementation, including by infringement procedures, if appropriate[26]. In the evaluation period, the Commission did not launch any infringement procedure. The Commission supported Member States with substantial funding to facilitate and accelerate the implementation of the Directive, in particular the provisions on preventing and combatting trafficking and on protecting, supporting and assisting the victims. During the 2014-2020 programming period, the total EU allocation for projects aimed at preventing and combatting trafficking in human beings amounted to EUR 13 026 286 under shared management and to EUR 22 707 722 under direct management. In addition, the anti-trafficking action is fully integrated in the EMPACT grants that support national actions against the ten crime priorities identified by the Council in the context of the EU Policy Cycle, as trafficking in human beings is one of them[27]. EMPACT grants have contributed to countering the impunity of perpetrators by strengthening the capacity of Member States' law enforcement to investigate and prosecute trafficking offences.

Member States have also adopted non-legislative instruments, which supported the

[23] Article 22 of the Anti-trafficking Directive.
[24] European Commission, "Transposition" report (2016), ibid no.7.
[25] Annex 6
[26] 2021 Strategy p 4.
[27] EU Council (2017), Council Conclusions on the continuation of the EU Policy Cycle for organised and serious international crime for the period 2018-2021. Available at: link

implementation of the Directive, such as new or renewed National Action Plans to prevent and combat trafficking in human beings[28], as well as sets of **guidelines**[29], **protocols** and **procedures**[30] aimed at supporting the relevant stakeholders in detecting, identifying and protecting victims, as well as coordinating the efforts in the fight against human trafficking[31].

3.3. Monitoring carried out by the Commission

Pursuant to Article 20 of the Directive, the Commission reports every two years on the progress made in the fight against trafficking in human beings. The **Progress Reports** include statistical data on trends observed in trafficking in human beings, as well as analysis on the results of anti-trafficking actions. Moreover, the Commission has published a number of reports and studies[32] on different aspects of trafficking in human beings, including in cooperation with the EU Agencies[33].

Following the entry into force of the Directive, the Commission adopted **three policy instruments**. The first policy document presented after the adoption of the Directive was the **EU Strategy towards the Eradication of Trafficking in Human Beings 2012-2016**[34], which identified five priorities: 1) identifying, protecting and assisting victims; 2) stepping up prevention; 3) increasing prosecutions; 4) enhancing coordination and cooperation among key actors and ensuring policy coherence; 5) increasing knowledge of, and effective response to, emerging concerns relating to all forms of trafficking.

In 2017, the Commission adopted a **Communication reporting on the follow-up to the EU Strategy and identifying further concrete actions**[35]**.** In April 2021, the Commission adopted the **EU Strategy on Combatting Trafficking in Human Beings 2021-2025**, which provides a comprehensive response to combatting trafficking in human beings, from prevention through to protection of victims, to prosecution and conviction of traffickers. The Strategy identifies four key priorities: 1) reducing the demand that fosters trafficking; 2) breaking the criminal model of traffickers to halt the exploitation of victims; 3) protecting, supporting and empowering the victims, especially women and children; 4) the international dimension.

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[28] AT, EE, EL, FI, FR, HR, HU, IE, IT, LT, LU, SE, SL, EL, NO.
[29] EE, ES, IT, LT, LU, SE, EL.
[30] HR, EL.
[31] EE, ES, HR, IT, LU, SE, EL.
[32] European Commission, "Transposition" report (2016), ibid no.6; European Commission, Report assessing the impact of existing national law, establishing as a criminal offence the use of services which are the objects of exploitation of trafficking in human beings, on the prevention of trafficking in human beings, in accordance with Article 23 (2) of the Directive 2011/36/EU, COM(2016) 719 final; Staff Working Document, Mid-term report on the implementation of the EU strategy towards the eradication of trafficking in human beings, SWD(2014), 318 final; Study on the gender dimension of trafficking (2016); Study on high risk groups for trafficking in human beings (2015); Study on comprehensive policy review of anti-trafficking projects funded by the European Commission (2016); Study on reviewing the functioning of Member States' National and Transnational Referral Mechanisms (2020); Study on the economic, social and human costs of trafficking in human beings within the EU (2020).
[33] European Institute for Gender Equality, Gender-specific measures in anti-trafficking actions report (2018); Fundamental Rights Agency, Children deprived of parental care found in an EU Member State other than their own – A guide to enhance child protection focusing on victims of trafficking (2019).
[34] The EU Strategy towards the Eradication of Trafficking in Human Beings 2012–2016, COM(2012) 286 final
[35] European Commission, Communication Reporting on the follow-up to the EU Strategy towards the Eradication of trafficking in human beings and identifying further concrete actions, COM(2017) 728 final.

3.4. New challenges since the adoption of the Directive

Since the adoption of the Directive, several major developments have affected the socio-economic situation, with significant implications on the trafficking in human beings landscape. **Technological developments** and the **expansion of online social media** created new opportunities for traffickers, allowing them to recruit victims online and to reach a much broader audience via online streaming and widespread sharing of exploitative materials.

In addition, over **100 million people were forcibly displaced** worldwide in 2022, as a result of conflicts, violence and human rights violations, among others[36], thus increasing the risks of trafficking due to their vulnerability and economic situation. **Climate change** is also expected to foster trafficking in the long term, due to the socio-economic consequences of draughts and famines on vulnerable categories.

The 2021 Serious and Organised Crime Assessment of Europol highlighted that trafficking in human beings is a central activity for organised crime groups operating in the EU and that the demand for sexual and labour exploitation will continue to persist[37]. The risks of trafficking have considerably increased since the beginning of **the war in Ukraine** in February 2022, as persons fleeing to the EU might be targeted by human traffickers along their journey[38]. Women and children, especially unaccompanied minors, are particularly vulnerable to trafficking, including for the purposes of sexual or labour exploitation.

In 2020, Europol warned that trafficking in human beings, particularly for the purpose of labour and sexual exploitation, is likely to increase, as the **economic downturn in the wake of the COVID-19 pandemic** could increase demand for cheap labour[39]. Also as a consequence of COVID-19 prostitution has moved from brothels and the streets into hotels and apartments, which makes potential victims of trafficking nearly inaccessible for law enforcement and social services.[40]

3.5. Statistics and trends for the evaluation period (2013-2020)

The statistics and trends outlined below are based on the data provided by EUROSTAT covering the 2013-2020 reporting period in the EU27[41]. For the detailed statistical report for 2013-2020, see Annex 5.

3.5.1 Number and demographic characteristics of the of victims

The total number of victims of trafficking in human beings registered in the EU27 during

[36] UNHCR: A record 100 million people forcibly displaced worldwide | | UN News=

[37] Europol (2021), European Union serious and organised crime threat assessment, *A corrupting influence: the infiltration and undermining of Europe's economy and society by organised crime*, Publications Office of the European Union, Luxembourg. Available at: link.

[38] A Common Anti-Trafficking Plan to address the risks of trafficking in human beings and support potential victims among those fleeing the war in Ukraine. A new Anti-Trafficking Plan to protect people fleeing the war in Ukraine (europa.eu).

[39] Europol, Beyond the pandemic – How Covid-19 will shape the serious and organized crime landscape in the EU (2020). Available at: link.

[40] Member States contribution to the Fourth Progress Report.

[41] The UK does not form part of the analysis because the United Kingdom withdrew from the European Union as of 1 February 2020. The transition period ended on 31 December 2020 DK, however, provides regular data to EUROSTAT and has a national anti-trafficking legislation.

the 2013-2020 period was 55 314, with an average of 16 registered victims per million inhabitants. The **annual numbers of registered victims of trafficking showed very little variation** across the reporting period. The annual numbers are comparable, if generally slightly lower, to the number recorded in the EU27 in 2011 (n=7,440) and notably lower than the 2012 number (n= 8,853).[42]

However, the actual number of victims of trafficking within the EU is likely much higher than the data suggests. The statistics above include only victims identified by registering entities and are unable to encompass the estimated high numbers of undetected victims[43].

The number of victims is considered underestimated due to the widespread underreporting of trafficking offences, which is the consequence of numerous reasons, including the economic or emotional dependency between the victim and the trafficker; intimidation of extortion by the traffickers; the fear of reprisals from the traffickers; language or cultural barriers; distrust in, the competent authorities; the societal attitude towards victims of trafficking, especially for sexual exploitation; insufficient awareness on their rights and opportunities, as well as the fear to lose their income, especially for victims trafficked for labour exploitation; for illegally staying third country nationals, the fear of deportation. There are attempts for calculating regional estimates. The US 2022 Report on Trafficking in Persons (TIP)[44] estimates the identified and registered number of victims of trafficking in Europe (including Turkey, Russia and Western-Balkans) as 17 383 in 2019 and 18 173 in 2020. According to the ILO's newly released Global estimates of modern slavery[45], 6.4 million people are subjected to forced labour, sexual exploitation and forced marriage in Europe and Central Asia. It can be noted that these two reports (released few weeks one from the other) include widely different figures for similar geographical regions. This shows how difficult it is to make precise estimations of the real number of victims. Existing estimates rely on different concepts, which do not necessarily amount to trafficking in human beings (e.g. forced labour or forced marriage) or are not defined under international and EU law (e.g. modern slavery), refer to different geographical scopes or do not have a clearly outlined methodology. While there have been few attempts at producing estimates at Member State level, their methodology was criticised for its strong dependence on quality of input data and the assumptions behind the data analysis, which may result in a large margin of error when estimating the hidden population.[46]

79% of victims registered in the EU27 were adults[47]. **Child victims constituted around one fifth** of all registered victims whose age was known (21%) in the EU27. The **percentage of child victims increased over time**, growing from 18% in 2013 to 24% in 2020 continuing the trend of 2011-2012, when the share of child victims was 17%. Over the reporting period, children accounted for approximately one quarter of sexual exploitation victims where the age group was reported. This is slightly higher than the share of child victims across all types of exploitation. There was little change in the value of this indicator over time, decreasing somewhat from 27% in 2015 to 24% in 2020. It does, however, represent a notable increase from 2010-2012 when only 14% of registered victims of sexual exploitation were under 18

[42] European Commission, Eurostat, Trafficking in human beings: 2015 edition, Publications Office, 2015.
[43] European Commission, *Data collection of trafficking in human beings in the EU* (2020). Available at: link.
[44] 2022 Trafficking in Persons Report - United States Department of State
[45] Report: Global Estimates of Modern Slavery: Forced Labour and Forced Marriage (ilo.org)
[46] Mapping the risk of serious and organised crime infiltrating legitimate businesses - Publications Office of the EU (europa.eu)
[47] Victims whose age group was reported as "Unknown" is not included the statistical analysis.

years old.[48]

During the 2013-2020 evaluation period, 56% of the registered victims with known citizenship were EU citizens and 44% were non-EU citizens. The ratio of EU and non-EU victims in 2010-2012 was similar to that of 2013 (69% EU victims and 31% non-EU victims). **The share of EU victims gradually decreased between 2013 and 2018 and then increased in 2020.** In 2016 and 2018 the number of registered non-EU victims overtook that of EU citizens. During the overall evaluation period, the main countries of citizenship of non-EU victims in the EU were Nigeria (6,513), China (1,417), Morocco (824), Ukraine (743), and Philippines (605), while the main countries of citizenship of EU victims were Romania (9,392), Hungary (3,565), Bulgaria (3,424), France (3,136), and the Netherlands (2,558).[49]

Across the EU27, **approximately one third (36%) of all registered victims of THB were citizens of the country in which they were registered**[50]**.** Citizens of other EU Member States accounted for approximately one fifth (21%) of all registered victims.

In 2013-2020, women and girls represented three quarters of trafficking victims whose sex was reported (75%) in the EU27 likewise as during 2010-2012.[51]**.** The percentage in individual Member States ranged from 42% in Portugal to 92% in Bulgaria[52]. **The percentage of female victims decreased from 81% in 2013 to 67% in 2020**. During the evaluation period, men and boys were the majority of victims recorded in two Member States (BE, PT).

3.5.2 Purposes of trafficking in human beings

Sexual exploitation has constantly been the most prevalent purpose of trafficking in human beings across the reporting period, although its share decreased from 76% in 2014 to less than 60% in 2019-2020[53]. Victims of **sexual exploitation are overwhelmingly women and girls (93%)**. Trafficking for purposes other than sexual exploitation has increased during the reporting period. **Labour exploitation has consistently been the second most prevalent purpose of trafficking in human beings**. It accounts for **20% of all registrations during 2013-2020**, as the percentage was initially low but later increased to reach approximately one third of victims in 2020. **Labour exploitation affects mostly male victims (70%), though female victims are increasingly exploited in particular sectors (e.g., domestic work, care activities or cleaning services)**. The proportion of "other purposes" increased over time to approximately one fifth of all cases in 2018 and decreased thereafter to slightly more than 10% of all registrations. These trends represent a continuity of the developments in 2010-2012 when 69 % of registered victims were trafficked for the purpose of sexual exploitation, 19 % for

[48] *Idem* footnote 42

[49] During 2010-2012 the top five countries of citizenship within the EU, in terms of absolute numbers of registered victims, were Romania, Bulgaria, the Netherlands, Hungary and Poland; for non-EU citizens, the top five countries were Nigeria, Brazil, China, Vietnam and Russia.

[50] No information on citizenship was available for 8% of all registered victims. Moreover, the citizenship of about 2% of registered victims was indicated as "unknown". This data is not included in the statistical analysis.

[51] *Idem* footnote 42

[52] Data on the number of victims whose sex was reported as "Unknown" are not included the statistical analysis.

[53] Data where the form of exploitation is indicated as unknown (4% of all data) is not included in the statistical analysis. Data is missing for the following country and years: AT (2017, 2018), BG (2017, 2018), CZ (2017, 2018), EL (2013, 2014), FI (2017, 2018), FR (2015), IT (2013, 2014), PL (2015, 2016), RO (2015, 2016), SE (2017, 2018).

labour exploitation and 12 % for other forms of exploitation such as the removal of organs, criminal activities, or selling of children.[54]

4. EVALUATION FINDINGS (ANALYTICAL PART)

4.1 To what extent was the intervention successful and why?

In order to measure the success of the Directive, the evaluation assesses to what extent the objectives of the Directive were met (effectiveness) and whether this was commensurate with the efforts, time and funding invested (efficiency). Furthermore, it is examined whether the objectives of the Directive have been attained and fit in the broader political framework, and are in coherence with other EU, national and international instruments in the field of prevention of the trafficking of human beings (coherence).

4.1.1 Effectiveness

Overall, **the Directive has proven effective in achieving its general objectives** as it facilitated the creation of an overarching legal and institutional framework at European and national level, with regard, however, **its specific objectives concerning, prevention, prosecution, assistance of victims and monitoring the Directive has not reached its full potential.**

As highlighted by several survey respondents[55], the establishment of common minimum rules contributed to **higher harmonisation of national criminal laws**, which would have been difficult to achieve by Member States acting alone. In this regard significant progress has been done to achieve the specific objective of the Directive. Harmonised rules resulted in higher EU capacity to fight against this crime. Nevertheless, Member States have transposed and implemented the Directive to different extents and its effectiveness remains limited by the gaps in the practical implementation of its provisions.

4.1.1.1 Definition of trafficking in human beings and the forms of exploitation

Key evaluation findings:

- The Directive adopted the same definition of key international instruments (Palermo Protocol and the Council of Europe Convention).
- Member States interpret certain key terms of the definition (e.g. abuse of power, position of vulnerability and exploitation) differently.
- Member States often transposed into their national legislation only the forms of exploitation explicitly mentioned in the Directive, although the list in Article 2(3) is non-exhaustive.

Areas for improvement identified in relation to the definition are:

- Further clarification in the interpretation of the key concepts of the definition.
- The inclusion of further forms of exploitation within the definition, provided that the other constitutive elements of the trafficking offence

[54] *Idem* footnote 42.

[55] Survey: Q 38, 1 national competent authority (HR), 1 law enforcement authority (CY), 2 civil society organisations (DE, ES), 1 national competent authority (DE).

(conduct and means) are fulfilled.

a. Definition of trafficking in human beings

Article 2 of the Directive provides a common definition of trafficking in human beings and requires Member States to ensure that trafficking offences committed with intent be punishable. The definition of the Directive is in line with the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention against Transnational Organized Crime (the Palermo Protocol) and with the Council of Europe Convention on Action against Trafficking in Human Beings. However, minor divergences in the transposition and interpretation of Article 2, may slightly reduce the effectiveness of the Directive at Member States' level.

Areas hindering the full effectiveness of the Directive in relation to the definition

The differences in how some key concepts of the definition of trafficking are enshrined in national law may hinder EU law enforcement and judicial cooperation in cases where the activities are considered to be trafficking in one Member State but not in others[56].

- Article 2(1): The term '**abuse of power'** refers to the means used to commit human trafficking offences. The Directive does not specify what kind of power and how it may be abused. It is not known how this concept is interpreted in practice, for example if a parental or educational relationship may qualify as an abuse of power.
- Article 2(2): The term '**position of vulnerability'**, defined as 'no real or acceptable alternative but to submit to the abuse involved' refers to the means used to commit trafficking offences. Member States define the position of vulnerability in different ways[57].
- Article 2(3): There is no EU definition or indicators of **exploitation**. As reported by Eurojust, prosecutors face a high evidentiary burden in courts to prove the exploitation element. Moreover, this element is not clearly and unanimously understood (particularly with reference to trafficking for labour exploitation, modern slavery or servitude, international surrogacy arrangements leading to the selling of newborns and exploitative (sham) marriages). For example, in some Member States, proving exploitation is dependent on evidence of coercion[58].

b. Forms of exploitation

Article 2(3) provides a minimum list of forms exploitation, which includes prostitution of others or other forms of sexual exploitation; forced labour or services, including begging, slavery or practices similar to slavery, servitude; exploitation for criminal activities; and removal of organs. As the list is non-exclusive, it allows Member States to criminalise additional forms of exploitation. The Directive does not define the forms of exploitation explicitly mentioned therein. This has led Member States to adopt different interpretations of some forms of exploitation, such as forced begging, which is addressed indifferent ways across Member States[59]. The risk of diverging interpretations is even higher for the forms of

[56] Eurojust contribution to the public consultation.
[57] Interview #27 with an International Body.
[58] Interview #30.
[59] Submission to the public consultation by ICAT.

exploitation that are not explicitly mentioned in the Directive.

Areas hindering the full effectiveness of the Directive in relation to the forms of exploitation

Consulted stakeholders considered that greater clarity is required around the concept of "**forced labour**"[60], as it is currently interpreted in differing ways. Recital 11 of the Directive states that forced labour is defined in line with the ILO Forced Labour Convention, 1930 (No. A 29). However, the concept of forced labour is not explicitly defined in many Member States.[61] It must be noted that ILO's Committee of Experts on the Application of Conventions and Recommendations in their comments and observations provides ample guidance to enable Member States to ensure that their definition of "forced labour" aligns fully with the ILO standards[62]. Eurojust stressed that some Member States experienced difficulties in defining "**practices similar to slavery or servitude**".

In addition consulted stakeholders frequently referred to the evolving nature of the crime of trafficking in human beings and considered that other forms of exploitation could be included in Article 2(3)[63].

- **Forced marriage** is already listed in the recitals of the Directive as another purpose that can be covered by the definition of trafficking in human beings insofar as it fulfils the constitutive elements of the offence. The 2021 EU SOCTA report and the Commission's progress reports have highlighted a rise in the number of cases of trafficking for forced marriage, which particularly affects women and children, and is often combined with other forms of exploitation, such as sexual exploitation and/or labour exploitation.

- **Illegal adoption** is also listed in the recitals of the Directive as a purpose of trafficking, which can be covered by trafficking in human beings, insofar as it fulfils the constitutive elements of trafficking in human beings. The 2021 EU SOCTA report underlines that children are trafficked and sold through illegal adoption schemes. Mothers in vulnerable circumstances can be forced to give their children for adoption outside the legal adoption system for the financial profit of the trafficker.

- **Illegal surrogacy**: the trafficking of women for the purpose of illegal surrogacy programmes, which involve selling newborn children has also been identified as an emerging trend in the 2021 EU SOCTA report and in the Commission's Third progress report. As part of the evaluation, Eurojust reported that some Member States encounter difficulties in prosecution and judicial cooperation in cases involving the selling of newborn children, in particular when vulnerable surrogate mothers are exploited by intermediaries and there is a risk of exploitation of the children[64].

- **Social benefit fraud** was referred to as a form of exploitation in the 2021 EU SOCTA report. Eurojust also reported on cases where traffickers abuse vulnerable individuals

[60] Interview #20; Interview # 28.
[61] European Commission, Study on case-law relating to trafficking in human beings for labour exploitation (2015). Available at: link.
[62] See Committee of Experts on the Application of Conventions and Recommendations (ilo.org).
[63] The majority of public consultation respondents (65%) considered that the Directive should explicitly refer to new forms of exploitation.
[64] Submission to the public consultation by Eurojust.

coming from difficult financial conditions to commit social benefit fraud for their sole profits[65]. Because of the lack of legislation on social benefit fraud as an exploitative purpose of trafficking in human beings, the exploited individuals are often regarded as suspects of fraud rather than victims of trafficking[66].

4.1.1.2 Prevention and training

Key evaluation findings:

- The Directive significantly contributed to increasing the number of prevention initiatives in Member States, for example awareness raising campaigns, education and training programmes for officials, such as law enforcement authorities, prosecutors, judges, as well as other professionals likely to enter in contact with victims of trafficking in human beings, such as healthcare professionals, social assistance services and labour inspectors. Prior to the implementation of the Directive in 2011, there were significantly fewer prevention efforts than there are today.
- CEPOL and FRONTEX delivered numerous specific trainings on trafficking in human beings.

Areas for improvement identified in relation to prevention are:

- Targeting specifically vulnerable categories of people in the Member States and non-EU countries, as well as in high risk sectors.
- Addressing the societal causes of trafficking in prevention strategies.

Areas for improvement identified in relation to training are:

- Including more law enforcement and judicial professionals in specific training programmes on trafficking in human beings and to embed THB training within the basic curriculum of law enforcement and the judiciary.
- Including other key professionals (from public and private sector) into training programs likely to enter into contact with victims in training programmes on trafficking.

The Directive is widely considered to have improved prevention efforts. The majority of survey respondents considered that the Directive contributed to reducing the number of victims[67]. Respondents also considered that measures targeting child victims have been relatively effective, though less than those targeting adults[68]. Measures targeting potential offenders were considered relatively less effective than those above[69].

Prevention measures

[65] See Eurojust, *Report on Trafficking in Human Beings: Best practice and issues in judicial cooperation*, February 2021, available at: link; Eurojust's contribution to the public consultation.
[66] Eurojust's contribution to the public consultation.
[67] Only around 9% (n=8) of respondents considered that the Directive had made no contribution. Most online survey respondents considered that prevention measures targeting victims were effective to a moderate extent (27 of 90 respondents) or to a large extent (29 of 90 respondents).
[68] 27 out of 90 respondents claimed that measures targeting children were effective to a moderate extent, 21 stated that they were effective to a large extent and 9 to a very large extent. Twenty respondents considered that preventive measures targeting child victims were effective to a small extent.
[69] 22 out of 90 respondents considered that measures targeting potential offenders were effective to a small extent and 12 that they were not effective at all.

Article 18 of the Directive requires the Member States to take appropriate measures to prevent trafficking in human beings, including education and training aimed at reducing the demand that fosters trafficking (Article 18(1)), as well as information and awareness raising campaigns, research and education programmes aimed at reducing the risks of victimisation (Article 18(2)).

All Member States but one have transposed these two provisions in their national laws[70]. The Commission has collated information on the many examples of prevention activities conducted in Member States[71], including projects, awareness raising campaigns, education and training programmes implemented at national and transnational level. Examples of transnational projects include TRACE[72], SafeShore[73] and RAVOT-EUR[74]. There are also examples of cooperation between child protection systems and education systems aimed at strengthening prevention measures targeting children[75].

Areas hindering the full effectiveness of the Directive in relation to prevention

The evaluation identified several areas of improvement with regards to prevention. These include defining concrete objectives to better target prevention measures towards specific groups or sectors. For example, it may be beneficial to conduct awareness campaigns in the main (EU and non-EU) countries of origin of victims identified in the EU[76] and in high-risk environments (such as sectors of the economy that attract low-wage labour).

Prevention strategies should address the root causes of trafficking in human beings, such as gender discrimination, economic inequalities and restrictive migration policies[77]. Lack of education and work opportunities, as well as of regular migration routes towards the EU, are among the societal issues that foster trafficking[78].

Training

Article 18(3) requires Member States to promote regular training for officials likely to come into contact with victims or potential victims, including front-line police officers, in order to enable them to identify and deal with victims and potential victims. Recital 25 provides that this training obligation should be promoted for "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, but could, depending on local circumstances, also involve other groups of public officials who are likely to encounter trafficking victims in their work".

[70] Italy is the only Member State that has only partially transposed these articles: relevant national legislation leaves considerable discretion to the authority responsible for implementing preventive measures. Further details are in Annex 6.
[71] The European Commission Anti-Trafficking website section provides an overview on how each EU Member States tackle, prevents, and identified THB.
[72] (TRACE) Trafficking as A Criminal Enterprise. More information available at: link.
[73] SafeShore. Available. More information available at: link.
[74] Referral of and Assistance for victims of Trafficking in Europe. More information available at: link.
[75] Mentioned by five respondents to the online survey.
[76] Outcome from the discussions held during the workshop organised by the European Commission with the EU Civil Society Platform against trafficking in human beings on 30 November 2021.
[77] Interview (#11); interview (#20). This was also raised by three survey respondents, as well as in the contribution to the public consultation by the Red Cross.
[78] European Commission, Study on prevention initiatives on trafficking in human beings (2015). Available at: link.

All Member States have implemented training activities envisaged in Article 18(3). The evaluation found that Member States have offered training programmes to officials involved in investigations and prosecution of trafficking offences, such as prosecutors, law enforcement and judicial authorities. Some Member States have also offered training to healthcare professionals, staff from social assistance services and labour inspectors. The Directive is considered to have contributed to increasing the offer of specialised training on trafficking available at the national level[79].

EU Agencies, international organisations and the Member States produce guidance and training documents and offer training on trafficking in human beings, reaching a wide range of professionals in Member States and non-EU countries. During the 2013-2021 period, CEPOL developed a complex training portfolio and trained a total of 5,173 officers[80]. Frontex prepared a training manual[81], a 'train the trainer tool' and is currently developing a handbook on Risk Profiles on Trafficking in Human Beings[82]. FRA will develop a capacity building tool to train labour inspectors tasked with identifying illegal work[83].

Areas hindering the full effectiveness of the Directive in relation to training

The evaluation identified several areas for improvement in relation to training. Although the number of capacity-building activities has grown, many law enforcement and judicial professionals are not receiving training that would better equip them to investigate and prosecute trafficking offences. This results in limited knowledge, for example about child trafficking, the procedures in place in the different (police or judicial) institutions, or on discerning persons forced into criminal activities as a result of being trafficked[84].

As victims may be scared of reporting to law enforcement authorities, it is crucial that all relevant stakeholders receive adequate training[85]. Training programmes should involve other professionals likely to come into contact with victims, such as staff from social assistance services, healthcare professionals, labour inspectors and airline staff in direct contact with passengers.

4.1.1.3 Reduction of the demand that fosters trafficking and criminalisation of the use of exploited services

Key evaluation findings:

- The Directive provides a limited coverage to demand reduction, mainly focusing on non-legislative measures, such as information and awareness raising, and education.
- Demand persists, especially for cheap labour and sexual services, fosters

[79] 31 respondents to the online survey stated that the Directive had contributed to increasing training to a large extent; 26 respondents replied that it had done so to a moderate extent.
[80] Data provided by CEPOL: "CEPOL Trafficking in Human Beings Training Portfolio: Overview 2013-2021".
[81] Frontex, Combating human trafficking at the border - training for EU Border Guards (2012). See link here.
[82] Frontex's contribution to the Commission's fourth report on the progress made in the fight against trafficking in human beings.
[83] FRA's contribution to the Commission's fourth report on the progress made in the fight against trafficking in human beings.
[84] Interviews with an academic expert (#4); one representative from an EU agency (#5); three representatives from an EU civil society organisations (#6, #7, #8).
[85] Outcome from the discussions held during the workshop organised by the European Commission with the EU Civil Society Platform against trafficking in human beings.

trafficking.

- Not all Member States have transposed the optional provision criminalising the knowing use of exploited services (Article 18(4)). The approaches of Member States that transposed it, vary to a great extent.
- Even where available, legislation criminalising the use of exploited services is not extensively applied in practice.
- It is difficult to prove in court that the user knew that the victim was trafficked.
- Some Member States and stakeholders raised the concern that criminalisation of the use of services could result in increased marginalisation and vulnerability of victims, which would hamper detection and early identification of victims.

Areas for improvement identified in relation to addressing the demand that fosters trafficking:

- Member States could address demand with enhanced legislative and non-legislative measures.
- Member States could improve awareness raising, guidance and education programmes targeting potential users, including of sexual services.
- Member States could improve the collection of evidence (including electronic evidence) to prove that users are aware of the exploitation.

The Directive adopts a comprehensive approach to demand reduction, which includes both legislative and non-legislative measures, although legislative measures remain in the Directive optional. Article 18(1) requires Member States to take appropriate measures, such as education and training, to discourage and reduce the demand that fosters all forms of exploitation. Article 18(4) requires Member States to "consider" criminalising the use of services which are the objects of exploitation, with the knowledge that the person is a victim of trafficking. This is an optional provision, on which Member States and stakeholders have widely differing views.

The analysis of national legislation carried out as part of this evaluation indicates that eight Member States have legislation criminalising the knowing use of services exacted from victims of all forms of exploitation[86]. Eleven Member States have legislation that criminalises directly or indirectly the knowing use of services exacted from victims of sexual exploitation[87] (including some Member States requiring a lower, or no, knowledge requirement)[88]. Seven Member States[89] have no legislation addressing the use of services exacted from victims of trafficking. However, some of these have legislation which does not transpose the Directive but imposes criminal liability for users of exploited services[90].

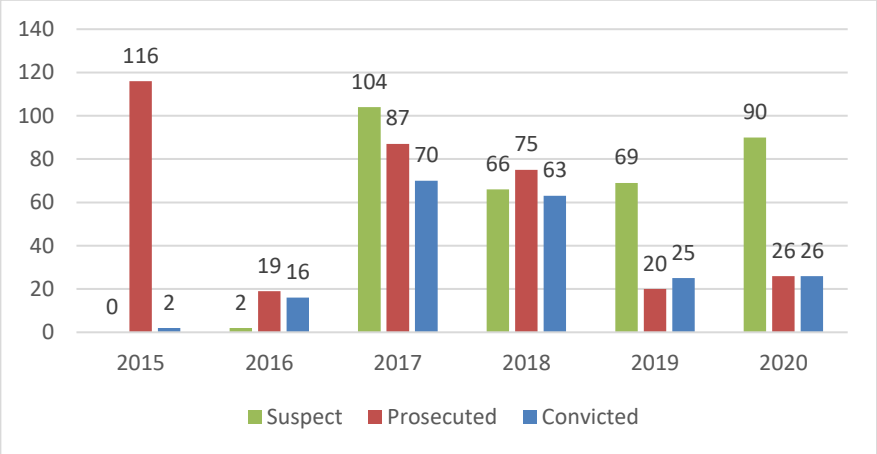
Some Member States (FR, IE, SE and, partially, FI[91]) address demand for sexual services with

[86] BG; HR; HU; LT MT PT RO SI. In addition, EL legislation covers sexual and labour exploitation.
[87] DE, EE, FI, FR, IE, LV, LU, NL, SE, EL, CY.
[88] In DE and FI, the requirement is knowledge or a standard similar to serious negligence. In CY, there is no knowledge requirement.
[89] AT, BE, CZ, ES, IT, PL, SK.
[90] AT criminalises the labour exploitation of third country nationals. CZ has an offence for failing to report trafficking in human beings, when a person is aware of the situation.
[91] In FI the purchase of sexual services is not criminalised if the person providing sexual services is doing so individually. However, it is illegal to buy sex from individuals who work under a pimp, from victims of trafficking and from minors.

the so-called "Equality Model", which criminalises the purchase of sexual services regardless of whether the person is a victim of trafficking[92]. This approach concerns the reduction of demand in the field of sexual services and addresses the situation of victims of trafficking indirectly, as part of the individuals in prostitution.

EUROSTAT has collected data relating to the criminal offences of the use of exploited services since 2015. EUROSTAT reported that during the 2015-2020 period, 331 persons were reported as suspects, 343 were prosecuted and 202 were convicted of such offences. As shown by Figure 1 below, it is not possible to discern any clear trend. It is, however, important to acknowledge that there are serious gaps in the data collection, as only 11 Member States reported on the three categories (suspects, prosecutions, convictions)[93].

Figure 1: Criminal justice statistics on the offence of the use of services which are the objects of exploitation of victims of trafficking in human beings (2015-2020)



In February 2021, a European Parliament Resolution called on the Commission to amend the Directive with a view to ensuring that all Member States criminalise the knowing use of exploited services[94]. UNODC called on the Commission to "recall the legal obligation Member States have to address demand, including by legislative measures addressing the use of services of victims[95]. It also corresponds to the recommendations of the Council of Europe's Group of Expert on Action against Trafficking in Human Beings (GRETA), which all include the knowing use without differentiating between the forms of exploitation.[96] Furthermore, this approach is also supported by 61% of respondents to the public consultation[97]. The EU Strategy stipulates that the Commission would carry out an assessment of the possibility of having

[92] These countries have outlawed the purchase of sexual services, on the grounds that it would constitute *per se* a form of exploitation and/or gender-based violence and that users of sexual services are taking advantage of the difficult situation of people in prostitution. This model does not criminalise the sale of sexual services, but only the purchase. OSCE, Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, *Discouraging the demand that fosters trafficking for the purpose of sexual exploitation*, (2021). Available at: link.

[93] BG, CY, DE, FI, IE, LT, LV, MT, SE, SI, SK (although the value reported by IE, MT and SK was zero).

[94] 2020/2029(INI).

[95] Submission to the public consultation by UNODC.

[96] Country specific recommendations issued by GRETA. See the recommendations to DE: link

[97] While the majority of citizens and public authorities agreed to the criminalisation, civil society organisations were split, with a slight majority for criminalisation.

minimum EU rules that criminalise the use of exploited services of trafficking victims as part of the evaluation of the Directive[98].

Areas hindering the full effectiveness of the Directive in relation to the use of exploited services from victims of trafficking

(i) Even where available, legislation criminalising the use of exploited services is not extensively applied in practice

Legislation criminalising the knowing use of exploited services is applied in practice to different extents. Several Member States (BG, EE, LU, MT) reported no cases in 2020. On the other hand, in the 2017-2020 period, LT reported 113 convictions and HU 41[99].

(ii) Difficulties in proving the "knowing" use in court

Numerous consulted stakeholders (national rapporteurs, prosecutors and civil society organisations) link the limited application of provisions criminalising the knowing use of exploited services with the difficulty of proving knowledge in court with adequate and sufficient evidence[100]. To address this challenge, a minority of stakeholders advocated for the removal of the knowledge requirement and called for criminalising the use of exploited services regardless of whether the user knows that the person is a victim of trafficking[101].

Only one Member State (CY) has this strict liability standard for the use of services from victims of sexual exploitation. Two Member States (DE and FI) require knowledge or a standard similar to serious negligence. However, the data from these Member States that adopt stricter approaches does not show higher numbers of prosecution or convictions, in comparison to Member States that adopt the knowing use approach[102].

OSCE indicated that limited capacity building among law enforcement officials may also contribute to the limited use of these provisions[103].

(iii) Concerns that criminalising the use of exploited services could hinder detection and early identification of victims

There are differing views among Member States and consulted stakeholders on whether criminalising the use of services is an effective strategy to reduce the demand that fosters

[98] In 2016, the Commission found that it was too early to assess the impact of national law criminalising the use of exploited services due to the short period for the implementation of the Directive; Commission's "Users" report (2016). Available at: link.

[99] Member States contributions to the Commission's fourth report on the progress made in the fight against trafficking in human beings.

[100] Outcome from the discussions held during the workshop organised by the European Commission with the EU Civil Society Platform against trafficking in human beings on 30 November 2021; interview with an academic expert (#25); OSCE, "Discouraging the demand that fosters trafficking for the purpose of sexual exploitation" (2021). Available at: link.

[101] Outcome from the discussions held during the workshop organised by the European Commission with the EU Network of NREM on 6 December 2021. At least five participants to the workshop raised this issue.

[102] In CY, there were 2 prosecutions and no convictions since 2019, when the relevant law came into force. This is compared with 14 prosecutions and 4 convictions in 2017, and 26 prosecutions in 2018. DE did not report any prosecution or conviction since 2015 and this timeframe includes both the period in which it had knowing use and the period of gross negligence. FI reported 2 prosecutions and 2 convictions since 2015.

[103] OSCE, "Discouraging the demand that fosters trafficking for the purpose of sexual exploitation" (2021). Available at: link.

trafficking. This was reflected in the public consultation, with respondents split almost evenly on whether this would (and would not) be an effective measure to reduce demand.

Several Member States and stakeholders are concerned that the criminalisation of the use of exploited services could hinder detection of the crime by pushing sexual and labour exploitation further underground, thereby hampering detection and prosecution, as well as early identification, support and access to justice especially for vulnerable victims[104].

In consideration of the potential risks of criminalisation, stakeholders advocate focusing on improving access to information, on setting up effective complaints mechanisms and on ensuring safe reporting through structural reforms[105]. OSCE considers criminalisation as only part of the broader approach to reduce demand[106].

4.1.1.4 Investigations, prosecutions, penalties and confiscation

Key evaluation findings:

- The numbers of prosecutions and convictism has remained low, especially in comparison to the number of registered victims; this is also linked to the inherent nature of the crime, namely in many cases victims do not come forward.
- Criminal proceedings often mainly rely on victim testimony despite the requirement of the Directive to use also other evidence in case the testimony is not available.
- When the evidence is insufficient to convict for trafficking-related offences, traffickers are often convicted for offences that are easier to prove in court.
- Member States adopted different standards of penalties for trafficking offences since the Directive only sets minimum standards.
- The optional sanctions against legal persons in the Directive are not widely transposed and there is a lack of data regarding the application of these sanctions in practice. Prosecutions of legal persons are in general rare and the Directive has not resulted in greater action against legal persons.
- Although Member States have legislation allowing them to seize and confiscate proceeds of trafficking offences, seizures and confiscations are rare.

Areas for improvement identified in relation to investigations, prosecutions and convictions:

- Data collection could be improved to better assess the effectiveness of the Directive in relation to investigations, prosecutions and convictions.
- A wider variety of tools (including financial investigations and digital investigation tools) could be employed by law enforcement to ensure the collection of evidence other than victim testimony.

[104] Outcome from the discussions held during the workshop organised by the European Commission with the EU Network of NREM on 6 December 2021; submission by BE National Rapporteur in the context of the evaluation; interviews #11 and #22; submission to the public consultation by La Strada International, LEFÖ-IBF and the Red Cross.

[105] Interview #22.

[106] OSCE, "Discouraging the demand that fosters trafficking for the purpose of sexual exploitation" (2021). Available at: link.

- Financial investigations should be strengthened to ensure better intelligence, evidence and tracing of the proceeds of the crime.
- Cooperation between Member States could be strengthened with a view to improving the collection of evidence other than victim testimony in cross-border cases, as well as for sharing good practices in case-building.
- Member States could rely more of the support of Europol and Eurojust.

Areas for improvement in relation to penalties:

- Data collection could improve to have a better understanding of what penalties are handed out in practice.
- All criminal sanctions provided in the Directive against legal persons could be transposed by Member States.
- Law enforcement and judicial authorities could receive targeted capacity building specialising on investigations and prosecutions of legal persons in relation to trafficking in human beings.

Areas for improvement in relation to seizure and confiscation:

- Seizing and confiscation could be resorted to more systematically, thus contributing to enhanced deterrence.

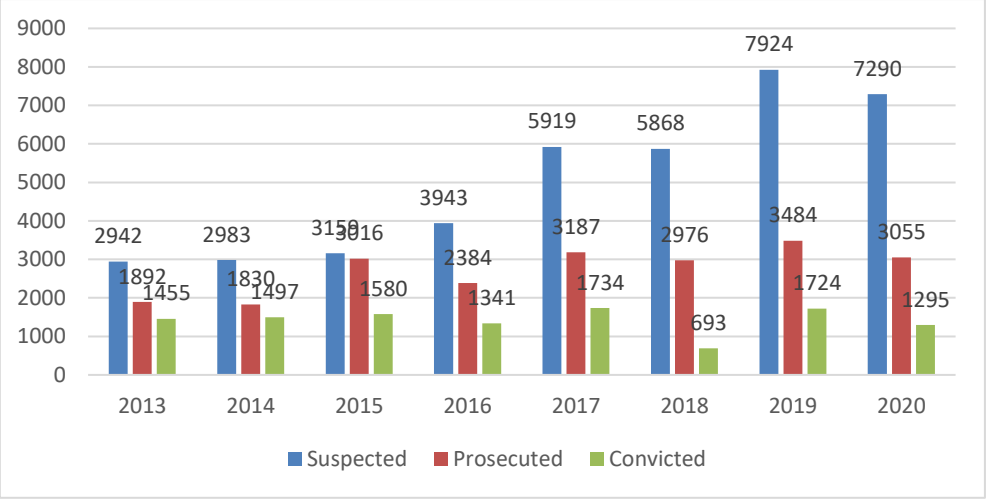
Investigations, prosecutions and convictions

Article 9 of the Directive requires Member States to ensure that investigations into, or prosecutions of, trafficking offences are not dependent on reporting or accusations by a victim and that criminal proceedings may continue even if the victim has withdrawn his or her statement.

As shown in Figure 2, the number of suspect increased from approximately 3 000 in 2013 to just under 8 000 in 2019. However, this is also a result of progressive improvements in the data collection. For instance, Italy did not report data on these indicators before 2017, and Italy alone recorded approximately 2 000 suspects in 2017 and 2018.[107]

Figure 2: Trends in headline criminal justice indicators related to THB cases (2013-2020)

[107] Since during 2010-2012 not all Member States reported the number of investigations, prosecutions and convictions to the Commission there is no comparable data. Member States reported that 8 805 people were prosecuted for trafficking in human beings over the three years 2010-2012. There were 3 855 convictions reported over the same period. Although many Member States provided data both on the number of prosecutions and the number of convictions for all three years, this was not the case for all Member States. The EU totals for prosecutions and convictions are thus not directly comparable. See also *idem* footnote 42.



In the 2013-2020 period, the numbers of prosecutions and convictions have remained constantly low, especially in comparison with the number of victims[108], and consulted stakeholders expressed concerns of the culture of impunity for traffickers[109]. The gaps in the available data seriously limit the evaluation of the effectiveness of the Directive. In addition, data reliability and comparability is hindered by the different approaches taken by the Member States in data reporting on criminal justice indicators. For example, one reported prosecution or conviction could either mean that one single individual has been prosecuted or convicted, or that there was one case (but it may have involved more than one individual).

Areas hindering the full effectiveness of the Directive in relation to investigations, prosecutions and convictions

(i) Law enforcement authorities and prosecutors require specific skills to build effective cases against traffickers

Law enforcement authorities and prosecutors face difficulties in building successful cases on trafficking offences within the time limits and available resources[110]. Investigations of trafficking offences are often lengthy and require specialised capacity and resources. The testimony provided by victims often constitutes the central piece of evidence and, if not supported with additional evidence, it may lead to an acquittal or a conviction for other offences[111]. Further challenges concern the movement of victims, who may be no longer present in the territory of the state where the proceedings have been initiated.

Trafficking cases often involve criminal organisations that rapidly move across borders together with the victims. Cross-border cases may face delays related to law enforcement and judicial cooperation between different Member States or with non-EU countries. The insufficient understanding or specialisation on trafficking may also lead to unsuccessful

[108] Submission to the public consultation by Eurojust; Interview #30.
[109] Outcome from the discussions held during the workshop organised by the European Commission with the EU Network of NREM on 6 December 2021; European Commission, *Staff Working Document accompanying the Third (2020) report on the progress made in the fight against trafficking in human beings third report*, SWD(2020) 226 final; submission to the public consultation by ICAT.
[110] Interview with an EU agency (#30).
[111] Submission to the public consultation by La Strada International.

investigations or prosecutions[112]. Therefore, the EU Strategy called on Member States to establish law enforcement and prosecution units specialised in trafficking. Moreover, the Commission is facilitating, together with Eurojust, the creation of a Focus Group of specialised prosecutors against trafficking in human beings.

(ii) Further resources and knowledge are required to conduct financial investigations

The EU legal and policy framework sets out a **follow the money** approach, including by conducting proactive financial investigations, including asset-tracing. Article 9(4) of the Directive requires Member States to take the necessary measures to ensure that effective investigative tools, such as those used in organised crime or other serious crime cases, are available for investigations and prosecutions of cases involving trafficking offences. **Financial investigations are one of the most important tools in this regard**. Tracing the financial flows allows to investigate the entire trafficking chain and gather evidence that could be produced in court and may help disrupting the actions of criminal networks. Most Member States conduct financial investigations in parallel or as part of trafficking cases. However, despite the importance of financial investigations in trafficking cases, the relevant authorities may lack capacity or expertise to conduct them.

(iii) The collection of evidence (other than victim testimony) is currently insufficient

Law enforcement authorities and prosecutors could better rely on sources of evidence other than victim testimony, such as financial investigations, surveillance and digital evidence. Labour inspectors could have a greater role in gathering evidence[113], as they are often mandated and trained to contribute to criminal investigations[114].

(iv) Member States could rely more on the support of Europol and Eurojust

Recital 5 of the Directive refers to the enhanced cooperation between Member States and Europol and Eurojust, which should facilitate coordinated cross-border investigations and prosecutions. It is advisable to involve Europol at the very beginning of THB investigations, especially in cases with suspects and victims are originating from outside the EU (e.g. Latin America and Western Balkans). Another significant aspect of cross border cooperation is also proven by the high dynamics of Europol supported operations resulting in an increasing number of action days with deployed Europol staff for support and the growing interest for collaboration under the Operational Task Force umbrella as the highest form of collaboration in the international investigations[115]. Furthermore, the number of trafficking cases registered at Eurojust has increased, with 107 cases in 2013 and 163 in 2020, for an increase of over 30%[116]. However, the number of investigations coordinated by Eurojust and of Joint

[112] Submission to by BE National Rapporteur in the context of the evaluation; outcome from the discussions held during the workshop organised by the European Commission with the EU Network of NREM on 6 December 2021.
[113] Study on comprehensive policy review of anti-trafficking projects funded by the European Commission (2016).
[114] Submission to the public consultation by OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings; Population Europe, *10 Years After the Directive 2011/36/EU* (2022), Population and Policy Brief No 33. Available at: link.
[115] Europol supported operational meetings with 32 operational meetings in 2020 comparing to 60 operational meetings in 2021 and tendency to top that number in 2022 since in the first half of 2022 there were already 37 operational meeting. Number of the reported and supported action days in THB crime area has also increased from 6 in 2020 to 10 in 2021.
[116] Submission to the public consultation by Eurojust.

Investigation Teams remains low in comparison with the statistics on registered victims and cases at the EU level. The number decreased from 183 in 2019, to 163 in 2020 to 140 in 2021[117]. It is important to note that many trafficking cases involve only two Member States, while the threshold to involve Eurojust is three countries[118]. Nevertheless, there is scope for Member States to rely more on the support of Eurojust, including on Joint Actions, Joint Investigation Teams and other cooperation tools[119].

- **Seizure and confiscation of instrumentalities and proceeds from trafficking offences**

Article 7 of the Directive requires Member States to take necessary measures to ensure that their competent authorities are entitled to seize and confiscate instrumentalities of, and proceeds from, trafficking offences. Five Member States[120] have specific provisions on seizure and confiscation of proceeds related to trafficking offences. In the other Member States, national criminal laws on seizure and confiscation apply to all crimes, including trafficking offences.

Areas hindering the full effectiveness of the Directive in relation to seizure and confiscation

There is no available data on the number of seizures and confiscations for the 2013-2020 period. In 2021, the European Parliament called on Member States to strengthen their mechanisms for seizing and confiscating assets and proceeds of trafficking offences[121]. While in 2020, the Commission reported[122] that Member States increased efforts to seize proceeds and instrumentalities, it also underlined that there is scope to increase the use of confiscation measures in light of the estimated continuous rise of profits from trafficking offences[123]. The survey to the study also confirmed this, as 51% of respondents underlined that the Directive contributed only to a small extent, or not at all, to an increased number of confiscations[124].

- **Penalties**

According to Article 4(1), the Member States are required to set a maximum penalty of at least five years of imprisonment, which can be raised to at least 10 years under certain aggravating circumstances, such as when the offence was committed against a victim who was particularly

[117] Submission to the public consultation by Eurojust.
[118] Regulation (EU) 2018/1727 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for Criminal Justice Cooperation (Eurojust), and replacing and repealing Council Decision 2002/187/JHA, OJ L 295, 21.11.2018, p. 138–183.
[119] Submission to the public consultation by Eurojust.
[120] BE, CY, EL, ES and FR.
[121] European Parliament (2021), *Report on the implementation of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims*. Available at: link.
[122] European Commission, *Third (2020) report on the progress made in the fight against trafficking in human beings*, COM(2020) 661 final.
[123] European Commission, *Staff Working Document accompanying the Third (2020) report on the progress made in the fight against trafficking in human beings third report*, SWD(2020) 226 final; European Parliamentary Research Service (EPRS), *Implementation of Directive 2011/36/EU: Migration and Gender Issues* (2020), available at: link; OSCE, *Leveraging Innovation to Fight Trafficking in Human Beings* (2020), available at: link.
[124] The majority of the other respondents considered that the Directive had contributed to increasing the number of confiscations of THB-related proceeds at least to a certain extent. None of the respondents to the public consultation answered that the Directive had contributed to the confiscation of criminal assets to a "high" or "very high" extent. Ten (36%) respondents reported that the Directive had contributed to the confiscation of criminal assets to a "moderate extent".

vulnerable, which includes at least child victims or when it was committed within the framework of a criminal organisation within the meaning of Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime[125]. Harmonising penalties across Member States ensures that the consequences for trafficking offences are equal or similar all over the EU[126].

Article 4 has been largely transposed, although some Member States have not included all aggravating circumstances in their national law[127]. Survey respondents considered that the penalties included therein are dissuasive, effective and proportionate. **The Directive has resulted in changes in the national laws on penalties for trafficking offences**. For example, the implementation of the Directive led Austria, Hungary and Spain to increase their penalties, and Belgium, Croatia, France, Latvia, Portugal and Slovenia have included more conducts into the trafficking offences.[128]

Areas hindering the full effectiveness of the Directive in relation to penalties

(i) There is little available data on what penalties are handed out in practice

Data on the numbers of penalties for trafficking offences is not systematically reported in the Member States.

Figure 3: Examples of sentences imposed for trafficking in Member States[129]

- In Cyprus, five defendants were prosecuted for trafficking for labour exploitation between 2015 and 2018, received penalties ranging from 12 months to 5 years.
- In Italy, three individuals were sentenced in 2019 to terms of 20 years, 17 years and 8 months, and 10 years.
- In Portugal, three sets of convictions are reported: in the first, 14 individuals were sentenced to prison terms ranging from 5 to 16 years; in the second, 22 persons were sentenced to prison terms ranging from 5 to 10 years; and in the third, 2 individuals were sentenced to 14 years in prison and another to 13 years.

(ii) The low number of convictions prevents to assess the effectiveness of penalties

The low number of convictions is due to several factors, including that traffickers may be convicted for crimes that are easier to prove in court, e.g. labour law offences, aggravated pimping, smuggling of migrants, infringements of social security requirements. This does not allow to properly assess the effectiveness of penalties. In practice, it also means that the high penalties for trafficking offences fail to express their full deterring potential, as traffickers are

[125] OJ L 300, 11.11.2008, p. 42.
[126] Submission to the public consultation by Eurojust.
[127] Some Member States have not transposed some of the aggravating circumstances listed in Article 4(2) in their national law (BG, DE, EE). Several Member States legislations do not provide for penalties of at least 10 years of imprisonment when the offence is committed with an aggravating circumstance (BG, DE, HU). A number of Member States have not transposed Article 4(3), which provides that the fact that the trafficking offence is committed by public officials should be regarded as an aggravating circumstance (DE, FI, LV, PL, SE, SI).
[128] GRETA, 2019, 'Compendium', p.8, p.10, p.13, p.16, p.19-21, p.28, p.32-33, p.35.
[129] GRETA (2020), *Compendium of good practices in addressing trafficking in human beings for the purpose of labour exploitation*, p.41-43, Available at: link.

more likely to be convicted for offences carrying lower penalties. In view of this analysis, rather than increasing the severity of penalties, more emphasis could be placed on increasing the detection, prosecution and conviction rates[130].

Further, from Eurojust's experience, penalties applied in some Member States are sometimes lowered substantially by the **mitigating circumstance** of the lack of criminal record of the convicted person. Consideration could be given to address this situation, especially when the convicted person is part of an organised criminal group that committed the trafficking offence, making the criminal conduct particularly serious[131].

Sanctions against legal persons

Member States are required by Article 5 of the Directive to ensure that legal persons be liable for trafficking offences. Article 6 requires Member States to implement effective, proportionate and dissuasive sanctions against legal persons, which shall include criminal or non-criminal fines. Article 6 also includes five optional sanctions which Member States can consider implementing, but are not required to: (a) exclusion from entitlement to public benefits or aid; (b) temporary or permanent disqualification from the practice of commercial activities; (c) placing under judicial supervision; (d) judicial winding-up; (e) temporary or permanent closure of establishments which have been used for committing the offence.

Article 5 has been fully transposed to the extent the transposition is mandatory and the legislation of all Member States provides for at least administrative fines or criminal sanctions for legal persons involved in trafficking offences, in accordance with the minimum requirements of the Directive. Most Member States have transposed at least one of the optional sanctions included in Article 6[132]. Respondents to the public consultation were divided whether the Directive contributed for holding legal persons liable for THB. While the majority from public authorities found that the Directive contributed to it at least to moderate extent, civil society organisations assessed the contribution little and the trade union respondent as non-existent.

Areas hindering the full effectiveness of the Directive in relation to sanctions on legal persons

(i) No data is available on prosecutions and convictions of legal persons

There is no available data on prosecutions and convictions of legal persons for trafficking offences. Although the Commission guidelines on the biannual data collection include the provision of data on investigations[133], prosecutions and convictions of legal persons, no such data has been reported by Member States.

(ii) The Directive has not resulted in greater action against legal persons

Labour exploitation is the second most prevalent purpose of trafficking, and affects 20% of victims registered in the EU. It mainly concerns male victims, but female victims are increasingly affected. Labour exploitation often takes place in businesses requiring low-wage,

[130] Survey #59 Submission to the public consultation by La Strada International; Interview with an academic expert #24.
[131] Submission to the public consultation by Eurojust.
[132] BG, DE, EE, FI, IE, SK do not have any of the optional sanctions listed in Article 6(a)-6(e).
[133] See, for instance, Study on Data collection on trafficking in human beings in the EU (2020). Available at: link.

intensive and seasonal work, such as forestry, food processing, hospitality, retail, carwash, beauty and cleaning services, transportation, housekeeping, domestic work[134]. Consulted stakeholders consider that trafficking in high-risk sectors is problematic to a large or very large extent in the EU. This requires adequate action against legal persons that are used to commit trafficking offences. Although no official data is available on the number of prosecutions and convictions of legal persons, consulted stakeholders reported that these are extremely rare[135] and 60% of survey respondents thought that the Directive has contributed to a moderate or small extent to holding legal persons liable[136]. The non- or partial transposition of the optional sanctions of the Directive against legal persons hinder the effective criminal accountability of legal persons.

4.1.1.5 Protection, assistance and support to victims

Key evaluation findings:

- The Directive has made a significant contribution to increasing the availability of protection, assistance and support measures for victims and to taking into account the gender specific dimension of the crime.
- Most Member States have identification procedures in place, which are applied by law enforcement authorities or with a multi-stakeholder approach.
- The EU Agencies have stepped up the activities to support identification.
- Not all Member States have a National Referral Mechanism and their structure varies across Member States.
- The Directive is considered to have contributed to improvements in protection and support to child victims.
- Some Member States do not explicitly include in their legislation the provision of assistance for victims with special needs.

Areas for improvement in relation to the provision of assistance and support to victims are:

- The early identification of victims by Member States could be improved, as many victims remain undetected.
- The functioning of national referral mechanisms (formal and informal) could be enhanced.
- Increased consistency between National Referral Mechanisms and harmonisation at the EU of referral mechanisms as well as the facilitation of intra-EU referrals could be considered.
- Data on the number of victims benefitting from assistance and support could be more consistently recorded and reported by Member States.

Areas for improvement in relation to the assistance, support and protection of child victims and victims with special needs:

- Member States could improve the detection and early identification of child

[134] Europol's contribution to the Commission's fourth report on the progress made in the fight against trafficking in human beings; Europol Migrant Smuggling Centre, European Migrant Smuggling Centre 4th Annual Report, available at: link.

[135] Interview with an academic expert #24; interview with an academic expert #25.

[136] One respondent (1%) answered to a 'very high extent'; five (4%) answered to a 'high extent'; 19 (15%) answered to a 'moderate extent'; 54 (44%) answered to a 'small extent'; 20 (16%) answered 'not at all'; and 25 (20%) answered 'I don't know'.

victims.
- Member States could improve the number and quality of shelters for children.
- Member States could enhance the integration of children into the whole national protection systems.
- Member States could pay more attention to victims with special needs and Roma as well as LGBTIQ victims.

Early identification

Article 11 of the Directive includes a range of measures to ensure assistance and support to victims. Recitals 17 to 22 provide further detail on the assistance and support that Member States should provide to victims of trafficking. **Most Member States have transposed the provisions included in Article 11 and have national measures to provide assistance and support.**

The Directive has contributed to increase the range of services available in Member States for victims of trafficking. The Commission's Transposition report (2016) highlighted that Member States have taken measures for the early identification, assistance, support and protection of victims of trafficking. Consulted stakeholders also considered that the Directive contributed towards enhancing access to support and protection, especially for women and girls victims of trafficking[137]. However, the survey highlighted that the contribution of the Directive to the protection of victims of trafficking for the purpose of labour exploitation had been more limited, as compared to other groups of victims. Member States have put in place services for victims, including access to shelter, provision of medical care and psychological assistance, as well as setting-up of helplines providing relevant information to victims.

Procedures for the identification of victims are in place in most Member States, and are applied by law enforcement authorities or in a multi-stakeholder approach. Having multiple authorities responsible for the early identification of presumed victims may hinder coordination, but it also reduces the chances that victim remains unnoticed.

EU Agencies have taken steps to support the early identification of victims. CEPOL, EUAA and Frontex have developed training and handbooks to guide professionals from the Member State to better identify victims. Frontex officers are themselves trained to identify victims.

Areas hindering the full effectiveness of the Directive in relation to early identification of, and support to, victims of trafficking

(i) Early identification of victims is insufficient

Early identification of victims is considered as a priority issue, as it triggers the provision of assistance and support services. In this sense, insufficient or late identification hinders the effective implementation of the Directive[138]. Member States face challenges in the

[137] Interviews with one representative from a European civil society organisation (#17); one EU institution representative (#18); one academic expert (#24).

[138] This was notably raised during the workshop organised by the European Commission with the EU Civil Society Platform against trafficking in human beings on 30 November 2021.

identification of potential victims[139], mainly because:

- Victims may be unwilling to report trafficking offences to law enforcement authorities, as they may fear that it may lead to disclose irregularities and put them at risk of prosecution or return[140].
- Only certain authorities are competent for the formal identification of victims. GRETA notes that there is a series of stakeholders who can identify victims of trafficking, not only the specialised investigation units dealing with THB offences but also migration and asylum officials, labour inspectors, social workers, health-care staff and NGOs."[141]
- The lack of harmonised indicators for the identification of (presumed) victims may lead to fragmented detection procedures and case management.

(ii) Not all Member States have a National Referral Mechanism, and the structure of National Referral Mechanisms varies across Member States

National Referral Mechanism are cooperative frameworks, involving relevant authorities and civil society organisations, aimed at identifying, assisting and supporting victims of trafficking[142]. **The Directive does not require Member States to create referral mechanisms.** Article 11(4) requires Member States to *"take the necessary measures to establish appropriate mechanisms aimed at the early identification of, assistance to and support for victims, in cooperation with relevant support organisations."* All Member States except Germany have developed such cooperation mechanisms[143]. However, structures, procedures and other arrangement vary widely across the Member States.

In some Member States, mechanisms for the identification of, and support to, victims are not regulated and remain informal[144]. In most Member States, a central authority holds the responsibility for identification and may take the form of a specialised body (Bulgaria, Italy) or a of specialised law enforcement unit (Cyprus, Luxembourg). Numerous consulted stakeholders consider that Member States should establish easily accessible National Referral Mechanisms[145].

Moreover, the **recent increase in the percentage of registered victim citizens of non-EU countries shows how relevant cross-border and international cooperation are**, as slow or insufficient coordination may cause difficulties for the receiving organisation[146]. The lack of coordination can cause difficulties for the receiving organisations to prepare properly to

[139] E.g. IE, IT, AT, LT, NL.
[140] Submission to the public consultation by Missing Children Europe.
[141] Submission to the OPC by GRETA
[142] Population Europe, *10 Years After the Directive 2011/36/EU* (2022), Population and Policy Brief No 33. Available at: link.
[143] European Commission, Study on reviewing the functioning of member states' national and transnational referral mechanisms (2020). Available at: link.
[144] Submissions to the public consultation by IOM; Association for Juridical Studies on Immigration; EIGE; Contre La Traite; and GRETA.
[145] Submission to the public consultation by Victims Support Finland. 77% of the stakeholders who participated in the public consultation considered that the Directive should require Member States to establish formal national referral mechanisms.
[146] Submission to the public consultation by ICMPD.

support a victim.

(iii) Lack of a European Referral Mechanism

The absence of harmonised procedures at European level hampers the effectiveness of cross-border identification and referral of victims. Although Member States engage in bilateral and multilateral forms of cooperation, clearer cooperation between the national authorities of Member States would facilitate assistance to victims and their reintegration in society. The EU Strategy 2021-2025 sets out as a key action that the Commission will enhance cooperation towards a European referral mechanism.

(iv) The services provided in Member States may have limited scope, capacity or be insufficiently targeted to the needs of victims

Although Member States have transposed Article 11 almost fully, gaps remain in the availability of services. Member States implement assistance and protection measures rather differently, for example in decisions (i) on whether to provide assistance to victims; (ii) on the period during which assistance has to be provided; and (iii) on the groups to whom assistance has to be provided[147]. Furthermore, not all Member States provide sufficient access to specialist accommodation or psychological counselling[148].

Factors affecting victims' willingness to seek help include the provision of services in a language they understand, their fear of reprisals from traffickers and the availability of services for their family members[149]. Respondents to the online survey highlighted that it is necessary to enhance Member States' capacity to provide protection measures tailored to the specific needs of vulnerable groups (women, especially when pregnant; children; people with disabilities or addictions, etc.)[150]. In addition, there is a need to improve services for long-term recovery and rehabilitation.

On 28 June 2022, the Commission adopted its evaluation of the Victims' Rights Directive[151] that identified shortcomings, related to victims' access to information, justice, support and protection. The evaluation is one of the Commission's key actions set out in the EU Strategy on Victims' Rights (2020 – 2025)[152]. The Commission continues to work on strengthening victims' rights. It is currently preparing an impact assessment of the Victims' Rights Directive and plans to propose a revision of the Directive in 2023.

(v) Data concerning the number of persons provided with assistance support is not consistently reported

Member States are not required to report on the number of victims receiving assistance. Some Member States report to the Commission these figures for the purposes of the progress reports

[147] Interview with a representative from an international organisation (#14).
[148] European Migration Network, *Third-country national victims of trafficking in human beings: detection, identification and protection* (2022). Available at: link.
[149] Submission to the public consultation by Victims Support Finland.
[150] 53% (n=48) of respondents reported that EU intervention would be necessary to enhance Member States' capacity to provide protection measures tailored to the specific needs of vulnerable groups.
[151] Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime (OJ L 315, 14.11.2012, p. 57).
[152] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. EU Strategy on Victims' Rights (2020-2025), COM/2020/258 Final.

but data is not collected systematically therefore data provided by Member States is not comparable.

Gender-sensitive approach to assistance and support

Considering that 75% of the victims of trafficking identified in the EU are women and girls, EU strategic documents have taken the gender dimension into particular account. The Directive recognises the gender-specific phenomenon of trafficking and that female and male victims are often trafficked for different purposes. It also requires Member States to provide gender-specific assistance and support measures, where appropriate.

Member States have introduced specific measures that provide tailored gender-sensitive support, including increased awareness-raising of healthcare staff to identify and support women and girl victims of trafficking for sexual exploitation; training and guidance on gender-based violence for immigration authorities; and assistance procedures especially addressing women and children in the hotspots.[153] Member States have introduced gender-sensitive legislation and policy[154], notably as a result of the implementation of the Directive.

Child victims' access to protection, assistance and support

The scale of child trafficking remains "an overwhelming concern"[155]. In 2013-2020, child victims constituted over a fifth of all registered victims of trafficking in the EU27 (21%).

The Directive includes specific measures focusing specifically on ensuring child victims' access to assistance, support, and protection. These include general protection measures (Articles 13 and 14), protection measures during criminal investigations and proceedings (Article 15), and measures for unaccompanied minors (Article 16). Although Member States have transposed and implemented the provisions related to child protection to different extents, the stakeholders consider that the Directive has contributed to enhancing child victims' access to assistance and support.

Areas hindering the full effectiveness of the Directive in relation to child victims' rights to assistance, support and protection

(i) Insufficient identification of child victims hinders the provision of assistance

While Member States have made progress, there is scope to improve practical support to child victims on the ground. All European Commission Progress Reports raise concerns about child-specific measures for prevention, identification, and assistance, although they reported new actions on identification, guardianship and accommodation taken in some Member States[156].

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[153] European Commission, *Third (2020) report on the progress made in the fight against trafficking in human beings*, COM(2020) 661 final.

[154] GRETA, *Assistance to Victims of Human Trafficking* (2019), available at: link; EIGE, *Protecting victims: an analysis of the Anti-Trafficking Directive from the perspective of a victim of gender-based violence* (2017), available at: link; EPRS, *Trafficking in Human Beings from a Gender Perspective Directive 2011/36/EU* (2016), available at: link.

[155] Submission to the public consultation by ICAT.

[156] European Commission, *Third (2020) report on the progress made in the fight against trafficking in human beings*, COM(2020) 661 final; *Second report on the progress made in the fight against trafficking in human beings*, COM(2018) 777 final; *Report on the progress made in the fight against trafficking in human beings* ("first progress report"), COM(2016) 267 final.

Concerns include:

- The disappearance of child victims, from shelters and care/foster homes[157].
- The lack of access to psychologists for children are sometimes placed in child protection institutions.
- The non-application of the presumption of childhood set out in Article 13(2).
- Guardianship, which according to Article 14(2) should start "from the moment the child is identified by the authorities", is sometimes only appointed after the child victim has requested asylum.

(ii) Limited number and capacity of shelters for children

Another identified area for improvement concerns specialised shelters for child victims of trafficking[158]. Shelters should have specialised trained staff, a confidential address and security measures, both physical and in terms of access to internet[159]. Separation between trafficked women and their children into different assistance facilities should be avoided, in order to avoid further traumatisation[160]. The Commission Communication on the protection of children in migration calls for improved specialised services for refugee girls, some of whom may be victims of trafficking[161]. Placing children in institutions instead of foster families may increase the risk of being re-trafficked[162].

Assistance, support and protection of victims with special needs

Article 11(7) of the Directive requires that Member States "*attend to victims with special needs, where those needs derive, in particular from […] their health, a disability, a mental or psychological disorder they have, or a serious form of psychological, physical or sexual violence they have suffered*'. The other provisions in Article 11 encompass necessary assistance and support for victims of trafficking. The Directive, however, does not require explicitly Member States to ensure the accessibility (i.e. including braille, sign languages and easy-to-read) of prevention material or the physical accessibility of shelters.[163]The available data shows that the number of trafficked victims with disabilities is rising. Trends include trafficking of persons with physical or visual impairments for the purpose of forced begging, as visible disabilities have a stronger impact on public sympathy[164].

Since the adoption of the Directive, there have been important improvements in creating national measures providing assistance to victims with special needs related to sexual or

[157] GRETA, *Trafficking in Children* (2019), available at: link; EPRS, *Trafficking in Human Beings from a Gender Perspective Directive 2011/36/EU* (2016), available at: link.
[158] Submission to the public consultation by ECPAT France.
[159] Submission to the public consultation by ECPAT France.
[160] GRETA, *Trafficking in Children* (2019), available at: link; EPRS, *Trafficking in Human Beings from a Gender Perspective Directive 2011/36/EU* (2016), available at: link.
[161] Communication from the European Commission to the European Parliament and the Council on the protection of children in migration (COM(2017) 211 final), available at: link.
[162] LUMOS, *Recommendations stemming from Lumos' Panel Discussion on 27 October 2021* (2021).
[163] Submission to the OPC by the EDF.
[164] UN Office of the High Commissioner for Human Rights, *Thematic study on the issue of violence against women and girls and disability* (2012). Available at: link

domestic violence[165]. It remains, however, a challenge to provide suitable care for victims, who are also suffering in some sort of addiction (alcohol or drugs), which is often the case.

Areas hindering the full effectiveness of the Directive in relation to assistance, support and protection of victims with special needs

(i) Limited attention to, or understanding of, the needs of victims with disabilities

While the Directive increased attention on assistance, support and protection of victims with special needs, there are still gaps in the tailored attention to their specific needs. In 2021, the European Parliament reported that the needs of victims with disabilities are often overlooked, calling on Member States to provide them with appropriate support[166]. There are currently important gaps in the data collection on the number of victims with disabilities. This does not allow to gather information disaggregated by gender, age and disability, which would be important to allow Member States and other stakeholders to adopt age- and disability-appropriate protection and support measures[167].

Other vulnerable groups, including LGBTIQ and Roma victims of trafficking

LGBTIQ people are a particularly vulnerable to trafficking. Research suggests that they are particularly at risk when they work in the sector of prostitution, where they may find themselves in precarious and dangerous contexts[168]. However, there is no official data on the number of LGBTIQ victims of trafficking in the EU.

The Commission Progress Reports highlighted that **Roma people are at particular risk of becoming victims of trafficking**[169]. Their vulnerability is due to structural ethnic and gender discrimination, poverty, social exclusion, lack of access to education and employment and domestic violence[170]. Despite the lack of official data about trafficking of Roma people, one study from 2011[171] conducted in Bulgaria, Czech Republic, Hungary, Romania and Slovakia indicates that trafficking in persons affects Roma disproportionately. A 2016 Europol report identified the particular vulnerability of Roma communities, especially in related to trafficking for forced criminality or sham marriages.[172]The Directive strengthened the awareness of the specific needs of these groups leading to targeted prevention activities, in particular education and awareness raising programs in certain Member States[173].

Areas hindering the effectiveness of the Directive in relation assistance, support and

[165] Commission's First, Second and Third Progress Report.
[166] European Parliament (2021), *Report on the implementation of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims*. Available at: link.
[167] Submission to the public consultation by the European Disability Forum (EDF).
[168] Submissions to the public consultation by Diritti Civili delle Prostitute ONLUS; Sex Work Polska; European Sex Workers Alliance; LEFÖ.
[169] European Commission, *Second report on the progress made in the fight against trafficking in human beings*, COM(2018) 777 final; *Report on the progress made in the fight against trafficking in human beings* ("first progress report"), COM(2016) 267 final.
[170] European Commission, *Staff Working Document accompanying the Third (2020) report on the progress made in the fight against trafficking in human beings third report*, SWD(2020) 226 final; EPRS, *Trafficking in Human Beings from a Gender Perspective Directive 2011/36/EU* (2016), available at: link.
[171] European Roma Rights Centre (2011) Breaking the silence. Trafficking in Romani Communities. Available here: link.
[172] Europol (2016), *Situation report: trafficking in human beings in the EU*, p.4, p.14, Available at: link.
[173] HU

protection to vulnerable groups, including LGBTIQ and Roma people

There have been calls, including by the European Parliament[174], for increased EU-level action to address the particular needs and situations of vulnerable categories of people, including LGBTIQ and Roma people. The third European Commission progress report suggests there have been limited efforts to address the particular vulnerabilities of Roma victims[175]. The European Parliament also called for increasing the provision of specific tailored services[176] (which was included in the EU Strategy on Combatting Trafficking in Human Beings 2021-2025). Similarly, interviewees stated that more could be done to support victims whose experiences do not correspond to the common perceptions of trafficking victims[177].

4.1.1.6 Protection, assistance and support to victims involved in the criminal justice system

Key evaluation findings:

- While all Member States provide access to witness protection programmes, they appear to be used infrequently for victims of trafficking and may be unsuitable for vulnerable victims.

Areas for improvement in relation to victims involved in the criminal justice procedures:

- Member States could improve criminal procedures in order to avoid secondary victimisation of the victim. The assessment of the individual needs of the victim could be more consistently applied.
- Member States could increase awareness of the available victim protection measures.

Protection of victims of trafficking in human beings in criminal investigation and proceedings

Article 12 of the Directive obliges Member States to protect victims in criminal proceedings. Under Article 12(3), victims receive the appropriate protection on the basis of an individual risk assessment, which includes access to witness protection programmes or other similar measures.

Article 12(4) of the Directive also requires Member States to protect victims of trafficking from secondary victimisation and further trauma during the criminal investigations and proceedings. Member States are active in training of professionals and building specialist facilities (such as interrogation rooms), and that it is common for the statements of victims of trafficking to be recorded in advance (and later played in court) to avoid personal attendance at court. Some

[174] European Parliament (2021), *Report on the implementation of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims*, p.18, Available at: link. Submission to the OPC by ICMPD.

[175] European Commission (2020), *Commission staff working document accompanying […] third report*, p.39, Available at: link.

[176] European Parliament, *Report on the implementation of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims* (2021). Available at: link.

[177] Interviews with one representative from an international body (#3) and two representatives from an EU civil society organisations (#6 and #8), among others.

Member States have adopted the holistic "Barnahus" model for supporting child victims[178].

Areas hindering the effectiveness of the Directive with regard to the protection of victims of trafficking in human beings in criminal investigation and proceedings

(i)Witness protection programmes appear to be used infrequently for victims of trafficking

While all Member States have transposed Article 12(3), witness protection does not appear to be widely used for trafficking victims, although there is very limited information available. Witness protection programmes may not always be recommended for trafficking victims, as they often disconnect victims from dependents and support systems[179].

(ii) Inconsistent application of measures to prevent contact with the defendant and unnecessary questioning

Secondary victimisation was raised as a major concern by several stakeholders[180]. Desk research showed that protocols and guidelines to prevent victims repeating their experiences were 'not consistently found' across the Member States[181]. This is also true of protection for child victims[182]. Examples of violations of Article 12(4) of the Directive were reported to GRETA, including cases of victims experiencing "visual contact with the accused, testimonies in open court and unnecessary questioning into [...] private life"[183].

4.1.1.7 Victim compensation and non-prosecution

Key evaluation findings:

- The Directive has contributed to legislative and policy developments enabling victims to access and exercise their rights to assistance, including compensation, in Member States.
- However, the award of compensation is rare and often hindered by administrative obstacles, lack of legal aid and the duration of criminal trials
- While all Member States have adopted measures for the non-prosecution and non-punishment of victims of trafficking for their involvement in criminal activities which they were compelled to commit as a direct consequence of being trafficked, restrictive interpretations tend to prevail among national authorities.

Areas for improvement identified in relation to compensation and the non-

[178] For instance, HU adopted the Barnahus model, ensures that crisis intervention, medical and forensic examinations and police hearings of sexually abused children take place in one location, at almost the same time, protecting him or her from the traumatic effects of multiple testimonies and other risks of participating in criminal proceedings (e.g confrontation with the abuser, frustration caused by inappropriate interrogation). An amendment to Act XC of 2017 on Criminal Proceedings entered into force on 1 January 2021 created the possibility of hearing the sexually abused, exploited minors as a criminal procedural act through the specialist of the Barnahus and the child-friendly infrastructure thereof.

[179] EPRS, *Trafficking in Human Beings from a Gender Perspective Directive 2011/36/EU* (2016). Available at: link.

[180] Workshop organised by the European Commission with the EU Civil Society Platform against trafficking in human beings on 30 November 2021.

[181] E.g. IE, RO and ES. See EPRS, *Trafficking in Human Beings from a Gender Perspective Directive 2011/36/EU* (2016). Available at: link.

[182] GRETA, *Trafficking in Children* (2019). Available at: link.

[183] EPRS, *Trafficking in Human Beings from a Gender Perspective Directive 2011/36/EU* (2016). Available at: link.

prosecution of victims:

- Member States could take further efforts in order to improve access to compensation and the application of non-prosecution.

Access to compensation

Article 17 of the Directive requires Member States to ensure that victims of THB have access to existing schemes of compensation to victims of violent crimes of intent.

All but two Member States have fully transposed Article 17 of the Directive[184]**.** Such measures include compensation for non-material damages, such as physical and psychological suffering[185] dual system of compensation,[186] fund for victims of violent crimes[187] or other special compensation measures[188].

The Directive has made an important contribution to increasing access to compensation with almost 80% of survey respondents reporting that the Directive had contributed to increased access to compensation. This is supported by the Commission second progress report which found that, as a result of the Directive (in combination with the Residence Permits, Victims' Rights and Compensation Directive), significant legislative and policy developments enabling victims to access and exercise their rights to assistance, including compensation, had been enacted[189].

Areas hindering the effectiveness of the Directive with regard to the access to compensation by the victim

(i) The award of compensation is rare and often hindered by administrative obstacles, lack of legal aid and the duration of criminal trials

While no data is available on the number of claims that were made or that were successful, or the amount of compensation awarded to victims, stakeholders underlined that in practice, compensation is rare[190]. Most stakeholders reported that compensation schemes in their Member States had been effective to a 'small' or 'moderate' extent. While some Member States reported an increase in funding for state compensation (e.g. IT), GRETA stated that the majority of Member States needed to improve existing legislation on both state compensation and compensation from perpetrators[191].

Compensation is often awarded at the end of the criminal proceedings, which can last for years. The COVID-19 pandemic has worsened the situation, with delayed court hearings, longer

[184] SI has not fully transposed Article 17. In national law, compensation appears to be provided only to victims who are Slovenian or EU citizens. In IE, the existing scheme for compensation to victims of violent crimes (namely the Criminal Injury Compensation Schemes) only recovers verifiable expenses, and not pain and suffering.
[185] AT, FI, SK.
[186] BG, CZ, ES, IE, LT, MT, NL, PT, SE.
[187] BE, FR and HR.
[188] EE, EL, HU, LV, PL, RO, SK.
[189] AT, BE, BG, CZ, DK, FI, FR, HU, LV, LU, MT, NL, PT, SK, SE were mentioned. European Commission, *Second report on the progress made in the fight against trafficking in human beings*, COM(2018) 777 final.
[190] Interview #18.
[191] GRETA, 4th General Report on GRETA's activities (2015). Available at: link.

police investigations, etc.[192]. The awarding of compensation can also be linked to victims' capacity to prove their status as victim of trafficking, which can prove particularly difficult when there is no court case against the trafficker[193]. Moreover, victims often face administrative obstacles[194] and are not always provided with free legal aid in order to make their claim, which makes the process more challenging[195].

(ii) Victims may have returned to their country of origin, or may have irregular migration status

It is particularly difficult for victims who have returned to their country of origin before a decision is taken on their compensation claim,[196] or for undocumented migrants[197] to receive compensation.

- **Non-prosecution of victims for their involvement in criminal activities**

Article 8 of the Directive requires Member States to ensure that competent national authorities are entitled not to prosecute or impose penalties on victims of trafficking for their involvement in criminal activities which they have been compelled to commit as a result of being trafficked.

All **Member States but one have transposed Article 8 into national law**[198]**.** Around half of Member States explicitly refer to non-prosecution of THB victims in their national law[199], while others refer to the non-prosecution of a person who was compelled, threatened or coerced to commit a criminal act[200]. Victims can be forced by their traffickers to engage in illegal conducts such as forced prostitution, in drug production or trafficking, petty crime, possession or the use of fraudulent documents or entering another country in a manner that does not comply with its immigration laws[201].

The language of the Directive allows for a certain degree of discretion, as it only requires national authorities to be entitled not to prosecute or impose penalties on a person who was compelled to engage in criminal activities.

[192] Submission to the public consultation by La Strada International; workshop organised by the European Commission with the EU Network of NREM on 6 December 2021; submission by Belgium in the context of the workshop.
[193] Interview with two representatives from an EU civil society organisation (#8).
[194] Interview with two representatives from an EU civil society organisation (#8); submission to the public consultation by IOM.
[195] Workshop organised by the European Commission with the EU Civil Society Platform against trafficking in human beings on 30 November 2021; submission to the public consultation by La Strada International and the Red Cross.
[196] Submissions to the public consultation by IOM; and la Strada International.
[197] Interview with two representatives from an EU civil society organisation (#8); Interview with a representative from an International Organisation (#28).
[198] HR has not transposed this article.
[199] BG, EL, ES, CY, LV, LT, LU, MT, NL, RO and SK.
[200] HU, IT, PL, PT, SE and SI.
[201] Submission to the public consultation by ICAT.

Areas hindering the effectiveness of the Directive with regard to the non-prosecution of victims

Even though national authorities are entitled not to prosecute and punish victims for their engagement in forced criminal activities, this is not consistently applied in practice, and approaches differ across Member States.

The Commission's progress reports highlighted that Member States did not provide sufficient information on the application of the non-prosecution and non-punishment principles and that victims of trafficking for sexual exploitation and forced criminal activities were at high risk of being punished. This was also underlined as a particular issue in many Member States by several consulted stakeholders[202]. GRETA notably reported on victims who have been arrested for their involvement in drug-related crimes[203].

Civil society organisations stressed that there is a lack of clarity about the interpretation of the provisions on the non-prosecution and non-punishment of victims by legal professionals. Judges and prosecutors are also not necessarily aware of the relevant legislation in force in the Member State. Moreover, such provisions often tend to be interpreted in a restrictive way (e.g. the principle of non-prosecution does not apply to serious offences or coercion is defined in a strict way, which focuses on the use and threat of force)[204]. GRETA expressed concerns regarding the punishment of child victims of trafficking in some Member States[205].

Some stakeholders have raised the fact that Article 8 of the Directive could be reinforced in order to provide for an obligation on Member States not to prosecute and punish victims of trafficking for their involvement in criminal activities as a result of being trafficked[206].

4.1.1.8 Conclusions on effectiveness of the Directive

Several reasons lead to conclude that the Directive fulfilled its general objectives[207] and it can be considered as overall effective. Firstly, it has significantly contributed to setting up an institutional and organisational framework at the EU and Member States level, which addresses trafficking in human beings not just as a serious crime, but as a complex socio-economic phenomenon. The comprehensive, multi-disciplinary and multi-agency approach enshrined in the Directive has led to the development of National Action Plans and Strategies with actions aimed at achieving the objectives of the Directive (preventing and combatting trafficking in human beings, as well as protecting, supporting and assisting the victims of this crime). In concrete terms, this enabled Member States to detect offences committed in the EU, to have a

[202] Interviews with two representatives from an EU civil society organisation (#8); an expert/academic (#25); an international organisation (#14); an EU Agency (#21); an International Organisation (#28); a Business and Employer Association (#29). Submissions to the public consultation by, among others, ICAT, ICMPD and IOM; Interview with expert/academic (#25).

[203] GRETA, *Trafficking in Children* (2019), available at: link; RACE (2014), *Trafficking for force criminal activities and begging in Europe*, available at: link.

[204] Submission to the public consultation by La Strada International and The Red Cross; evidence submitted to the external contractor by Bulgaria, Workshop 2.

[205] Idem no. 152

[206] Population Europe, *10 Years After the Directive 2011/36/EU* (2022), Population and Policy Brief No 33. Available at: link

[207] Two general objectives, namely (1) to combat crime, organised or otherwise, in particular trafficking in persons and offences against children, by building a more coherent framework for the fight against trafficking and (2) to increase the effectiveness of the framework.

common approach on prevention (which is not solely based on criminal law) and to have an adequate framework ensuring that victims enjoy a wide set of rights and have access to appropriate services. Secondly, the Directive also effectively contributed to the harmonisation of minimum rules of criminal law, and of protection, assistance and support to victims. In concrete terms, this increased cooperation among Member States in cross-border cases, both in terms of law enforcement and judicial cooperation, and in terms of assistance of victims that were exploited in different Member States or that left the country in which they were exploited. The Directive provided an appropriate legal framework for the EU Agencies to coordinate such cooperation and for the competent authorities of the Member States to have a harmonised rules and practices. In addition, the Directive incorporates the definition and the key provisions of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children. This allows to have a common understanding and contributes to cooperation in cross-border cases with non-EU countries.

The evaluation has identified, however, a number of gaps either inherent in the provisions of the Directive or stemming from the transposition and implementation where improvements are necessary, which **impede the attainment of the specific objectives**, in particular gapes and inconsistencies were identified in applying the **definition** of trafficking and exploitation; the **investigation and prosecution** of the crime is hampered by lacking capacities of investigations and training; **prevention** cannot fully work due to the low criminal accountability of the private sector and the persisting demand for cheap labour and sexual services; and the **assistance and support of the victims** remain limited mainly due to the lack of sufficient infrastructure and expertise as well as the reduced access for the victims to compensation.

4.1.2 Efficiency

Key evaluation findings:

- Human trafficking implies high costs to the economy and society, including costs for the coordination and prevention, specialised services, law enforcement, health services and social protection.
- Overall, the implementation of the Directive did not entail significant costs, as confirmed by the majority of stakeholders, which agreed on the cost-effectiveness of the measure in the light of the high societal costs of human trafficking.
- Stakeholders claimed that funding made available by Member States is not sufficient.

Areas for improvement:

- Member States could allocate more resources to fight trafficking in human beings, in particular they could consider the use of confiscated assets to reduce the costs of human trafficking.

Overall, stakeholders confirmed the cost-effectiveness of the Directive, despite some variations between the categories of stakeholders. **17% of the civil society organisations consulted as part of the survey pointed to a substantial increase in costs, not always proportionate with the achieved benefits, whereas only 7% of National Rapporteurs and Equivalent Mechanisms were of the same opinion**. Several National Rapporteurs and Equivalent

Mechanisms[208] considered that implementation costs had not increased due to the fact that some of the measures provided for in the Directive were already in place before its adoption (e.g. establishment of a National Rapporteur or Equivalent Mechanism[209], as well as assistance and protection services for THB victims[210]).

69% of the respondents to the public consultation, regardless of their affiliation, stated that the implementation of the Directive had not caused any unnecessary administrative burden, thus confirming its cost-effectiveness. In addition, according to 27% of the online survey respondents the benefits brought by the Directive do not outweigh its costs, while 25% confirmed that benefits of the Directive are beyond its costs (44% did not express any opinion).

It should also be noted that the initial proposal for the Directive did not contain a financial statement as the Directive was deemed not to impact the Union's budget.

4.1.2.1 Cost of trafficking in human beings

Trafficking in human beings generates very high proceeds. The estimated global annual profit of organised criminal groups for trafficking in human beings amounted to EUR 29.4 billion[211]. In the EU, in one single year criminal revenues of trafficking for sexual exploitation are estimated at about EUR 14 billion[212]. In addition, organised crime groups specialised in trafficking increasingly exploit legal businesses in their operations, such as hotels, nightclubs and massage parlours[213].

The Commission's 2020 Study on the economic, social and human costs of trafficking in human beings[214] showed that, in 2016, the total cost of trafficking in human beings amounted to EUR 2,7 billion for the EU27 and EUR 337 462 per victim. The costs associated with THB are mainly linked to: (i) the use of assistance and support services by victims (42% of the total costs) (i.e. coordination and prevention activities; provision of specialised services, law enforcement activities, health services and social protection); (ii) the lost economic output (18%) due to the fact that the victims is not participating in the legal economy while in trafficking; and (iii) the lost quality of life for the victim (40%), who may have been subject to physical, sexual and metal injuries as part of the trafficking. For the whole EU, most of the costs related to the use of services relate to law enforcement (EUR 105 827), followed by health services and social protection (EUR 21 785), specialised services (EUR 11 355) and coordination and prevention (EUR 2 949).

The costs of trafficking in human beings can only be calculated on the basis of the number of victims officially registered in the EU. As part of the Commission's study, the costs of THB have been computed per victim, and then multiplied by the total number of victims officially registered in the EU in a given year. However, the actual number of victims is likely to be

[208] 4 National Rapporteurs and Equivalent Mechanisms (AT, BE, CZ, SE).
[209] 1 National Rapporteur (CZ).
[210] 1 National Rapporteur (BE) and 1 national authority responsible for social services (EE).
[211] Europol, *The trafficking in human beings financial business model* (2015). Available at: link.
[212] This is a high-range estimate, taking into account hidden victims. The middle range estimate is at approximatively EUR 7 billion. European Commission, Directorate-General for Migration and Home Affairs, Mapping the risk of serious and organised crime infiltrating legitimate businesses: final report, Disley, E.(editor), Blondes, E.(editor), Hulme, S.(editor), Publications Office, 2021, p. 10.
[213] Ibid.
[214] European Commission, *Study on the economic, social and human costs of trafficking in human beings within the EU* (2020). Available at: link.

significantly higher than the number officially reported. Accordingly**, the overall costs of THB are likely to be underestimated.** Moreover, the estimates include the victims registered in one year, but the costs associated to victims extends beyond that one year of registration.

The detection of the crime leads to the identification of the victims and then to their referral to protection, assistance and support services. The law enforcement and specialised services costs are related only to detected offences and identified victims. In this sense, underreporting does not cause additional costs, taken especially into account that traffickers are prosecuted for other offences, such as forced prostitution, migrant smuggling, social security or tax offences. In such cases, the related law enforcement and specialised services costs are considered under these crime areas, rather than under trafficking in human beings.

On the other hand, trafficking in human beings has a higher, though more indirect, societal cost, including the lost economic output and the lost quality of life of the victims. In this sense, the costs are underestimated. An adequate estimation of such costs would have to be based on the number of undetected crimes and unidentified victims, a factor that is difficult to calculate.

Sexual exploitation is associated with higher costs with respect to the other forms of exploitation. In 2016, the costs per victim were EUR 364 474 for sexual exploitation, EUR 232 932 for labour exploitation and EUR 325 405 for other forms of exploitation. This is driven by larger costs associated with sexual exploitation, which are linked to greater utilisation of health services and social protection, greater lost economic output and greater lost quality of life, notably due to the perpetration of sexual violence. Larger costs are associated to female victims of trafficking (EUR 353 027 per victim) than to male victims (EUR 286 769 per victim), as women and girls are disproportionately affected by sexual exploitation.

There are higher costs for **child** victims (EUR 460 391 per victim) as compared to adult victims (EUR 306 373 per victim), due to a larger use of specialised health and educational services.

Organised criminal groups involved in trafficking in human beings often infiltrate into the legal economy by using legal persons for **labour exploitation** purposes. In this context, labour exploitation is intertwined with various forms of tax and social benefit fraud or evasion, and traffickers use grey-area economic practices or violate labour and other administrative rules. In case of labour exploitation revenues are often covered by the use of intermediary companies or job agencies and long supply chains, in particular cascade subcontracting. Therefore, it is even more difficult to differentiate legal and illegal economies and provide a cost estimates of labour exploitation.[215]

Labour exploitation has multiple severe impacts on the economy: (i) it generates limited investment in the human capital of a country as it is often associated with labour-intense production requiring low-skilled workers. An economy running on labour exploitation is expected to stagnate; (ii) companies that use labour exploitation save a lot of money on wages thus lowering their production costs; (iii) similarly, companies reduce their costs by failing to provide social contribution, severance pay, and other benefits often afforded to salaried workers; and (iv) governments are not able to collect tax revenues from the income that paid labour would receive. In addition, considering that labour exploitation is illegal, the corruption that goes hand in hand with it frequently incurs considerable costs to the state, for example

[215] Mapping the risk of serious and organised crime infiltrating legitimate businesses - Publications Office of the EU (europa.eu)

through tax avoidance and corrupt public contracting. Hence, labour exploitation constitutes a barrier to competition, investment, and technological changes causing the economy to run at sub-optimal productivity levels.[216] In the EU there is no estimates of the economic loss as a consequence of labour exploitation. ILO, however, estimated in 2012 the annual profit of labour exploitation in the EU and developed economies to 20,5 billion USD[217], which was not channelized back to the legal economy or to the state. The profit achieved on each victim may amount to 34 800 USD.

4.1.2.2 Costs related to the specific objectives of the Directive

a. Investigation and prosecution

No significant change was noted during the evaluation period with respect to the costs associated to law enforcement and judicial activities, following the adoption of the Directive. The **highest increase in financial and human resources relates to the training of officials** as a result of Article 9 of the Directive, which requires Member States to ensure that persons, units or services responsible for investigating or prosecuting trafficking offences are trained accordingly.

b. Assistance, support and protection of THB victims

Almost all Member States have adopted or reinforced existing **assistance and protection programmes** for victims of trafficking covering a wide range of measures (e.g. psychological, health, social assistance, etc.), in compliance with Article 11 of the Directive.

Figure 2 Examples of national expenditure for assistance and protection of VoT[218]

[216] Juliette Faure: ForcedLabour.pdf (unu.edu)
[217] Report: Profits and Poverty: The Economics of Forced Labour (ilo.org)
[218] Information on the national expenditure for assistance and protection of THB victims was retrieved from GRETA's Reports (available at: link). Information was only available for the Member States presented in the table.

- In **Bulgaria**, national budget allocated in 2018 to assistance and protection measures targeted at VoT amounted to a total of 120,000 euros.
- In **Cyprus**, a total of 25,000 euros have been granted in 2018 to national Social Welfare Services in charge of providing financial support to VoT for.[436]
- In **Croatia** the funding of shelters for VoT has increased from a total of 80,700 euros in 2018 to 130,700 in 2019.
- In **Czechia**, the Ministry of the Interior allocates a total of approximately 64,490 euros per year to assistance and protection measures targeted at VoT. Financial support to victims ranges from around 380 euros to approximately 7,700 euros per victim. In 2018, the total amount of financial support provided to VoT amounted to approximately 106,132 euros.
- In **Finland** in 2013, a total of 900,000 euros budget was spent on assistance services for VoT throughout the country.
- In **Hungary**, the Victim Support Service of the Office of Justice is funded by public budget. In 2013, the Victim Support Service received approximately 417,050 euros for all victims of crime, including VoT.
- In **Italy**, national budget allocated to assistance and protection measures targeted at VoT amounted to a total of 8 million euros in 2015, 14.5 million euros in 2016 and 22.5 million euros in 2017. Further to this, regional and local governments provide additional funding assistance and protection measures targeted at VoT.
- In **Latvia**, national budget allocated to assistance and protection measures targeted at VoT amounted to a total of 50.603 euros in 2008, 32,400 euros in 2011 and 87.893 euros in 2012 and 162,562 euros in 2015.
- In **Lithuania**, the funding allocated to assistance of VoT amounted to a total of 80.000 euros in 2016, 115.000 euros in 2017, and 165.000 euros in 2018.
- In the **Netherlands** in 2012, the Ministries of the Interior, Security and Justice and Health, Welfare and Sport allocated a total of 2 million euros to shelters for VoT.
- In **Romania**, in 2020, the total budget allocated to the shelters for VoT was 306.325 euros
- In **Sweden** the state budget earmarks specific budget for legal assistance of VoT, including the funding of interpretation and translation, counselling services, and special representatives of children.

Pursuant to Article 17, some **Member States set up specific funds for the compensation of victims of trafficking[219].** The total amount of compensation granted to victims of THB varies across countries[220]. In addition, Member States' approaches vary as regards the mechanisms that are in place at the national level to ensure the compensation of victims. For instance, in some Member States confiscated criminal assets are used to compensate victims[221] and fines imposed on traffickers contribute to the national compensation fund[222].

Although the Member States allocated national budget when it comes to the assistance and

[219] See Annex 6 on the transposition of the Directive.

[220] For instance, according to information from GRETA reports (available at: link), in **AT**, the total amount of compensation granted to trafficking victims amounted to EUR 50 375 (for 6 victims) in 2015, EUR 89 680 (for 10 victims) in 2013 and to EUR 13 630 (for 4 victims) in 2012. In **BG**, the compensation granted to victims ranges from EUR 125 to EUR 2 500 per victim. In **FR**, compensation is paid by the Guarantee fund for victims of acts of terrorism and other offences. In 2012, a total of EUR 460 450 was awarded to victims of trafficking. EUR 287 900 were awarded in 2014, and EUR 92 568 in 2015. In **DE**, the compensation awarded to trafficking victims ranges between EUR 1 000 and 30 000 per victim. In **IT**, the compensation granted to victims amounts to a maximum of EUR 1 500 euros per victim. In **NL**, victims of trafficking can apply to obtain compensation from the Violent Offences Compensation Fund. The maximum amount of compensation that they could receive is EUR 35 000 in the form of lump sums awarded based on the severity of the damages (e.g. physical or mental) caused to the victim. In **PL**, State compensation for victims of trafficking amounted to a maximum of about EUR 5 800 in 2017. In **ES**, victims received compensation ranging between EUR 300 and EUR 60 000 euros in 2013. In 2014, 12 victims were granted compensation ranging from EUR 6 000 to EUR 125 000. In 2015, 82 victims were awarded between EUR 2 000 and EUR 71 000 of compensation.

[221] CY, CZ, DE, RO.

[222] CY, CZ.

support to victims, **most stakeholders highlighted that available resources have not substantially increased as a result of the adoption and subsequent implementation of the Directive**.

With respect to protection measures, law enforcement authorities reported the highest increase in resources allocated to the protection of victims and underlined that most of these resources are needed to perform individual risk assessments, pursuant to Article 12(3) of the Directive. NREM reported slightly lower costs in relation to victim's protection. Other categories (i.e. national competent authorities, judicial authorities and civil society organisations) reported the smallest increase in costs.

c. Prevention

The largest reported increase over time in resources dedicated to the prevention of trafficking in human beings at the national level concerned training and awareness-raising campaigns. This increase may result from the obligations entailed by Article 18 of the Directive, which requires Member States to promote regular trainings for officials likely to come into contact with victims or potential victims of trafficking (Art. 18(3)), as well as to take other appropriate preventive actions, such as information and awareness-raising campaigns, research and education programmes (Art. 18(2)).

Member States allocated national budget for the implementation of **awareness-raising activities** aimed at reducing the risk of people becoming victims of trafficking.

Some Member States allocated national resources to actions against trafficking in human beings as part of national anti-trafficking strategies, beyond what required by the Directive, including for instance the establishment of hotlines[223].

a. Communication and information sharing with the European Commission for monitoring

Costs related to information sharing and communication with the Commission did not increase noticeably because of the information exchange required by Art. 19-20 of the Directive between the national authorities and the Commission. National Rapporteurs indicated a slightly higher increase in the costs associated to both data analysis and collection and information sharing, and regular communication with the Commission, with respect to the other stakeholder categories.

Areas for improvement in relation to the efficiency

Overall, all Member States have allocated public budget to external stakeholders concerned with the implementation of Directive at the national level. In most Member States, external stakeholders include local authorities, civil society organisations and private agencies. Besides assistance and support to THB victims, external actors are responsible for the implementation of prevention programmes, including education and awareness raising. Nevertheless, a general decrease in government funding dedicated to the fight against THB has been noted in many Member States by civil society organisations[224].

[223] IT, LT, LU NL, PT.

[224] Workshop organised by the European Commission with the EU Civil Society Platform against trafficking in human beings on 30 November 2021.

As pointed out by several stakeholders consulted throughout the evaluation, the limited availability of financial resources contributed to hindering Member States' capacity to effectively prevent and fight against THB[225]. The limited budget can reflect in a decrease in the number of investigations and prosecutions of THB crimes that in turn, can increase the offender rate of impunity[226]. As regards prevention of THB, insufficient funds undermine the development of capacity building initiatives and the provision of adequate trainings of professionals likely to come into contact with THB victims[227]. Vast majority of survey respondents agreed that funding made available by Member States is not sufficient for the criminalisation, assistance and support, and prevention of THB. **Insufficient funding by Member States emerged as a constraint to the implementation of the Directive[228] hence to achieve its specific goal, in particular in the areas of prevention and assistance to the victims.**

In this context the re-use of confiscated proceeds of crime could be better considered. The so called "social re-use" of the confiscated proceeds of crime is covered by Article 10(3) of Directive 2014/42/EU[229]. This is a non-binding provision, which requires Member States to consider reusing confiscated property for the public interest or social purposes. 19 Member States adopted specific legislation on the use of confiscated property for public interest or social purposes. Trafficking in human beings is covered in the crime areas within the scope of Directive 2014/42/EU, so Member States are entitled to reuse confiscated proceeds for victim compensation and general victim support.

4.1.3 Coherence

The evaluation found that the Directive is overall coherent with other relevant EU and international instruments. Due to the comprehensive approach of the Anti-trafficking Directive regulating not only the criminalisation of the offence but also the protection of victims numerous EU legislation and international instruments had to be considered for the coherence review.

4.1.3.1 Coherence with EU legislation

Key evaluation findings:

- The Directive proved overall coherent with other relevant EU initiatives (Compensation Directive (2004/80/EC)[230]; Residence Permit Directive

[225] Targeted interviews with EU-level representatives (#1, #2, #3); workshop organised by the European Commission with the EU Civil Society Platform against trafficking in human beings on 30 November 2021.
[226] Workshop organised by the European Commission with the EU Civil Society Platform against trafficking in human beings on 30 November 2021.
[227] Targeted interviews with EU-level representatives (#1, #2, #3).
[228] Targeted interviews with EU-level representatives (#1, #2, #3); workshop organised by the European Commission with the EU Civil Society Platform against trafficking in human beings on 30 November 2021; survey responses from 1 National Rapporteur (CZ) and 1 civil society organisation (FR).
[229] Directive 2014/42/EU of the European Parliament and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union (OJ L 127, 29.4.2014, p. 39). Available at:
[230] Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims, OJ L 261, 6.8.2004, p. 15.

(2004/81/EC)[231]; Employers Sanctions Directive (2009/52/EC)[232]; Child Sexual Abuse Directive (2011/93/EU)[233]; Victims' Rights Directive (2012/29/EU)[234]; Directive on freezing and confiscation orders (2014/42/EU)[235]; Regulation (EU) 2018/1805 on the mutual recognition of freezing orders and confiscation orders[236]), Commission proposal for sustainability corporate due diligence[237] and Commission proposal on prohibiting products made with forced labour[238].

Areas for improvement:

- Coherence with the Employers Sanctions Directive (2009/52/EC) could be improved in relation to the sanctions against legal persons.

Overall, the evaluation has demonstrated that each legislation is complementary with the Anti-trafficking Directive with special consideration of its own subject matter Some margin for better alignment between the Anti-trafficking Directive and other relevant EU initiatives could be considered, in particular with the Employers Sanction Directive (2009/52/EC) in relation to the sanctions against legal persons.

a. Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims

Article 17 of the Anti-Trafficking Directive, which provides for the right of victims of trafficking in human beings to access compensation schemes, proved to be coherent with Directive 2004/80/EC on facilitating access to compensation for victims of violent intentional crime committed in other Member States or in their Member State of residence.

b. Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities

[231] Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities**,** OJ L 261, 6.8.2004, p. 19.
[232] Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals, OJ L 168, 30.6.2009, p. 24.
[233] Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA, OJ L 335, 17.12.2011, p. 1.
[234] Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA**,** OJ L 315, 14.11.2012, p. 57.
[235] Directive 2014/42/EU of the European Parliament and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union, OJ L 127, 29.4.2014, p. 350.
[236] Regulation (EU) 2018/1805 of the European Parliament and of the Council of 14 November 2018 on the mutual recognition of freezing orders and confiscation orders, OJ L 303, 28.11.2018.
[237] Proposal for a Directive of the European Parliament and of the Council on sustainability corporate due diligence (COM(2022) 71 final)
[238] Proposal for a Regulation of the European Parliament and of the Council on prohibiting products made with forced labour on the Union market (COM(2022) 453 final)

Some stakeholders[239] are of the view that Directive 2004/81/EC on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, is not fully coherent with the integrated, holistic human rights-based approach to the fight against trafficking adopted by the Anti-trafficking Directive. Directive 2004/81/EC defines "*the conditions for granting residence permits of limited duration, linked to the length of the relevant national proceedings, to third-country nationals who cooperate in the fight against trafficking in human beings or against action to facilitate illegal immigration*" (Article 1).

In accordance with Article 11(3) of the Anti-trafficking Directive, Member States have an obligation to ensure that assistance and support for a victim are not made conditional on the victim's willingness to cooperate in the criminal proceedings, **without prejudice to Directive 2004/81/EC**. Third-country national victims who are irregularly staying in the EU should be granted unconditional assistance ***at least*** during the reflection period[240]. After the expiry of the reflection period, Recital 18 of Directive 2011/36/EU leaves it up to the Member State to decide whether to grant assistance and support to a victim of THB who is not legally residing on its territory. However, Article 4 of Directive 2004/81/EC allows Member States to adopt or maintain more favourable provisions for the persons covered by the Directive.

It should be noted that, in practice, most Member States grant residence rights to third-country nationals that are not conditional to their cooperation with national authorities[241]. The Commission will assess the implementation of the Residence Permit Directive, as set out in the Renewed EU action plan against migrant smuggling (2021-2025)[242]. The European Migration Network will support this assessment through an ad-hoc query.

c. Directive 2009/52/EC providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals

No particular issue was identified in terms of coherence between Directive 2009/52/EC and the Anti-trafficking Directive, which criminalise different offences.

However, the coherence could be improved with respect to two aspects. Directive 2009/52/EC establishes as a criminal offence the "*use of work or services exacted from an illegally staying third-country national with the knowledge that he or she is a victim of trafficking in human beings*." The Anti-trafficking Directive leaves Member States with discretion as to the criminalisation of the use of services exacted from victims of trafficking in human beings, regardless of their nationality or status (Article 18(4)).The two Directives could be made more coherent with respect to the sanctions against legal persons. Directive 2009/EC/52 provides for a range of penalties and measures against employers, including legal entities, who employ illegally staying third country nationals. More particularly, Article 7 of the Employers Sanctions Directive requires Member States to take the necessary measures to ensure that

[239] 5 civil society organisations (AT, BE and 3 from NL) and 1 civil society organisation (BE) expressed concerned regarding the conditionality of assistance, support and protection for victims falling within the scope of Directive 2004/81/EC and the coherence between the two directives.
[240] Recital 18.
[241] European Migration Network, *Third-country national victims of trafficking in human beings: detection, identification and protection* (2022). Available at: link. Member States that grant residence rights to third-country nationals that are not conditional to their cooperation with national authorities are BE, BG, CZ, DE, EL, ES, FI, FR, HR, IT, LU, LV, MT, NL, PL, SI.
[242] European Commission, A renewed EU action plan against migrant smuggling (2021-2025), COM(2021) 591 final.

employers shall also, if appropriate, be subject to the exclusion from entitlement to some or all public benefits, aid or subsidies; and temporary or permanent closure of the establishments that have been used to commit the infringement. These two measures are among the other sanctions under Article 6 of the Anti-trafficking Directive that Member States may include as part of the effective, proportionate and dissuasive sanctions against legal persons, which committed trafficking offences. This means that Member States do not have an obligation to transpose these sanctions in their national law under the Anti-trafficking Directive.

d.Directive 2011/93/EU on combating the sexual abuse and sexual exploitation of children and child pornography

Directive 2011/93/EU establishes minimum rules concerning the definition of criminal offences and sanctions in the area of sexual abuse and sexual exploitation of children, child pornography and solicitation of children for sexual purposes. It also introduces provisions to strengthen the prevention of those crimes and the protection of the victims thereof. The Anti-trafficking Directive states in its Recital (7) that it should be fully complementary with Directive 2011/36/EU, as some victims of human trafficking have also been child victims of sexual abuse or sexual exploitation.

The link between the fight against sexual abuse and trafficking in human beings has been further confirmed by the 2019 Council Conclusions on combating the sexual abuse of children[243] and the EU Strategy for a more effective fight against child sexual abuse[244], adopted in 2020.

Article 2(3) of the Anti-trafficking Directive criminalises the act of trafficking in human beings when it is committed for the purpose of "*the exploitation of the prostitution of others or other forms of sexual exploitation*". Directive 2011/93/EU provides for a list of punishable intentional conducts that constitute an offence of sexual exploitation. For each of such punishable conducts, Directive 2011/93/EU establishes specific levels of penalties. Moreover, Directive 2011/93/EU provides for different levels of penalties based on the age of the child victim, i.e. depending on whether the age of the victim is below or above the age of sexual consent. On the contrary, the Anti-trafficking Directive does not make a distinction based on the age of the child.[245] Based on the EU Strategy on a more effective fight against child sexual abuse, Directive 2011/93/EU is being evaluated and a legislative proposal will recast the Directive by 2024. New priority actions will be proposed to ensure that this legislation continues to reach the goals that it sets out to achieve, and that it will be harmonised to existing and proposed legislation, including the Anti-trafficking Directive.

Some consulted stakeholders further highlighted that the definition of sexual exploitation under the Anti-trafficking Directive could be aligned to the one included in Directive 2011/93/EU. In addition, some stakeholders pointed to the fact that trafficking for sexual exploitation does not

[243] Council conclusions on combating the sexual abuse of children – Council conclusions (8 October 2019)
[244] COM(2020) 607 final.
[245] Under Article 4(2) (a) of the Anti-trafficking Directive committing an offence of trafficking in human beings against a child is considered as an aggravating circumstance, which should be punished by a maximum penalty of at least 10 years of imprisonment. Amongst the penalties established for sexual exploitation offences in Directive 2011/93/EU, only the penalty for coercing or forcing a child into prostitution amounts to the penalty under Directive 2011/36/EU, if the child is below the age of sexual consent. The other offences range from penalties of at least 5 to 8 years if the child is below the age of consent to 2 to 5 years if the child is above the age of consent, depending on whether coercion or force has been used.

only cover prostitution but also other forms, such as child pornography.

e. Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime

The Anti-trafficking Directive is coherent with Directive 2012/29/EU that is the horizontal instrument, applicable to all victims of crime. The Anti-trafficking Directive addresses the specific needs of the particular categories of victims of trafficking in human beings. Victims of trafficking are nevertheless entitled to the measures provided under Directive 2012/29/EU.

On 28 June 2022, the Commission adopted its evaluation of the Victims' Rights Directive. The evaluation is one of the Commission's key actions set out in the EU Strategy on Victims' Rights (2020 – 2025)[246].

f. Directive 2014/42/EU on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union and Regulation (EU) 2018/1805 on the mutual recognition of freezing orders and confiscation orders

The Anti-trafficking Directive is coherent with both Directive 2014/42/EU and Regulation EU 2018/1805. The former is aimed at enabling Member States to ensure seizure and confiscation of instrumentalities and proceeds deriving from a series of crime, including trafficking in human beings. Consistently, Directive 2011/36/EU provides that "*Member States shall take the necessary measures to ensure that their competent authorities are entitled to seize and confiscate instrumentalities and proceeds*" from trafficking in human beings offences (Article 7). At the same time, Directive 2014/42/EU, which was adopted after the Anti-trafficking Directive, goes further in detailing the rules for competent authorities to freeze and subsequently confiscate and manage the proceeds and instrumentalities of crime. This framework is to be reinforced in the future, upon the adoption of the Commission proposal for a Directive on asset recovery and confiscation[247], which provides for a single instrument regulating the tracing, freezing, management and confiscation of proceeds of crime..

g. EU Asylum Acquis[248]

No major inconsistencies have been identified between the assistance measures included in the Anti-trafficking Directive and under the EU Asylum acquis. However, it is not explicitly mentioned which legislation shall prevail in the case of the application of protection measures which are contained both in the EU Asylum acquis and the Anti-trafficking Directive to victims of trafficking in human beings who benefit from international protection. For example, it is not

[246] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. EU Strategy on Victims' Rights (2020-2025), COM/2020/258 Final.

[247] Proposal for a Directive of the European Parliament and of the Council on asset recovery and confiscation, Brussels, 25.5.2022, COM/2022/245 final

[248] Directive 2011/95/EU on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted, OJ L 337, 20.12.2011, p. 9; Directive 2013/32/EU on common procedures for granting and withdrawing international protection, OJ L 180, 29.6.2013, p. 60; Directive 2013/33/EU laying down standards for the reception of applicants for international protection, OJ L 180, 29.6.2013, p. 96; Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person, OJ L 180, 29.6.2013, p. 31.

clear under which circumstances a victim of trafficking can be transferred to the Member States of his/her first application for international or subsidiary protection. The same applies for the return of irregularly staying third-country nationals, who are also victims of trafficking.

Some stakeholders pointed out that the links between the Anti-trafficking Directive and the EU Asylum acquis could be expressed more explicitly[249].

The definitions of unaccompanied minor and vulnerable persons under the Anti-Trafficking Directive are consistent with the EU Asylum acquis.

Overall, the Anti-trafficking Directive provides access to more assistance and protection measures as a minimum than the legal instruments under the EU Asylum acquis, notably Directive 2013/33/EU (e.g. material assistance, translation and interpretation and legal counselling).

a. Proposal of the European Commission for a Directive on corporate sustainability due diligence

The Proposal for a Directive on corporate sustainable due diligence is coherent and complementary with the Anti-trafficking Directive and once adopted, it will create essential preventive measures for large companies against labour and sexual exploitation and forced labour. The objective of the Proposal is fostering companies' sustainability transition with regard to human rights, including combatting trafficking in human beings, and environmental risks and impacts, by improving relevant corporate governance practices. The Proposal also clarifies that in case of human rights or environmental harm in a company's value chain, the company can be held liable under specific conditions.

b. **Proposal of the European Commission for a Regulation on prohibiting products made with forced labour on the Union market**

The Proposal for a Regulation on prohibiting products made with forced labour will complement the Anti-trafficking Directive by banning products from the Union market that are produced by forced labour. It is a product-focused legislation and it will not impede the competent authorities, including law enforcement, from taking actions within their competence against natural or legal persons, with regard to the alleged or confirmed human trafficking offence related to forced labour and labour exploitation.

4.1.3.2 Coherence with relevant international instruments

Key evaluation findings:

- The EU Anti-trafficking Directive proved coherent with relevant international instruments and goes even further.

Overall, the vast majority of stakeholders consulted considered that the Directive was to a large extent consistent with the relevant international legislation.

a. The 2000 United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations

[249] 5 civil society organisations (from AT, BE, NL) and 1 other (ES); targeted interview with an EU-level representative (#1).

Convention against Transnational Organised Crime (UN Trafficking in Persons Protocol) and the 2005 Council of Europe Convention on Action against Trafficking in Human Beings

These two Conventions are the primary international legal standards addressing trafficking in human beings. According to Recital (9) of the Anti-trafficking Directive, these instruments are crucial steps in the process of enhancing international cooperation against trafficking in human beings.

The definition of trafficking in human beings under the UN Trafficking in Persons Protocol and the Council of Europe Convention is consistent with Article 2 of the Directive. The Directive expands the definition by including the "*exchange of transfer of control over those persons*" within the act of "*harbouring or reception of persons*". Moreover, the Directive extends the minimum list of the punishable forms of exploitation with "forced begging" as an example of forced labour or services, and with the exploitation of criminal activities.

The Directive goes further than the UN Trafficking in Persons Protocol and the Council of Europe Convention by setting the maximum minimum sanctions for the offence of trafficking in human beings. However, the Directive and Council of Europe Convention contain the same provisions on the liability of legal persons and mandatory sanctions.

The assistance, support and protection measures provided by the Directive are consistent with the UN Trafficking in Persons Protocol, although the Directive generally goes further than the Protocol, for instance when it comes to the obligation to appoint a guardian or legal representative for a child victims of trafficking in human beings (Article 14(2)) or measures aimed at protecting victims of trafficking in human beings during criminal proceedings (Articles 12 and 15).

With respect to the Council of Europe Convention, provisions on assistance, support and protection are also overall coherent.

Article 14 of the Council of Europe Convention provides for an obligation on State Parties to issue a residence permit under three options: (a) the competent authority considers the stay of the victims necessary due to the victim's personal situation; (b) the competent authority considers that the stay is necessary for the purpose of the victims' cooperation with the competent authorities in investigation or criminal proceedings; (c) both options. The Anti-trafficking Directive clearly states that it does not deal with the conditions of the residence of the victims of trafficking in human beings in the territory of the Member States (Recital (17)). For the evaluation of the coherence of the Anti-trafficking Directive with Directive 2004/81/EC, see Section 4.3.1.2 of the evaluation.

b.International Labour Organization's Forced Labour Convention, 1930 (No. 29) and its 2014 Protocol

The International Labour Organization Convention's Forced Labour Convention 1930 (No. 29) defines forced or compulsory labour as "*all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily*" (Article 2). Article 3 of the 2014 Protocol to the ILO Forced Labour Convention requires State parties to "*take effective measures for the identification, release, protection, recovery and rehabilitation of all victims of forced or compulsory labour, as well as the provision of other forms of assistance and support*". The Directive also provides for early

identification, assistance, support and protection measures for all victims of trafficking, including those trafficked for the purpose of forced labour and services.

c. Other relevant international instruments

No issues of incoherence were found in relation to the 1989 United Nations Convention on the Rights of the Child (UNCRC); the 2006 UN Convention on the rights of persons with disabilities; and the 1979 UN Convention on the Elimination of Discrimination against Women (CEDAW), which are all relevant in the fight against trafficking in human beings.

4.2 How did the Anti-trafficking Directive make a difference?

The added value brought by the Directive was confirmed by most of the responses received to the public consultation, as well as by survey respondents[250] and by stakeholders' feedback on the Inception Impact Assessment and the roadmap of the Directive.

Key evaluation findings:

The Directive has brought an added value in the fight against THB at the EU level, notably by:

- Establishing common minimum rules on THB offences and related penalties;
- Fostering EU-wide cooperation initiatives to prevent and combat THB (e.g. JADs and JITs focused on THB);
- Enhancing assistance, support and protection to THB victims;
- Promoting the establishment of both coordinating bodies (EU ATC and NREMs) and data collection and monitoring processes at the EU and the national level.

Areas for improvement:

- Monitoring process, in particular the data collection is insufficient due to the lack of agreed mechanisms in certain Member States, which limit the proper estimation and impact of human trafficking in the EU. Therefore, the data collection process and the indicators could be harmonised and formalised.

4.2.1 EU common minimum rules and standards against THB

The main added value of the Directive was its contribution to the creation of **an EU common minimum ground**[251] for all the three relevant dimensions of the fight against THB: (i) criminalisation, investigation and prosecution of offences, including related definition and sanctions; (ii) assistance, support and protection of victims; (iii) prevention of related offences.

In addition, the establishment of common minimum rules contributed towards a **higher harmonisation of national criminal laws**[252], which would have been difficult to be achieved by Member States acting alone. In turn, harmonised rules boosted Member States to take action against THB, which reflected in higher EU capacity to fight against this crime.

[250] 2 national competent authorities (FR, LU); 2 National Rapporteurs (EL, RO); 2 law enforcement authorities (EL, IE); 4 others (from BG, MT, ES); 2 civil society organisations (BE, MT).
[251] 2 national competent authorities (FR, LU); 2 National Rapporteurs (EL, RO); 2 law enforcement authorities (EL, IE); 4 others (from BG, ES, MT), 2 civil society organisations (BE, MT).
[252] 1 national competent authority (HR); 1 law enforcement authority (CY); 2 civil society organisations (DE, ES); 1 national competent authority (DE).

4.2.2 Cross-border cooperation

Harmonisation of relevant national legislation contributed to enhancing cross-border cooperation to combat trafficking in human beings, since cross-border cases are managed based on common rules. This is crucial considering the increasing cross-border dimension of trafficking[253] that requires EU-wide cooperation to identify and protect victims, as well as investigate, prosecute and convict traffickers who move across borders[254].

Better intra-EU cooperation reflected in the setting up of Joint Investigation Teams (JITs) Joint Action Days (JADs)[255] focused on investigation of trafficking in human beings cases.

4.2.3 Assistance, support and protection of THB victims

As part of the implementation of the Directive, Member States strengthened their assistance, support and protection services for victims, albeit issues remain in terms capacity to ensuring equal access to assistance services across Member States.[256]

4.2.4 EU Anti-trafficking Coordinator

The establishment of the **EU Anti-Trafficking Coordinator** (ATC) made a difference in relation to internal and external coordination. The EU ATC was for the first time included in the Stockholm programme[257] and then introduced in the Directive[258]. The establishment of the EU ATC recognises the need to ensure coordination across different policy areas and stakeholders. The EU ATC is based in the Commission and is in charge of "improving coordination and coherence among EU institutions, EU agencies, Member States and international actors, and for developing existing, and new EU policies to address Trafficking in Human Beings"[259]. In 2022, under the lead of the EU ATC, a Common Plan[260] was developed by the Commission, with Member States and EU agencies to protect people fleeing the war in Ukraine.

4.2.5 EU Network the National Rapporteurs and Equivalent Mechanisms (NREM) and the EU Civil Society Platform against trafficking in human beings

According to Article 19, National Rapporteurs (Article 19) are in charge of, *inter alia*, assessing trends in trafficking in human beings, and measuring results of anti-trafficking actions, including the gathering of statistics. Such information must be then transmitted to the EU ATC

[253] Eurojust, *Eurojust Report on Trafficking in Human Beings – Best practice and issues in judicial cooperation* (2021). Available at: link.
[254] 1 national competent authority (DE); 1 National Rapporteur (HU); 1 judicial authority (NL); 1 other (NL); 2 national competent authorities (FR, HU).
[255] Joint Action Days are "cross-border law enforcement action days focusing on horizontal key crime hot spots and criminal infrastructures across the EU. They are a Member States-led initiative, supported by Europol and take place within the EMPACT framework". Note from the Council to the Delegations (2016). *Definition of Joint Action Days (JADs)*. Available at: link.
[256] The Commission's First, Second and Third Progress Report.
[257] European Commission, *The Stockholm Programme - An open and secure Europe serving and protecting the citizens* (2009). Available at: link.
[258] Recital 29 and Article 20 of the Directive.
[259] EU Strategy on Combatting Trafficking in Human Beings 2021-2025. See also the website of the European Commission. Available at: link.
[260] *A Common Anti-Trafficking Plan to address the risks of trafficking in human beings and support potential victims among those fleeing the war in Ukraine*. Available at: link.

(Article 20). They contribute to the biannual progress reports on the basis of the abovementioned data and statistics, as foreseen by Article 20 of the EU Anti-trafficking Directive[261].

The EU Civil Society Platform against trafficking in human beings was launched in 2013 as a key action of the EU Strategy towards the Eradication of Trafficking in Human Beings 2012–2016[262]. It is composed of around 100 civil society organisations from the EU Member States and some non-EU countries, and aims at being a forum for civil society to engage at the EU level and exchange experiences to enhance coordination and cooperation amongst key actors[263].

The EU Strategy on Combatting Trafficking in Human Beings acknowledged that the Commission's with the NREM and CSP has supported the implementation of the Directive. The two networks have also actively contributed to the Common Anti-Trafficking Plan related to Ukraine in 2022.

4.2.6 Monitoring and data collection

In line with Articles 19 and 20 of the Directive, which require Member States to gather and report statistics, since 2013, EUROSTAT, in collaboration with the NREMs, the Commission and the relevant national statistical authorities, carry out EU-wide data collection on THB. The Commission's most recent publications on data related to THB are 2018 *"Study on Data collection on trafficking in human beings in the EU"*[264] and 2020 *'Study on Data collection on trafficking in human beings in the EU*[265].

Persistent gaps in the data collection prevent capturing the full scale of trafficking in human beings in the EU and adequately monitoring the phenomenon. Despite significant progress, statistics are still not systematically collected by all Member States[266]. While all Member States reported data on victims for the latest reporting period (2019-2020), criminal justice data (investigations, prosecutions, convictions and or penalties imposed by national courts for trafficking offences) was still missing in eight Member States[267]. There are several reasons for this. Certain statistics are simply not available in some Member States. Other Member States only record statistics on persons who have been prosecuted or convicted, but not on suspects, or collect data on the number of proceedings rather than the number of prosecuted persons. More generally, gaps in the availability and quality of data can result from issues in the functioning of national registration systems and coordination between registering authorities and National Statistical Authorities, which report the data to EUROSTAT. Furthermore, the data collection is affected by widespread underreporting, which also hinders the detection of

[261] According to Article 20 of the Anti-trafficking Directive *"[…] the ATC shall contribute to reporting carried out by the Commission every two years on the progress made in the fight against trafficking in human beings."*
[262] European commission (2012), *The EU Strategy towards the Eradication of Trafficking in Human Beings 2012–2016.* Available at: link.
[263] See the website of the European Commission at: link.
[264] European Commission, *Data collection on trafficking in human beings in the EU* (2018) Available at: link.
[265] European Commission, *Data collection of trafficking in human beings in the EU* (2020). Available at: link.
[266] See Annex 5 for a detailed analysis of the data collection on trafficking in human beings in the EU for the period 2013-2020. Information on Member States' data provision and related gaps is also available in the Commission's EU-wide data collection studies, published in 2018 (p.28) and 2020 (p.128).
[267] BE, CY, EE, DE, IE, IT, NL and RO. The availability of criminal justice data for 2019-2020 depended on the Member States, the year and the indicators (e.g. suspects, prosecuted persons and convicted persons).

the crime as described above. The establishment of **monitoring mechanisms** to oversee the implementation of the Directive and the creation of an **EU-wide data collection on THB** were also confirmed as an important added value of the Directive by some stakeholders[268] and at national level, the Directive has boosted a series of initiatives that strengthened monitoring mechanisms already in place. Due to the identified gaps, however, the **specific objective of the Directive on establishing a monitoring system** is only partially attained due to the reasons described above.

4.3 Is the Anti-Trafficking Directive still relevant?

While the relevance of the Directive is beyond doubt for the public authorities and the civil society organisations, it has, however, proven less relevant for the private sector, in particular for the employers in high risk sectors and the online platforms and technology companies.

Key evaluation findings:

- The Directive is a comprehensive instrument, which brings clarity and greater coherence among Member States and contributed to the adoption of measure and advances in the protection and recognition of the rights of victims of trafficking.
- There is a need, however, for more consistent and comprehensive implementation of the transposed provisions of the Directive.
- In addition, the Directive has been less relevant for the private sector, in particular for employers and the technology companies.

Areas for improvement with regard to the relevance of the Directive:

- The online dimension and the accountability of businesses could be better covered in EU legislation.
- Intensified dialogue with the internet companies and high risk sector employers could be envisaged.
- Stronger accountability and engagement of private businesses and education, awareness raising and information of the the consumers about the risks of labour exploitation, with a view to changing their behaviour with regards to cheap goods and services.

4.3.1 The online dimension

Evidence from stakeholders and documentary sources strongly support that **the online dimension of trafficking is a significant and growing threat.** All stakeholders noted that online recruitment facilitates THB and social media has increasingly been used as a means for recruiting, advertising sexual services of, and exerting control over victims[269]. Technology allows traffickers increased anonymity via common encrypted communication solutions. This digitalisation of the trafficking process has notably accelerated during the COVID-19

[268] 1 National Rapporteur (FI), 1 civil society organisation (HR). Targeted interviews with three EU-level representatives (#2, #7, #10).

[269] Submission to the public consultation by UNODC and Eurojust; Frontex's contribution to the fourth commission report on the progress made in the fight against trafficking in human beings.

pandemic[270].

The increasingly online nature of trafficking poses challenges for investigators, as illustrated below in Box 1[271].

Box 1: Examples of issues posed by the online dimension of THB[272]

- Internet allows perpetrators to reach a higher number of victims of THB compared to other ways of recruiting potential victims.
- Online social networks and online classified sites are used to deceive and recruit victims, usually through promising jobs offers or travel advertisements either placed on general advertisement websites or distributed through au pair agencies, international marriage agencies or dating sites.
- The internet is increasingly used to manage the transportation of victims: compromised credit cards are used by traffickers to purchase tickets online in order to hide their identities. This way, neither the tickets nor the victims can be traced and linked to their exploiters.
- The internet is used by traffickers to control, threaten or coerce victims (e.g. blackmailing victims, threatening to send compromising pictures to their family or friends or to expose them online), and to exploit them, since certain types of sexual exploitation take place online entirely (e.g. live videos or sex chats).
- The internet enables perpetrators to anonymously share abusive material and exchange information on specialised fora such as experience and recommendations on ways to commit the crime.

At the same time, **the increasing move of traffickers to the online space fosters the development of new and innovative methods for fighting THB.** These include technological methods for identifying victims of THB online[273]. For instance, the online advertising of the services of victims of trafficking across a number of countries can be used by investigators as an evidence of the magnitude of a case of trafficking. Moreover, law enforcement authorities can identify victims through the monitoring of websites where services are advertised[274]. The judiciary and police use social media and the internet themselves, as a method of investigation[275]. Criminals may leave a digital footprint which law enforcement can use, for instance financial transactions. Investigators are able to discover information on identities, roles, structures, locations and criminal assets from the online activity of suspects[276].

Areas for improvement in the Directive in relation to the online dimension

[270] Europol's contribution to the fourth commission report on the progress made in the fight against trafficking in human beings.
[271] Europol, *The challenges of countering human trafficking in the digital era* (2020). Available at: link.
[272] Europol, *Trafficking in human beings and the internet* (2014). Available: link.
[273] UNODC, *The effects of the COVID-19 Pandemic* (2021). Available at: link.
[274] Interview #30.
[275] Submission by Bulgaria in the context of the workshop organised by the European Commission with the EU Network of NREM on 6 December 2021.
[276] Europol, *The challenges of countering human trafficking in the digital era* (2020). Available at: link.

The Directive does not explicitly address the digital dimension of trafficking in human beings. The internet is only referred to in a provision on prevention (Article 18(2)), as a means to raise awareness and reduce the risk of people, especially children, becoming victims of trafficking in human beings.

The vast majority of respondents to the survey said that the Directive did not sufficiently address the online dimension of trafficking. The digitalisation of the crime was the most commonly identified challenge for the next 5 to 10 years among respondents[277]. 74% of the stakeholders who participated in the public consultation were in favour of the introduction of explicit provisions on the online dimension of trafficking in human beings[278]. Moreover, 65% of respondents to the online survey said that EU intervention would be necessary to enhance cooperation with online private companies to fight against trafficking in human beings[279].

It should be noted that the newly adopted Digital Services Act[280] will also have an impact in relation to the fight against human trafficking online by providing for a clear due diligence obligation for the online platforms aiming to tackle the availability of online content. Furthermore, the Proposal for a Regulation laying down rules to prevent and combat child sexual abuse[281]online will oblige online platforms to prevent and detect child sexual abuse material.

Moreover, reacting to Russia's unjustified military aggression against Ukraine, the EU Internet Forum has launched the discussion on the role of technology and internet companies in preventive and awareness raising measures, as well as in the detection of the crime to protect vulnerable people from exploitation.

4.3.2 Role of the private economy in fighting trafficking in human beings

The EU Strategy requires "…*fostering the development of public-private initiatives with businesses in high risk sectors and high risk environments, also by involving the regional and local level".* Some Member State have started to develop public-private partnerships[282] and other forms of cooperation with private businesses and the financial sector. The European Labour Authority set up a specific subgroup on tackling undeclared work among displaced persons and refugees from Ukraine was a very good example of how to mobilise and raise

[277] 25 respondents mentioned this as one of the main challenges in relation to the fight against trafficking in human beings within the next 5-10 years. In addition, five National Rapporteurs and Equivalent Mechanisms (NREM) participating in the workshop on 6 December 2021 suggested the Directive should include specific provisions addressing the online dimension of trafficking in human beings. One NREM called for more resources to be made available to national authorities in order to combat this issue. Many civil society organisations also raised the importance of tackling trafficking in human beings in the online environment at the workshop organised on 30 November 2021.

[278] Public authorities, citizens and academic research were very much in favour of explicit provisions on the online dimension, while civil society organisations were more split but generally in favour.

[279] 38% of respondents said that EU intervention to enhance cooperation with online private companies to fight against trafficking would be necessary "to a very large extent" and 27% said "to a large extent". None of the respondents considered that the EU should not intervene in this area.

[280] Regulation 2022/2065/EU of the European Parliament and of the Council of 19 October 2022 on a Single Market for Digital Services and amending Directive 2000/31/EC (Digital Services Act) (OJ L 277, 27.10.2022, p.1) See also EUR-Lex - 32022R2065 - EN - EUR-Lex (europa.eu)

[281] COM/2022/209 final.

[282] CZ, FI.

awareness of national labour authorities and the private sector, as labour inspections for undeclared work can sometimes lead to detecting cases of trafficking in human beings.

In addition, at global level there were numerous initiatives from the financial sector to screen financial transactions to detect trafficking in human beings by reinforcing anti-money laundering rules and the sanction regime, fostering innovation, reinforcing the cooperation with law enforcement, etc.[283]

Areas for improvement with regard the private businesses

(i) EU legislation does not require businesses to take measures to reduce the demand for cheap products and services in value chains

Labour exploitation is increasingly concentrated in the private economy and the need to keep costs low fosters the demand for cheap labour. Hence, demand-reduction measures can be taken within the value chain of businesses[284].

The Commission proposed a Directive on Corporate Sustainability Due Diligence[285], which is intended to "set out a horizontal framework to foster the contribution of businesses operating in the single market to the respect of the human rights and environment in their own operations and through their value chains, by identifying, preventing, mitigating and accounting for their adverse human rights, and environmental impacts, and having adequate governance, management systems and measures in place to this end". Once adopted, the Directive will complement the Anti-trafficking Directive.

The liability of legal persons for trafficking in human beings, set out in Article 5 of the Anti-trafficking Directive, aims to ensure that businesses are investigated, prosecuted and convicted for trafficking offences. However, in practice, (despite the high risks of forced labour in value chains) there is no data available on the number of legal persons held prosecuted and convicted for trafficking offences.

See also in Section 4.1.1.3 on the reduction of the demand that fosters trafficking and criminalisation of the use of exploited services.

(ii) The efforts to change the behaviour of consumers and to sensitise them to labour exploitation are insufficient

The interest in acquiring low-cost products and services incentivises the public to neglect the issue of labour exploitation, even when visible[286]. The efforts to inform consumers about their choices and the risks of labour exploitation should increase, with a view to reducing demand for cheap goods or services which fosters trafficking for forced labour. Member States, civil society organisations as well as businesses may engage in awareness raising and information

[283] Finance Against Slavery and Trafficking (FAST) is a multi-stakeholder initiative based at United Nations University Centre for Policy Research that works to mobilize the financial sector against modern slavery and human trafficking (*Finance Against Slavery and Trafficking (fastinitiative.org)*)

[284] Submission to the public consultation by the ILO.

[285] Proposal for Directive of The European Parliament and Of the Council on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937, COM(2022) 71 final.

[286] European Commission, Study on comprehensive policy review of anti-trafficking projects funded by the European Commission (2016).

campaigns for the consumers and also should recognise the consumer responsibility alongside with other stakeholders. Experience has shown that certification or labelling systems confirming that certain products did not use forced or child labour or they were produced under decent working conditions can give strong incentive to consumers to make an informed and deliberate choice in favour of such products.

5. CONCLUSIONS AND LESSONS LEARNED

5.1 Conclusions

The Directive constitutes a major milestone in the fight against trafficking in human beings. The evaluations showed that the general objectives of the Directive, namely to combat crime, organised or otherwise, in particular trafficking in persons and offences against children, by building a more coherent framework for the fight against trafficking and (2) to increase the effectiveness of the framework are met. However, the evaluation identified a number of shortcomings which impede the full attainment of its five specific objectives[287]. Therefore, the deficiencies can either be addressed through improving the implementation of the Directive or reinforcing and/or updating certain legal aspects.

More specifically, a number of shortcomings were identified with respect to investigations and prosecutions for trafficking offences. The level of investigations, prosecutions and convictions remain low, thus contributing to a culture of impunity in the EU. There is also a need to strengthen the capacity of law enforcement and judicial authorities to carry out financial investigations, address the challenges posed by the increasing digitalisation of trafficking and to seize and confiscate instrumentalities and proceeds from trafficking offences. There is a lack of data on the prosecutions and convictions against legal persons. More dissuasive actions against legal persons to prevent, detect and combat trafficking was also identified as a key area for improvement.

The evaluation found that issues related to assistance, support and protection of victims mainly stem from gaps in the implementation of the Directive in the Member States, for instance when it comes to the application of the principles of non-prosecution and non-punishment of victims; protection of victims in criminal proceedings; provision of assistance and support services targeted to the specific needs of particularly vulnerable victims, including children and vulnerable groups; or access to compensation. The Directive proved to be effective with respect to the establishment of mechanisms aimed at the early identification and referral of victims to assistance, support and protection. However, some gaps persist when it comes to the functioning of these mechanisms and their coordination at the national and cross-border level, which may hinder victims' identification and referral to adequate services, which take into account their specific needs.

The effectiveness of the Directive is limited in relation to reducing the demand through legislation. The optional provision on the criminalisation of the knowing use of services exacted from victims of trafficking has not been transposed by all Member States and approaches among the Member States that have transposed it vary greatly. The evaluation found that it is often difficult to prove knowledge, although data does not allow to conclude that approaches, which remove the knowledge requirement do not show higher numbers of

[287] Specific objectives of the Directive: (1) introduction of substantive legal provisions, (2) strengthened prosecution; (3) prevention; (4) support and assistance to the victims and (5) monitoring and data collection.

prosecution and conviction. Stakeholders were divided on the question of whether this measure would be an effective measure to reduce demand.

The Directive was found to be overall efficient, which means that the benefits it brought offset the costs its adoption, transposition and implementation entailed. The evaluation found that the costs related to the non-implementation of the Directive were considerable, as trafficking in human beings incurs high costs to the economy and the society, linked to anti-trafficking activities; the provision of assistance, support and protection services, as well as the lost economic output and lost quality of life for the victim. Despite the cost-effectiveness of the Directive, there is a lack of adequate funding to fight trafficking in human beings at the national level, which affects the prevention, effective investigation and prosecution of the crime, as well as the assistance and support to the victims.

The Directive was found to be coherent with all relevant EU and international initiatives that were considered. However, there is room to further improve consistency with Directive 2009/52/EC (Employers Sanctions Directive).

The evaluation highlighted the added value of the Directive to the fight against trafficking in human beings within the EU, which contributed to enhancing cross-border cooperation, including with the support of EU Agencies. The Directive also contributed to fostering institutional developments in the anti-trafficking field at the national and EU level, notably with the establishment of National Rapporteurs or Equivalent Mechanisms; introducing the function of the EU Anti-trafficking Coordinator; as well as the monitoring of the situation of trafficking in human beings through reporting and EU-wide data collection, despite the gaps mentioned above. Existing gaps in the data collection on trafficking in human beings, however, limit the added value of the Directive, as data may not be fully reliable and comparable. This also limit the understanding of the crime in terms its volume and impact not just on the victims but on the society as a whole.

Finally, the evaluation found that the both the general and the specific objectives of the Directive remain relevant, although a number of developments in the recent years need to be addressed. The use of technology for every phase of the trafficking offence is a major concern and growing threat. Stakeholders largely highlighted the need to address this aspect in the Directive and step up the capacity of relevant stakeholders to combat the crime online. The evaluation also underlined that the Directive had been less relevant for the private sector, in particular for employers and the technology companies. In this respect, there is a need to further intensify the dialogue with internet companies and employers in high-risk sectors in order to encourage them to raise awareness, detect and fight against trafficking in human beings.

5.2 Lessons learned

One of the main lessons learned from the evaluation is that the Directive provided an overarching framework, which contributed to creating a common ground at the EU level to combat trafficking in human beings. The evaluation found that some identified shortcomings are linked to the implementation of the Directive in the Member States rather than gaps in the EU legislation itself, for instance issues related to the gender dimension; investigations and prosecutions; assistance, support and protection of victims; training and awareness raising activities. These aspects could be addressed through increased support to the Member States, including through monitoring, funding, as well as policy and operational actions.

Major trends since the adoption of the Directive necessitate further reflections, whether the Directive is capable to address those phenomena and fulfil its general and specific objectives in its current forms. Most importantly the surge of online trafficking, namely that one or more elements of nearly each trafficking offence take place in the internet require an urgent and adequate response. Moreover, the prevention of gradual expansion of labour exploitation should be closer looked at and examine whether the existing optional provisions are sufficiently addressing the criminal accountability of legal persons. In addition, some Member States did not criminalise additional forms of exploitation than the ones that are included in the list of Article 2(3) of the Directive, despite the fact that this list is non-exhaustive. Moreover, the evaluation has shown that the demand for sexual exploitation and cheap products is increasing. Trafficking in human beings is a cross-border crime, therefore victim support must be equally available and adequate in cross-border cases. The most practical, feasible and meaningful way to increase the cross-border communication and information exchange amongst Member States should be further analysed, in particular the possible improvement of national and transnational referral mechanisms. Finally, the data gap should be reduced or closed and the monitoring of human trafficking in the EU should be strengthened.

The aforementioned deficiencies are not sufficiently covered by the existing wording of the Directive therefore it could be assessed if they necessitate legislative changes.

To conclude, it should be noted that the evaluation largely confirms the challenges and areas of action that were identified in the EU Strategy on Combatting Trafficking in Human Beings (2021-2025). Therefore, the key actions of the EU Strategy remain highly relevant in order to improve the implementation of the Directive in the Member States.

ANNEX I: PROCEDURAL INFORMATION

1. LEAD DG, DECIDE PLANNING/CWP REFERENCES

DG Migration and Home Affairs (DG HOME) is the lead DG. The agenda planning (Decide) reference assigned to the evaluation and impact assessment is PLAN/2021/11112. There is no reference to the evaluation and impact assessment in the Commission Work Programme 2022.

2. ORGANISATION AND TIMING

The Terms of Reference for carrying out an external study to support the evaluation of the Directive on preventing and combating trafficking in human beings and protecting its victims and an impact assessment for a legislative proposal on the topic were launched on 9 July 2021 with a deadline on 6 August 2021. An evaluation committee consisting of staff from DG HOME selected an external contracor to conduct the study on 30 September 2021[288]. The kick-off meeting of the contract for the study took place on 27 October 2021. The contract ended on 21 July 2022 (following an extension of approximately one month, as the contract was initially planned to terminate on 16 June 2022).

The combined evaluation roadmap and inception impact assessment for the initiative was published by DG HOME on the Commission's "Have your say" webpage[289] on 5 August 2021 until 16 September 2021. The Commission carried out a public consultation from 14 December 2021 to 22 March 2022, which was also published on "Have your say" webpage.

The Inter-Service Group (ISG) on Trafficking in Human Beings, which already existed, was composed of several Directorate-Generals within the Commission[290]. The meetings of the ISG were chaired by DG HOME. The steering group was regularly consulted over the course of the evaluation and impact assessment, in particular on the draft reports of the contractor responsible for carrying out the external study. The following list provides an overview of the work of the ISG:

- The ISG was consulted in June 2021 in order to provide feedback on the draft Terms of Reference for the external study.

[288] The call for service was issued via framework contract HOME/2020/ISFP/FW/EVA2/0074. Three contractors submitted an offer to carry out an evaluation and impact assessment study. The evaluation committee considered a number of criteria, namely: compliance with the technical specifications described in the Terms of Reference; demonstrated understanding of the objectives and tasks; the quality of the preliminary assessment of difficulties and expected results; the quality of the proposed methodology; and the quality of the project management and team organisation. The Commission awarded the contract to EY/RAND.

[289] Fighting human trafficking – review of EU rules (europa.eu).

[290] Secretariat-General (SG); Legal Service (LS); Justice and Consumers (JUST); Education, Youth, Sport and Culture (EAC); European Civil Protection and Humanitarian Aid Operations (ECHO); European External Action Service (EEAS); Employment, Social Affairs and Inclusion (EMPL); Internal Market, Industry, Entrepreneurship and SMEs (GROW); Mobility and Transport (MOVE); Neighbourhood and Enlargement Negotiations (NEAR); Regional and Urban Policy (REGIO); Health and Food Safety (SANTE); TRADE; International Partnerships (INPTA); Eurostat (ESTAT).

- On 27 October 2021, the ISG was invited to the kick-off meeting of the external study with the contractor.

- In November 2021, the ISG was consulted on the public consultation questionnaire.

- On 19 January 2022, the ISG was invited to participate in the meeting to discuss the interim report of the study, drafted by the contractor. The report was subsequently accepted after revisions were made to reflect the comments of the ISG.

- On 4 April 2022, DG HOME invited the ISG to discuss the contractor's first final report of the study.

- The ISG, as well as DG HOME relevant units, were consulted in writing throughout the evaluation and impact assessment process and their comments to the external study were duly taken into account.

- A written informal consultation with the ISG on the Staff Working Documents on the Evaluation and Impact Assessment took place between 22 July 2022 and 2 August 2022 and ISG met on 29 August to discuss the changes.

On 24 July 2022, the final second report of the study was re-submitted by the contractor to DG HOME for revisions and subsequently accepted.

3. CONSULTATION OF THE RSB

The Regulatory Scrutiny Board examined the Staff Working Document on the Evaluation and Staff Working Document on the Impact Assessment in written procedures and delivered a positive opinion on 14 October 2022.

The Staff Working Document addresses the recommendations of the Regulatory Scrutiny Board as follows:

Recommendations	Reply
The objectives considered in the evaluation report should mirror the original objectives of the Directive. The list of objectives presented in section 2.2 of the report does not seem to correspond neither to the objectives presented in the text of the adopted Directive nor to the impact assessment conduced for the Framework Decision preceding the adoption of the Directive.	The general objectives presented by the Commission in the Impact Assessment to the Directive were inserted in Section 2.2. Both the general and the specific objectives were consistently referred to throughout SWD and duly integrated into the analysis. In Section 5, Conclusions, the report further details the attainment of each objective.
The intervention logic and the findings in section 4 should be revisited to reflect the appropriate general and specific objectives.	The intervention logic was updated and aligned with the initial objectives of the Directive likewise the findings.
The absence of the evaluation matrix is in particular detrimental to the quality of the report as the framework for assessing the Directive presented in section 4 of the report is missing.	The evaluation framework /matrix was inserted into Annex III.

The section providing statistics and trends for the evaluation period (2013-2020) (section 3.5) should be expanded with more systematic data on the points of comparison.	Statistics for 2010-2012 prior to the transposition of the Directive, as point of comparison, were added to the relevant sections, which contain statistical analysis.
What are the reasons to conclude that the Directive was effective, given the gaps in transposition and implementation, and the shortcomings in data availability and the lack of monitoring system despite this being a specific objective of the Directive?	A "Conclusions on effectiveness" sub-section was inserted in the section on effectiveness, which explains how the Directive fulfils the two general objectives, which is the baseline to assess effectiveness. It is further mirrored and elaborated in the final conclusions. In addition, the explanation on the level of transposition and implementation also includes the monitoring of the progress by the Commission and the help it provided to Member States to implement the Directive.
The report explain why the quality and availability of data is still an issue. The report should analyse to what extent Member States are able to collect reliable data.	The report refers to the monitoring as one of the specific objectives of the Directive and it provides a more detailed explanation of the issue in the sections on efficiency and EU added value. The problems with data collections were also added to the key-findings.
The report does not systematically provide justifications for the included statements. This is the case, for instance, for the absence of harmonised procedures at European level for identification and referral of victims.	The conclusions were revised throughout the SWD and they were complemented with more explanation and justification. In addition the reasons for the deficiencies were clarified, notably whether they are inherent in the requirements of Directive itself or they are due to partial implementation by Member States.
Why is the number of victims considered as underestimated? What is the order of magnitude of it? How does this affect the cost estimates**?**	Section 3 of the report includes various estimates for the real numbers of victims of trafficking and the problems with the methodology. On this basis the report cannot provide an estimate for this "hidden population". The section on efficiency provides more explanation on the cost of trafficking occurred due to the underestimation of the number of victims.
What are the lessons learned from the evaluation? Why does this section focus more on effectiveness rather than on the main issues? How can the lessons learned inform the analysis presented in the impact assessment?	Section 5 now differentiate between conclusions and lessons learned. The conclusions focus on the attainment of the objectives (general and specific) taking into account the five evaluation criteria. In addition sub-section "Lesson learned" deal with the major areas, which are further analysed and assessed in the Impact Assessment creating a link to the Impact Assessment.
On the issue of labour exploitation, the report should explain if the costs from lower tax collection and the impact of business relocation is considered. It should also explain how the benefit of asset confiscations and fines imposed to traffickers are considered.	The report elaborates on the economic costs of labour exploitation in the section on efficiency and provides an estimate of ILO for the costs of labour exploitation. It also explains how Member States implement the 2004 Confiscation Directive for the social-reuse of confiscated proceeds of crime.
The report should be more specific whether the increase in resources for training related to prevention or investigation and prosecution refers to financial resources, human resources or any other type and	The nature of the costs is clarified but costs estimates due to the lack of stakeholder contribution cannot be

provide some cost estimates or justification for their absence.	provided. More examples are provided, however, on the costs of the victim support.
The analysis of the change of consumer behaviour on labour exploitation should adjusted given the impact on consumer brands having to state they do not employ children or where they have been forced to relocate their production. The role of NGOs and consumer associations should be considered.	The section on relevance for private businesses raises the responsibility of private companies in the fight against trafficking in human beings including their information to consumers about the origin of their products. In this regard the report also recognises the role of the civil society and consumer organisations enabling consumers to take informed and responsible decisions for their product choices.
Some outcomes from the public consultation should more nuanced regarding the views of those stakeholder groups having business interests indirectly linked with sexual exploitation e.g online platforms.	Concerning certain consultation questions the report is nuancing the replies to the public consultation according to stakeholder groups. It has to be noted, however, that only one industrial actor replied the questionnaire, namely a trade union from Ireland.
The section analysing coherence of the Directive should also mention the recent proposal on due diligence, currently listed in section 4.3.1.2	A coherence review with the Commission proposal for a Directive on sustainability due diligence were included.
The report should not use the Strategy as an argument confirming its relevance, because that analysis should be based solely on the Directive itself. Where the strategy is referred to it should be in terms of the evaluation analysis confirming the validity of its content (section 4.3)	The references to the EU Strategy on combatting trafficking in human beings 2021-25 were deleted from the section on relevance.
The report does not use the standard template for evaluations. In particular, the content of the annexes of the report does not correspond to the requirements (Annex II – methodology and analytical method, Annex III – the evaluation matrix, Annex IV – costs and benefits, Annex V – stakeholder consultation). The cost/benefit tables in Annex III of the report should be cleared of how-to-fill instructions	The templates are corrected and updated.

4. EVIDENCE, SOURCES AND QUALITY

The main sources for the evaluation and Impact Assessment are the Commission's biannual reports on the fight against trafficking in human beings and Studies on data collection on THB in the EU, as well as other reports and studies published by the Commission, the European Parliament and EU Agencies. The Evaluation and Impact Assessment are also based on the stakeholder consultations (Annex 4). They rely on the feedback received from the consultation on the Evaluation Roadmap/Inception Impact Assessment, the public consultation, the organisation of two workshops, one with the EU Network of National Rapporteurs and Equivalent Mechanisms (NREM) on 6 December 2021 and the other with the EU Civil Society Platform against Trafficking in Human beings 30 November 2021, as well as the meetings and joint meeting of the NREM and EU Civil Society Platform on 16-18 May 2022.

The Evaluation and Impact Assessment also take into account the findings of the "Study to support the evaluation of the Directive on preventing and combating trafficking in human beings and protecting its victims and an impact assessment for a legislative proposal on the topic", which was commissioned by DG HOME and developed by the contractor based on desk research and the following stakeholder consultation methods: scoping interviews, desk research, online survey, interviews and case studies.

ANNEX II. METHODOLOGY AND ANALYTICAL MODELS USED

1. EVALUATION QUESTIONS AND METHODOLOGY

1.1. Evaluation questions

In accordance with the Terms of Reference drawn up by the European Commission, RAND Europe in collaboration with Ernst & Young (EY) conducted a study to support the evaluation of the Directive on preventing and combating trafficking in human beings and protecting its victims and an impact assessment for a legislative proposal on the topic (request for service No 29 - HOME/2020/ISFP/FW/EVA2/0074).

The methodological approach derived from a careful analysis of the **37 evaluation questions** presented in Table 1 and the production of evaluation grids separated by each of the five evaluation criteria as they are stipulated by the Better Regulation Guidelines (effectiveness, efficiency, relevance, coherence and EU Added Value). Building on the evaluation questions, the evaluation grids included:

a. **Judgment criteria:** statements that need to be confirmed or disconfirmed by the analysis.
b. **Analytical approach:** the type of analysis used to answer the evaluation question. The proposed analysis informed the type of information collected.
c. **Indicators:** quantitative and qualitative measures supporting the analysis and informing the judgement criteria.
d. **Data sources:** quantitative and qualitative sources of indicator variables used in the analysis.

The evaluation grids have been treated as a 'live' document throughout the research process. This means they have undergone revisions throughout the early research process to ensure that the questions were phrased in a manner that supports the aims of the evaluation in best way possible.

1.2 Evaluation framework

In this report, the evaluation criteria are addressed according to the order of the Better Regulation Guidelines. The evaluation questions are arranged into an evaluation framework providing for the analytical framework, indicators and sources.

	Evaluation question		Judgment criteria	Analytical approach	Indicators	Sources
	Effectivness	Subquestions				
General	EQ1: To what extent have the relevant provisions of the Anti-trafficking Directive fit for purpose?	N/A	JC. 1.1. The THB directive is not fit for purpose. JC 1.2. The THB directive is fit for purpose.	Content analysis of key documents Triangulation of evidence collected from desk-based and fieldwork activities.	Degree to which the objectives of the Directive are met	Document review: Relevant documents included in Annex I of the ToR Other relevant EU policy and legislative documents Other relevant international policies and documents from institutions such as the ILO, Council of Europe , IOM Targeted Interviews Online Survey Ad-hoc meetings/workshops
	EQ2: Which main factors (e.g. the quality of implementation by the Member States, action by stakeholders) have contributed to or stood in the way of achieving the objectives of the Anti-trafficking Directive?	N/A	JC2.1 Factors faciliating or hindering achievement of the objectives of the Anti-trafficking Directive. JC 2.2: There are no identifiable factors that facilitated or hindered or facilitated the Directive's effective implementation, in an operational setting.	Content analysis of reports focusing on the Directive's implementation Analysis of interview and survey responses regarding the Directive's implementation at the national level, notably focusing on the barriers to implementation in an operational setting. Triangulation of evidence collected from desk-based and fieldwork activities.	Reference in documentary sources that seem to either hinder or facilitate achieving the objectives of the Anti-trafficking Directive. Factors mentioned by interview, survey, and ad-hoc meetings/workshop participants that seem	Document review Online survey Case studies Ad-hoc meetings/workshops

					to either hinder or facilitate achieving the objectives of the Anti-trafficking Directive.	
	EQ3. To what extent has the Directive effectively contributed to the global action against trafficking in human beings?	N/A	JC. 3.1. The directive has contributed to the global action against trafficking in human beings. JC.3.2. The directive has not contributed to the global action against trafficking in human beings.	Content analysis of how the THB directive fits within the provisions of the global pact (e.g., what objectives are shared) Analysis of any available quantitative and qualitative data related to these objectives, including changes on the scope and nature of the human trafficking landscape. Analysis of interview and survey responses on how the directive contributed to the objectives of the global action against THB, if at all Triangulation of evidence collected from desk-based and fieldwork activities.	Changes in the scope and scale of trafficking in human beings across Europe Study team's assessment of the extent of implementation of the shared objectives Extent to which interview and survey respondents report that the directive contributed to the objectives of the global action against THB	Document review Online survey Interviews
Prevention of trafficking in human beings	EQ4. What is the contribution of the directive to preventing trafficking in human beings?	N/A	JC4.1 Activities undertaken as a result of the Directive act work to prevent THB in combination with other measures.	Triangulation of responses to EQ6.2 and EQ7.2.	Effectiveness of preventive measures (e.g. measures taken to reduce the risk of people becoming victims of trafficking in human beings), including research, information, awareness-raising, and education Effectiveness of national measures criminalising the use of	Document review: Relevant documents included in Annex I of the ToR Other relevant EU policy and legislative documents Other relevant international policies and documents from institutions such as the ILO, Council of Europe , IOM Targeted Interviews

					services of victims, with the knowledge that the person is a victim of trafficking to reduce demand for exploited services of victims	Online Survey Ad-hoc meetings/workshops Public consultation
	EQ5. To what extent has the directive contributed to discourage and reduce the demand that fosters all forms of exploitation? To what extent the concrete measures taken to reduce the risk of people becoming victims of trafficking in human beings, including research, information, awareness-raising, and education have been effective?	EQ5.1 To what extent has the directive contributed to discourage and reduce the demand that fosters all forms of exploitation? EQ5.2. To what extent the concrete measures taken to reduce the risk of people becoming victims of trafficking in human beings, including research, information, awareness-raising, and education have been effective?	JC5.1.1 The directive contributed to discouraging and reducing the demand that fosters sexual exploitation. JC5.1.2 The directive contributed to discouraging and reducing the demand that fosters labour exploitation. JC5.1.3 The directive contributed to discouraging and reducing the demand that fosters other forms of exploitation, as outlined in the background section (e.g., forced begging, domestic servitude). JC5.2.1 Research has been effective in reducing the risk of peple becoming victims of THB. JC5.2.2 Information has effective in reducing the	Mapping of existing measures and programmes aimed at discouraging and reducing the demand that fosters all forms of exploitation and reducing the risk of people becoming victims of THB. Content analysis of documents providing information on the measures implemented to discouraging and reducing the demand that fosters all forms of exploitation and reducing the risk of people becoming victims of THB. Content analysis of documents providing information on the effectiveness of measures aimed at reducing demand and reducing the risk of people of becoming victims of THB, including research, information, awareness-raising, and education. Analysis of interviews and survey responses regarding the extent to which the Directive's implementation had contributed to discouraging and reducing the demand that	Number and type of measures implemented across Member States aimed at discouraging and reducing the demand that fosters all forms of exploitation and reducing the risk of people becoming victims of THB. Extent to which interview and survey respondents report perceiving research, information, awareness-raising, and education to be effective in aimed at discouraging and reducing the demand that fosters all forms of exploitation, and reducing the risk of people becoming victims of THB. Results of any available monitoring and evaluation data on the impacts of the	Country mapping of available reports containing information of Document review Public consultation

			risk of people becoming victims of THB. JC5.2.3. Awareness-raising has been effective in reducing the risk of people becoming victims of THB. JC5.2.4 Education has been effective in reducing the risk of people becoming victims of THB.	fosters all forms of exploitation and reducing the risk of people becoming victims of THB. Triangulation of evidence collected from desk-based and fieldwork activities.	measures taken to reduce the risk of people becoming victims of trafficking in human beings, including research, information, awareness-raising, and education. Assessment of the extent of the contributions the directive has made in discouraging and reducing the demand that fosters all forms of exploitation, and reducing the risk of people becoming victims of THB.	
	EQ6. What measures have been put in place in national laws to establish as a criminal offence the use of services of victims, with the knowledge that the person is a victim of trafficking? To what extent such measures have been effective to reduce demand for exploited services of victims?	EQ6.1. What measures have been put in place in national laws to establish as a criminal offence the use of services of victims, with the knowledge that the person is a victim of trafficking? EQ6.2. To what extent have	JC. 6.1.1 Number and list of Member States having implemented national legislation criminalising the use of services of victims, with the knowledge that the person is a victim of trafficking. JC6.2.1. National measures criminalising the use of services of victims, with the knowledge that the person is a victim of	Mapping of existing national laws criminalising the use of services of victims, with the knowledge that the person is a victim of trafficking Content analysis of documents providing information about effectiveness of national laws (e.g. evaluation reports), including specifically in terms of reducing demand for exploited services of victims. Analysis of interviews, and survey responses, and feedback provided at ad-hoc meetings	Number of Member States that have laws that criminalise the use of services of victims, with the knowledge that the person is a victim of trafficking Extent to which stakeholders (interviewees, survey respondents, ad-hoc meeting participants) perceive that national laws that establish as a criminal offence the	In-depth national desk research Interviews Surveys Ad-hoc meetings Public consultation

		national measures criminalising the use of services of victims, with the knowledge that the person is a victim of trafficking, been effective to reduce demand for exploited services of victims?	trafficking, have been effective in reducing demand for exploited services of victims.	regarding the extent to which national laws to establish as a criminal offence the use of services exist, with the knowledge that the person is a victim of trafficking, and the extent such measures have been effective to reduce demand for exploited services of victims. Triangulation of evidence collected from desk-based and fieldwork activities.	use of services of victims, with the knowledge that the person is a victim of trafficking are effective to reduce demand for exploited services of victims. Assessment of the extent to which national laws that establish as a criminal offence the use of services of victims, with the knowledge that the person is a victim of trafficking are effective to reduce demand for exploited services of victims.	
	EQ7. To what extent has the directive contributed to ensuring adequate training of law enforcement officials, judges and prosecutors, legal councillors and officials likely to come into contact with victims or potential victims of trafficking in human beings, including child victims of trafficking?	EQ7.1. What training is being provided to: Law enforcement officials Judges, prosecutors and legal councillors And other officials likely to come into contact with victims or potential victims of trafficking	JC7.1. The directive contributed to ensuring adequate training of law enforcement officials, judges and prosecutors, legal councillors and officials likely to come into contact with victims or potential victims of trafficking in human beings. JC7.2. The directive contributed to ensuring adequate training of law enforcement officials, judges and prosecutors, legal councillors and	Mapping of existing measures and training programmes implemented at in Member States-levels aimed at raising awareness, increasing knowledge, and building capacity of law enforcement and justice professionals about assisting victims of human trafficking. Content analysis of documents providing information about measures implemented aimed at raising awareness, increasing knowledge, and building capacity of law enforcement and justice	Number and type of measures and programmes implemented across Member States aimed at raising awareness, increasing knowledge and building capacity of law enforcement and justice professionals about assisting victims of THB. Extent to which the identified training measures and	In-depth national desk research Interviews Surveys Ad-hoc meetings

		EQ7.2. What training is being provided to Law enforcement officials Judges, prosecutors, and legal councillors Other officials likely to encounter victims or potential victims of trafficking?	officials likely to come into contact with victims or potential victims of trafficking in human beings, specifically child victims of trafficking?	professionals about assisting victims of human trafficking and information on the measures' effectiveness of measures (e.g., evaluation reports). Analysis of interviews and survey responses regarding the extent to which the Directive's implementation has contributed to increasing awareness, knowledge and capacity of law enforcement and judicial authorities to better assist victims of human trafficking. Triangulation of evidence collected from desk-based and fieldwork activities.	programmes have been effective in achieving their objectives. Assessment of the extent to which Member States share information and best practices about measures and training programmes aimed at raising awareness, increasing knowledge and building capacity of law enforcement and justice professionals about assisting victims of human trafficking, including child victims. Extent to which interview and survey respondents report that the Directive's implementation contributed to increasing awareness, knowledge and capacity of law enforcement and judicial authorities to better assist victims of human trafficking, including child victims.	
	EQ8. To what extent has the directive contributed to the protection of trafficked	EQ8.1. To what extent has the directive	JC8.1. The directive has contributed to the protection of trafficked	Mapping of programmes and support services aimed at protecting and supporting		Document review Interviews Survey responses

Protecting and supporting the victims	victims in cross-border cases and within Member States?	contributed to the protection of trafficked victims in cross-border cases? EQ8.2. To what extent has the directive contributed to the protection of trafficked victims in cross-border within Member States?	victims in cross-border cases and within Member States. JC8.1. The directive has not contributed to the protection of trafficked victims in cross-border cases and within Member States.	victims of trafficking available in Member States. Mapping of cross-border initiatives, or cases of collaboration, aimed at protecting and supporting victims of THB. Content analysis of secondary sources referencing examples of support offered to victims, both at Member State level and in cross-border cases Analysis of interview and survey responses on the extent the Directive contributed to the protection of trafficked victims in cross-border cases and within Member States.	Support offer provided to victims in Member States Support offer provided to victims in cross-border cases. Extent to which interview and survey respondents report that the Directive has contributed to the protection of trafficked victims in cross-border cases. Extent to which interview and survey respondents report that the Directive has contributed to the protection of trafficked victims in cases within Member States	
	EQ9. To what extent the mechanism established under the directive has contributed to ensuring access to assistance, support, and protection measures, in particular persons trafficked for the purpose of sexual exploitation? To what extent have mechanisms for referral of trafficked victims worked	EQ9a. To what extent the mechanism established under the directive has contributed to ensuring access to assistance, support, and protection measures, in	JC9a.1. The mechanism established under the directive have contributed to ensuring victims' access to assistance, support, and protection measures, in particular women and girls trafficked for the purpose of sexual exploitation.	Content analysis of reports discussing access to assistance, support, and protection measures, in particular women and girls trafficked for the purpose of sexual exploitation. Content analysis of reports discussing to what extent have mechanisms for referral of trafficked victims worked efficiently in cross-border cases.	Extent to which interviewees and survey respondents report that the mechanism established under the directive has contributed to women and girls trafficked for the purpose of sexual exploitation having access to assistance,	Interviews Online Survey Document review Public consultation

	efficiently in cross-border cases?	particular persons trafficked for the purpose of sexual exploitation? EQ9b. To what extent have mechanisms for referral of trafficked victims worked efficiently in cross-border cases?	JC9b.1. The mechanism for referral of trafficked victims [for support] work efficiently in cross-border cases.	Analysis of interview and survey responses as to what extent the mechanism established under the directive has contributed to women and girls trafficked for the purpose of sexual exploitation having access to assistance, support, and protection measures. Analysis of interview and survey responses to what extent have mechanisms for referral of trafficked victims worked efficiently in cross-border cases. Triangulation of evidence collected from desk-based and fieldwork activities	support and protection measures. Extent to which interviewees and survey respondents report that the mechanism under the directive has mechanisms for referral of trafficked victims worked efficiently in cross-border cases. References in documents regarding the efficiency of mechanisms for referral of trafficked victims in cross-border cases. Reference in documents regarding the directive's contribution to discussing access to assistance, support, and protection measures, in particular women and girls trafficked for the purpose of sexual exploitation. Assessment of the extent the mechanism established under the directive has contributed to ensuring access to assistance,	

					support, and protection measures, in particular women and girls trafficked for the purpose of sexual exploitation. Study teams' judgement on the extent mechanisms for referral of trafficked victims have worked efficiently in cross-border cases.	
	EQ10. To what extent has the directive contributed to the assistance, support and protection of child victims of trafficking? To what extent have mechanisms and child-sensitive assistance and support measures been effective? Have they contributed to integrated services having been made available to child victims of trafficking?	EQ10a. To what extent has the directive contributed to the assistance, support and protection of child victims of trafficking? EQ10b. To what extent have mechanisms and child-sensitive assistance and support measures been effective in protecting and supporting victims of THB? EQ10c. Have child-sensitive assistance and support	JC10a. The directive contributed to the assistance, support and protection of child victims of trafficking. JC10b. Child-sensitive assistance and support measures been effective in protecting and supporting child victims of THB. JC10c. Child-sensitive assistance and support measures have contributed to integrated services having been made available to child victims of trafficking.	Content analysis of reports and other relevant secondary sources to gain an understanding of existing support services for child victims of trafficking, especially measures and services explicitly referring to providing 'child-sensitive' assistance, and content analysis of reports providing information of such programmes' effectiveness (e.g evaluation reports, reports by child-rights organisation, reports by anti-trafficking organisation). Content analysis of Member States resource websites, as well as reports, availability of integrated services for child victims of trafficking in Member States.	Type of integrated services of child victims of available in Member States References in reports and other relevant secondary sources on the effectiveness on child-sensitive assistance and support measures. Extent of interview and survey participants reporting that the directive has contributed to the assistance, support and protection of child victims of trafficking. Extent of interview and survey participants reporting that child-sensitive assistance and support measures are	Document analysis: Reports Government/support service organisations' websites Interviews Survey Public consultation

		measures contributed to integrated services having been made available to child victims of trafficking?		Analysis of interview and survey responses on the extent of the contribution of the directive to the assistance, support and protection of child victims of trafficking. Analysis of interview and survey responses on the extent mechanisms and child-sensitive assistance and support mechanisms have been effective in protecting and supporting child victims of THB. Analysis of interview and survey responses on the extent the directive has contributed to integrated services having been made available to child victims of trafficking. Triangulation of evidence collected from desk-based and fieldwork activities.	effective in supporting child victims of trafficking. Extent of interview and survey participants reporting that the directive has contributed to integrated services being made available to child victims of trafficking. Assessment of the directive contribution to the provision, and the effectiveness of child-sensitive assistance and support measures integrated services for child victims of trafficking.	
	EQ11. To what extent has the directive contributed to attending to victims with special needs, including related to disability, psychological, physical or sexual violence?	EQ11a. To what extent do Member States' national legal provisions and/or policies recognise the importance of paying attention to trafficking victims with disabilities (both intellectual or physical)?	JC11a.1.The directive has contributed the attention being paid to, and services being provided for, victims with disabilities (both intellectual or physical). JC11b.1. The directive has contributed to attention being paid to, and services being provided for, to victims who have been subjected to sexual violence.	Mapping of laws and policies in Member States that explicitly mention to victims with disabilities (intellectual or physical) and/or victims who have been subjected to sexual violence. Mapping of services provisions that explicitly targeted victims of human trafficking with disabilities. Mapping of services that explicitly cater to human trafficking victims who have	Number of existing national laws or policies explicitly mentioning victims of THB with disabilities and/or victims of THB who have been subjected to sexual violence. Number and type of support services explicitly targeting victims of THB with disabilities and/or	Document analysis: Reports Government/support service organisations' websites Interviews

		EQ11b. To what extent do Member States national legal provisions and/or policies recognise national to victims who have been subjected to sexual violence? EQ11c. What programmes and services do Member States offer that specifically target human trafficking victims with disabilities (both intellectual and physical) and/or victims who have been subjected to sexual violence?		been subjected to sexual violence. Content analysis of reports providing information on the effectiveness of measures and programmes aimed to support human trafficking victims with disabilities (physical and intellectual), and/or who have been subjected to sexual violence. Analysis of interview and survey responses on the extent the Anti-trafficking directive has contributed to human trafficking victims with disabilities (physical and intellectual) and/or human trafficking victims who have been subjected to sexual violence, having their needs being attended to. Analysis of interview and survey responses on the existence and effectiveness of laws/measures/programmes aimed at human trafficking victims with disabilities (intellectual or physical) and/or human trafficking victims who have been subjected to sexual violence. Triangulation of evidence collected from desk-based and fieldwork activities	victims of THB who have been subjected to sexual violence in Member States. References in reports and other relevant documents to the existence and effectiveness of services for victims of THB with disabilities and/or victims of THB who have been subjected to sexual violence in Member States. Extent to which interview and survey respondents report that the Anti-trafficking Directive contributed to human trafficking victims with disabilities (physical and intellectual) and/or human trafficking victims who have been subjected to sexual violence, having their needs being attended to. Extent to which interview and survey respondents report that their Member State caters to victims of THB with disabilities	

					and/or victims of THB who have been subjected to sexual violence in Member States either by explicitly mentioning them in national policies or legislation, and/or by providing targeted support services. Assessment of the contribution of the Anti-trafficking directive's contribution to human trafficking victims with disabilities (physical and intellectual) and/or human trafficking victims who have been subjected to sexual violence, having their needs being attended to.	
	EQ12. To what extent has the directive contributed to the assistance, support, and protection of other relevant groups of victims of trafficking, including people with disabilities, marginalised Roma people and LGBTIQ people?291	EQ12a. To what extent has the directive contributed to the assistance, support, and protection of marginalised Roma people?	JC. 12a.1. The directive has contributed to the provision and availability of assistance, support and protection of Roma people JC12b.1.The directive has contributed to the	Mapping of national laws and policies in Member States that explicitly mention Roma and/or LGBTIQ people. Mapping of support services explicitly catering to Roma and/or LGBTIQ people. Content analysis of reports and other secondary sources, such	Number of existing national laws or policies explicitly mentioning victims of THB who are Roma or LGBTIQ. Number and type of support services explicitly targeting	EU/international desk research Interviews

291 People with disabilities are covered under EQ12.

		EQ13b. To what extent has the directive contributed to the assistance, support, and protection of LGBTIQ people?	provision and availability of assistance, support, and protection of LGBTIQ people.	as government or service provider websites, regarding the availability and effectiveness of support services targeting specifically THB victims who are either Roma or LGBTIQ. Analysis of interview and survey responses on the extent the Anti-trafficking directive has contributed to assistance and support being provided to THB victims who are Roma and/or LGBTIQ. Analysis of interview and survey responses on the existence of national laws, policies, or measures explicitly mentioning THB victims who are Roma or LGBTIQ, and on the existence and effectiveness of support services specifically catering to THB victims who are Roma or LGBTIQ. Triangulation of evidence collected from desk-based and fieldwork activities	victims of THB who are Roma or LGBTQI in Member States. References in reports and other relevant documents to the existence and effectiveness of services for victims of THB who are Roma or LGBTIQ in Member States. Extent to which interview and survey respondents report that their Member State caters to victims of THB who are either Roma or LGBTIQ either by explicitly mentioning them in national policies or legislation, and/or by providing targeted support services. Assessment of the contribution of the Anti-trafficking directive's contribution to THB victims who are Roma or LGBTIQ receiving support and assistance.	
	EQ13. To what extent has the directive contributed to allowing a victim of trafficking to access and	EQ13a. To what extent has the directive contributed to	JC13a.1 The directive has contributed to allowing a victim of trafficking to access and	Mapping of mechanisms allowing a victim of trafficking to access and claim adequate	Number and type of mechanisms allowing a victim of trafficking to access and claim	National desk research Document review Interviews

	claim adequate compensation?	allowing a victim of trafficking to access and claim adequate compensation? EQ13b. What mechanisms allowing a victim of trafficking to access and claim adequate compensation are in place in Member States? EC13c. Has the directive contributed to the use of seized and confiscated instrumentalities and criminal proceeds to support victims' assistance and protection, including compensation of victims?	claim adequate compensation. JC13b.1 The directive has contributed to the use of seized and confiscated instrumentalities and criminal proceeds to support victims' assistance and protection, including compensation of victims.	compensation are in place in Member States. Content analysis of sources mentioned in appendix IV of the RfS for mentioning of mechanisms allowing a victim of trafficking to access and claim adequate compensation and to the use of seized and confiscated instrumentalities and criminal proceeds to support victims' assistance and protection, including compensation of victims. Analysis of interview and survey responses on the extent to which the Anti-trafficking directive has contributed to allowing a victim of trafficking to access and claim adequate compensation. Analysis of interview and survey responses on the extent to which the Anti-trafficking directive has contributed to the use of seized and confiscated instrumentalities and criminal proceeds to support victims' assistance and protection, including compensation of victims. Triangulation of evidence collected from desk-based and fieldwork activities	adequate compensation are in place in Member States. Extent to which interview and survey respondents report that the Anti-trafficking directive has contributed to allowing a victim of trafficking to access and claim adequate compensation. Extent to which interview and survey respondents report that to which the Anti-trafficking directive has contributed to the use of seized and confiscated instrumentalities and criminal proceeds to support victims' assistance and protection, including compensation of victims.	Public consultation
	EQ14. To what extent has the directive contributed to ensuring that victims of	N/A	JC14. The directive has contributed to ensuring that victims of	Analysis of interview and survey responses, as well as data from ad-hoc meetings, on	Extent to which interview and survey respondents, as well as	Interviews Ad-hoc meeting

Access to justice and rights of victims	trafficking in human beings are not prosecuted or penalised for their involvement in criminal activities which they have been compelled to commit as a consequence of being trafficked?		trafficking in human beings are not prosecuted or penalised for their involvement in criminal activities which they have been compelled to commit as a consequence of being trafficked.	the extent victims of trafficking are prosecuted or penalised for their involvement in criminal activities which they have been compelled to commit as a consequence of being trafficked.	ad-hoc meeting participants, report that victims of trafficking are prosecuted or penalised for their involvement in criminal activities which they have been compelled to commit as a consequence of being trafficked	Public consultation
	EQ15. To what extent do victims need to cooperate in the criminal proceedings to access assistance and support?	N/A	JC15.1 Victims are required to cooperate in the criminal proceedings to access assistance and support. JC15.2 Victims are not required to cooperate in the criminal proceedings to access assistance and support.	Analysis of interview and survey responses on the extent victims of trafficking need to cooperate in the criminal proceedings to access assistance and support. Content analysis of advice, manuals and guidelines for victims of trafficking and/or practitioners prepared by support organisations (either governmental or non-governmental). Content analysis of reports by victims rights organidation, either national or EU-level; and reprots by EU organisations or international bodies (E.g. UN/ILO). Triangulation of evidence collected from desk-based and fieldwork activities	Extent to which interview and survey respondents report that victims of trafficking need to cooperate in the criminal proceedings to access assistance and support. References made in manuals and guidelines for victims of trafficking and/or practitioners prepared by support organisations (either governmental or non-governmental) to need of victims of THB having to cooperate in criminal proceedings to access assistance and support. References made in reports by victim rights organisations regarding the need of victims of	Desk research Interviews

					THB having to cooperate in criminal proceedings to access References made in reports by the EU or international bodies (e.g. UN/ILO)	
	EQ16. To what extent has the directive contributed to ensuring that investigation into or prosecution of trafficking offences is not dependent on reporting or accusation by a victim and that criminal proceedings may continue even if the victim has withdrawn his or her statement?	N/A	JC16. The directive has contributed to ensuring that investigation into, or prosecution of, trafficking offences is not dependent on reporting or accusation by a victim, but that criminal proceedings may continue even if the victim has withdrawn his or her statement.	Content analysis of reports by victims rights organisation, either national or EU-level; and reports by EU organisations or international bodies (E.g. UN/ILO) for mentioning of investigation into or prosecution of trafficking offences being dependent on reporting or accusation by a victim and that criminal proceedings may continue even if the victim has withdrawn his or her statement. Analysis of interview and survey responses on the extent that investigation into or prosecution of trafficking offences is not dependent on reporting or accusation by a victim and that criminal proceedings may continue even if the victim has withdrawn his or her statement. Analysis of interview and survey responses on the extent the Anti-trafficking directive has contributed to investigation into or prosecution of trafficking	Extent to which reports express that investigation into or prosecution of trafficking offences is not dependent on reporting or accusation by a victim and that criminal proceedings may continue even if the victim has withdrawn his or her statement. Extent to which interview and survey respondents report that investigation into or prosecution of trafficking offences is not dependent on reporting or accusation by a victim and that criminal proceedings may continue even if the victim has withdrawn his or her statement. Extent to which interview and survey respondents report that	Document review Interviews

				offences not being dependent on reporting or accusation by a victim and that criminal proceedings may continue even if the victim has withdrawn his or her statement. Triangulation of evidence collected from desk-based and fieldwork activities	the Anti-trafficking directive has contributed to investigation into or prosecution of trafficking offences not being dependent on reporting or accusation by a victim and that criminal proceedings may continue even if the victim has withdrawn his or her statement. Assessment of the extent the Anti-trafficking directive contributed to ensuring that investigation into or prosecution of trafficking offences is not dependent on reporting or accusation by a victim and that criminal proceedings may continue even if the victim has withdrawn his or her statement.	
	EQ17. To what extent has the directive contributed to access of victims to witness protection programmes or other similar measures?	N/A	JC.17.1. The directive contributed to access of victims to witness protection programmes or other similar measures.	Analysis of interview and survey responses on the possibility of victims gaining access to witness protection programmes or other similar measures.	Extent to which interviewees and survey respondents report that victims have the possibility to access witness protection programmes or other similar measures.	Interviews

				Analysis of interview and survey responses on the extent the Anti-trafficking directive has contributed to victims having access to witness protection programmes or other similar measures.	Extent to which interviewees and survey respondents report that this can be attributed to the Anti-trafficking directive.	
	EQ18. To what extent has the directive contributed to preventing secondary victimisation of victims of trafficking criminal investigation and proceedings?	N/A	JC18.1. The directive has contributed to preventing secondary victimisation of victims of trafficking criminal investigation and proceedings.	Analysis of interview and survey responses on the extent to which interviewees and survey respondents report that secondary victimisation of victims of trafficking is prevented in criminal investigation and proceedings	Extent to which interviewees and survey respondents report that secondary victimisation of victims of trafficking is prevented in criminal investigation and proceedings	Interviews
Criminal justice response to the crime	EQ19. To what extent has the directive contributed to sanctioning efficiently offences of trafficking inhuman beings in the Member States? To what extent the penalties in place have an effective, proportionate and dissuasive character?	EQ19a. What sanction do MS have in place for offences of THB? EQ19b. To what extent are the sanctions and penalties for offences in THB effective (e.g., dissuasive in character) and proportionate?	JC19a. Descriptive so no JC required JC.19.1 The directive has contributed to sanctions and penalties for offences in THB to be effective and, proportionate..	Mapping of sanctions in place in MS for offences of THB. Analysis of interview responses on whether the sanctions are effective (e.g. dissuasive in character) and proportionate. Analysis of survey responses on the existence of sanctions. Triangulation of evidence collected from desk-based and fieldwork activities	Existence and type of sanctions in place in MS for offences of THB. Interviewees' perceptions as to whether the sanctions are effective (e.g. dissuasive in character) and proportionate. Assessment of whether sanctions are effective and proportionate	In-depth national research Interviews Online survey Public consultation
	EQ20. To what extent has the directive contributed to holding legal persons liable? EQ21. To what extent the penalties in this regard had an	N/A	JC21: The directive has contributed to holding legal persons liable for offences concerning trafficking in human beings and incitement,	Analysis of crime conviction rates data Analysis of interview responses on any changes in conviction rates since teh implementation of the directive	Data on crime conviction rates Extent to which interviewee respondents report that the Anti-trafficking	In-depth international/EU research Interviews Public consultation

	effective, proportionate, and dissuasive character?		aiding and abetting, and attempt.	and the extent of Anti-trafficking directive has contributed to (any) such changes. Triangulation of evidence collected from desk-based and fieldwork activities	directive has contributed to holding legal persons liable.	
	EQ22. To what extent has the directive contributed to the seizure and confiscation of instrumentalities and proceeds from offences of trafficking inhuman beings? Has the directive contributed to the use of seized and confiscated instrumentalities and criminal proceeds to support victims' assistance and protection, including compensation of victims?	N/A	JC22. The directive has contributed to the seizure and confiscation of instrumentalities and proceeds from offences of trafficking inhuman beings.	Analysis of interview and survey responses on whether the directive has contributed to the seizure and confiscation of instrumentalities and proceeds from offences of trafficking inhuman beings.	Extent to which interview and survey respondents report that the directive has contributed to the seizure and confiscation of instrumentalities and proceeds from offences of trafficking inhuman beings.	Online survey Public consultation
	EQ23. To what extent have the directives contributed to allowing a victim of trafficking to effectively report a case and bring a case to court? What have the obstacles been for victims to seek redress?	EQ23a. To what extent have the directives contributed to allowing a victim of trafficking to effectively report a case and bring a case to court? EQ23b. What have the obstacles been for victims to report a case and	JC23a. The directive contributes to enabling victims of trafficking to effectively report a case and bring a case to court. JC23b.1. Barriers and facilitators for victims to report a case. JC23b.2. Barriers and facilitators for a case going to court.	Content analysis of reports and other relevant secondary sources on victims' ability to report and bring cases to court (e.g. reports from victims' rights organisations; national government evaluation reports; reports by EU institutions or international bodies, such as the ILO and UN). Analysis of interview and survey responses on	Factors enabling or hindering victims in reporing cases and bringin them to court.	Public consultation

		bring a case to court?				
Implementation and enforcement	EQ24. With reference to the above questions, to what extent has the directive been interpreted and enforced in a consistent and harmonised way in the Member States? To what extent does this influence achieving their objectives as regards preventing and combatting trafficking in human beings? To what extent do insufficiencies in interpretation and enforcement cause distortions as regards the achievement of the above aim? Is there sufficient uniformity in the key concepts relevant to the effective implementation of the EU's legal framework?	EQ24a. To what extent has the directive been interpreted and enforced in a consistent and harmonised way in the Member States? EQ24b. To what extent does interpretation and enforcement of the Directive enable Member States to achieve the Directive's ojbectives preventing and combatting trafficking in human beings and protecting and supporting victims? EQ24c. Is there sufficient uniformity [across Member States' implementation of the Directive]	JC24. The directive been interpreted and enforced in a consistent and harmonised way across the Member States	Content analysis of implementation and evaluation reports Analysis of interview data provided by European stakeholders on their experience of implementation across Member States Triangulation of evidence collected from desk-based and fieldwork activities	Level of harmonisation of the Directive across Member States. Simiarlities and differences in implementation, as referenced in the implementation and evaluation reports Aspects of harmonisation and aspects that are still inconsistent as reported by interviewees.	Desk research Interviews

		in the key concepts relevant to the effective implementation of the EU's legal framework?				
	EQ25. Has the directive led to any other significant changes, either as regards implementation and enforcement or otherwise, from the perspective of victims of trafficking?	N/A	JC25a: The directive led to unexpected consequences JC25b: The directive did not lead to any unexpected consequences.	Reviewing data sources for information	Themes emerging from the data that is not covered in any other EQ or analytical framework	Any sources previously mentioned

	Evaluation question		Judgment criteria	Analytical approach	Indicators	Sources
	Efficiency	Added subquestions				
	EQ26. If identifiable, what have the costs and benefits (monetary but also non-monetary) associated with compliance with the directive in the Member States been - as regards the aim of preventing and combatting trafficking in human beings?	26a: What are the costs of complying with the Directive? 26b: What are the benefits of complying with the Directive? 26c: Can any costs be identified that are out of proportion with the benefits achieved? In particular, are the costs of compliance proportionate to the benefits brought by the directive as regards preventing and combating trafficking in human beings? 26d: Taking into account of the benefits possibly created by the implementation of the Directive as regards trafficking in human beings, is there evidence that they have caused unnecessary administrative burden?	JC26.a and JC26.b Compliance with the Directive implies both costs and benefits to Member States and businesses. JC26.c There are particular costs associated with complying with the directive that seem out of proportion with benefits achieved as regards the prevention and combatting THB. JC26.d There is evidence that the implementation of the directive has caused unnecessary administrative burdens.	Mapping of different operational activities that directly stem from the Directive for different stakeholder constituencies, including public authorities and businesses in the Member States in relation to: Prevention Investigation Victim support Mapping of different types of costs and benefits relating each operational activity. Content analysis of scientific reports and policy studies Analysis of survey and interview responses regarding: The extent to which costs and benefits (monetary and non-monetary) are incurred by different types of stakeholders in different Member States The extent to which the implementation of the Directive caused administrative burden Whether any cost and burden seem unnecessary, taking into account the benefits of the directive,	Number and type of operational activities entailed by compliance with the Directive Number and type of stakeholder constituencies concerned with the implementation of each operational activity Number and type of costs stemming from each operational activity and associated with different stakeholder constituencies Number and type of benefits stemming from each operational activity and associated with different stakeholder constituencies Number and type of administrative burden stemming from each operational activity and associated with different stakeholder constituencies Extent to which interview and survey respondents as well as ad-hoc meeting participants report that costs and administrative burden are necessary and proportionate to the advantages achieved.	Secondary sources: Desk research (e.g. publicly available reports and studies) Primary sources: Online survey Targeted interviews First ad-hoc meetings

				Analysis of feedback provided at ad-hoc meetings. Triangulation of evidence collected from desk-based and fieldwork activities		
	EQ27. Is availability of funding a constraint for the implementation of the Directive as regards the achievement of the above aim?	N/A	JC27. The implementation of the Directive is constrained by limited funds.	Content analysis of publicly available reports and policy studies Analysis of survey and interview responses regarding the extent to which available funding is not sufficient towards an effective implementation of the Directive Analysis of the respective feedback provided by stakeholders during the ad-hoc meetings Triangulation of evidence collected from desk-based and fieldwork activities	Extent to which stakeholders report that available funding is not adequate Number and type of constraints due to limited availability of budget	Secondary sources: Desk research (e.g., publicly available statistical data and available reports) Primary sources: Interviews First ad-hoc meeting
	EQ28. Have the Member States provided sufficient funding if relevant actions, such as support services, are externalised to other stakeholders, such as regional or local authorities or non-governmental organisations?	N/A	JC28. Member States provide sufficient funding to external support services for them to effectively support victims.	Based on the operational activities identified under EQ26, mapping of key activities externalised in different Member States Comparative analysis of the budget lines available for externalised activities	Number and type of activities externalised in the different Member States Level of budget allocated to external stakeholders in the different Member States	Secondary sources: Desk research (e.g., publicly available statistical data and available reports) Primary sources: Interviews Survey questionnaire

				in the different Member States Analysis of survey and interview responses regarding the extent to which funding available to external stakeholders is sufficient Analysis of the respective feedback provided by stakeholders during the ad-hoc meetings Triangulation of evidence collected from desk-based and fieldwork activities	Extent to which stakeholders report that available funding is adequate	Ad-hoc meetings
	EQ29. What good practices of cost-effective implementation of the Directive can be identified in the Member States?	N/A	JC29. There are examples of good practices of cost-effective implementation of the directive in Member States.	Content analysis of implementation and evaluation reports for examples of good practices of cost-effective implementation of the Directive in Member States. Analysis of interview and survey responses, and feedback provided at ad-hoc meeting, for examples of good practices of cost-effective implementation of the Directive in Member States	References to examples of good practices of cost-effective implementation in implementation and evaluation reports Examples of good practices of cost-effective implementation of the Directive provided by consulted stakeholders	Secondary sources: Documents Interviews Primary sources: Online survey
	EQ30. If identifiable, what are likely to be the costs (monetary but also non-	N/A		Analysis of interview responses	Views of interviewees of what the monetary and non-monetary costs of	Primary sources: Interviews

	monetary) of non-implementation of the Directive as regards preventing and combatting trafficking in human beings?				non-implementation of the Directive as regards preventing and combatting trafficking in human beings would be.	
	EQ31. To what extent is there potential for (legislative, non-legislative) simplification and reduction of regulatory costs and burdens as regards the achievement of the above aim? What would be the risks of such reductions?	EQ31a. To what extent is there potential for (legislative, non-legislative) simplification and reduction of regulatory costs and burdens of using the Directive? What would be some of the ways this could be achieved? EQ31b. What would be the risks of simplifying or reducing regulatory costs and burdens associated with the Directive?	JC31a. There is potential for (legislative, non-legislative) simplification and reduction of regulatory costs and burdens and burdens of using the Directive. JC31b. There are risks of simplifying or reducing regulatory costs and burdens of using the Directive.	Content analysis for recommendations on reducing or simplifying costs and burdens associated with the Directive. Content analysis for potential risks of reducing or simplifying regulatory costs and burdens associated with the Directive. Analysis of interview and survey responses on potential for (legislative, non-legislative) simplification and reduction of regulatory costs and burdens associated with the Directive. Analysis of interview and survey responses of risks of potential simplification and reduction of regulatory costs and burdens associated with the Directive. Triangulation of evidence collected from	References in reports on recommendations (legislative, non-legislative) on potential simplification and reduction of regulatory costs and burdens associated with the Anti-trafficking directive. References in reports on potential risks of reducing or simplifying regulatory costs and burdens associated with the directive. Study team's assessment based on the evidence of what could be some of the areas (legislative, non-legislative) with potential for simplification and reduction of regulatory costs and burdens associated with the Anti-trafficking directive. Assessment of what would be some of the risks of potential simplification and reduction of regulatory	Secondary sources: Documents Primary sources: Interviews Survey

				desk-based and fieldwork activities.	costs and burdens associated with the Directive.	

	Relevance	Added subquestions				
	EQ32a. If identifiable, what are the remaining concerns to be addressed with a view to effectively preventing and combatting trafficking in human beings in the Member State? To which degree are these addressed by the EU legislation described above?	N/A	JC32a.1. Some concerns remain to be addressed with a view to effectively preventing and combatting trafficking in human beings in the Member State, and they are not addressed by existing Directives. JC32a.2. Some concerns [...] remain in MS, but they are stipulated by existing directives, specifically either Directive 2009/52/EC, the Directive 2011/36/EU or Directive 2009/52/EC.	Analysis of interview and survey responses, as well as feedback from ad-hoc meetings, on remaining concerns to be addressed with a view to effectively preventing and combatting trafficking in human beings in the Member State. Comparing the results from the analysis of the interview and survey responses, with the legal texts of the three specified directives.	References made by study participants on remaining concerns to be addressed with a view to effectively preventing and combatting trafficking in human beings in the Member State. Assessment of the degree that existing concerns are already covered by the three specified directives.	Legal texts of directives Interviews Online survey Ad-hoc meetings
	EQ32b. Has the directive been relevant for the different stakeholders affected as regards the achievement of the above aim and how?	Slightly reworded: EQ32b. How relevant has the directive been to different stakeholders as regards the achievement of the THB, including: relevant EU institutions and bodies, national authorities, LEA, judicial authorities, CSOs	JC32b.1. The directive is relevant to EU institutions working in the field of THB. JC32b.2. The directive is relevant to national authorities in MS working in the field of THB. 32b.3. The directive is relevant to LEA and judicial authorities working on THB cases. 32b.4. The directive is relevant to national and international CSOs.	Content analysis of available implementation reports for information on the coherence between needs of different stakeholders and the objectives and provisions of the Anti-trafficking directive. Analysis of interview and survey responses to gather information on the adequacy of the Directive vis-à-vis the needs of affected stakeholders in	Extent to which interview and survey respondents report that the Anti-trafficking Directive provides an adequate framework to respond to the needs of affected stakeholders. Level of adequacy/correspondence of the content of the provisions of the Directive vis-à-vis	Documents Interviews Online Survey

				general from a (i) relevant EU institutions and bodies , National Competent Authorities in charge for the implementation of the Directive, and National Judicial Authorities; from (ii) first-line actors such as European CSOs, National CSOs, as well as from (iii) victims to better understand the needs from a key target group benefiting from the Anti-trafficking directive. Triangulation of evidence collected from desk-based and fieldwork activities.	identified needs of affected stakeholders.	
	EQ32c. In particular, how relevant is the directive to relevant stakeholders and what is their level of support for it in terms of the aim of preventing and combatting trafficking in human beings?	Slightly reworded: EQ32c. What is the extent of relevant stakeholders' (relevant EU institutions and bodies, national authorities, LEA, judicial CSOs) support of the directive?	JC32c. All relevant stakeholder are in support of the directive.	Analysis of interview, surview and survey responses, as well as feedback provided at ad-hoc meetings, on the level of support for the Anti-trafficking Directive in terms of the aim of preventing and combatting trafficking in human beings. Development of a scale that allows for the rating of the level of support of different stakeholder	Study teams' assessment of the level of support given by different stakeholder groups, based on the evidence provided.	Interivews Online surveys Ad-hoc meetings

				groups for the Directive, once the results from the survey, interviews and ad-hoc meeting has been collated.		
	EQ32d. What are the Member State authorities' expectations for the role of the EU as regards the achievement of the above aim?	= N/A	JC32d. Member States authorities expect the EU to take a leading role in preventing and responding to THB.	Analysis of interview and survey responses to gather information from key stakeholders on their views on the role of the EU.	Extent in which interview and survey respondents stress the importance of the role to be played by the EU in the fight against THB.	Interviews Online survey
	EQ32e. What are other stakeholders', such as non-governmental organisations' expectations for the role of the EU as regards the achievement of the above aim?	N/A	JC32e. Civil society organisations, and other non-governmental stakeholders, expect the EU to take a leading role in preventing and responding to THB.	Analysis of interview and survey responses to gather information from key stakeholders on their views on the role of the EU.	Extent in which interview and survey respondents stress the importance of the role to be played by the EU in the fight against THB.	Interviews Online survey
	EQ32f. To what extent do the original objectives of the directive correspond to the current needs of the society within the EU, reflect current policy trends, taking into account developments at Union and international levels, and fit the Union's institutional, legal, economic and political landscape as regards the achievement of the above aim?	N/A	JC32f.1. The original objectives of the Directive correspond to the current needs of the society within the EU. JC32f.2. The original objectives of the directive reflect current policy trends (EU and international). JC32f.3. The original objectives of the directive fit the Union's institutional, legal, economic and political landscape.	Content analysis regarding legal bases and texts of reference at international level and EU level (e.g., Charter of Fundamental Rights of the EU, relevant Council Framework Decisions to list possible evolutions of the latter and/or new international agreements on the theme. Content analysis of studies published by international organisations, EU institutions and bodies	Extent of change in the international and EU policy context since the entry into force of the Anti-trafficking Directive Observed changes to the nature of THB. Extent to which interview and survey respondents report relevant changes to the nature of THB in the EU. Extent to which interview and survey respondents report the Directive to be outdated or no longer in	Documents Interviews

				regarding the nature of THB. Analysis of interview and online survey responses regarding (i) the evolution of the policy context and relevant changes at EU level and National level with International bodies with relevant expertise in THB and regarding (ii) the evolution of nature of crimes with EMPACT, CSOs and representatives from Academia especially. Triangulation of evidence collected from desk-based and fieldwork activities	line vis-à-vis the evolution on the policy context.	
	EQ32g. Has the directive been adapted to legal, technological and other progress in the field of preventing and combatting trafficking in human beings?		JC32g. The Anti-trafficking directive is no longer up to date with legal or technological developments in the field of preventing and combatting trafficking in human beings.	Content analysis regarding legal bases and texts of reference at international level and EU level (e.g., Charter of Fundamental Rights of the EU, relevant Council Framework Decisions to list possible evolutions of the latter and/or new international agreements on the theme.	Extent of change in the legal context since the entry into force of the Anti-trafficking Directive Observed changes to the nature of THB, especially in terms of technological advancements Extent to which interview and survey respondents report relevant changes to	Documents Interviews Online survey

				Content analysis of studies published by international organisations, EU institutions and bodies regarding the nature of THB. Analysis of interview and survey responses to (i) understand the main technological advancements in the digital world, but also to (ii) understand to what extent the Directive has taken into account, and is able to adapt, to technological advances through, in particular, the analysis of contributions from National Competent Authorities in charge of the implementation of the Directive. Triangulation of evidence collected from desk-based and fieldwork activities	the nature of THB in the EU. Level of "flexibility" of the Directive to cover technological changes in the digital world Extent to which interview and survey respondents report the Directive to be outdated or no longer in line vis-à-vis existing legal and technological developments.	
	EQ32h. Is trafficking in human beings, including in the online domain, addressed under the national laws and court or administrative practice of the Member State? If it is not addressed or	EQ32h. To what extent is THB in the online domain addressed under national laws and court or administrative practice of the Member State?	JC32h. Member States' national laws and related court and administrative procedures sufficiently address THB in the online domain.	Mapping of national laws explicitly referring to THB in the online domain. Content analysis of reports discussing the nature of THB in the	Reference made to THB in the online domain in reports and court proceeding and other relevant documents detailing administrative procedures.	Mapping exercise Document analysis (including reports, but also court guideline documents, etc.) Interviews

	it is addressed only partially, what forms are left unaddressed?	EQ32h.2. What gaps remain to be addressed in Member States national laws and court or administrative practice		online domain, and what gaps remain. Content analysis of court proceeding documents and/or administrative guidelines on the extent to which they refer to THB in the online domain. Analysis of interview and survey responses, as well as feedback received at ad-hoc meetings, on the extent to which Member States national laws and court or administrative practice address THB in the online domain, and if there are any, what gaps remain. Triangulation of evidence collected from desk-based and fieldwork activities	Extent to which study participants report that they think that Member States' national laws and court or administrative practice address THB in the online domain. Gaps identified by study participants in Member States' national laws and court or administrative practice address THB in the online domain. Study teams' assessment of the extent Member States' national laws and court or administrative practice address THB in the online domain and identification of remaining gaps, if applicable.	Online survey Ad-hoc meetings
	EQ32i. Is trafficking of vulnerable groups, such as women and children or in high-risk sectors such as domestic work, agriculture, hospitability, fishing or the garment industry, addressed under the national laws and court or administrative practice of the Member State? Which provisions are	EQ32i.1. What are the ways Member States' national legislation and court or administrative practice specifically address the trafficking of women? EQ32i.2. What are the ways Member States' national legislation and court or administrative practice	JC32i. Member States' national laws and court or administrative procedures do not address the trafficking of vulnerable groups (women, children, people in high risk sectors, and people with intellectual or physical disabilities).	Mapping of national laws and national court or administrative procedures explicitly referring to: women, children, people in high risk sectors, and people with intellectual or physical disabilities. Content analysis of reports and sources	References made to women, children, people in high risk sectors, and people with intellectual or physical disabilities in national laws, and/or national court and administrative procedure documents. References made in reports by international,	Mapping exercise Documents Interviews Survey

	applicable to it? If it is not addressed or it is addressed only partially, what forms are left unaddressed?	address the trafficking of children? EQ32i.3. What are the ways Member States' national legislation and court, or administrative practice address the trafficking of children? EQ32i.4. EQ35i.3. What are the ways Member States' national legislation and court, or administrative practice address the trafficking of people with disabilities (physical and intellectual)?		prepared by governmental and non-governmental actors specifically focusing on THB victims who are women, children, people in high risk sectors, and people with intellectual or physical disabilities, specifically in terms of how these groups are covered under national laws and national court of administrative practice. Development of an analytical framework or list of classification that further operationalises what aspects are currently covered in Member Sates in relation to these groups, and what gaps remain, and for which groups. Analysis of interview and survey responses on the extent national laws and national and court or administrative practice sufficiently address the needs of THB victims who are victims who are women, children, people in high risk sectors, and people with intellectual or physical disabilities,	governmental and non-governmental stakeholders on how THB victims who are women, children, people in high risk sectors, and people with intellectual or physical disabilities, are covered under national laws and national court of administrative practice Assessment of the extent national laws and national court or administrative procedures address the needs of THB victims who are victims who are women, children, people in high risk sectors, and people with intellectual or physical disabilities, and what gaps remain, if any. This will be based on the framework developed as part of the approach.	

				and what gaps remain, if any. Triangulation of evidence collected from desk-based and fieldwork activities		
	EQ32j. Is trafficking in human beings addressed with a gender perspective and a child-rights approach in the Member State? Which provisions are applicable to it? If it is not addressed or it is addressed only partially, what forms are left unaddressed?	EQ32j.1. To what exent do Member States apply a gender perspective, (meaning they convey an understanding of the different vulnerabilities of different genders to THB and different forms of trafficking most common by gender) in preventing and combatting THB? EQ32j2. To what extent do Member States apply a child rights- approach (e.g. by referencing the UNCRC, considering the 'best interest' principle) to TBH?	JC32j.1 Member States do not apply a gender perspective to THB. JC32j.2. Member States do not apply a child-rights approach to THB.	Mapping of national laws that: i) identify women and children as vulnerable groups to THB ii) investigates which MS' national laws make reference to applying a gender perspective, meaning they meaning they convey an understanding of the different vulnerabilities of different genders to THB and different forms of trafficking most common by gender; iii) investigates which MS' national laws make reference to child-rights approaches, such as the UN Convention on the Rights of the Child, especially the 'best interest principle (Article 3) and/or children's rights to participate in decisions that affect them (Article 12), or requires adequate provision of services, iv) make	Extent to which national legislation make reference to gender sensitive or child-rights approaches. References made in reports and other relevant documents on the extent MS address THB with a gender perspective and/or a child-rights approach and what aspects are left unaddressed. Extent to which stakeholders report that MS are applying gender sensitive or child-rights approaches to THB, and what areas remain unaddressed. Assessment of the extent MS address THB with a gender perspective and/or a child-rights approach and what aspects are left unaddressed.	Mapping exercise Documents Interviews

				reference to other forms of gender-sensitive or child-rights based approaches. Content analysis of preventive measures research (information, awareness-raising, and education and identified under EQ6) to examining them specifically for the extent to which these measures apply a gender-sensitive or child-rights approach. Content analysis of reports produced by international bodies (EU,UN,ILO), national governments and non-governmental actors (both national and international) assessing Member States application of gender sensitive and/or child-rights based approaches to THB, and what gaps remain, if any. Analysis of interview and survey responses on the extent Member States application of gender sensitive and/or child-		

				rights based approaches to THB, and what gaps remain, if any. Triangulation of evidence collected from desk-based and fieldwork activities		

	Coherence	Added subquestions				
	EQ33. Where relevant, to what extent is the directive coherent with the following ones as regards preventing and combatting trafficking in human beings: - Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime; - Directive 2009/52/EC providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals - Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who	N/A	JC33.1 The Directive's objectives and provisions are coherent with those of Directive 2012/29/EU; Directive 2009/52/EC; Directive 2004/81/EC; Directive; 2011/93/EU; Directive 2004/80/EC; Directive 2014/42/EU. JC33.2 The Directive's definitions are coherent with those of Directive 2012/29/EU; Directive 2009/52/EC; Directive 2004/81/EC; Directive; 2011/93/EU; Directive 2004/80/EC; Directive 2014/42/EU. JC33.3 There is consistency between the stakeholders concerned with the implementation of Directive 2012/29/EU; Directive 2009/52/EC; Directive 2004/81/EC; Directive; 2011/93/EU; Directive	Desk analysis aimed at understanding complementarities and misalignments between the Directive and other relevant interventions; a content analysis of each EU measure will allow to map the key objectives and provisions of each instrument, and to examine different dimensions of analysis, namely: (i) a general dimension, including the nature of the measure, the actor taking it, its legal basis and scope (ii) investigation and prosecution, (iii) assistance and protection of victims, (iv) prevention Analysis of evidence of the targeted interviews and online survey to highlight complementarities and misalignments between the Directive and other relevant interventions	Extent to which the content analysis reveals coherence as to objectives, definitions and stakeholders involved Extent to which interviewees and survey respondents agree upon the consistency of the objectives, provisions, definitions and stakeholders of the Directive with respect to Directive 2012/29/EU; Directive 2009/52/EC; Directive 2004/81/EC; Directive; 2011/93/EU; Directive 2004/80/EC;	Primary sources: Interviews Online survey Secondary sources: Legislation (Directives)

	cooperate with the competent authorities - Directive 2011/93/EU on combating the sexual abuse and sexual exploitation of children and child pornography; - Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims - Directive 2014/42/EU of the European Parliament and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union - the CoE Convention on Action againts Trafficking in Human Beings		2004/80/EC; Directive 2014/42/EU.	Triangulation of evidence collected from the desk-based and fieldwork activities.	Directive 2014/42/EU	
	EQ34. To what extent is the directive satisfactorily integrated and coherent with other relevant EU laws and policies, such as in the context of the EU Asylum Acquis? Is there scope for further integration with other policy objectives? How do these policies affect (positively or negatively) the implementation of the EU legislation relevant to preventing and combatting trafficking in human beings?	EQ34a.To what extent is the directive satisfactorily integrated and coherent with other relevant EU laws and policies, such as in the context of the EU Asylum Acquis? Is there scope for further integration with other policy objectives? EQ34b. How do policies under the EU Asylum Acquis affect (positively or negatively) the implementation of the Directive?	JC34.1 The Directive's objectives and provisions are coherent with those of the other relevant EU laws and policies, such as in the context of the EU Asylum Acquis. JC34.2 The Directive's definitions are coherent with those of the other relevant EU laws and policies, such as in the context of the EU Asylum Acquis. JC34.3 Other relevant EU laws and policies, such as in	See approach to EQ33.	Extent to which the content analysis reveals coherence as to objectives, definitions and stakeholders involved Extent to which interviewees and survey respondents agree upon the consistency of the objectives and provisions of the Directive with	Secondary sources: Legislation Primary sources: Interviews Online survey

			the context of the EU Asylum Acquis (positively or negatively) affect the implementation of the EU legislation relevant to preventing and combatting THB.		respect to the other EU Extent to which interviewees and survey respondents agree upon the consistency of the definitions provided by the Directive with respect to the other EU measures Extent to which interviewees and survey respondents agree upon the consistency between the stakeholders concerned with the implementation of the Directive and of the other EU measures	
	EQ35. To what extent is the Directive coherent with the objectives of the Treaties, including the Charter of Fundamental Rights of the European Union, as regards the achievement of the above aim?	N/A	JC35. The objectives of the directive are coherent with the Treatis of the European Union, including the Charter of the Fundamental rights.	See approach to EQ33	See indicators for EQ34	See sources for EQ34
	EQ36. To what extent has the objective of preventing and combatting trafficking in human beings been	N/A	JC36. The objective of preventing and combatting trafficking in human beings been successfully integrated into EU funds.	Desk analysis of information on available EU funds and the extent to which they make reference to the anti-trafficking Directive, and they share the	References made to the Directive, and to the objective of preventing and combatting THB by	Secondary sources: Information covering EU funds (e.g. reports and websites)

	successfully integrated into EU funds?			objective of preventing and combatting THB. Analysis of interview and survey responses on the extent the objectives of the Directive are reflected in EU funds. Triangulation of evidence collected from desk-based and fieldwork activities	EU funding documentation. Extent interview and survey respondents report that objectives of the Anti-trafficking directive have been integrated into EU Funds.	Primary sources: Interviews Online Survey
	EQ37. To what extent is the Directive coherent with other relevant international obligations and standards (such as the United Nations Convention against Transnational Organized Crime and its supplementing Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, the ILO Forced Labour Convention, the Convention on the Elimination of Discrimination against Women (CEDAW) and UN Conventions on the Rights of the Child (UNCRC) and the Rights of Persons with Disabilities (UNCRPD)?	N/A	JC37.1. The directive is coherent with the United Nations Convention against Transnational Organised Crime and its supplementing Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Wome and Children. JC37.2. The directive is coherent with the ILO Forces Labour Convetion. JC37.3. The directive is coherent with the Convention on the Elimination of Discrimination against Women (CEDAW). JC37.4. The directive is coherent with the UN Convention on the Rights of the Child (UNCRC). JC37.5. The directive is coherent with the Rights of Persons with Disabilities (UNCRPD).	Desk analysis aimed at understanding complementarities and misalignments between the Directive and other relevant obligation standards. More specifically, a content analysis of each regional and global initiative will allow to map the key objectives and provisions of each measure, and to examine different dimensions of analysis, namely: (i) a general dimension, including the nature of the measure, the actor taking it, its legal basis and scope, (ii) investigation and prosecution, (iii) assistance and protection of victims, (iv) prevention Analysis of evidence of the targeted interviews, and online survey to highlight complementarities and misalignments between the Directive and other relevant	Extent to which the content analysis reveals coherence as to objectives, definitions and stakeholders involved Extent to which interviewees and survey respondents agree upon the consistency of the objectives and provisions of the Directive with respect to other relevant obligations and standards Extent to which interviewees and survey respondents agree upon the consistency of the definitions provided by the Directive with respect to other	Secondary sources: Document analysis Primary sources: Online survey Interviews

				international obligations and standards Triangulation of evidence collected from the desk-based and fieldwork activities	broader initiatives at regional and the global level aimed at preventing and combatting human trafficking Extent to which interviewees and survey respondents agree upon the consistency between the stakeholders concerned with the implementation of the Directive and of other broader initiatives at regional and the global level aimed at preventing and combatting human trafficking	

	EU Added Value	Added subquestions				
	EQ38. What has been the EU added value of the Directive as regards the aim of preventing and combatting trafficking in human beings in particular? What would the situation have been in the Member States if there had been no EU legislation applicable (compared to what could have been achieved by the Member States alone at	N/A	JC38.1: The implementation of the Directive provided additional value to the one that would have been created by Member States alone in preventing and combatting human trafficking.	Analysis of interview and survey responses to gather information on the added value generated by the Directive (e.g., in terms of coordination gains, complementarities or greater effectiveness) vis-à-vis what could have been achieved by Member states acting in an uncoordinated	Extent to which interview and survey respondents report that the implementation of the Anti-trafficking Directive generated added value in preventing and combatting human trafficking compared to what could be achieved by the Member States	Secondary sources: Document analysis Primary sources: Online survey Interviews

	national and/or regional levels, as well as through international agreements and cooperation)?			manner. Data providers include (i) EU bodies with relevant expertise on the policy area (EMPACT, National Competent Authorities for the implementation of the Directive, National Competent Authorities working with human trafficking cases in Europe, National Law enforcement authorities, National Judicial Authorities), and (ii) stakeholders involved in the field such as European and National organisations Analysis of the added value, stemming from the answers to other relevant evaluation questions (e.g., effectiveness vis-à-vis the objectives). Content analysis of EU policy documents and/or reports providing information on the state of play in preventing and combatting human trafficking at national level, as well as studies, assessments produced at National level,	taking actions without EU action. Level of harmonisation of the national regulatory frameworks in the Member States since the entry into force of the Regulation	

				Triangulation of evidence collected from desk-based and fieldwork activities.		

2. IMPACT ASSESSMENT

Assessing the potential impact of policy options included the following stages:

1. Problem definition and assessment;
2. Analysis of the EU's right to act;
3. Identification of policy objectives and detailed formulation of retained policy options;
4. Assessment of the impact of policy options;
5. Ranking and comparison of policy options.

3. DESCRIPTION OF DATA COLLECTION METHODS METHODOLOGY

3.1. Evaluation

The evaluation of the Directive was informed by the collection and analysis of qualitative and quantitative data obtained through the following methods:

- **Mapping and analysis of transposition of the Directive into national law.** By using a network of national correspondents, the external contractor conducted desk research regarding the transposition of the Directive into Member States land compared it to data shared by the European Commission on the state of transposition in 2016. The full analysis is presented in Annex 6.

- **Analysis of quantitative data** shared by EUROSTAT on trends in THB from 2013-2020 across the EU27.

- **Documentary review** of more than 100 sources. Key desk resources include (i) reports, studies and other publications addressing trafficking in human beings; and (ii) information shared by DG HOME on EU funding streams (i.e., AMIF, ISF). The complete list of sources reviews for the Staff Working Document on the evaluation is presented at the end of this Annex.

- Public consultation of EU citizens that ran from 14 December 2021 until 22 March 2022. A total of 124 contributions were received.

- Online survey that ran from 29 November 2021 to 15 January 2022. A total of 90 responses were received. Participants included Member State national competent authorities (16); National rapporteurs and equivalent mechanisms (NREM) (14), national LEAs (9), national judicial authorities (JAs) (12), other national authorities (5), CSOs (24) and other (10). At least one response from each Member State was received.

- **Interviews** with 29 stakeholders were performed. Five interviews (4 EU agencies, 1 CSO) were performed during the inception phase to inform the scope, framework and data collection tools of the study. A further 24 interviews were performed during the evaluation phase. One additional stakeholder chose to submit responses in writing. Stakeholders included representatives from EU agencies (6), EMPACT (1), European

CSOs (5), international bodies (5), academics/experts (6), and business/employer associations (1).

- **Two stakeholder workshops** with the EU Civil Society Platform against THB (Workshop 1) and NREM (Workshop 2).

- **Analysis of data on EU funding of THB projects** from 2014-2020 under the Asylum, Migration, and Integration Fund (AMIF) and the Internal Security Fund (ISF).

- **Feedback on the Roadmap/Inception Impact Assessment.** From 5 August 2021 to 16 September 2021, the EC sought feedback on the inception impact assessment underpinning this evaluation.[292] The 36 responses received from CSOs (24), EU citizens (4), public authorities (3), non-EU citizens (2) and other (3) were also analysed[293].

Further details on the data collection activities can be found in the synopsis report in Annex 4.

3.2. Impact assessment

- **Interviews with (4) EU agencies and (3) EU level civil society organisations** were performed. One additional interview with a senior advisor at a National Rapporteur's office was conducted. Interviews were aimed at collecting views on the nature and extent of the likely impacts and feasibility of the identified policy options for the stakeholder groups who might be affected.

- **Case studies of five Member States (FR, IT, HU, NL, RO).** A description of the case study selection methodology can be found in the synopsis report (Annex 2). The case studies included group interviews with national authorities from the selected Member States on possible impacts of the identified policy measures.

4. Limitations

The data collected for the evaluation and impact assessment has several limitations that should be borne in mind when interpreting the findings. We summarise these limitations below, along with the mitigation measures taken to address them where possible.

- **Measuring effectiveness with limited available data:** Given some of the data gaps (see evaluation and Annex 5), it was sometimes challenging to validate some of the expert judgements and stakeholder opinions, which made measuring the effectiveness challenging. For example, there was a lack of monitoring data on the effectiveness of prevention measures, such as awareness raising campaigns, research and information.

- **Subjectivity of stakeholders' views:** Data collected from stakeholders, including through interviews, surveys, and workshops represents subjective views, rather than objective conclusions. To help mitigate this, the report relies on the triangulation of various data sources (as outlined in this Annex). In addition, stakeholders consulted as part of the evaluation and impact assessment for

[292] European Commission, Fighting human trafficking – review of EU rules. Available here.
[293] European Commission, Fighting human trafficking – review of EU rules. Available here.

interviews, workshops, and the online survey included people with relevant expertise in the field of trafficking in human beings, who are used to giving evidence as part of their professional roles.

- **Selection bias of stakeholders:** There may be a certain degree of selection bias, especially regarding interviewees. Participants' views might not be representative of all stakeholders affected by the Directive. To help mitigate this, stakeholders at all levels were selected for participation (in consultation with DG HOME), including at the EU, national, international and civil society level. Through the consultations, in particular the online survey, it was possible to gather perspectives from all Member States.
- **Attributing outcomes to the Directive:** attributing outcomes in the area of combatting trafficking in human beings to the existence of the Directive can be challenging. The evaluation and impact assessment assess the Directive's contribution to preventing and combatting trafficking in human beings based on how the available evidence compares to the intervention logic (see Annex 7 to the evaluation).
- **Assessing trends and statistics related to the phenomenon of THB:** As outlined in more detail in the evaluation and Annex 5, there are a number of gaps in the available data on THB. In an effort to fill gaps as much as possible, this report relies on a variety of available data sets, including data gathered by ESTAT from 2013-2020 and inputs provided by Member States in response to request for data from the European Commission. The consultation of several available data sources helped map important gaps.

5. LIST OF SOURCES

1. Legislative and non-legislative acts

I. EU law

- Council Directive 2004/81/EC on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities, 29 April 2004;
- Council Directive 2004/83/EC on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted, 29 April 2004;
- Directive (EU) 2019/1153 of the European Parliament and of the Council laying down rules facilitating the use of financial and other information for the prevention, detection, investigation or prosecution of certain criminal offences, and repealing Council Decision 2000/642/JHA, 20 June 2019;
- Directive 2004/80/EC relating to compensation to crime victims, 29 April 2004;
- Directive 2004/81/EC on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an

action to facilitate illegal immigration, who cooperate with the competent authorities, 29 April 2004;

- Directive 2004/38/EC of the European Parliament and of the Council on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC, L158/77, 29 April 2004;
- Directive 2009/52/EC of the European Parliament and of the Council on providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals, 18 June 2009;
- Directive 2011/93/EU on combating the sexual abuse and sexual exploitation of children and child pornography, 13 December 2011;
- Directive 2012/29/EU on establishing minimum standards on the rights, support and protection of victims of crime, 3 April 2014;
- Directive 2013/32/EU on common procedures for granting and withdrawing international protection, 29 June 2013;
- Directive 2013/33/EU laying down standards for the reception of applicants for international protection, 29 June 2013
- Directive 2014/42/EU of the European Parliament and of the Council on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union, 3 April 2014;
- European Parliament (2021), Resolution on the implementation of Directive 2011/36/EU on preventing and combatting trafficking in human beings and protecting its victims, 10 February 2021.
- Regulation (EU) 2018/1805 of the European Parliament and of the Council of 14 November 2018 on the mutual recognition of freezing orders and confiscation orders, L303;
- Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person.

- Council of the European Union, Council Framework Decision 2002/629/ on combating trafficking in human beings, 19 July 2002;
- Council of the European Union, *Council Framework Decision 2008/841/JHA on the fight against organised crime*, 24 October 2008.

II. Conclusions of Council of the EU

- Council of the European Union (2009), *Council Conclusions on establishing an informal EU Network of National Rapporteurs or Equivalent Mechanisms on Trafficking in Human Beings*, Luxemburg, 4 June 2009;
- Council of the European Union (2017), *Council Conclusions on the continuation of the EU Policy Cycle for organised and serious international crime for the period 2018-2021*, 10 March 2017;

- Council of the European Union (2019), *Council conclusions on combating the sexual abuse of children,* 8 October 2019;
- Council of the European Union (2021), *Council conclusions setting the EU's priorities for the fight against serious and organised crime for EMPACT 2022 – 2025,* 12 May 2021.

2. Other instruments

I. EU Action Plans

- European Commission (2020), *Action plan on Integration and Inclusion 2021-2027*, Publications Office;
- European Commission (2009), *The Stockholm Programme - An open and secure Europe serving and protecting citizens*, 17024/09, Brussels, 2 December 2009;
- *Committee Of The Regions on a renewed EU action plan against migrant smuggling 2021-2025*, COM(2021) 591 final, Brussels, 29 September 2021;
- European Commission (2020), Action plan on Integration and Inclusion 2021-2027, Publications Office;
- European Commission (2021), Communication from The Commission to The European Parliament, The Council, The European Economic and Social Committee And The Committee Of The Regions on a renewed EU action plan against migrant smuggling 2021-2025, COM(2021) 591 final, Brussels, 29 September 2021.

II. EU Strategies

- *Council of the European Union (2018), Internal Security Strategy for the European Union, Publications Office of the European Union;*
- European Commission, (2012), *EU Strategy towards the eradication of trafficking in human beings 2012-2016,* COM(2012) 286 final, Brussels, 19 June 2012;
- European Commission (2020), A Union of Equality: Gender Equality Strategy 2020-2025, COM/2020/152 final, Brussels, 5 March 2020;
- European Commission (2020), EU Strategy on victims' rights (2020-2025), COM(2020) 258 final, Brussels, 24 June 2020;
- European Commission (2020), Communication from The Commission to The European Parliament, The Council, The European Economic and Social Committee And The Committee Of The Regions on the EU strategy for a more effective fight against child sexual abuse, COM(2020) 607, Brussels, 24 July 2020;
- European Commission (2021), Communication from The Commission to The European Parliament, The Council, The European Economic and Social Committee And The Committee Of The Regions on the EU Strategy on Combatting Trafficking in Human Beings 2021-2025, COM(2021) 171 final, Brussels, 14 April 2021;
- European Commission (2021), EU Strategy to tackle Organised Crime 2021-2025, COM(2021) 170 final, Brussels 14 April 2021.

III. European Commission Proposals

- European Commission (2022), Proposal for a Directive of the European Parliament and of the Council on asset recovery and confiscation, COM(2022) 245 final, Brussels, 25 May 2022.
- European Commission (2022), Proposal for a regulation of the European Parliament and of the Council on laying down rules to prevent and combat child sexual abuse, COM(2022) 209 final, Brussels, 11 May 2022.
- European Commission (2022), Proposal for Directive of The European Parliament and Of the Council on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937, COM(2022) 71 final, Brussels, 23 February 2022;
- European Commission (2010), *Proposal for a Directive on preventing and combating trafficking in human beings, and protecting victims, repealing Framework Decision 2002/629/JHA*, COM(2010) 95 final, Brussels 29 March 2010;
- European Commission (2009), Impact Assessment - Commission Staff Working Document Accompanying document to the Proposal for a Council Framework Decision on preventing and combating trafficking in human beings, and protecting victims, repealing Framework Decision 2002/629/JHA.

IV. **European Commission Impact Assessments**

- European Commission (2016), Assessing the impact of existing national law, establishing as a criminal offence the use of services which are the objects of exploitation of trafficking in human beings, on the prevention of trafficking in human beings, in accordance with Article 23 (2) of the Directive 2011/36/EU, COM(2016) 719 final, Brussels 2 December 2016
- European Commission (2016), Assessing the extent to which Member States have taken the necessary measures in order to comply with Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims in accordance with Article 23 (1), COM(2016) 722 final, Brussels, 2 December 2016.
- European Commission (2021), Inception impact assessment - Ares(2021)4984017;

V. **Conventions**

- Council of Europe (2005), *Convention on Action against Trafficking in Human Beings*, Warsaw, 16 May 2005;
- Council of Europe (2011) *Convention on preventing and combating violence against women and domestic violence*, Istanbul, 11 May 2011;
- International Labour Office (ILO) (2014) *Convention 29 on Forced Labour and its Protocol*, ILO;
- United Nations (1979) Convention on the Elimination of Discrimination against Women, United Nations publication;
- United Nations (1989) Conventions on the Rights of the Child, United Nations publication;
- United Nations (2000) Convention against Transnational Organized Crime and the Protocols Thereto, United Nations publication;
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- European Commission, Reporting on the follow-up to the EU Strategy towards the Eradication of trafficking in human beings and identifying further concrete actions, COM(2017) 728 final, Brussels, 4 December 2017.
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- European Commission (2020), Third report on the progress made in the fight against trafficking in human beings (2020) as required under Article 20 of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, COM(2020) 661 final, Brussels, 20 October 2020;
- European Commission, Staff Working Document accompanying the Third (2020) report on the progress made in the fight against trafficking in human beings third report, SWD(2020) 226 final, Brussels, 20 October 2020.

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- European Parliament (2021) *Report on the implementation of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims*, European Parliament;
- UNODC (2020), Global Report on Trafficking in Persons, United Nations publication;
- JHA (2021) *Joint report of the JHA agencies' network on the identification and protection of victims of human trafficking;*
- Eurojust (2021), *Report on Trafficking in Human Beings: Best practice and issues in judicial cooperation,* available at:

https://www.eurojust.europa.eu/sites/default/files/assets/2021_02_16_thb_casework_report.pdf.

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- European Commission (2015), Study on high risk groups for trafficking in human beings;
- European Commission (2015), Study on case-law relating to trafficking in human beings for labour exploitation;
- European Commission (2016), Study on the gender dimension of trafficking in human beings;
- European Commission (2016), Study on comprehensive policy review of anti-trafficking projects funded by the European Commission;
- European Commission (2020), Data collection of trafficking in human beings in the EU;
- European Commission (2020), Study on reviewing the functioning of Member States' National and Transnational Referral Mechanisms, Publications Office;
- European Commission (2020), Study on the economic, social and human costs of trafficking in human beings within the EU, Publications Office of the European Union;
- European Commission, Eurostat (2015), Trafficking in human beings;
- European Commission (2021) Mapping the risk of serious and organised crime infiltrating legitimate businesses.

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- European Institute for Gender Equality (EIGE) (2018), Gender-specific measures in anti-trafficking actions, Publications Office;
- European Institute for Gender Equality (EIGE) (2018), Protecting victims: An analysis of the anti-trafficking directive from the perspective of a victim of gender-based violence, Publications Office.

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- European Parliamentary Research Service (EPRS) (2020), Implementation of Directive 2011/36/EU: Migration and gender issues, EPRS;
- European Parliamentary Research Service (EPRS) (2021), Understanding EU action against human trafficking, EPRS;
- European Parliamentary Research Service (EPRS) (2016), Trafficking in Human Beings from a Gender Perspective Directive 2011/36/EU, EPRS.

IV. European Union Agency for Fundamental Rights (FRA) publications

- European Union Agency for Fundamental (FRA) (2019), Children deprived of parental care found in an EU Member State other than their own – A guide to enhance child protection focusing on victims of trafficking, Publications Office;
- European Union Agency for Fundamental Rights (FRA) (2017), Out of sight: migrant women exploited in domestic work, FRA;
- European Union Agency for Fundamental Rights (FRA) (2018), Protecting migrant workers from exploitation in the EU: boosting workplace inspections, FRA.

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- Europol (2015), The THB financial business model, Assessing the current state of knowledge July 2015, Europol, available at: Draft_Staff_Working_Document Evaluation of the Anti-trafficking Directive 14102022.docx;
- Europol (2016), Situation Report: Trafficking of Human Beings in Europe, Europol, available at: https://www.europol.europa.eu/sites/default/files/documents/thb_situational_report_-_europol.pdf;
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- Europol Migrant Smuggling Centre (2020), European Migrant Smuggling Centre 4th Annual Report, available at: emsc_4th_annual_activity_report_-_2020.pdf (europa.eu);

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- Group of Experts on Action Against Trafficking in Human Beings (GRETA) (2020), Compendium of Good practices in addressing trafficking in human beings for the purpose of labour exploitation, Council of Europe.
- Group of Experts on Action Against Trafficking in Human Beings (GRETA) (2020), Guidance Note on the entitlement of victims of trafficking, and persons at risk of being trafficked, to international protection, Council of Europe.
- Group of Experts on Action Against Trafficking in Human Beings (GRETA) (2019), Practical impact of GRETA's monitoring work, Council of Europe.
- Group of Experts on Action Against Trafficking in Human Beings (GRETA) (2018), Assistance to victims of human trafficking, Council of Europe.

- Group of Experts on Action Against Trafficking in Human Beings (GRETA) (2017), Human Trafficking for the purpose of labour exploitation, Council of Europe.
- Group of Experts on Action Against Trafficking in Human Beings (GRETA) (2018), Trafficking in Children, Council of Europe.
- Group of Experts on Action Against Trafficking in Human Beings (GRETA) (2015), 4th General Report on GRETA's activities, Council of Europe.

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- Organization for Security and Co-operation in Europe (OSCE) (2017), *Ministerial Council Decision No. 6/17 Strengthening Efforts to Prevent Trafficking in Human Beings*, MC.DEC/6/17;
- Organization for Security and Co-operation in Europe (OSCE) (2018), Child Trafficking and Child Protection: Ensuring that Child Protection Mechanisms Protect the Rights and Meet the Needs of Child Victims of Human Trafficking, OSCE;
- Organization for Security and Co-operation in Europe (OSCE) (2020), Leveraging innovation to fight trafficking in human beings: A comprehensive analysis of technology tools, OSCE;
- Organization for Security and Co-operation in Europe (OSCE) (2020), Establishing National Focal Points to Protect Child Victims of Trafficking in Human Beings, OSCE;
- Organization for Security and Co-operation in Europe (OSCE) (2021), Discouraging the demand that fosters trafficking for the purpose of sexual exploitation, OSCE;
- Organization for Security and Co-operation in Europe (OSCE) (2021), Applying Gender-Sensitive Approaches in Combating Trafficking in Human Beings, OSCE.

VIII. UN publications

- UNHCR (2012), Thematic study on the issue of violence against women and girls and disability, United Nations publication;
- UNODC (2020), Interlinkages between Trafficking in persons and forced marriage, United Nations publication;
- UNODC (2021), Compendium of Promising Practices on Public-Private Partnerships to prevent and counter trafficking in persons, United Nations publications;
- UNODC (2021), The effects of the COVID-19 pandemic on trafficking in persons and responses to the challenges, United Nations publications.

IX. Other publications

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content/uploads/2017/01/trafficking_for_forced_criminal_activities_and_begging_in_europe.pdf;
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ANNEX III. OVERVIEW OF BENEFITS AND COSTS AND TABLE ON SIMPLIFICATION AND BURDEN REDUCTION

		National competent authorities		National Rapporteurs		Law enforcement authorities		Judicial authorities		Civil Society Organisations	
		Quantitative	Comment	Quantitative	Comment	Quantitative	Comment	Quantitative	Comment	Quantitative	Comment
Investigation and prosecution of THB	**Costs**		**Indirect costs, recurrent**: Purchase of law enforcement equipment and related materials Purchase and maintenance of IT equipment needed to perform judicial investigations **Direct costs, recurrent**: Training of				**Indirect costs, recurrent**: Purchase of law enforcement equipment and related materials Personnel Equipment and related materials **Direct costs, recurrent**: Training of officials		**Indirect costs, recurrent**: Purchase and maintenance of IT equipment needed to perform judicial investigations		

			officials								
	Benefits										
Assistance, support and protection to THB victims	**Costs**	**Direct costs, recurrent** Assistance and protection programmes: from around EUR 106.000 in 2018 in CZ 2018 to EUR 22.5 million in 2017 in IT Compensation (per victim): from EUR 125 to EUR 2.500 (CZ), from EUR 1.000 to EUR 30.000 (DE) **Indirect costs, recurrent**: Repatriation programmes/initiatives:LT allocates EUR 3.000 annually for diplomatic missions to repatriate,	**Indirect costs, one-off**: Set up of protection programmes **Indirect costs, recurrent**: Purchase of adequate equipment for audio-visual recording of interviews with children during criminal proceedings **Direct costs, recurrent**: Provision of: Accommodation				**Indirect costs, recurrent**: Purchase of adequate equipment for audio-visual recording of interviews with children during criminal proceedings		**Indirect costs, recurrent**: Purchase of adequate equipment for audio-visual recording of interviews with children during criminal proceedings		**Indirect costs, one-off**: Set Set up of protection programmes

		PT's repatriation programme costs EUR 800.000 each year (it is jointly financed by AMIF (75%) and the Portuguese government (25%))	Material assistance Psychological assistance Medical aid Translation and interpretation Set up a compensation fund/scheme and provision of compensation to victims rovision of legal counselling and representation Performing of individual risk assessment								
	Benefits										
Prevention of THB	**Costs**	**Direct costs, recurrent**: Awarenes s raising campaigns: LU spends	**Indirect costs, one-off**: Set up of prevention								

		EUR 95.000 in an information and awareness-raising campaign on THB for the general public, SI allocates EUR 44.000 for awareness raising projects on THB **Indirect costs, recurrent:** Establishment of anti-trafficking hotlines: IT allocates EUR 300.000 annually, LU has two national hotlines for children in difficulty, which cost EUR 400.000 each year	programmes **Indirect costs, recurrent**: Hiring lawyers and interpreters **Direct costs, recurrent:** Delivering of education activities Delivering of trainings for national authorities/bodies Delivering of awareness-raising campaigns								
	Benefits										
Data collection and communication	**Costs**				**Direct costs, recurrent:** Collection and analysis of						

					data/information sharing Regular communication with the Commission						
	Benefits										

TABLE 2:* S*implification and burden reduction (savings already achieved)

*Report any simplification, burden reduction and cost savings **achieved already** by the intervention evaluated, including the points of comparison/ where available (e.g. REFIT savings predicted in the IA or other sources).*

	Citizens/Consumers/Workers		Businesses		Administrations		[Other…] _ specify			
	Quantitative	Comment	Quantitative	Comment	Quantitative	Comment	Quantitative	Comment		
Type: One-off / recurrent (select)										

PART II: II Potential simplification and burden reduction (savings)

*Identify further potential simplification and savings **that could be achieved** with a view to make the initiative more effective and efficient without prejudice to its policy objectives[294].*

	National competent authorities		National Rapporteurs		Law enforcement authorities		Judicial authorities		Civil Society Organisations	
	Quantitative	Comment	Quantitative	Comment	Quantitative	Comment	Quantitative	Comment	Quantitative	Comment
Description:…										
Type: One-off / recurrent (select)										

[294] This assessment is without prejudice to a possible future Impact Assessment.

Recurrent	Increasing seizure and confiscation of assets from THB proceedings to be used to feed compensation schemes (e.g. when implementing Article 17)									
Recurrent	Spend more on prevention would imply a reduction of THB cases, hence the number of offenders (and related costs of investigation and prosecution) and of victims (and related costs of support and protection) would also be reduced									

ANNEX IV. STAKEHOLDER CONSULTATION (SYNOPSIS REPORT)

This Annex presents the synopsis report of the consultation activities undertaken for the evaluation and impact assessment of the Anti-Trafficking Directive.

1. CONSULTATION ON THE ROADMAP/INCEPTION IMPACT ASSESSMENT

The combined evaluation roadmap and inception impact assessment for the initiative was published by DG Migration and Home Affairs (DG HOME) on the Commission's 'Have your say' webpage[295] on 5 August 2021 until 16 September 2021. The Commission received feedbacks from 36 stakeholders.

2. MEETINGS OF THE EU NETWORK OF NATIONAL RAPPORTEURS AND EQUIVALENT MECHANISMS AND THE EU CIVIL SOCIETY PLATFORM

On 30 November 2021, the Commission organised a virtual meeting of the EU Civil Society Platform against trafficking in human beings in order to inform the evaluation and impact assessment of the Anti-trafficking Directive. On 6 December 2021, a virtual meeting was organised with the EU Network of National Rapporteurs and Equivalent Mechanisms (NREM). The meetings focused on the challenges that affect the implementation of the Anti-trafficking Directive and its possible amendments, in order to inform its evaluation and impact assessment.

The topics of the criminalisation of the use of exploited services and levels of penalties in the Directive were discussed during the meeting of the EU Network of NREM on 16 May. On 18 May, the EU Civil Society Platform discussed the topics of the criminalisation of the use of exploited services, as well as national and transnational referral mechanisms. The NREM and Civil Society Platform gathered on 17 May in a joint meeting, where the digital dimension of trafficking in human beings as well as trafficking for the purpose of labour exploitation were addressed. All these discussions informed the evaluation and impact assessment.

3. CONSULATION IN THE CONTEXT OF THE EVALUATION

3.1. Consultation strategy

3.1.1. Public consultation

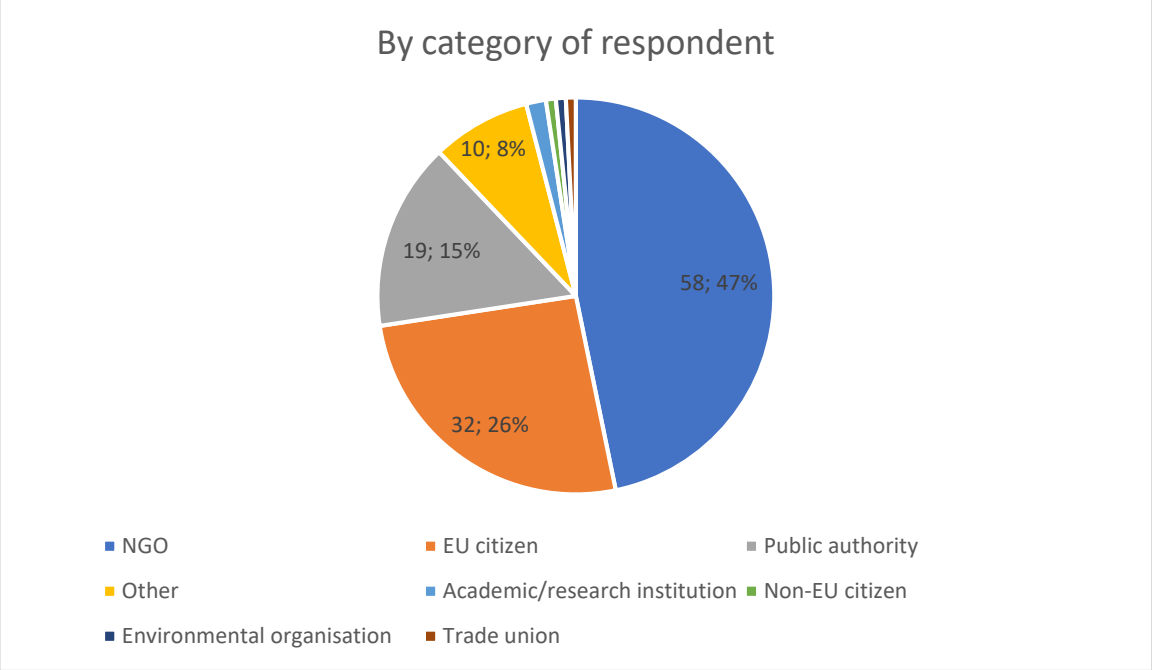
The Commission carried out **a public consultation** targeting the general public with the aim of collecting information, evidence, and views on the issues at stake and to feed into the evaluation questions. The questionnaire was available in all official languages of the EU institutions[296] and remained open on the Commission's public consultation website from 14 December 2021 to 22 March 2022. In total, 124 responses were received. In addition, 75 contributors submitted a standalone written response.

Of the 124 contributions received, 58 (47%) were submitted by non-governmental organisations (NGOs). Thirty-two (26%) were submitted by EU citizens. Public authorities were the third largest group, accounting for 19 (15%) of responses. This was followed by

[295] Fighting human trafficking – review of EU rules (europa.eu).
[296] Except Gaelic.

two academic/research institutions (n=2, 2%), one non-EU citizen, one environmental organisation and one trade union (Figure 1).

Figure 1: Public consultation responses by type of respondent

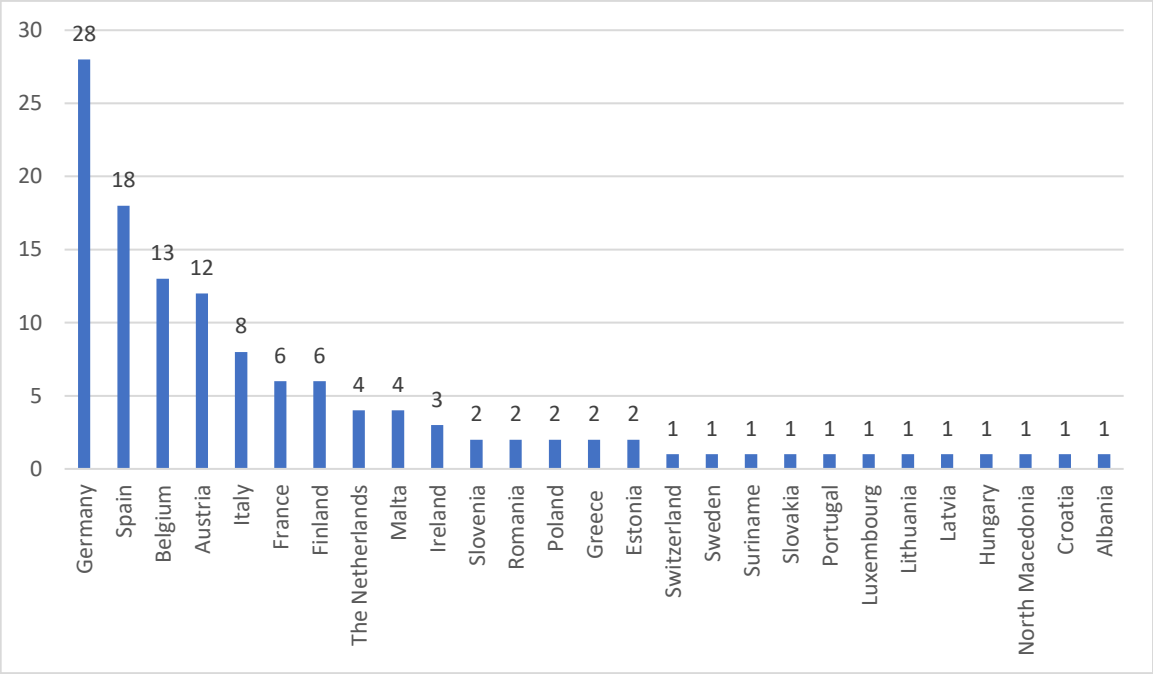


Source: European Commission, About this Consultation[297]

Almost a quarter of responses came from Germany (23%, n=28). The second largest number of contributions came from Spain (15%, n=18), followed by Belgium (10%, n=13) and Austria (10%, n=12). This was followed by Italy (6%, n=8), France (5%, n=6), Finland (5%, n=6), the Netherlands (3%, n=4), and Malta (3%, n=4). 18 countries had three or fewer contributions (Figure 2).[298]

[297] European Commission, Have your Say – Fighting Human Trafficking: Review of EU rules. Available here.
[298] European Commission, Have your Say – Fighting Human Trafficking: Review of EU rules. Available here.

Figure 2: Responses to public consultation by country



Source: *European Commission, About this Consultation*[299]

3.1.2. Online survey

Within the framework of the study to support the evaluation of the Directive on preventing and combating trafficking in human beings and protecting its victims and an impact assessment for a legislative proposal on the topic, the external contractor launched an online survey, which aimed at collecting both comprehensive and specific information on stakeholders' views regarding the impact of the Anti-trafficking Directive and some of the remaining challenges in preventing and combatting trafficking in human beings. It allowed to collect information from a large number of stakeholders, and to gather specific contributions that would not be possible to obtain from interviews alone. Specifically, the online survey was targeted at the following categories of stakeholders:

- National competent authorities (16 responded);
- National Rapporteurs and Equivalent Mechanisms (14 responded);
- National law enforcement authorities concerned with THB-related crimes (9 responded);
- National judicial authorities concerned with THB-related crimes (12 responded);
- National authorities responsible for social services (1 responded);
- Relevant civil society organisations (24 responded);
- Other national authorities (4 responded).

In total, 90 replies to the online survey were received. The survey was launched on 29 November 2021 using the EY on-line survey tool Qualtrics, and remained open until 21 January 2022.

[299] European Commission, Have your Say – Fighting Human Trafficking: Review of EU rules. Available here.

2.1.3. Stakeholder interviews

The contractor carried out **interviews** with 29 stakeholders from 41 organisations across six main stakeholder groups, as summarised in Table 1. Topic guides and the content of interviews were tailored to the expertise of the interviewee. Stakeholders were identified through suggestions from the Commission, a stakeholder mapping process, recommendations from the interviewees, and recommendations from members of the study's expert panel. Key information was coded into an evidence grid, in relation to each evaluation question.

Table 1: Number of organisations consulted by stakeholder group

Stakeholder group	Number of organisations consulted
EU Agency[300]	9
EMPACT	1
International organisation	6
European civil soceity organisation[301]	5
Business/employer association or representative	2
Experts/academics	6
Total:	**29**

3.2. Results of the consultation activities

3.2.1. Public consultation

A summary of the key findings from the public consultation, grouped by evaluation criterion, is provided below. It should be noted that this summary is not exhaustive and rather presents some of the key results of the public consultation.

3.2.1.1. Effectiveness

Most respondents to the public consultation considered that the Directive contributed to a small or moderate extent to reducing demand.[302]

[300] One of the stakeholders preferred to send a written response to the interview questionnaire, rather than participate in an interview.
[301] One of the stakeholders preferred to send a written response to the interview questionnaire, rather than participate in an interview.
[302] Question #3 of the public consultation asked respondents to what extent, in their view, the Directive contributed to reducing demand in trafficking in human beings related to sexual exploitation, labour exploitation, exploitation for criminal activities, removal of organs and forced begging. More than 40%

61% of the respondents considered that the Directive should criminalise the knowing use of services exploited from victims of trafficking. However, respondents had more diverging views with respect to the extent to which existing national laws criminalising the knowing use of exploited services had contributed to reducing the demand for such services[303].

Almost 60% of the respondents to the public consultation considered that the Directive had only contributed to holding legal persons liable for THB offences to a 'moderate' or a 'small extent'.[304]

The majority of the respondents (67%) replied that the Directive had contributed to allowing victims of trafficking to effectively report a case to a "small extent".[305]

3.2.1.2. Efficiency

Almost half of the replies highlighted the cost-effectiveness of the Anti-trafficking Directive (43%, n=53). The majority of the respondents considered that the implementation of the Directive had not caused unnecessary administrative burden (56%, n=69).

3.2.1.3. Relevance

70% (n=83) of the respondents to the public consultation agreed that the gender dimension, in particular the protection of women and girls, should be more prominently articulated in the Directive. Twenty-three per cent (n=29) of respondents disagreed.[306]

Almost two thirds of respondents (74%, n=92) agreed that he Directive should introduce specific provisions to address the online dimension of trafficking in human beings, including online recruitment, advertisement and exploitation of the victims. Almost 20% (19%, n=24) disagreed.[307]

3.2.1.4. Coherence

Most of the respondents (69%, n=86) considered that the Anti-trafficking Directive was coherent with the Victims' Rights Directive (2012/29/EU). Nearly half of the respondents

(44%, n=54) of respondents reported that the Directive made either a 'moderate' (21%, n=26) or 'small' (23%, n=28) contribution to reducing the demand for sexual exploitation, almost 20% (n=24) of respondent said the Directive did not at all contribute. Almost one third of respondents (32%, n=40) stated that the Directive made a small contribution to reducing the demand for labour exploitation. A large portion of respondents did not know whether the Directive contributed to reducing the demand for THB in relation to the exploitation for criminal activities (44%, n=55), the removal of organs (56%, n=69) or forced begging (47%, n=58).

[303] Only one respondent (1%), who was from an NGO, responded to a 'very high extent'. Five (n=6) per cent of respondents said to a 'high extent', 15% (n=19) to a 'moderate extent' and 21% (n=26) to 'a small extent'. Forty per cent of respondents (n= 49) reported that existing national laws criminalising the knowing use of exploited services of victims did "not at all" contribute to reducing the demand for such services. Nineteen per cent (n=23) responded 'I don't know'

[304] One respondent (1%) answered to a 'very high extent', 4% (n=5) of respondents answered to a 'high extent', 15% (n=19) answered to a 'moderate extent', 44% (n=54) answered to a 'small extent', 16% (n=20) answered 'not at all' and 20% (n=25) answered 'I don't know'.

[305] 'High extent': 10% (n=13), 'Moderate extent': 17% (n=21), 'Small extent': 54% (n=67), 'Not at all': 8% (n=10), 'I do not know': 10% (n=13).

[306] About 10% (n=12) states 'I don't know'.

[307] Six per cent (n=8) replied 'I don't know'.

said that the Anti-trafficking Directive was coherent also with the Employer Sanctions Directive (2009/52/EC) (43%, n=53) and the Child Sexual Abuse Directive (2011/93/EU) (39%, n=48). Almost half of the respondents (42%, n=52) were of the view that the Anti-trafficking Directive was **not** coherent with the Residence Permit Directive (2004/81/EC).

Respondents to the public consultation mostly found that the Anti-trafficking Directive was coherent with the UNTOC and its supplementing Protocol (69%, n=85), the ILO Forced Labour Convention, 1930 (No.29) (58%, n=72), the CEDAW (51%, n=63) and the UNCRC (43%, n=53).

3.2.1.5. Added value

The vast majority of the replies underlined the added value brought by the Anti-trafficking Directive. Ninety-eight percent (n=122) considered that EU-wide cooperation was necessary to effectively combat trafficking in human beings. Eighty-two percent (n=102) considered that the Anti-trafficking Directive continued to bring an added value in the Member States in combatting THB. 85% (n=105) replied that, without the Anti-trafficking Directive, it would be more difficult for Member States to tackle trafficking in human beings individually. Finally, 95% (n=118) agreed that the aim of preventing and combatting THB continued to require action at the EU level.

3.2.2. Online survey

3.2.2.1. Effectiveness

Respondents to the online survey considered that prevention measures targeting victims were effective either to a 'moderate' extent (30%, n=27) or to a 'large' extent (32% of respondents, n=29). Prevention measures targeting child victims were also considered relatively effective, but less so than for adults. Thirty per cent (n=27) of respondents claimed they were effective to a 'moderate' extent, 23% (n=21) stated they were to a 'large' extent, and 10% (n=9) to a 'very large' extent. However, 22% (n=20) of respondents said that preventive measures targeting child victims were effective to a small extent.

Some survey respondents considered that preventive measures targeting potential offenders were relatively less effective than measures targeting victims. 24% (n=22) of the respondents claimed that they were effective to a 'small' extent and 13% (n=12) claimed they were not effective at all.

22% (n=20) of the respondents answered that measures targeted at marginalised Roma people and LGBTIQ people were effective to a 'large extent' and 28% (n=25) to a 'moderate extent'.[308]

Most online survey respondents reported that compensation schemes in their Member State had been effective to a 'small' or 'moderate' extent for victims of trafficking.[309]

[308] Six per cent of respondents (n=5) answered that measures to assist, support and protect vulnerable groups, such as marginalised Roma people and LGBTIQ people had been effective in their Member State to a 'very large extent'. Nine-teen per cent of respondents (n=17) answered to a 'small extent'. Seven per cent of respondents (n=6) answered 'not at all'.

[309] The majority of respondents suggested compensation schemes had been effective, although the largest percentage (29%, n=26) of respondents answered that this was to a 'small extent'. Ten per cent

Stakeholders had different views when it comes the effectiveness of witness protection programmes in supporting victims of THB.[310] 34% of the respondents said such programmes were effective either to 'very large' or a 'large extent', while 20% said to a 'moderate extent' or to a 'small extent'.

More than half of respondents considered that the Directive contributed towards an increased number of convictions against THB for labour exploitation to a 'moderate' (30%, n=27) or to a 'small extent' (30%, n=27).[311] More than one third (37%, n=33) of respondents said that the Directive contributed towards increased numbers of convictions against THB for sexual exploitation to a 'moderate extent'.[312] 19% (n=17) said the Directive contributed to a 'large extent' and 17% (n=15) said to a 'small extent'.

Nearly a quarter of respondents (23%, n=21) said that the Directive contributed towards an increased number of confiscations of THB-related proceeds to a 'moderate extent'.[313]

3.2.2.2. Efficiency

The majority of survey respondents agreed on the cost-effectiveness of the Anti-trafficking Directive. 27% (n=24) of the respondents considered that the costs of implementing it did not outweigh its benefits at all, 17% (n=15) said that the costs outweigh benefits only from a 'small' to a 'moderate' extent and only 12% (n=11) replied that the costs outweigh benefits from a 'large' to a 'very large' extent.[314] The highest increases in resources, dedicated to the prevention and fight against THB at the national level, are associated with training and awareness-raising campaigns.

However, the survey found that available funding remained insufficient in relation to prevention measures, the fight against the crime, as well as the assistance and support to victims of trafficking.[315] The need to increase the allocation of national funding to externalised services was also highlighted.

(n=9) of respondents answered, 'to a very large extent', the same percentage who answered, 'not at all' (n=9).

[310] Eighteen per cent (n=17) respondents said that witness protection programmes in their country had been effective in terms of protecting, assisting and supporting victims of THB to a 'very large extent', 16% (n=14) said to a 'large extent', 19% (n=17) said 'to a moderate extent', 13% (n=12) said to a 'small extent', 8% (n=7) said 'not at all' and 25% (n=23) of respondents answered 'I don't know'.

[311] Four out of 90 respondents stated that the Directive contributed towards an increased number of convictions against THB for labour exploitation to a 'very large extent', 12 respondents stated to a 'large extent', seven respondents said the Directive 'did not all' contribute. Thirteen respondents said 'I don't know'.

[312] Five out of 90 respondents (6%) stated that the Directive contributed towards an increased number of convictions against THB for labour exploitation to a 'very large extent', six (7%) respondents said the Directive did not contribute 'at all'. Fourteen (16%) said 'I don't know'.

[313] Only two respondents though the Directive contributed towards an increased number of confiscations of THB related proceeds to a 'very large extent'. Fourteen per cent (n=13) responded to a 'large extent'. Thirteen per cent (n=12) said the Directive did not contribute 'at all'.

[314] Twenty-seven per cent of respondents (n=24) said 'not at all', 6% (n=5) said 'to a small extent', 11% (n=10) said 'to a moderate extent', 9% (n=8) said 'to a large extent', 3% (n=3) said 'to a very large extent', 44% (n=40) said 'I don't know'.

[315] Nine percent (n=8) of respondents said that funding was 'not at all' sufficient with respect to the criminalisation of the crime; 18% (n=16) said it was sufficient 'to a small extent', while 29% (n=26) replied 'to a moderate extent', 13% (n=12) 'to a large extent', 7% (n=6) 'to a very large extent', 24% (n=22) 'I don't know'. With respect to the assistance and support to victims of trafficking, the replies

Although survey respondents considered that the implementation of the Anti-trafficking Directive did not entail a significant burden, some of them suggested some ways to further simplify it, notably by increasing asset seizures and confiscation of assets from the proceeds of trafficking offences, which could be used to feed compensation schemes; improving inter-agency cooperation as well as focusing resources on prevention in order to address the root causes of trafficking.

3.2.2.3. Relevance

Overall, survey respondents considered that the Directive was still fit for purpose and addressed the main concerns related to trafficking in human beings, notably in relation to the prevention and criminalisation of the offence, as well as the protection of victims. in the EU.[316] 39% of the respondents stated that the Directive is fit for purpose to a 'large extent'. 33% per cent stated that it is fit for purpose to a 'moderate extent'.

The vast majority of respondents said that the Directive did not sufficiently address the online dimension of trafficking. The digitalisation of the crime was the most commonly identified challenge for the next 5 to 10 years among respondents.[317]

65% of the respondents said that EU intervention would be necessary 'to a very large extent' (38%, n=35) or to a 'large extent' (27%, n=25) in order to enhance cooperation with online private companies to fight against trafficking.[318] No respondent said that the EU intervention would not be necessary for this purpose.

Trafficking in human beings in high-risk sectors was perceived as a significant issue that needs to be addressed. Most respondents considered that trafficking of people in high-risk sectors is a problem in the EU to a 'large' or 'very large' extent. None of them said that it was 'not at all' relevant.

3.2.2.4. Coherence

Respondents had diverging views regarding the coherence of the Anti-trafficking Directive with Directive 2004/81/EC (Residence Permits Directive). While 37% of them agreed that the two instruments were coherent from a 'large' to a 'very large' extent, 38% said that the two directives were 'not at all' coherent or coherent to a 'moderate extent'. [319]

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were: 'not at all' 3% (n=3), 'to a small extent' 14% (n=13), 'to a moderate extent' 36% (n=32), 'to a large extent' 22% (n=20), 'to a very large extent' 7% (n=6), 'don't know' 18% (n=16). With respect to prevention, 4% (n=4) of respondents said that funding was 'not at all' sufficient, while 22% (n=20) said it was 'to a small extent', 38% (n=34) 'to a moderate extent',10% (n=9) 'to a large extent', 4% (n=4) 'to a very large extent' and 21% (n=19) 'I don't know'.

[316] Nineteen per cent of respondents said the Directive is fit for purpose to a 'very large extent', 39% said to a 'large extent', 35% said to a 'moderate extent' and 5% said to a 'small extent'. No respondent answered that the Directive is 'not at all' fit for purpose. Four per cent answered 'I don't know'.

[317] 25 respondents mentioned this as one of the main challenges in relation to the fight against HB in the next 5-10 years.

[318] Fifteen per cent (n=14) of respondents answered to a 'moderate extent', 7% (n=6) answered to a 'small extent', and 9% (n=10) answered 'I don't know'.

[319] 'Not at all' 10% (n=9), 'to a small extent' 10% (n=9), 'to a moderate extent' 18% (n=16), 'to a large extent' 27% (n=24), 'to a very large extent' 10% (n=9), 'I don't know' 26% (n=23).

49%e percent (n=44) of the survey respondents considered that the Anti-trafficking Directive and Directive 2011/93/EU (Child Sexual Abuse Directive) were coherent to a 'large' or a 'very large' extent.[320]

The Anti-trafficking Directive and the EU Asylum acquis were deemed to be coherent to a limited extent.[321]

3.2.2.5. Added value

The survey underlined the added-value of the Anti-trafficking Directive, mainly in creating a common intra-EU playground, which encouraged Member States to take action against THB; discouraged traffickers to choose some Member States to others as countries of destination for the victims; and enhanced cross-border cooperation and the exchange of good practices between Member States.

3.2.3. Stakeholders interviews

3.2.3.1. Effectiveness

One interviewee from an international body[322] and one academic/expert were in favour of criminalising the knowing use of services exacted from victims of trafficking.[323]

Three interviewees stressed that the Directive had contributed towards enhancing victims' access to support and protection, especially for female victims.[324] Several interviewees underlined the need for increased attention and resources addressing the vulnerabilities of LGBTIQ people, and that more could be done to ensure that victims whose experiences do not correspond to common perceptions of victims (e.g. female victims and victims of trafficking for sexual exploitation) receive adequate support.[325]

Several interviewees considered that, although victims are in principle not obliged to cooperate with law enforcement authorities, cooperation is sometimes necessary in practice for victims to be recognised as victims and receive assistance, support and protection.[326]

Interviewees highlighted that the risks of punishment of victims who are exploited for the purpose of criminal activities is an issue in several Member States.[327] Two interviewees mentioned that irregular migrants or persons who are under asylum procedures often fear to be forcibly returned.[328]

[320] 'Not at all' 1% (n=1), 'to a small extent' 4% (n=4), 'to a moderate extent' 19% (n=17), 'to a large extent' 36% (n=32), 'to a very large extent' 13% (n=12), 'I don't know' 27% (n=24).
[321] 'Not at all' 7% (n=6), 'to a small extent' 17% (n=15), 'to a moderate extent' 18% (n=16), 'to a large extent' 14% (n=13), 'to a very large extent' 3% (n=3), 'I don't know' 41% (n=37).
[322] Interviewee #14.
[323] Interviewee #27.
[324] Interviewees#17, #18, and #24.
[325] Interviewees #3, #6, #8, #17, and #12.
[326] Interviewees #8, #20, #27; submission to the OPC by LEFÖ.
[327] Interviewees #8), #14, #21, #25, #28, #29.
[328] Interviewees #8 and #11.

Some interviewees mentioned that the concept of "forced labour" could be further clarified[329], as its interpretation is often left to national law or courts, which can lead to different interpretations across the Member States[330].

3.2.3.2. Efficiency

Interviewees pointed to the fact that the lack of funding can be a constraint to the implementation of the Anti-trafficking Directive. They highlighted that limited funding – both at the EU and national levels - hinders Member States' capacity to deliver effective prevention measures, including awareness raising initiatives and training targeted at professionals likely to come into contact with THB victims.

3.2.3.3. Relevance

According to one interviewee from an international body, the gender-specific approach to the fight against trafficking is not always put into practice. Moreover, it often only concerns the assistance, support and protection of the victims, while failing to be taken into account in the context of prosecutions and investigations.[331]

3.2.3.4. Coherence

Some interviewees underlined that it is not always clear, which of the assistance and support measures included in the Anti-trafficking Directive and those provided for by EU Asylum *acquis* should prevail when it comes to victims of trafficking who are international protection applicants or beneficiaries.

3.2.3.5. Added value

Interviewees highlighted the added value of the Anti-trafficking Directive in ensuring coordination at the EU level, as well as regarding its contribution to the creation of transnational referral mechanisms.

3. Consultation in the context of the impact assessment

The external contractor carried out individual interviews and case study group interviews in order to assess the potential impacts of the proposed policy options. The organisations and type of stakeholders consulted as part of this process is included in Table 2.

Table 2: Interviewees consulted on potential impacts of policy options

Individuals/Organisations consulted	Types of stakeholders
Council of Europe (CoE)	International body
European Labour Authority (ELA)	EU Agency
European Union Agency for Asylum (EUAA)	EU Agency

[329] Interviewees #20 and #28.
[330] However, it should be noted that there is a vast, existing guidance provided by the ILO's Committee of Experts on the Application of Conventions and Recommendations.
[331] Interviewee #3.

European Union Agency for Law Enforcement Training (CEPOL)	EU Agency
Frontex	EU Agency
La Strada International	EU civil society organisation
Red Cross EU	EU civil society organisation
Swedish expert on criminalisation of use of exploited services	Expert/academic
Victims Support Europe	EU civil society organisations

In addition to individual interviews, the external contractor carried out group interviews with national stakeholders in five selected Member States – France, Italy, Hungary, the Netherlands, and Romania. The criteria for selection were described in detail in the study's inception report delivered to the European Commission and included:

- Number of registered victims of THB in the Member State;
- Geographical position (Central, Southern, Northern and Eastern Europe);
- Common types of exploitation found in the Member State;
- Whether the Member State is a typical country of origin or destination for victims of THB.

National stakeholders invited to participate in the case study group interviews included national competent authorities working on THB, national law enforcement authorities, national judicial authorities and social services working with victims of THB.

Prior to the interviews, stakeholders had been asked to fill in a written questionnaire, in which they were asked to provide:

- Quantitative scores on the social, security, economic and fundamental rights impacts of each policy measure;
- Quantitative scores on the necessity, effectiveness, coherence, subsidiarity, proportionality and EU added value of each policy measure;
- Quantitative estimation of the expected cost of implementing each measure.

ANNEX V. STATISTICS

1. State of play: trends and extent of THB

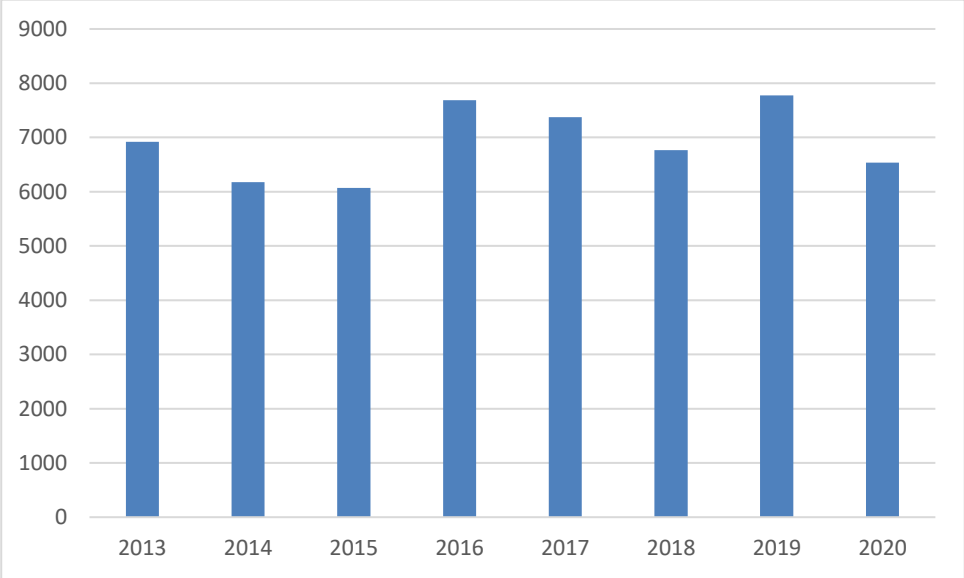
This section of the draft first final report sets out the state of play regarding the levels of and trends in THB. The analysis is based on data on THB provided by the EUROSTAT, covering the reporting period 2013-2020. The analysis was complemented by a review of a EC/Eurostat 2015 report on THB, which provided insights into the situation in 2010-

2012.[332] The presentation of findings that follows excludes the United Kingdom (UK) but includes Denmark, thus covering the situation in the EU27.[333]

1.1. Total number of victims: current situation and trends

The annual number of registered victims of trafficking in human beings showed relatively little sign of variation across the 2013-2020 reporting period. The total number of victims registered during the period 2013-2020 was 55,314 in the EU27, with an average of 16 registered victims per million inhabitants. The annual number of registered victims showed relatively little sign of variation across the 2013-2020 reporting period (see Figure 3), with the lowest number recorded in 2015 (6,071 registered victims)[334] and reaching the highest value in 2019 (7,777 registered victims). The annual numbers are comparable, if generally slightly lower, to the number recorded in the EU27 in 2011 (n=7,440) and notably lower than the 2012 number (n= 8,853).[335]

Figure 3: Trends in the number of registered victims in the EU (2013-2020)[336]



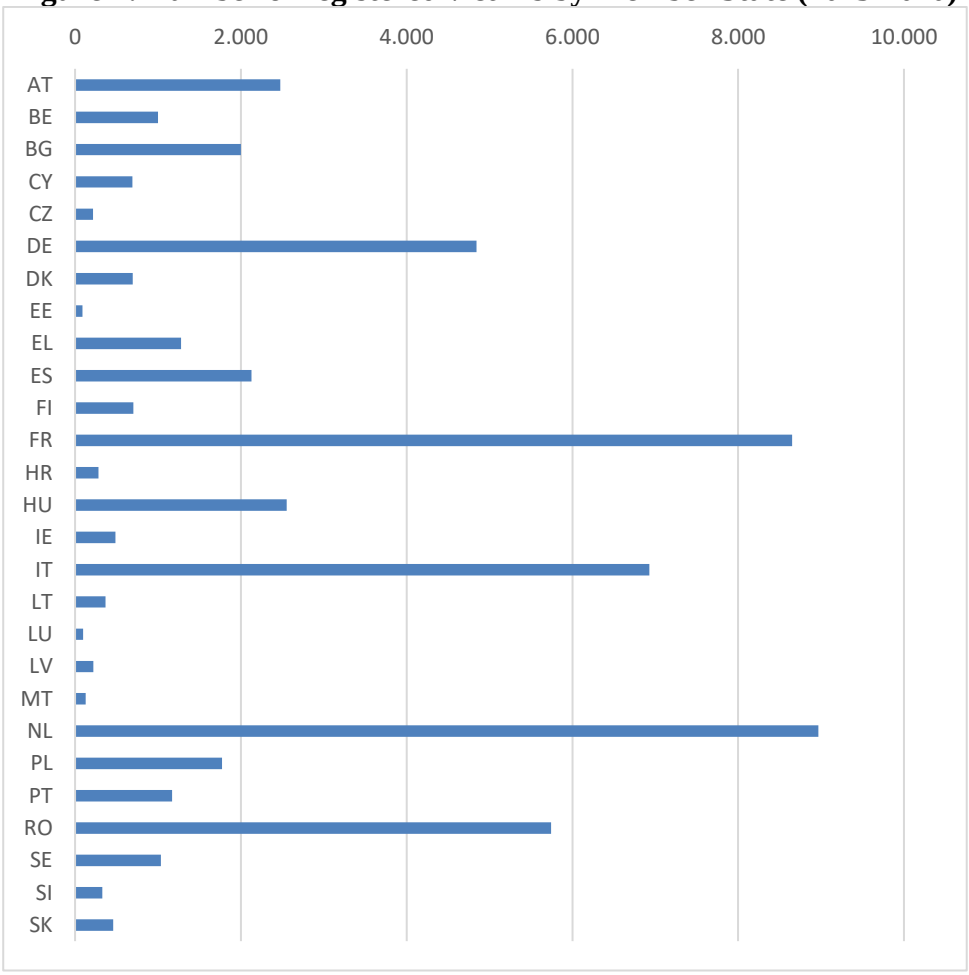
The actual number of victims is likely significantly higher than reported data suggests, as these statistics only capture victims that become known to one of the registering entities and many victims remain undetected.[337]

Numbers of registered victims differs by Member State (see Figure 4). During the period 2013-2020, the five Member States with the largest number of registered victims,

[332] European Commission, Eurostat, Trafficking in human beings: 2015 edition, Publications Office, 2015. Available here.
[333] Note: At the time of writing, the ongoing Russia-Ukraine war was predicted to impact on the extent of trafficking in human beings in Europe. However, no statistics were available to include in this report. For more information, please see Siegfried, K; Ukraine crisis creates new trafficking risks, UNHCR, 13 April 2022. Available here.
[334] Values for 2015 are significantly affected by the fact that data are not available for France, which recorded among the highest number of victims in the EU27.
[335] European Commission, Eurostat, Trafficking in human beings: 2015 edition, Publications Office, 2015.
[336] Values for 2015 are significantly affected by the fact that data are not available for France, which recorded among the highest number of victims in the EU27.
[337] European Commission (2020), Data collection of trafficking in human beings in the EU. Available at: link.

in absolute numbers, were the Netherlands (8,967), France (8,652),[338] Italy (6,927), Romania (5,742) and Germany (4,842). However, considering the proportion of victims as compared to the total population[339] of the registering country, rather than on the absolute number of victims, the top five EU-27 Member States in the period 2013-2018 were Cyprus (100), the Netherlands (66), Romania and Austria (both 36), and Malta (35).[340]

Figure 4: Number of registered victims by Member State (2013-2020)



Three quarters of all victims in the EU were female (women and girls) (75%), ranging from 42% in Portugal to 92% in Bulgaria.[341] There were two Member States (BE, PT) where the majority of victims recorded during this period were male (men and boys).

The majority of all victims (79%) in the EU were adults.[342] However, children were the majority of recorded victims in Hungary (54%) and in further five Member States (CZ, EE, EL, HR, RO) the proportion of children as a share of all victims where age group was reported exceeded one third.[343] **A significant number of victims are EU citizens**. Of the total registered victims, 56% were EU citizens, although the share of non-EU citizens

[338] Data for 2015 not available and thus not included in the total.
[339] Number of victims per million inhabitants.
[340] Missing data: CZ (2017, 2018), FR (2015), SE (2017, 2018).
[341] Victims whose sex was reported as "Unknown" excluded from this analysis.
[342] Victims whose age group was reported as "Unknown" excluded from this analysis.
[343] Children defined as persons younger than 18 years.

among recorded victims increased over time.[344] Amongst the EU victims, 63% were registered in their country of citizenship, although this varied substantially across Member States. To give an example of countries with higher numbers of their own citizens among registered victims: almost three fourths (70%) of victims with Hungarian citizenship were registered in Hungary, much smaller shares of victims with Bulgarian (33%) and Romanian (44%) citizenship were registered in their respective countries.

1.2. Trends in types of trafficking

1.2.1. Overview of trends

The common forms of exploitation of human beings trafficked in Europe are sexual exploitation and labour exploitation, which is linked to a sustained demand for sexual services and cheap labour. **Figure 5** provides an overview of the main forms of exploitation in the EU27 over time.[345] The most prevalent form was consistently sexual exploitation, although its share decreased somewhat from 76% in 2014 to less than 60% in later years.[346]

Trafficking for purposes other than sexual exploitation appear to be increasing. The proportion of labour exploitation, accounting for 20% of all registrations during 2013-2020, as a share of all registrations initially decreased somewhat over time but later increased to represent approximately one third of all victims in 2020. The proportion of "other" forms increased over time to represent approximately one fifth of all cases in 2018 and decreased thereafter to slightly more than 10% of all registrations.[347]

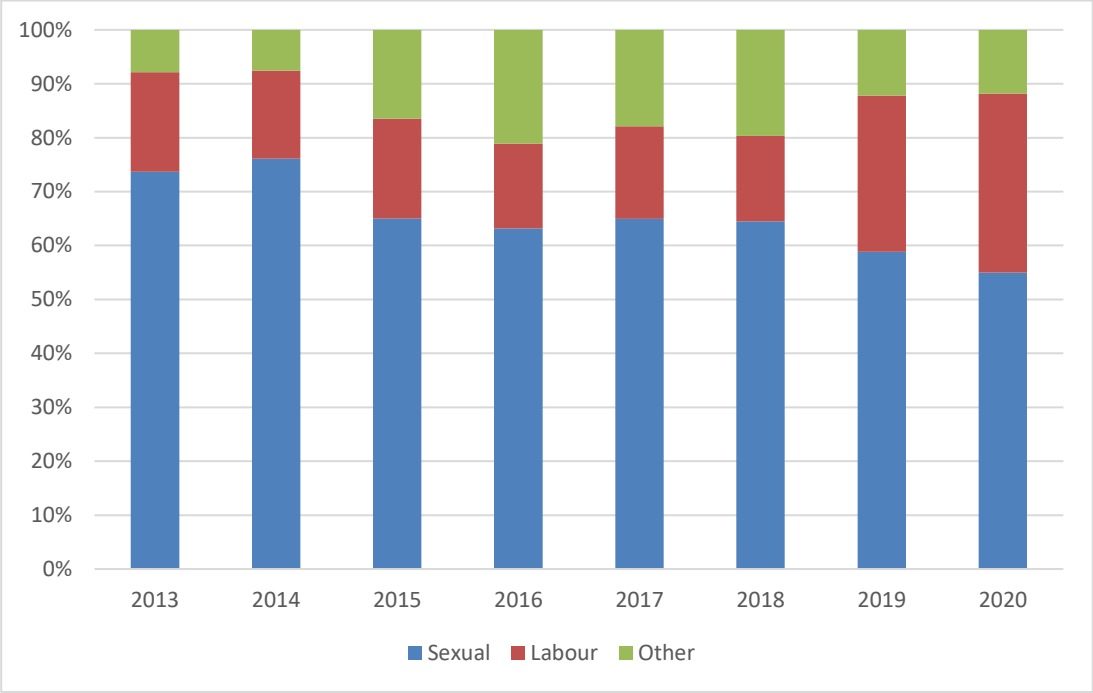
[344] For the purposes of this analysis, citizenships recorded as "autre europe est," "autre europe ouest" and "other" were assumed to be non-EU victims.

[345] See section 7.5 for a discussion of possible national differences in recording forms of exploitation, which may give rise to discrepancies and imprecisions in aggregate analyses.

[346] Cases where the form of exploitation is indicated as unknown (4% of all cases) excluded from analysis. Data missing for the following country-years: AT (2017, 2018), BG (2017, 2018), CZ (2017, 2018), EL (2013, 2014), FI (2017, 2018), FR (2015), IT (2013, 2014), PL (2015, 2016), RO (2015, 2016), SE (2017, 2018)

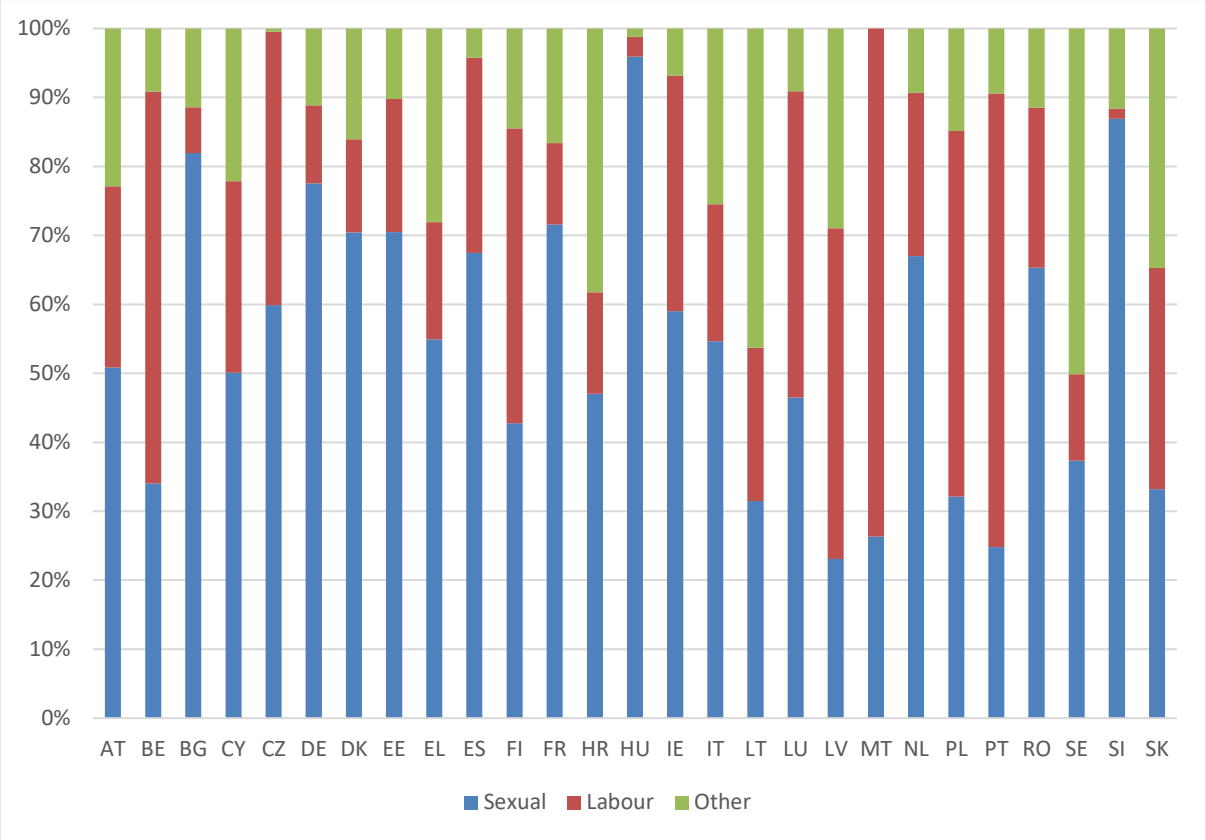
[347] The categorization of exploitation forms follows the 2013/2014 data collection questionnaire. For subsequent waves, this analysis includes the following forms of exploitation in the "other" category: benefit fraud, criminal activities, forced begging/use for begging, other forms of exploitation, removal of organs, unknown form of exploitation. See section 6.2.3 for a more detailed discussion of other types of exploitation. Note that both labour and other (i.e., non-sexual and non-labour) forms of exploitation saw a notable change between 2018 and 2019. It is possible that this development is at least partially attributable to changes in data collection. Starting in 2019, the heretofore separate categories "labour, including forced labour" and "domestic servitude" were seemingly merged in a new reporting category "forced labour, including domestic servitude." At the same time, the share of registrations recorded as "other" fell precipitously from 14% in 2018 to 5% in 2019.

Figure 5: Trends in main forms of exploitation in the EU (2013-2020), as a % of the total number of victims registered



The forms of exploitation differ by Member State. Figure 6 shows the distribution of cases by type of exploitation across the entire reporting period (2013-2020) by individual Member States. In the majority of Member States (n=18), sexual exploitation was the most common form. In five Member States (BE, LV, MT, PL, PT) labour exploitation was most prevalent and in another three Member States (LT, SE, SK) the most frequently reported forms of exploitation fell under the "other" category. In Finland sexual and labour exploitation were equally common.

Figure 6: Main forms of exploitation per Member State in 2013-2020, as a % of the total number of victims registered



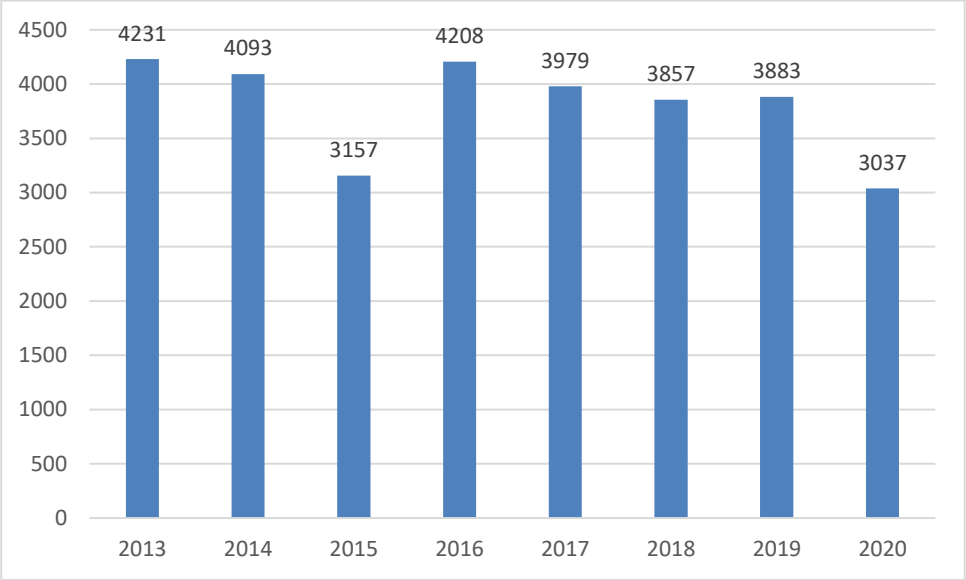
1.2.2. Sexual exploitation

Sexual exploitation is the most prevalent purpose behind THB in the EU (65% of all reported cases between 2013-2020),[348] although as Figure 7 shows, the absolute number of registered victims of sexual exploitation decreased between 2013 and 2020. The **victims** of sexual exploitation are overwhelmingly female (93%), both adults and minors, to the point that trafficking in human beings for sexual exploitation has been defined as a form of violence against women, rooted in gender inequalities.[349] This is the case across all Member States.

In all but three Member States (CZ, HU, NL) female victims accounted for at least 90% of all registered victims. The share of female victims stayed very high over time, exceeding 90% in almost every year during the 2013-2020 reporting period (the exception was 2019 with 85% share of females) as well as during 2010-2012.[350] The **Member States** registering the highest numbers of female victims of sexual exploitation in 2013-2020 were France (5,911), the Netherlands (5,535), Germany (3,753), Italy (2,795), and Romania (2,681).

[348] Cases with unknown form of exploitation were omitted from the analysis.
[349] European Commission (2020), Data collection of trafficking in human beings in the EU. Available at: link.
[350] European Commission, Eurostat, Trafficking in human beings: 2015 edition, Publications Office, 2015.

Figure 7: Trends in the number of sexual exploitation victims in the EU27 (2013-2020) [351]



Over the reporting period, children accounted for approximately one quarter of sexual exploitation victims where the age group was reported. This is slightly higher than the share of child victims across all types of exploitation. There was little change in the value of this indicator over time, decreasing somewhat from 27% in 2015 to 24% in 2020.[352] It does, however, represent a notable increase from 2010-2012 when only 14% of registered victims of sexual exploitation were under 18 years old.[353]

1.2.3. Labour exploitation

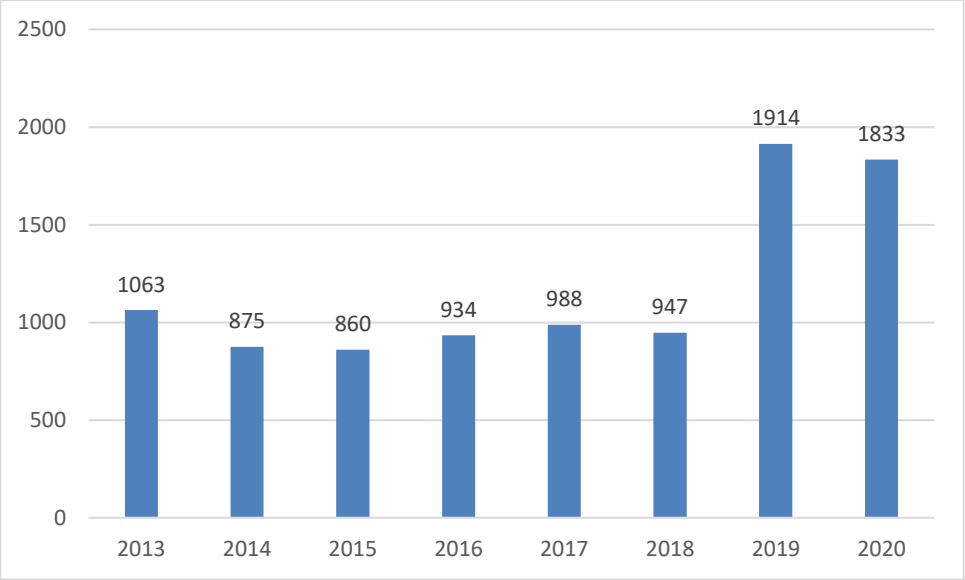
Trafficking for labour exploitation is the second main cause of THB in the EU (21%). Several Member States and CSOs report an increase in trafficking for labour exploitation,[354] an assessment trend which is also borne out by ESTAT data indicating a notable increase in 2019 and 2020 (see Figure 8) (although it is possible that this development is at least partially attributable to changes in data collection). THB for labour exploitation entails any **work or service exacted from any person under the threat of a penalty** and for which the person has not offered himself or herself voluntarily.[355]

Overall, labour exploitation affects mostly men (70%), although in particular sectors women are increasingly exploited (e.g., domestic work, care activities or cleaning services). After an initial slight increase, the share of men among victims of labour exploitation where the victim's sex is reported decreased over the reporting period, from 73% in 2013 to 65% in 2020. The Member States registering the highest number of labour

[351] Note: 2015 values very likely affected by missing data from France, which typically registers among the highest numbers of THB victims in the EU27.
[352] Data on age breakdowns by form of exploitation not available for 2013 and 2014. A disaggregated analysis of trends at the level of individual Member States is rendered difficult by gaps in existing data. For instance, most of victims reported by Austria are recorded with their age group unknown, with the majority of the much smaller remainder recorded as children.
[353] European Commission, Eurostat, Trafficking in human beings: 2015 edition, Publications Office, 2015, https://data.europa.eu/doi/10.2785/512112
[354] European Commission (2020), Data collection of trafficking in human beings in the EU. Available at: link.
[355] ILO Forced Labour Convention, 1930 (No. 29).

exploitation victims during the 2013-2020 reporting period were the Netherlands (1,957), Italy (998), France (974), Romania (953), and Spain (602).

Figure 8: Trends in the number of labour exploitation victims in the EU27 (2013-2020)



Labour exploitation predominantly affects adult victims, with children accounting for only 7% of victims of this type of exploitation where the victim's age group was reported between 2013-2020. Over time, the share of children among victims of labour exploitation rose from 4% in 2015 to 12% in 2016, stayed broadly constant until 2018 and then decreased dramatically to only 4% in 2019 and 2% in 2020.[356]

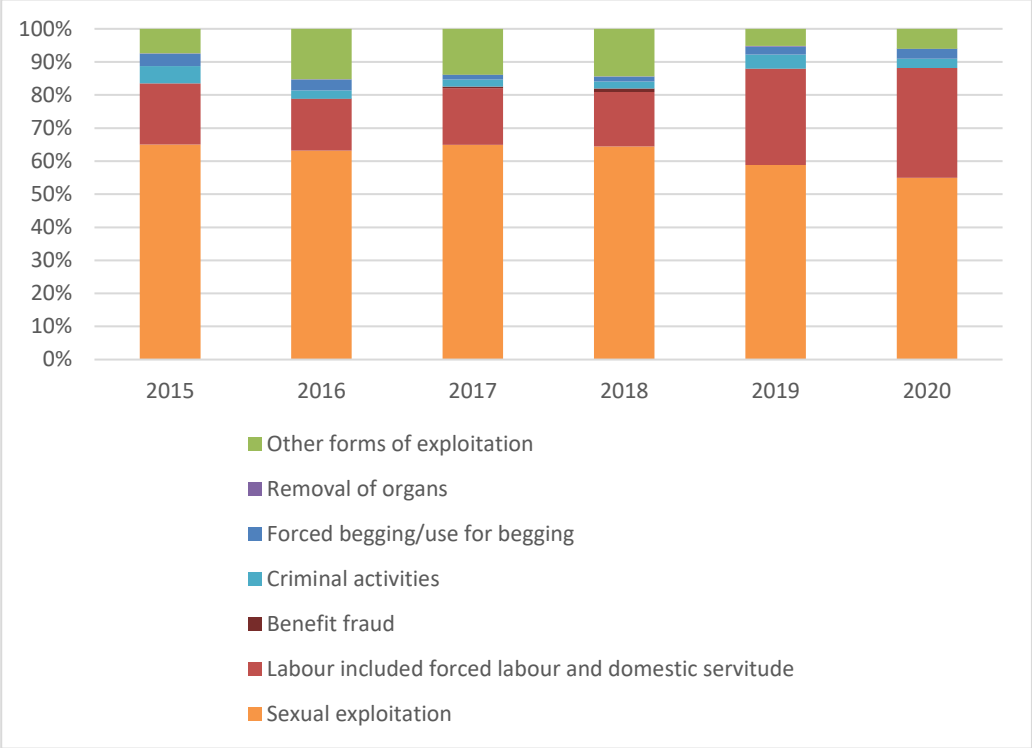
1.2.4. Other forms of exploitation

As set out above, forms of exploitation other than sexual and labour-related accounted for 14% of THB cases where the form of exploitation was indicated. The share of these other forms of exploitations grew from 8% in 2013 to 20% in 2018 and then decreased to 12% in 2020.

Data for the reporting period 2015-2020 enable a further disaggregation of this "other" category into additional specific forms of exploitation, as shown in Figure 9. Forms of exploitation falling under the "other" umbrella term included criminal activities (3% of all cases during 2015-2020), forced begging (also 3%), and benefit fraud and removal of organs (both less than 1%). Cases with a form of exploitation marked as "other" (i.e., not indicating any of the specific designations offered) accounted for 11% of all cases during the reporting period.

[356] Data on age breakdowns by form of exploitation are not available for 2013 and 2014. The same limitations pertaining to individual MS data regarding age group breakdowns as those reported in the section on sexual exploitation apply to labour exploitation as well. The decrease observed in 2019 and 2020 may also be at least partially attributable to data issues as both years saw a notable increase in the number of cases were age group was reported as unknown.

Figure 9: Trends in all forms of exploitation in the EU (2015-2020), as a % of the total number of victims registered



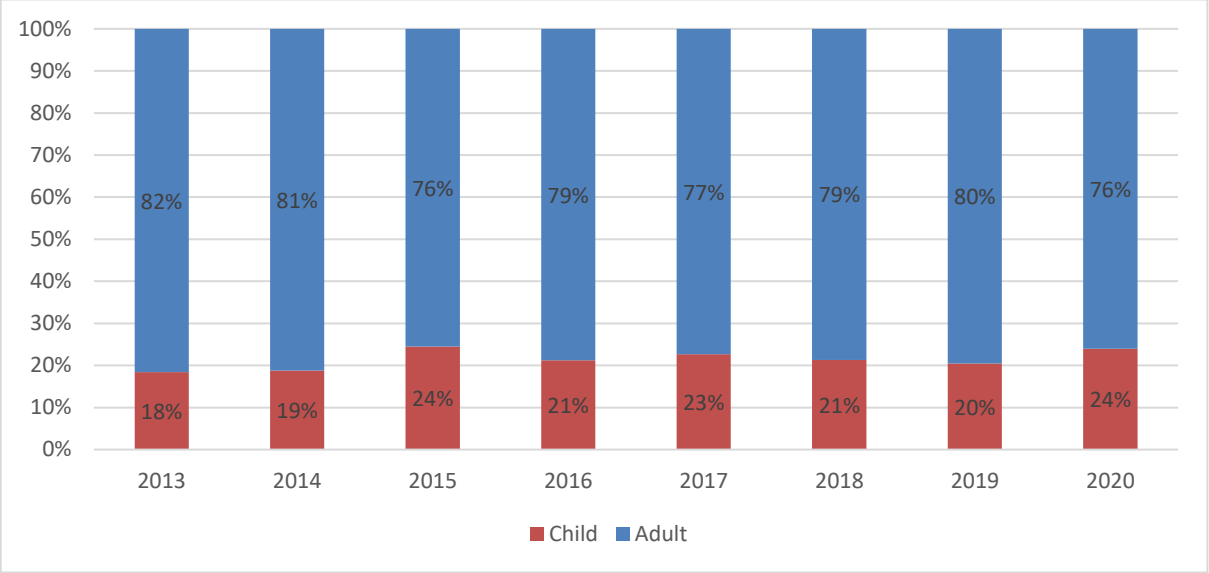
1.3. Trends in the types of people who are trafficked

1.3.1. Victims by age

In 2013-2020, child victims constituted around one-fifth of all registered victims in the EU27 (21%) where the victim's age group was known. The age group of the victim was indicated as "unknown" in 12% of all cases. The share of children among victims increased somewhat over time, growing from 18% in 2013 to 24% in 2020 (see Figure 10). This represents a continuation of a trend from previous years, as the share of children among registered victims was and 17% in 2011 and 2012.[357]

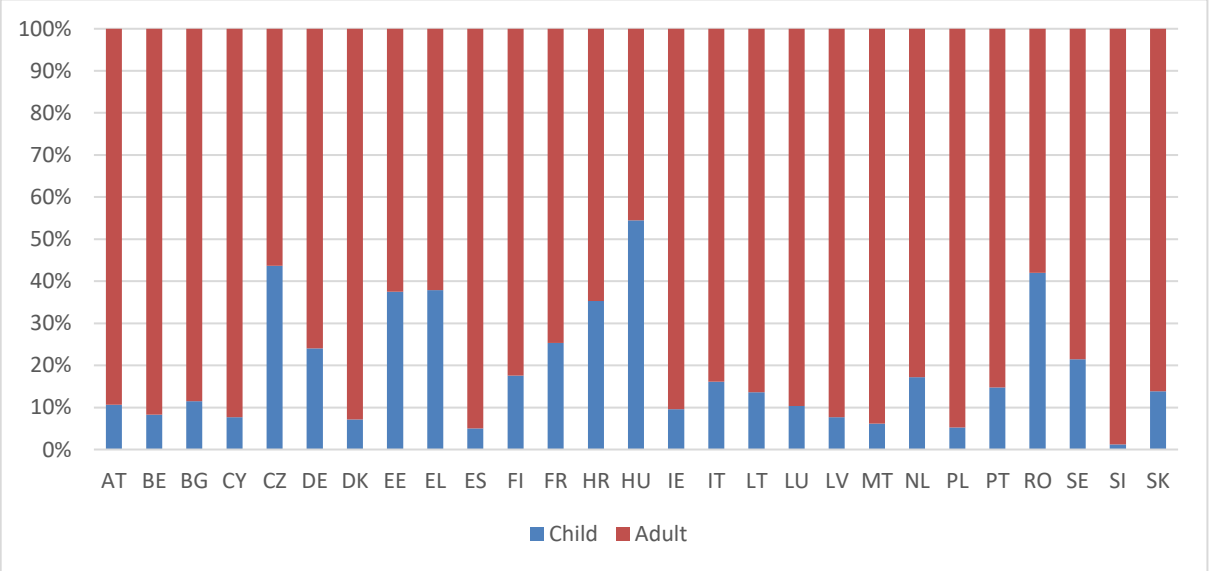
[357] European Commission, Eurostat, Trafficking in human beings: 2015 edition, Publications Office, 2015. Available here.

Figure 10: Trends in victims by age group in the EU27, as a % of the total cases of THB with age group reported (2013-2020)



The Member States with the highest proportion of registered child victims where age group was known were Hungary (54%), the Czech Republic (44%), Romania (42%), and Estonia and Spain (38%). Figure 11 provides an overview of the age group distribution of victims across all Member States.

Figure 11: Victims by age group per Member State, as a % of the total cases of THB with age group reported (2013-2018)

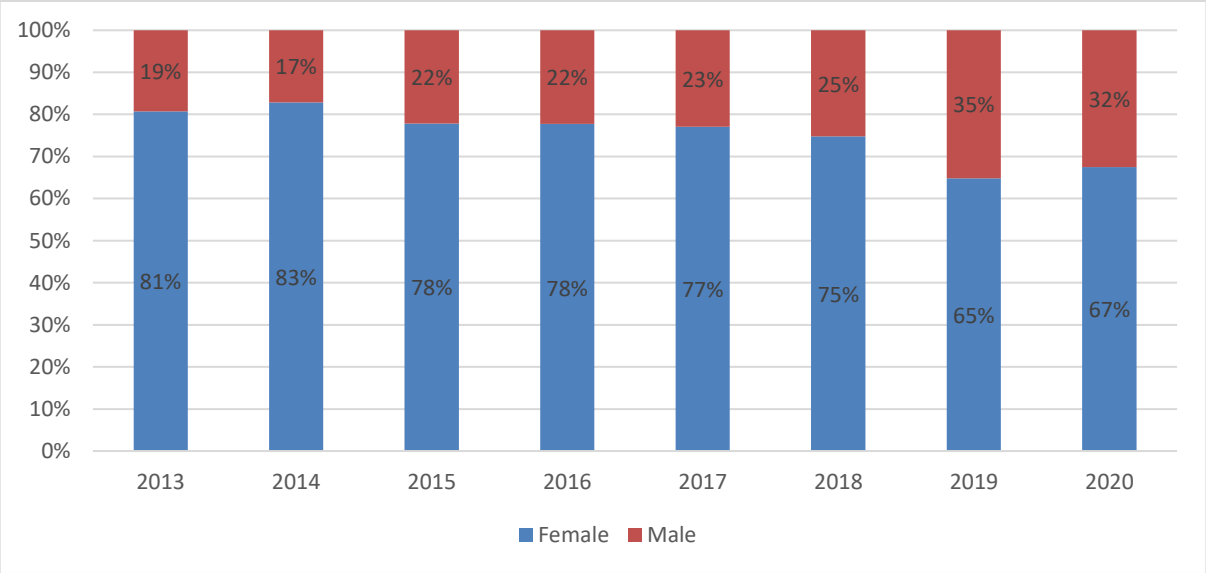


1.3.2. Victims by sex

In 2013-2020, women and girls represented a large majority of victims (75%) whose sex was reported (Figure 12). The sex of the victim was indicated as "unknown" in 9% of all cases, though the reporting of sex appears to have improved over time, with "unknown" indicated only in less than 5% of cases in 2020. The proportion of women as a share of all victims decreased over the 2013-2020 reporting period, declining from 81% in 2013 to

67% in 2020, although similar fluctuation could be seen in 2010-2012 as well.[358] Female victims are especially endangered by trafficking for the purpose of sexual exploitation, while men are usually victims of labour exploitation.

Figure 12: Trends in victims by sex in the EU27, as a % of the total cases of THB with sex reported (2013-2020)

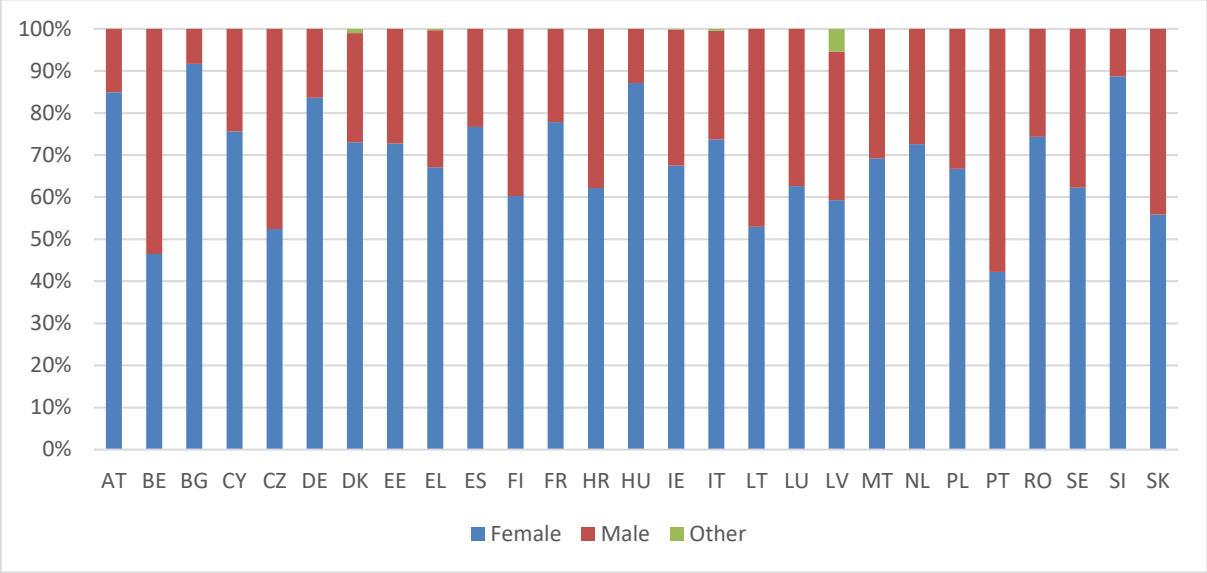


Source: Authors' elaboration based on ESTAT data

During the reporting period, the Member States registering the highest proportion of female victims were Bulgaria (92%), Slovenia (89%), Hungary (87%), Austria (85%) and Germany (84%). By contrast, the Member States with the highest proportion of male victims were Portugal (58%), Belgium (54%), the Czech Republic (48%), Lithuania (47%), and Slovakia (44%). **Figure 13** displays the categorisation of reported victims by sex in each Member State.

[358] European Commission, Eurostat, Trafficking in human beings: 2015 edition, Publications Office, 2015. Available here.

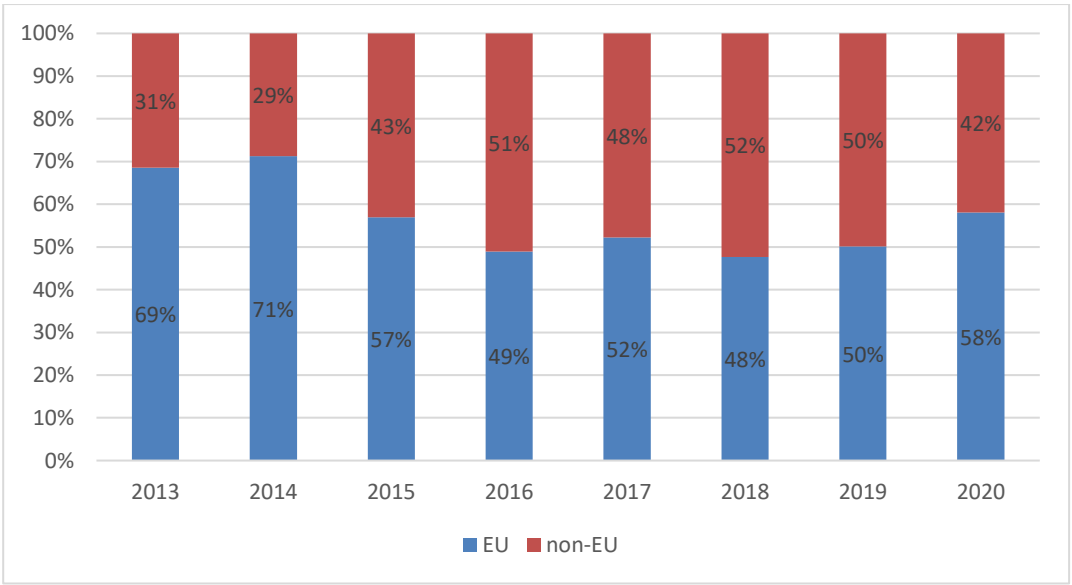
Figure 13: Victims by sex per Member State, as a % of the total cases of THB reported (2013-2020)



1.3.3. Victims by citizenship

In 2013-2020, 56% of the registered victims with known citizenship information were EU citizens and 44% were non-EU citizens. In 2% of cases, the victim's citizenship was recorded as unknown. As Figure 14 shows, the share of EU victims gradually decreased between 2013 and 2018 and then increased somewhat in 2020.[359] In 2016 and 2018 the number of registered non-EU victims eclipsed that of those with EU citizenship.

Figure 14: Trends in victims by citizenship group in the EU27, as a % of the total cases of THB with citizenship reported (2013-2020)



[359] The ratio of EU and non-EU victims in 2010-2012 was similar to that of 2013. European Commission, Eurostat, Trafficking in human beings: 2015 edition, Publications Office, 2015, https://data.europa.eu/doi/10.2785/512112

As Table 1 shows, the main countries of citizenship of EU victims were Romania (9,392), Hungary (3,565), Bulgaria (3,424), France (3,136), and the Netherlands (2,558).

Table 1: Citizenship of victims of THB (EU citizens, 2013-2020)

Country	Number
Romania	9392
Hungary	3565
Bulgaria	3424
France	3136
Netherlands	2558
Poland	1551
Germany	1262
Italy	961
Slovakia	605
Lithuania	421
Portugal	387
Latvia	261
Croatia	218
Spain	203
Czech Republic	176
Greece	141
Estonia	76
Finland	62
Austria	56
Belgium	23
Ireland	21
Slovenia	20
Cyprus	18

Denmark	8
Malta	6
Sweden	3
Luxembourg	1

The main countries of citizenship of non-EU victims in the EU were Nigeria (6,513), China (1,417), Morocco (824), Ukraine (743), and Philippines (605) (see

Country	Number
Nigeria	6513
China	1417
Morocco	824
Ukraine	743
Philippines	605
Brazil	588
Moldova	473
Pakistan	418
India	406
Albania	378
Cameroon	375
Uganda	317
Afghanistan	303
Colombia	295
Guinea	291
Vietnam	283
Bangladesh	279
Thailand	257
Venezuela	228
Tunisia	221
Sierra Leone	217
Serbia	214
Algeria	205
Bosnia and Herzegovina	194
Gambia	193
Iraq	192
Ghana	190
Russia	187
Egypt	172
Syria	172
Côte d'Ivoire	161
Dominican Republic	156
Paraguay	150
Somalia	146
Senegal	140
Eritrea	138
Nepal	130
Peru	126
Democratic Republic of the Congo	124
North Korea	119
Indonesia	109
Turkey	107
Angola	93
North Macedonia	86

Iran	84
Belarus	81
Vietnam	77
Ethiopia	66
Taiwan	60
Mali	59
Sri Lanka	57
Honduras	52
Comoros	49
Nicaragua	49
Kenya	46
Zimbabwe	43
Mongolia	39
Equatorial Guinea	36
Niger	35
Tajikistan	35
Benin	33
Liberia	32
Argentina	27
Georgia	27
Ecuador	26
Kosovo	25
Republic of the Congo	24
Suriname	24
Armenia	23
Burkina Faso	23
Cuba	23
Guinea-Bissau	22
Bolivia	21
El Salvador	21
Mauritius	20
Sudan	20
Uzbekistan	20
Kyrgyzstan	17
United Kingdom	16
Madagascar	14
South Africa	14
Togo	14
Burundi	13
Tanzania	10
Zambia	10
Other	1,706

).

Table 2: Citizenship of victims of THB (non-EU citizens, 2013-2020)[360]

[360] Note: "Other" includes all nationalities with fewer than 10 individuals, those marked as "other," "autre Afrique," "autre Europe est," "autre Europe ouest," and those marked as "stateless." Entries marked as "Congo" subsumed under "Democratic Republic of the Congo."

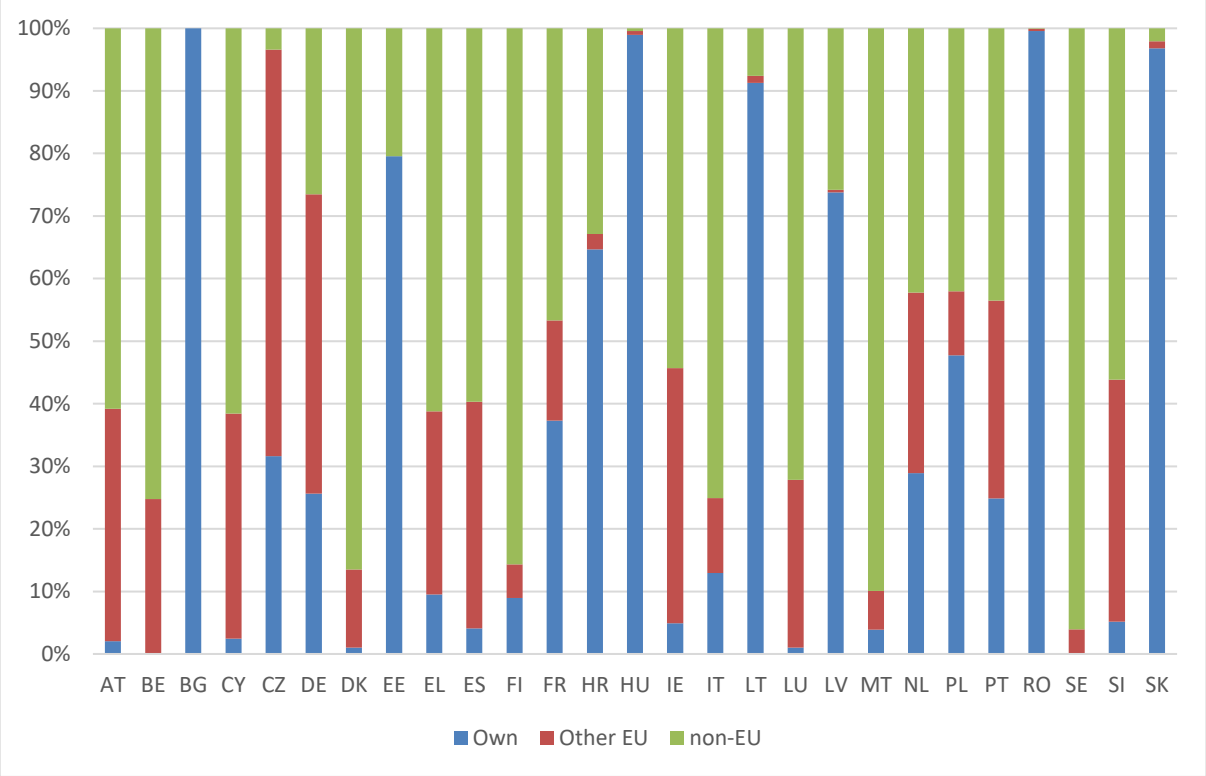
Country	Number
Nigeria	6513
China	1417
Morocco	824
Ukraine	743
Philippines	605
Brazil	588
Moldova	473
Pakistan	418
India	406
Albania	378
Cameroon	375
Uganda	317
Afghanistan	303
Colombia	295
Guinea	291
Vietnam	283
Bangladesh	279
Thailand	257
Venezuela	228
Tunisia	221
Sierra Leone	217
Serbia	214
Algeria	205
Bosnia and Herzegovina	194
Gambia	193
Iraq	192
Ghana	190
Russia	187
Egypt	172
Syria	172
Côte d'Ivoire	161
Dominican Republic	156
Paraguay	150
Somalia	146
Senegal	140
Eritrea	138
Nepal	130
Peru	126
Democratic Republic of the Congo	124
North Korea	119
Indonesia	109
Turkey	107
Angola	93
North Macedonia	86

Iran	84
Belarus	81
Vietnam	77
Ethiopia	66
Taiwan	60
Mali	59
Sri Lanka	57
Honduras	52
Comoros	49
Nicaragua	49
Kenya	46
Zimbabwe	43
Mongolia	39
Equatorial Guinea	36
Niger	35
Tajikistan	35
Benin	33
Liberia	32
Argentina	27
Georgia	27
Ecuador	26
Kosovo	25
Republic of the Congo	24
Suriname	24
Armenia	23
Burkina Faso	23
Cuba	23
Guinea-Bissau	22
Bolivia	21
El Salvador	21
Mauritius	20
Sudan	20
Uzbekistan	20
Kyrgyzstan	17
United Kingdom	16
Madagascar	14
South Africa	14
Togo	14
Burundi	13
Tanzania	10
Zambia	10
Other	1,706

Across the EU27, approximately one-third (36%) of all registered victims were citizens of the country in which they are registered.[361] Citizens of other EU countries accounted for approximately one fifth (21%) of all registered victims and non-EU citizens for

approximately two fifths (44%) of registered victims. However, this EU-level overview obscures important differences across individual Member States (see Figure 15). In some, the vast majority of registered victims were citizens of that country – this was particularly the case for Bulgaria (100%), Romania (100%), Hungary (99%), Slovakia (96%), and Lithuania (91%). The Member States with the highest share of citizens of other EU countries among registered victims were the Czech Republic (65%), Germany (48%), Ireland (41%), Slovenia (39%), and Austria (37%). Lastly, in a few countries, the vast majority of registered victims were non-EU citizens. This was notably the case for Sweden (96%), Malta (90%), Finland (86%), Denmark (87%), and Belgium and Italy (both 75%).

Figure 15: Victims by citizenship type per Member State, as a % of the total cases of THB reported (2013-2020)



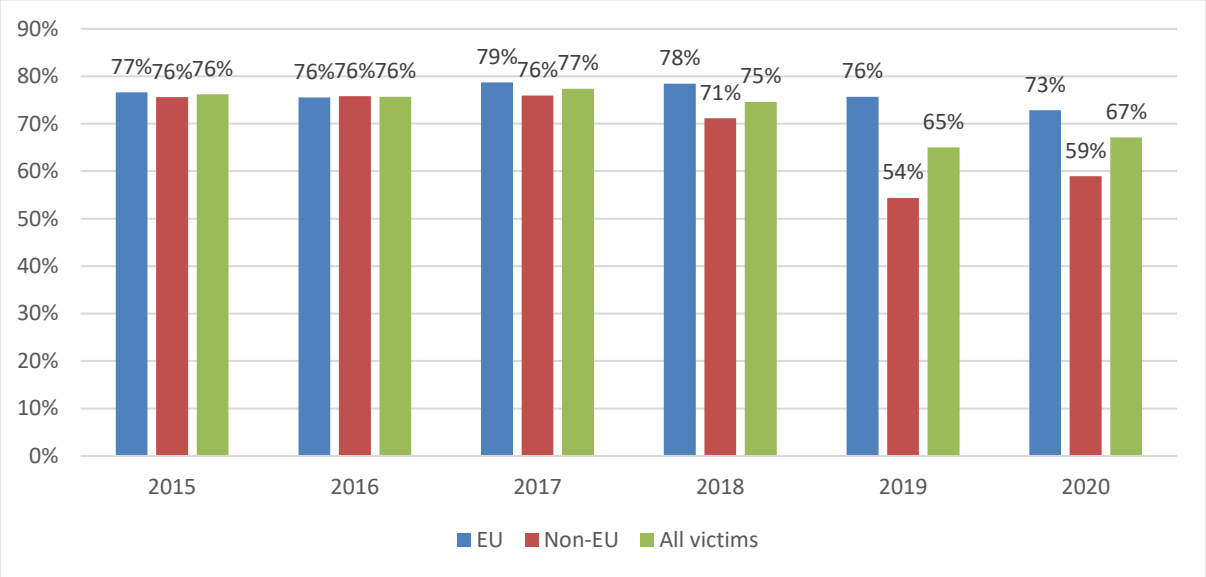
During 2015-2020,[362] there was very little difference in the sex breakdown between EU and non-EU victims until 2018. Afterwards, victims with EU citizenship were notably more likely to be female than victims with non-EU citizenship, although sex information was not available for 7% of citizenship records during the reporting period.[363] The majority of both groups were female, with the gap between the share of women in the EU and the non-EU group reaching 14 percentage points in 2020 (see Figure 16).

[361] No information on citizenship was available for 8% of all victims. Further, the citizenship of about 2% of victims as indicated as "unknown." These records were excluded from the analysis presented in this paragraph.

[362] Sex breakdown of victims by citizenship group is not available for 2013 and 2014.

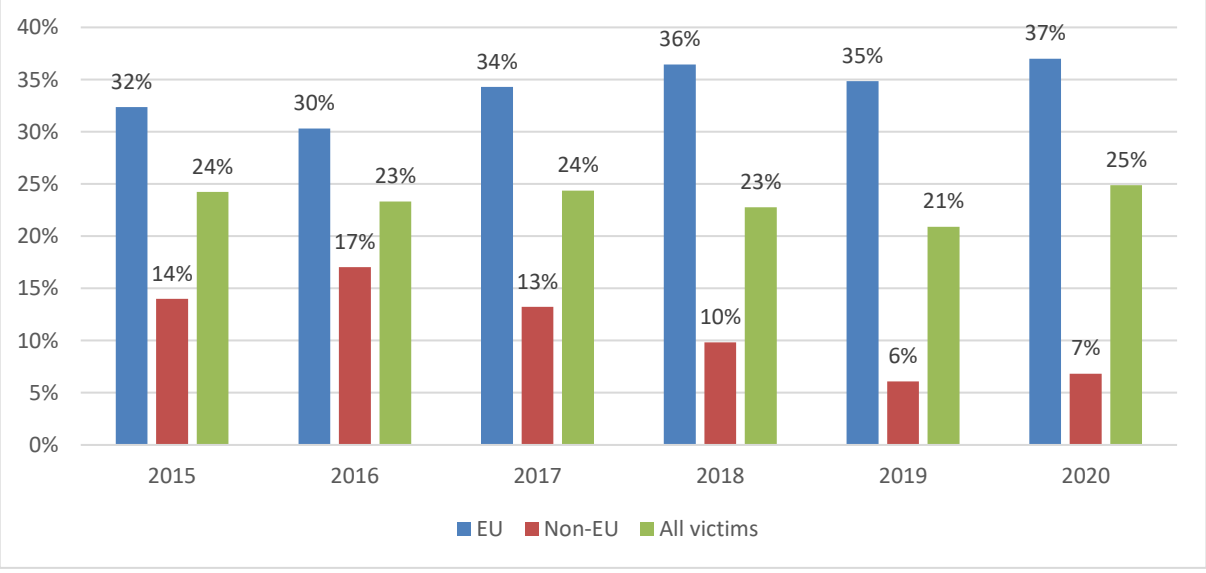
[363] One implication of this data gap is that the share of females arrived at by looking at victims with citizenship information only is somewhat lower than the share of females when analyzing all victims with sex data (72% vs. 75%, respectively). In other words, female victims appear to be slightly less likely to have their citizenship information identified and recorded than male victims.

Figure 16: Share of female victims by citizenship group among victims registered in the EU27 (2015-2020)



During the same reference period, there was a marked difference between the EU and non-EU groups and their age distribution where data on victims' age group were provided. There were notably more children among victims with EU citizenship than among victims with non-EU citizenship and the difference increased over time, largely due to the decrease in the share of children in the non-EU group (see Figure 17). Age group data were not available for 11% of records with citizenship information.[364]

Figure 17: Share of children by citizenship group among victims registered in the EU27 (2015-2020)

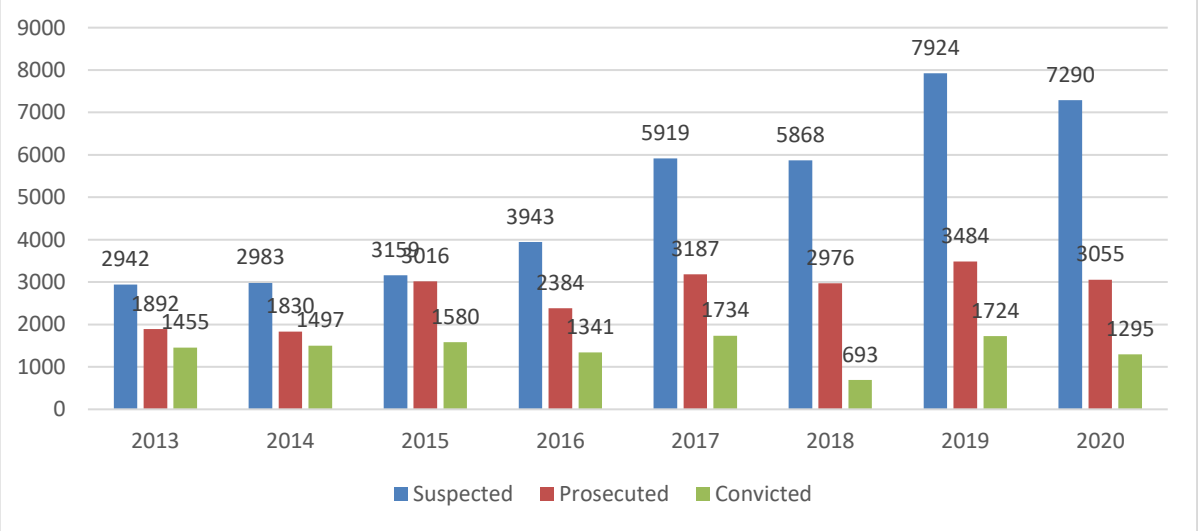


[364] Similarly to the discussion of sex breakdowns presented above, an analysis of records with both citizenship and age group data yields a share of 23% of children among all victims, whereas an analysis of records with only age group data yields a share of 21% of children among all victims. In other words, child victims appear to be slightly more likely to have their citizenship information identified and recorded than adult victims.

1.4. Trends in criminal justice system indicators related to THB

ESTAT collects data on a variety of aspects pertaining to the criminal justice involvement of individuals in connection with THB cases. Figure 18 shows trends in three headline indicators related to the processing of individuals in the criminal justice system – suspects individuals, prosecuted individuals, and convicted individuals. Of the three, the number of recorded suspects shows the most pronounced increase, nearly doubling from approximately 3,000 in 2013 to just under 8,000 in 2019. However, much of this increase is attributable to a gradual closing of data gaps. For instance, there are no data from Italy before 2017 and Italy alone recorded approximately 2,000 suspects in 2017 and 2018.[365] The number of recorded prosecuted individuals also rose over the reporting period, with a marked increase between 2014 and 2015 and a relatively stable trend thereafter. Again, the observed rise appears to be primarily a function of the fact that 2015 is the first year in which data from France are available. Lastly, the number of recorded convicted individuals increased somewhat over the reporting period, with a precipitous drop recorded in 2018. As with the previous two indicators, even this is largely explicable by data issues – no data are available for that year for Belgium, France, and the Netherlands, all Member States with comparatively high numbers of recorded convictions in prior years.

Figure 18: Trends in headline criminal justice indicators related to THB cases (2015-2020)



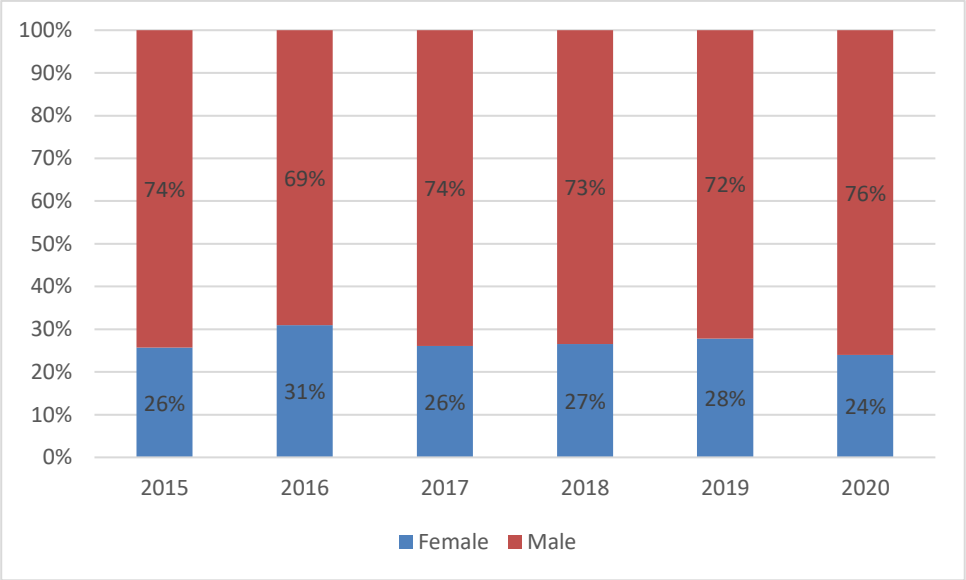
1.4.1. Individuals suspected of THB crimes

Over the period 2015-2020,[366] the majority of individuals suspected of THB crimes where sex information was recorded were male (73%). As Figure 19, shows, the sex breakdown of THB suspects stayed relatively constant over time, with the share of males staying between 69% and 76% in individual years.

[365] The increase recorded in 2019 is also largely attributable to data from Italy, which reported an increase of more than 2,000 suspects from 2018 to 2019.

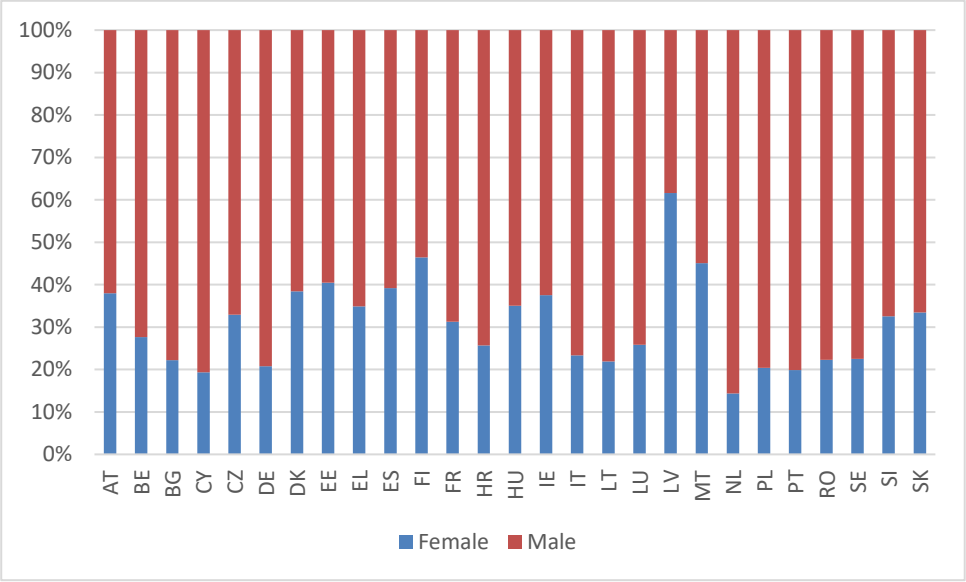
[366] Data on the sex of suspects only began being available in 2015. The sex of suspects was recorded as "unknown" in 5% of instances over the 2015-2020 period, although completeness of data improved substantially over time – in 2019 and 2020 fewer than 1% of records indicated the sex of the suspect as "unknown".

Figure 19: Sex of individuals suspected of THB crimes in EU27 (by year, 2015-2020)



Correspondingly, men accounted for the majority of individuals suspected of THB crimes in all but one Member State (see Figure 20). The exception to the rule was Latvia where women accounted for 62% of recorded suspects, in further three Member States (EE, FI, MT), the proportion of women among suspects exceeded 40%.

Figure 20: Sex of individuals suspected of THB crimes in EU27 (by Member State, 2015-2020)



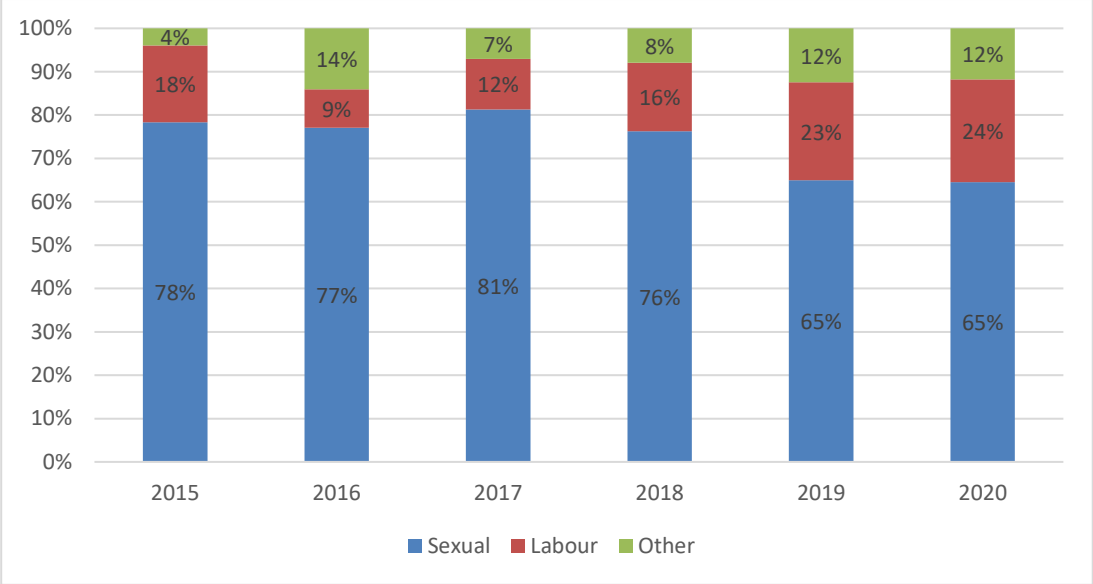
Perhaps unsurprisingly, the vast majority (96%) of those suspected of THB crimes in 2015-2020 were adults.[367] As with gender, the age breakdown of suspects stayed constant over the reporting period, with the share of children among suspects staying between 2% and 5% in individual years. In four Member States, the share of children was notably higher than the EU average. In Estonia, children accounted for the majority of recorded suspects (53%); however, this needs to be viewed in light of a very small number of suspects

[367] Age group was recorded as "unknown" in 9% of cases. No data on age group of suspects provided by PT.

recorded in Estonia in 2015-2020 (n=42). In further three Member States (CZ, HU, SE), the share of children exceeded 10%.[368]

With respect to various types of exploitation, individuals were most frequently suspected in relation to sexual exploitation (72%), followed by labour (18%) and other (10%) types of exploitation.[369] However, as Figure 21 shows, the share of sexual exploitation as an underlying reason decreased over time from a high of 81% in 2017 to 65% in 2020. This was contrasted with a rise in the frequency of labour exploitation, reaching 24% of cases of suspects in 2020, and with a somewhat less notable rise in suspicions related to other forms of exploitation.

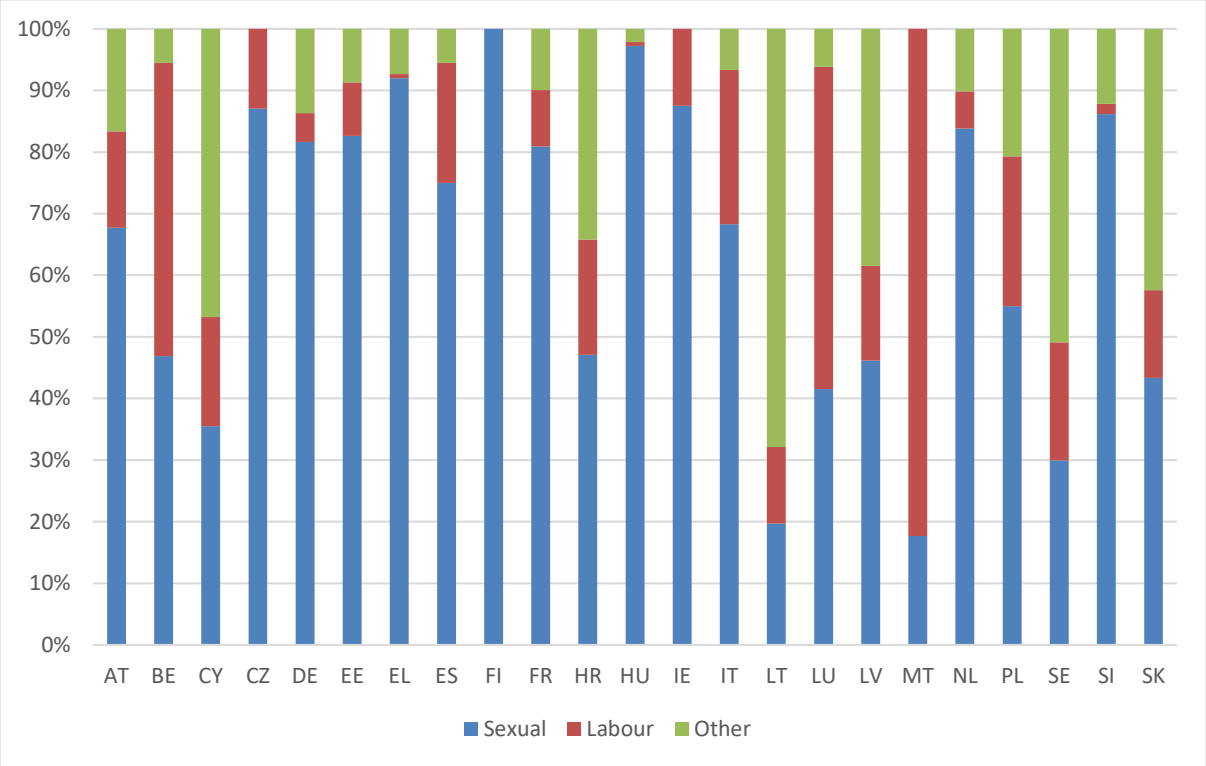
Figure 21: Individuals suspected of THB crimes and underlying form of exploitation in EU27 (by year, 2015-2020)



Correspondingly, in most Member States sexual exploitation was the most commonly recorded form in connection with suspects (see Figure 22). The Member States with the highest shares of sexual exploitation cases were Finland (100%), Hungary (97%), Greece (92%), Ireland (88%), and the Czech Republic (87%). However, in three Member States, labour exploitation was the most frequently indicated form – these were Malta (82%), Luxembourg (52%) and Belgium (48%).

[368] In the case of Sweden, this is possibly attributable to data issues. Information on suspects' age group is only available for 2015 and is recorded as "unknown" in the remaining years.
[369] Form of exploitation marked as "unknown" in 12% of cases. No data on forms of exploitation and suspects available from BG, DK, PT, RO.

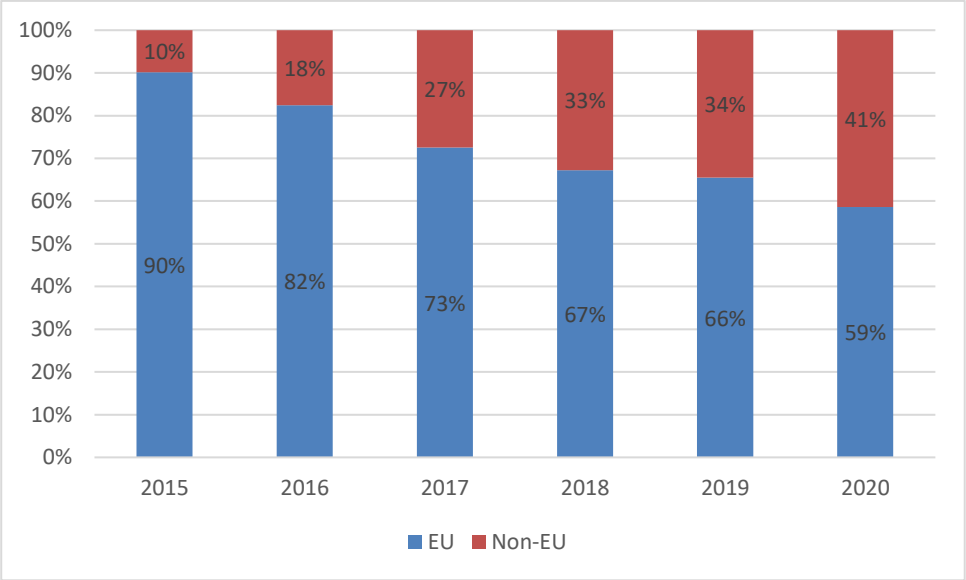
Figure 22: Individuals suspected of THB crimes and underlying form of exploitation in EU27 (by Member State, 2015-2020) [370]



Lastly, with respect to the citizenship of individuals suspected of THB crimes, EU citizens accounted for more than two thirds (70%) of all suspects with known country of citizenship during the 2015-2020 period. However, as Figure 23 shows, the proportion of non-EU citizens among suspects increased steadily during the reporting period, reaching 41% in 2020.

[370] Note: Data missing for BG, DK, PT, RO.

Figure 23: Citizenship of individuals suspected of THB crimes (by year, 2015-2020)



EU Member States with the highest number of nationals among those suspected of THB crimes were Romania (5,685), Italy (5,545), France (3,914), Hungary (1,882), and Germany (1,219) (see Table 3).

Table 3: Citizenship of individuals suspected of THB crimes (EU citizens, 2015-2020)

Country	Number of suspects
Romania	5685
Italy	5545
France	3914
Hungary	1882
Germany	1219
Bulgaria	1102
Belgium	436
Spain	381
Greece	248
Slovakia	247
Netherlands	224
Latvia	214

Poland	192
Croatia	185
Lithuania	147
Czech Republic	129
Slovenia	80
Austria	67
Finland	66
Portugal	65
Estonia	29
Cyprus	24
Malta	8
Luxembourg	7
Denmark	6
Sweden	6
Ireland	5

The most frequent non-EU nationalities among suspects were Nigeria (2,441), China (1,165), and Albania (695) (Table 4).

Table 4: Citizenship of individuals suspected of THB crimes (non-EU citizens, 2015-2020) [371]

Country	Number
Nigeria	2441
China	1165
Albania	695
Pakistan	490
Morocco	456
Brazil	237

[371] Note: "Other" includes all nationalities with fewer than 10 individuals, those marked as "other" and those marked as "stateless."

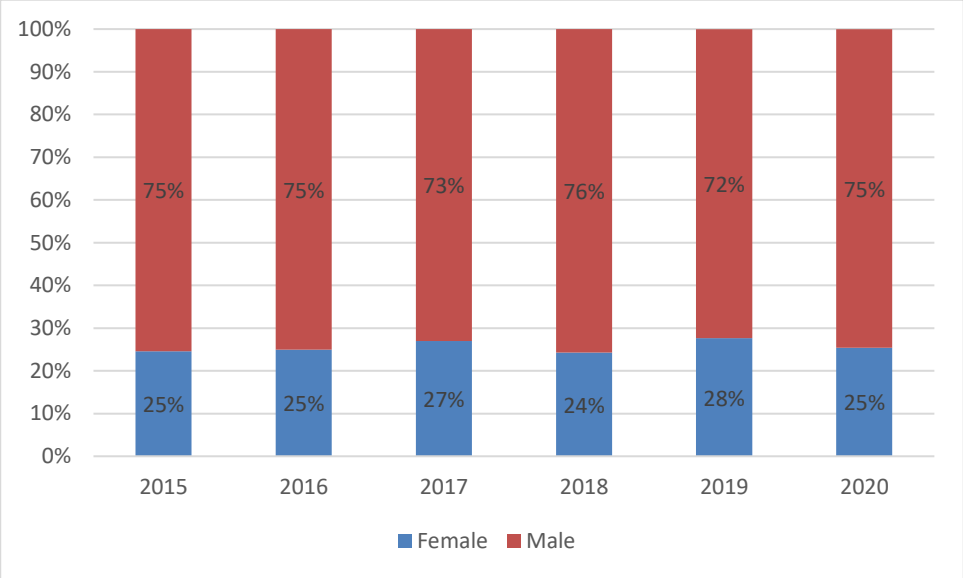
Tunisia	234
Turkey	222
India	194
Colombia	179
Algeria	145
Bangladesh	143
Serbia	140
Ukraine	138
Egypt	123
Syria	111
Bosnia and Herzegovina	97
Venezuela	89
Ghana	86
Iraq	86
Cameroon	82
Dominican Republic	72
Peru	65
Afghanistan	64
Russia	58
Côte d'Ivoire	57
Senegal	54
Moldova	53
Philippines	51
Thailand	48
North Macedonia	44
Paraguay	40

Vietnam	46
Ecuador	39
Kosovo	30
Eritrea	27
Belarus	26
Sudan	26
Gambia	25
Mali	25
United Kingdom	21
DR Congo	20
Iran	20
Liberia	17
Armenia	16
Guinea	16
Sri Lanka	15
Sierra Leone	14
Nicaragua	13
Somalia	13
Ethiopia	12
Argentina	11
Burkina Faso	11
Cuba	11
Honduras	10
Other	839

1.4.2. Individuals prosecuted for THB crimes

Most individuals prosecuted for THB crimes in 2015-2020 in the EU27 where information on sex was provided were male (74%).[372] There were no notable changes in this indicator over the reporting period, with the share of males staying between 72% and 76% in individual years (Figure 24).

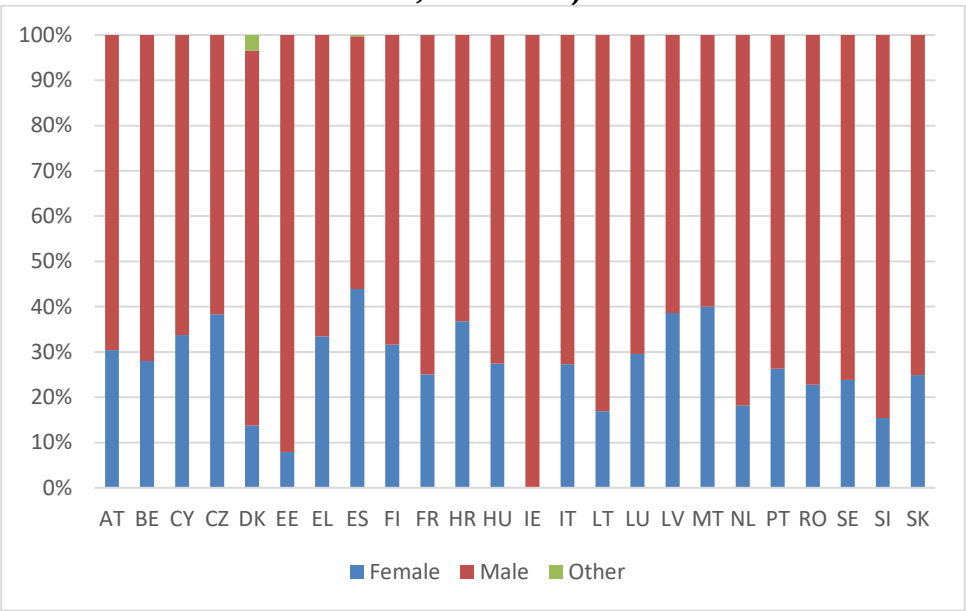
Figure 24: Sex of individuals prosecuted for THB crimes in EU27 (by year, 2015-2020)



Men accounted for the majority of prosecuted individuals in all Member States during the reporting period. The Member States with the highest shares of women among those prosecuted were Spain (44%), Malta (40%), Latvia (39%), the Czech Republic (38%), and Croatia (37%) (Figure 25).

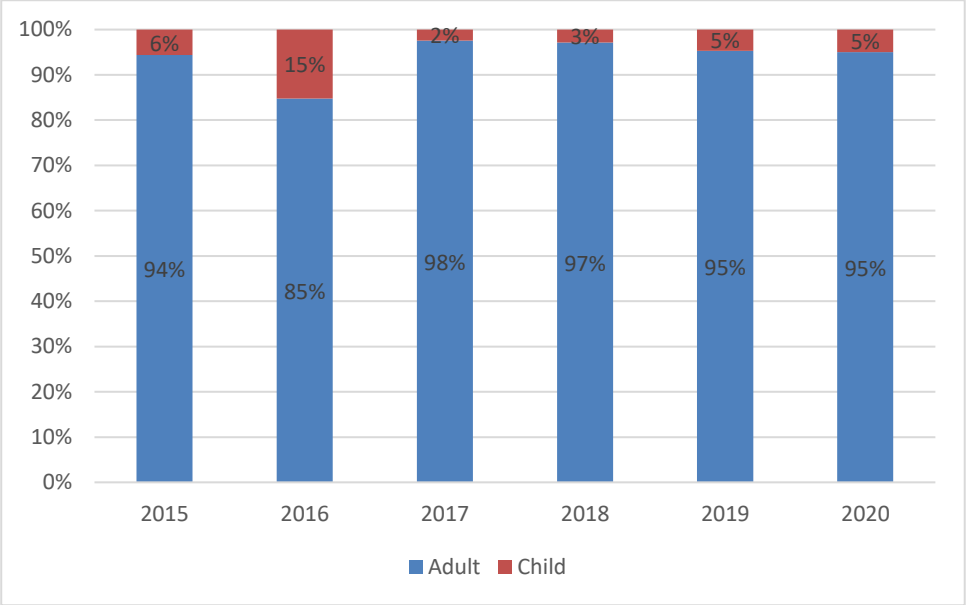
[372] Information on sex of prosecuted individuals was recorded as "unknown" in 9% of cases in 2015-2020. No sex data were available for BG, DE, and PL.

Figure 25: Sex of individuals prosecuted for THB crimes in EU27 (by Member State, 2015-2020) [373]



As Figure 26 shows, the vast majority of prosecuted individuals in 2015-2020 in EU27 were adults (95%). This indicator remained stable over the reporting period with the exception of 2016 when children accounted for 15% of recorded prosecuted individuals.[374] However, this deviation from the long-term average may be a function of available data – only 11 Member States provided information on sex in 2016 of which two (HU and RO) reported comparatively high numbers of defendants who were children.

Figure 26: Age of individuals prosecuted for THB crimes in EU27 (by year, 2015-2020)

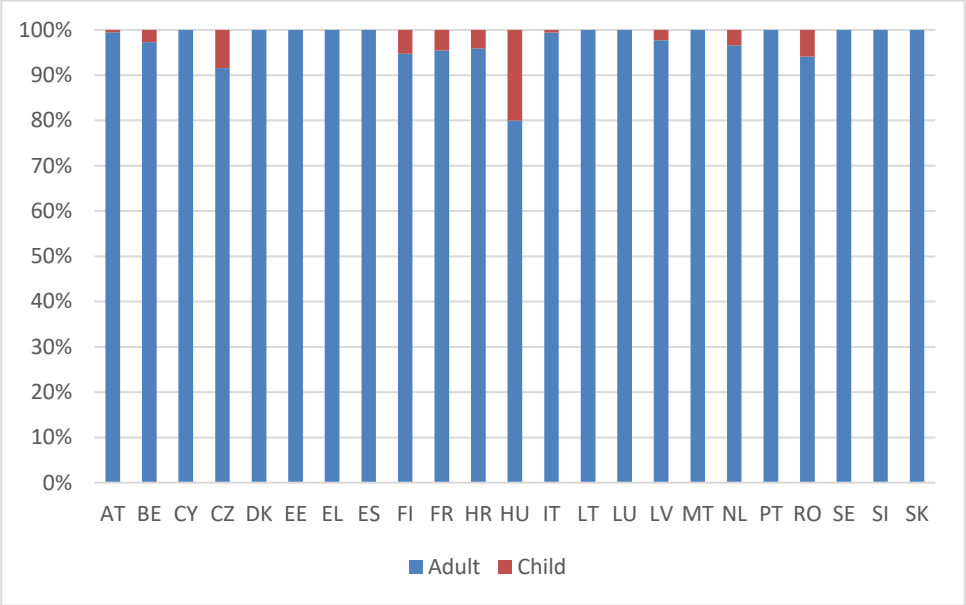


[373] Note: Data missing for BG, DE, PL.

[374] Over the reporting period, in 25% of cases the age group of the prosecuted individual was recorded as "unknown". No age group data were available for BG, DE, IE, and PL.

Correspondingly, adults were the vast majority of prosecuted individuals in all Member States. Hungary stands out as having a relatively higher share of children among those prosecuted for THB crimes (20%). The Czech Republic (8%) and Romania (6%) also reported above-average shares of children; by contrast, twelve Member States (CY, DK, EE, EL, ES, LT, LU, MT, PT, SE, SI, SK) did not report any prosecuted children, although in at least some cases this may have been a function of data reporting (see Figure 27).

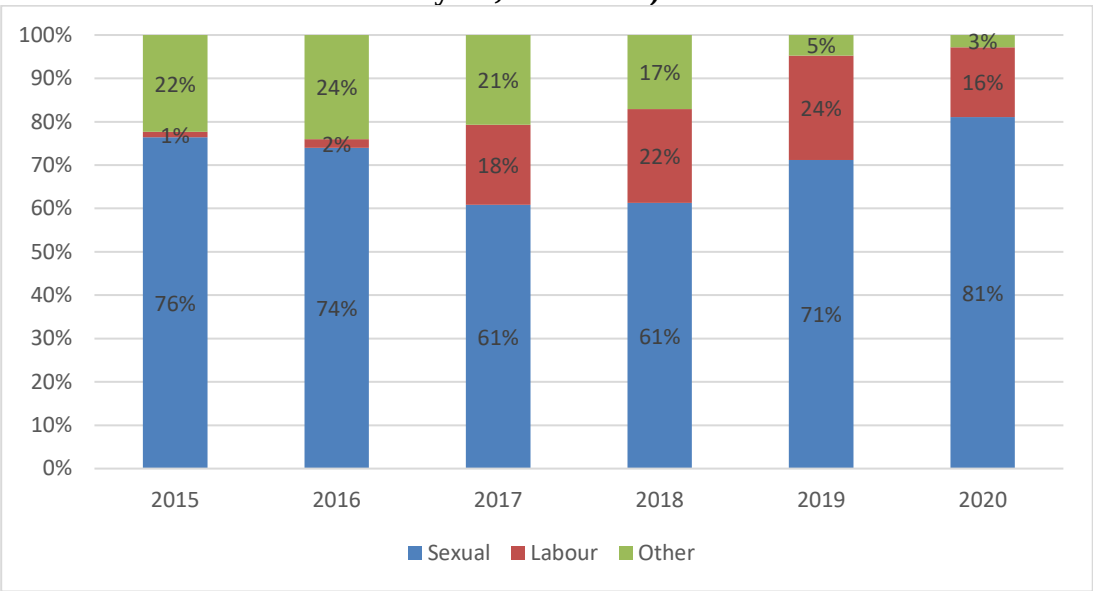
Figure 27: Age of individuals prosecuted for THB crimes in EU27 (by Member State, 2015-2020)



Sexual exploitation was the most common reason for prosecution, accounting for 71% of all recorded prosecuted persons. [375] Its share briefly decreased in 2017-2018 but recovered to reach 81% in 2020. Simultaneously, the share of labour exploitation cases increased from 1% in 2015 to 24% in 2019 and then falling to 16% in 2020%. The share of other forms of exploitation decreased steadily to represent only 3% of cases in 2020 (see Figure 28).

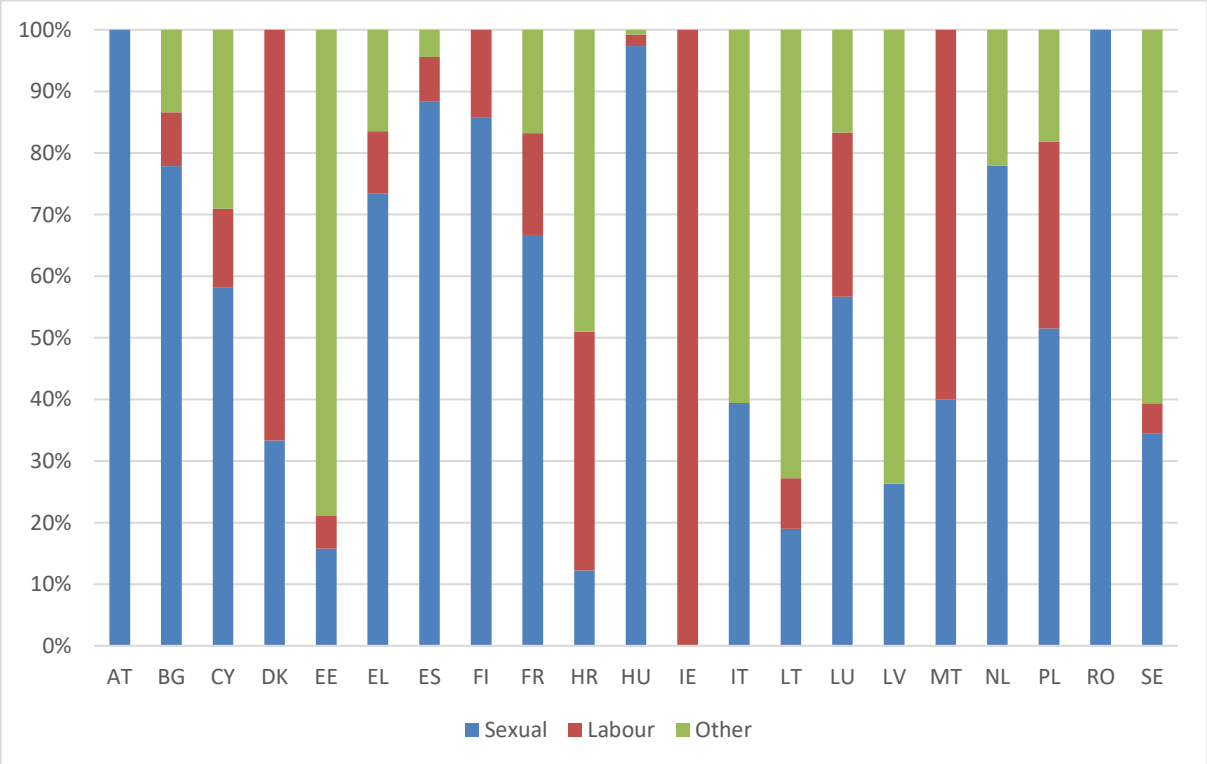
[375] Form of exploitation was recorded as "unknown" in 10% of cases. No data on forms of exploitation and prosecuted persons available for BE, CZ, DE, PT, SI, SK.

Figure 28: Prosecuted individuals and underlying form of exploitation in EU27 (by year, 2015-2020)



As with suspects, sexual exploitation was the most frequent form recorded for prosecuted individuals in most Member States, where the form was recorded as known, reaching 100% in Austria and Romania, and 97% in Hungary. Labour exploitation was the most common form of exploitation in Ireland (100% of cases), Denmark (67%), and Malta (60%) (see Figure 29).

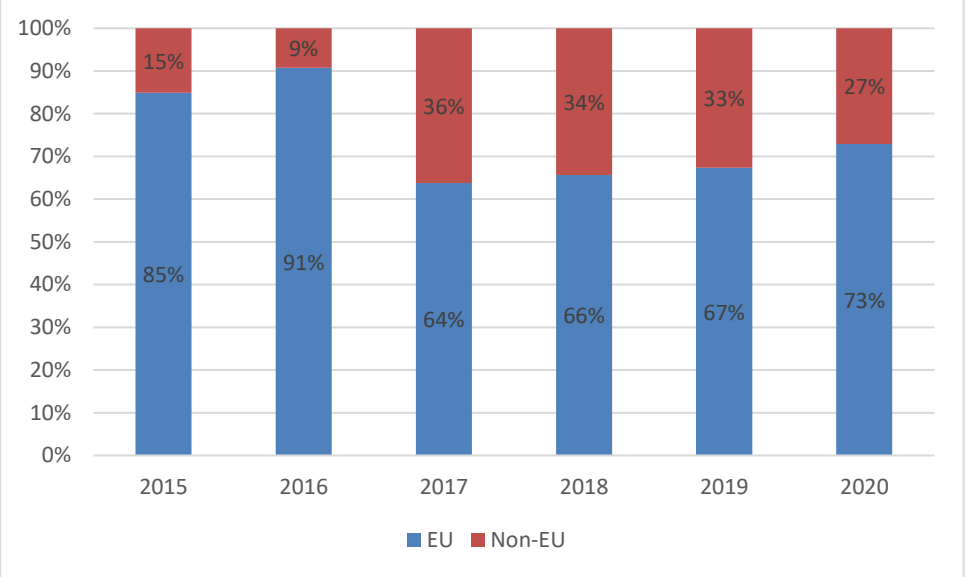
Figure 29: Prosecuted individuals and underlying form of exploitation in EU27 (by Member State, 2015-2020) [376]



[376] Note: Data missing for BE, CZ, DE, PT, SI, SK.

Similar to suspects, EU citizens accounted for a clear majority (72%) of individuals prosecuted for THB crimes with known country of citizenship. The share of non-EU citizens among prosecuted individuals rose sharply from 9% in 2016 to 36% in 2017 and has gradually decreased since then, reaching 27% in 2020 (Figure 30).[377]

Figure 30: Citizenship of prosecuted individuals (by year, 2015-2020)



EU Member States with the highest number of citizens among prosecuted were France (2,934), Romania (2,560), Hungary (963), Belgium (759), and the Netherlands (238) (Table 5).

Table 5: Citizenship of individuals prosecuted for THB crimes (EU citizens, 2015-2020)

Country	Number
France	2934
Romania	2560
Hungary	963
Belgium	759
Netherlands	238
Bulgaria	215
Poland	202
Lithuania	198

[377] The vast majority of prosecutions were recorded while the UK was a member of the EU. Only 16 prosecuted individuals were reported in the UK in 2020.

Italy	148
Austria	128
Czech Republic	103
Greece	89
Portugal	69
Spain	60
Croatia	49
Latvia	43
Cyprus	38
Slovakia	24
Estonia	23
Germany	20
Malta	12
Finland	11
Slovenia	9
Denmark	8
Luxembourg	7
Sweden	2

The most common non-EU countries of citizenship among registered defendants for THB crimes were Nigeria (655), China (368), and the United Kingdom (153) (Table 6).

Table 6: Citizenship of individuals prosecuted for THB crimes (non-EU citizens, 2015-2020) [378]

Country	Number
Nigeria	655
China	368
United Kingdom	153
Albania	78
Morocco	58

[378] Note: "Other" includes all nationalities with fewer than 10 individuals, those marked as "other" and those marked as "stateless."

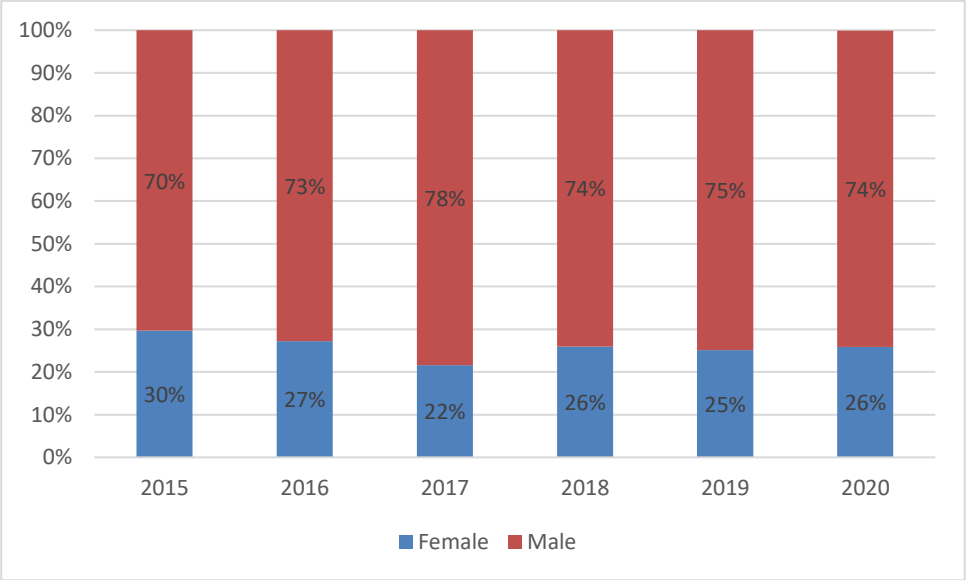
Serbia	52
Eritrea	39
Ukraine	36
Pakistan	35
Brazil	34
Turkey	32
India	26
Suriname	25
Egypt	24
Bosnia & Herzegovina	22
Russia	22
Iraq	21
Moldova	19
Venezuela	19
Iran	18
Ethiopia	16
Syria	16
Afghanistan	14
Algeria	13
Cameroon	13
Bangladesh	12
Colombia	11
Paraguay	11
Dominican Republic	10
North Macedonia	10
Sudan	10
Vietnam	10
Other	1,610

1.4.3. Individuals convicted of THB crimes

In line with the preceding sections, men accounted for a clear majority (74%) of individuals convicted of THB crimes in the EU27 in 2015-2020.[379] As Figure 31 shows, there was very little variation in this indicator over time.

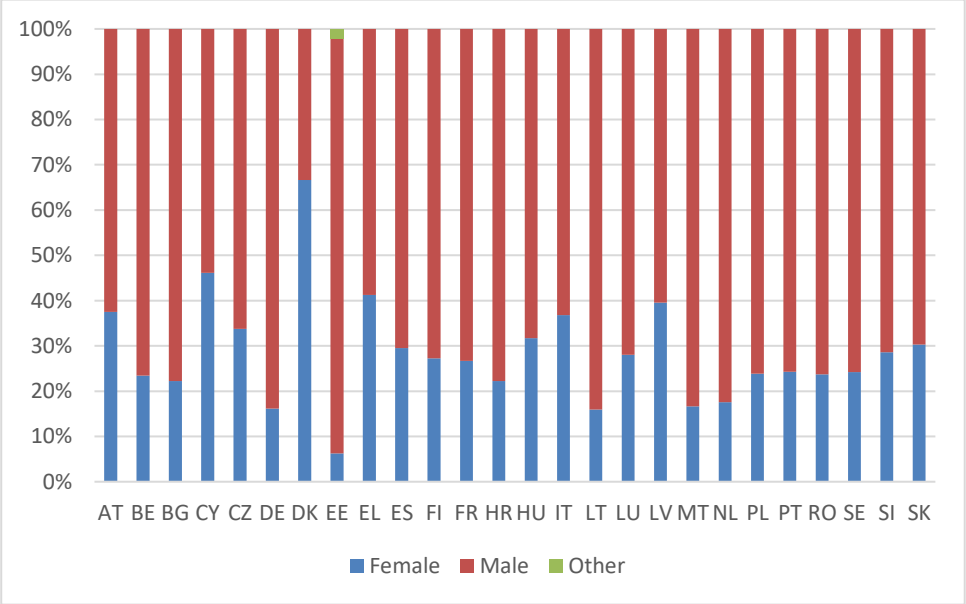
[379] Sex was reported as "unknown" in 9% of cases. No sex information data available for IE.

Figure 31: Sex of individuals convicted of THB crimes in EU27 (by year, 2015-2020)



Correspondingly, men accounted for the majority of convicted individuals in all but one Member State.[380] Member States with comparatively higher shares of women among those convicted were (in descending order) Denmark, Cyprus, Greece, Latvia, and Austria (see Figure 32). However, it is plausible that the observed sex breakdowns are distorted by the relatively high prevalence of the "unknown" sex designation in available data.

Figure 32: Sex of individuals convicted for THB crimes in EU27 (by Member State, 2015-2020) [381]



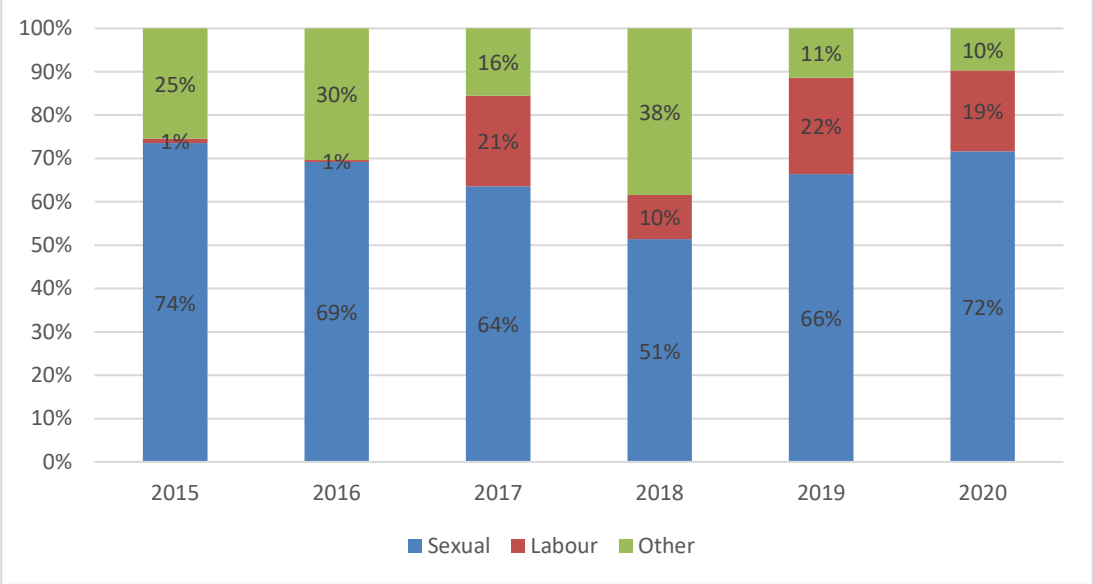
Adults accounted for nearly all (98%) individuals convicted for THB crimes in 2015-2020 and never in the reporting period did the share of children among those convicted exceed 3%. This is reflected in the situation in individual Member States, of which 13 reported no

[380] The only exception was Denmark, with women representing 67% of convicted individuals. However, this is likely a function of data availability as only 3 cases with known sex were reported in Denmark over the 2015-2020 period.
[381] Note: Data missing for IE.

convicted children (AT, BE, CY, DK, EL, LT, LU, LV, MT, PT, SE, SI, SK). Croatia was the Member States with by far the highest share of children among convicted individuals (22%) – though with a very low denominator – followed by the Czech Republic (10%) and Finland (9%).

Sexual exploitation was consistently the most common form of exploitation in connection with convicted individuals, accounting for 68% of cases.[382] Its share decreased notably in 2018 but then reversed the trend to reach 72% in 2020. The share of labour exploitation grew over time to reach approximately 20% in recent years. By contrast, the share of other forms of exploitation decreased over the reporting period (Figure 33).

Figure 33: Convicted individuals and underlying form of exploitation in EU27 (by year, 2015-2020)



Correspondingly, among Member States reporting on forms of exploitation in relation to conviction, most indicate sexual exploitation as the most common one and in three Member States (FI, RO, SE) even the only one reported. No Member State reported labour exploitation as the most common form, while other forms of exploitations were most frequently reported in Cyprus, Estonia, Croatia, Lithuania, and Slovakia (Figure 34).

[382] "Unknown" form of exploitation was recorded in 14% of cases. No data on forms of exploitation and convicted individuals available for BG, CZ, DK, HU, IE, IT, PT.

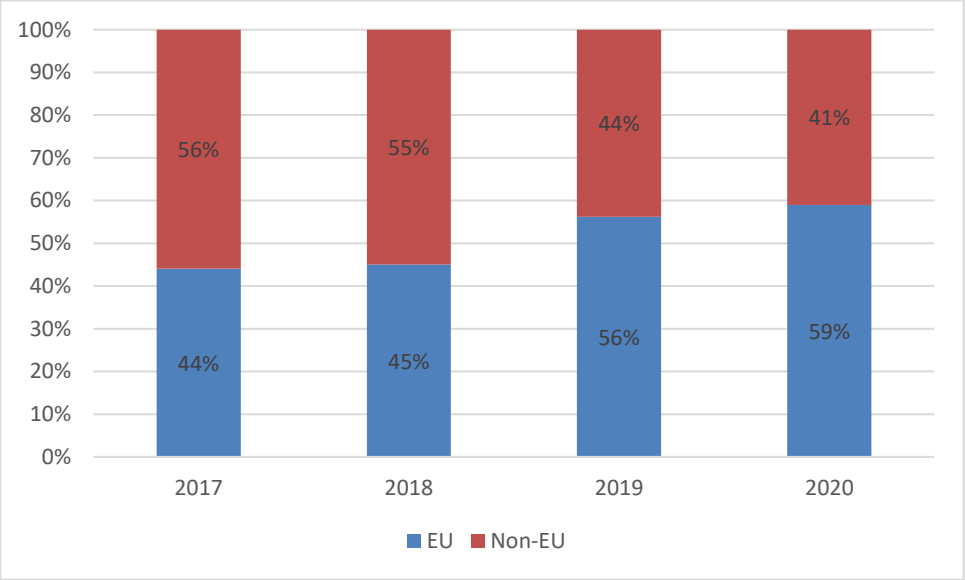
Figure 34: Convicted individuals and underlying form of exploitation in EU27 (by Member State, 2015-2020) [383]

[383] Note: Data missing for BG, CZ, DK, HU, EI, IT, PT.

Since 2017, data are also available on the citizenship of convicted individuals. In contrast with suspected and prosecuted persons, convicted individuals were broadly evenly split between EU citizens (51%) and non-EU citizens (49%). As

Figure 35 shows, the share of non-EU citizens decreased somewhat overtime from 56% in 2017 to 41% in 2020.

Figure 35: Citizenship of convicted individuals (by year, 2017-2020)



Source: Authors' elaboration based on ESTAT data

EU Member States with the highest numbers of citizens among convicted individuals were Romania (1,178), France (1,047), Germany (371), Bulgaria (240), and Lithuania (92) (Table 7).

Table 7: Citizenship of individuals convicted of THB crimes (EU citizens, 2017-2020)

Country	Number
Romania	1178
France	1047
Germany	371
Bulgaria	240
Lithuania	92
Poland	86
Belgium	69
Hungary	67

Netherlands	62
Spain	61
Slovakia	48
Portugal	45
Czech Republic	43
Italy	34
Latvia	25
Estonia	18
Austria	10
Croatia	8
Finland	6
Malta	6
Slovenia	4
Greece	3
Denmark	1
Cyprus	1

The most frequently recorded non-EU countries of citizenship among convicted individuals were Nigeria (273), China (178), and Morocco (107) (Table 8).

Table 8: Citizenship of individuals convicted of THB crimes (non-EU citizens, 2017-2020)

Row Labels	Number
Nigeria	273
China	178
Morocco	107
United Kingdom	75
Turkey	39
Albania	25

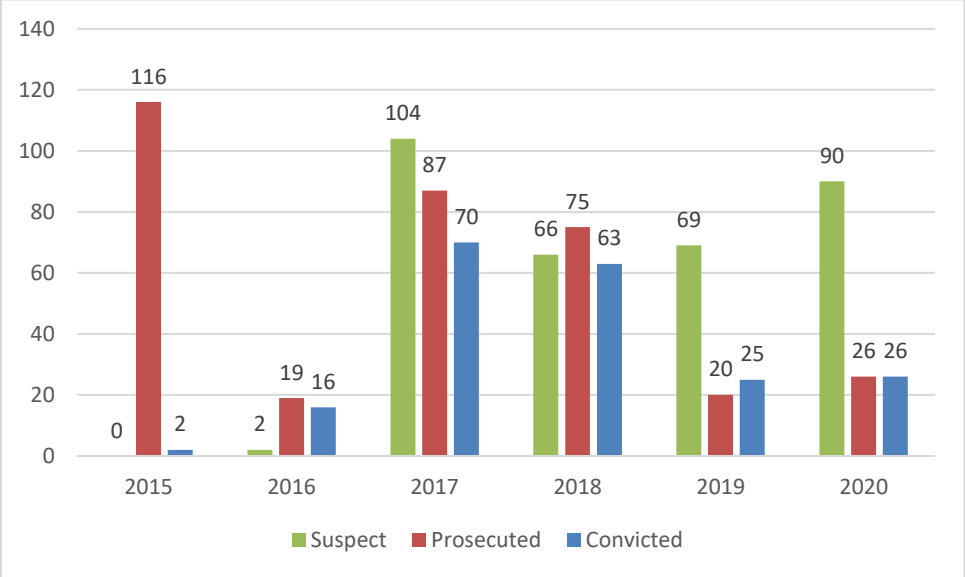
Brazil	23
Bosnia and Herzegovina	18
Algeria	15
Afghanistan	14
Syria	12
Thailand	11
Other[384]	724

1.4.4. Use of exploited services

Since 2015, Eurostat has also collected data related to the criminal offence of use of services, which are the objects of exploitation of victims. Altogether, during the reporting period of 2015-2020, 331 individuals were reported as suspects in cases related to the use of services, 343 persons were reported as prosecuted for these offenses and 202 were reported as convicted of such offenses. As Figure 36 shows, there is no clear trend in these indicators across the reporting period. Early on, the number of reported prosecuted individuals vastly outnumbered the other two categories, while in more recent years the number of reported suspects has been notably higher than that for the other two categories. However, it is necessary to acknowledge that data on the use of services suffers from serious data gaps, which affect the statistics presented above. Data on this indicator are available only for 18 Member States, of which only 11 reported on all three categories.[385] Notably, countries for which no data are available include some with comparatively high numbers of recorded victims such as France, Spain and the Netherlands.[386]

[384] Note: "Other" includes all nationalities with fewer than 10 individuals, those marked as "other" and those marked as "stateless."
[385] Of these 11 Member States, three (IE, SI, SK) positively reported zero individuals (as opposed to not providing any data at all).
[386] Some countries do not have any legislation criminalising knowing use of services extracted from victims. This might explain some of the data gaps; however, existing data gaps extend beyond this group of countries.

Figure 36: Individuals involved with the criminal justice system in connection with the use of services, which are the objects of exploitation of victims (by criminal justice status, 2015-2020)



ANNEX VI. TRANSPOSITION OF THE ANTI-TRAFFICKING DIRECTIVE

This section provides an analysis of if and how the provisions of the Directive have been transposed by Member States. The methodology employed for this activity was as follows:

1) The external contractor used the analysis in the 2016 conformity assessment conducted for the European Commission[387] as a starting point. This assessment resulted in the European Commission's 2016 Report assessing the extent to which Member States had taken the necessary measures in order to comply with Directive 2011/36/EU in accordance with Article 23(1). In relation to Article 18(4) the external contractor used the analysis in the 2016 report by the Commission assessing the impact of existing national law, establishing as a criminal offence the use of services which are the objects of exploitation of trafficking in human beings, on the prevention of trafficking in human beings[388] as the starting point.

2) A network of National Correspondents – one in each Member State except DK – were asked to indicate if there had been relevant changes to the national laws transposing the Directive since 2016.

3) In addition, the external contractor analysed responses sent by Member States to the Commission in 2019, as a result of a request for information from the EC.

4) The external contractor triangulated the information from the National Correspondents, the information 2016 Conformity Assessment and the information

[387] These assessments were conducted for the European Commission by TIPIK.

[388] European Commission (2016) REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL assessing the impact of existing national law, establishing as a criminal offence the use of services which are the objects of exploitation of trafficking in human beings, on the prevention of trafficking in human beings, in accordance with Article 23 (2) of the Directive 2011/36/EU. Available at: link

provided by MS to the EC in 2019 in order to update the 2016 Conformity assessments.

5) A draft version of the assessment was share with National Rapporteurs for clarification and validation.

This information is displayed visually below, as follows:

Transposed	Partially transposed	Not transposed	Not transposed optional provision	No changes observed	Minor changes	Major changes	Change since 2016 assessment

- The **dark blue** cells indicate major changes to national legislation since 2016, while the **light blue** cells indicate minor changes.
- **Green** cells indicate full transposition.
- **Orange** cells indicate partial transposition.
- **Red** cells indicate that the national law has not transposed that article of the Directive.
- **Purple** cells indicate that Member States decided not to transpose optional articles of the Directive.
- **Dark green** cells indicate that the external contractor' analysis identified that, after the changes to national legislation or clarifications, Member States have transposed the Article of the Directive, when the conclusion of the 2016 assessment was that they had not.

Article 1: Subject matter

> **Article 1: Subject matter**
>
> This Directive establishes minimum rules concerning the definition of criminal offences and sanctions in the area of trafficking in human beings. It also introduces common provisions, taking into account the gender perspective, to strengthen the prevention of this crime and the protection of the victims thereof.

As Article 1 presents the subject matter of the Directive, a transposition assessment is not applicable.

Article 2: Offences concerning trafficking in human beings

Article 2 of the Directive provides a common definition of THB and related offences against which Member States have to ensure criminalisation measures. The text of this provision is set out below.

> **Article 2: Offences concerning trafficking in human beings**
>
> 1. Member States shall take the necessary measures to ensure that the following intentional acts are punishable:

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.

2. A position of vulnerability means a situation in which the person concerned has no real or acceptable alternative but to submit to the abuse involved.

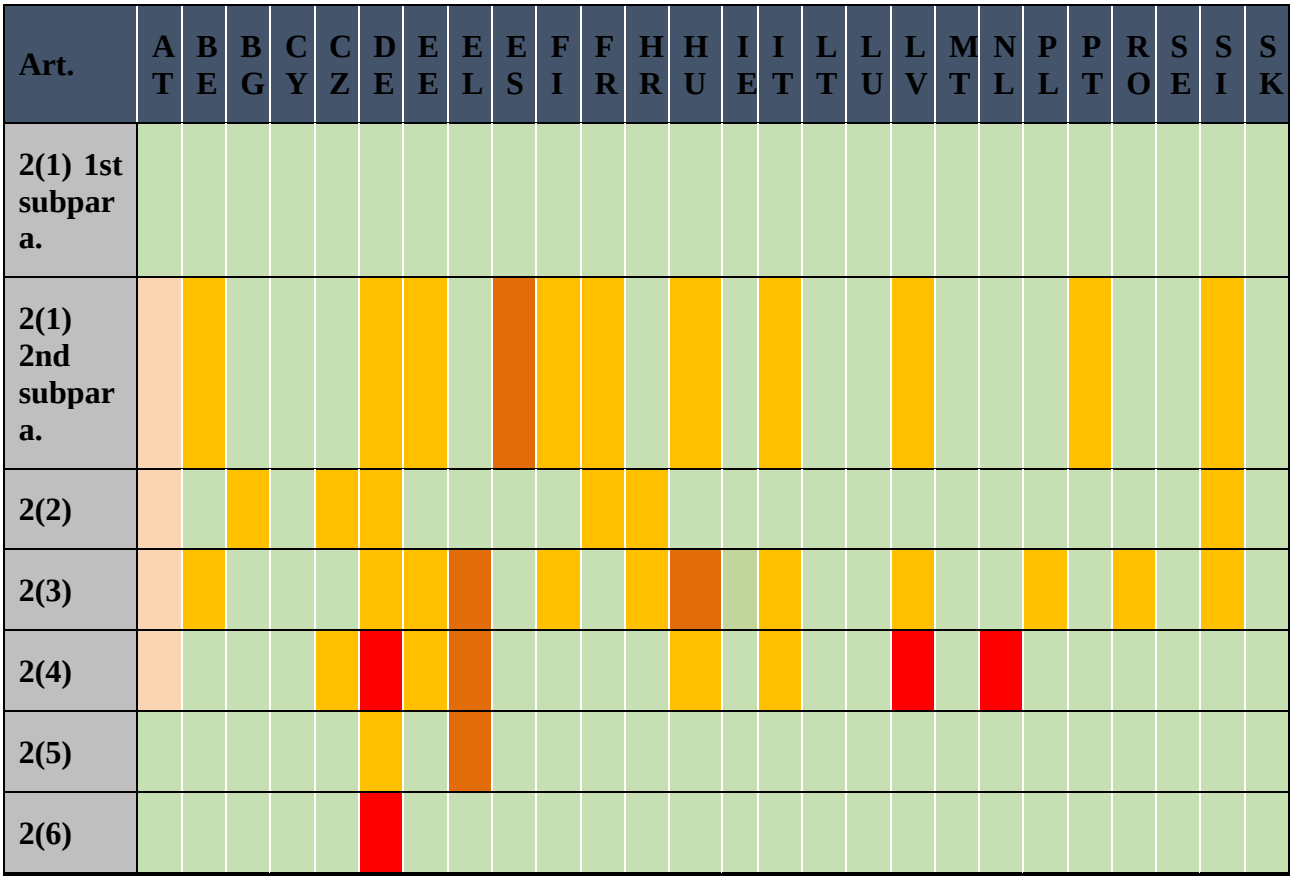
3. Exploitation shall include, as a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, including begging, slavery or practices similar to slavery, servitude, or the exploitation of criminal activities, or the removal of organs.

4. The consent of a victim of trafficking in human beings to the exploitation, whether intended or actual, shall be irrelevant where any of the means set forth in paragraph 1 has been used.

5. When the conduct referred to in paragraph 1 involves a child, it shall be a punishable offence of trafficking in human beings even if none of the means set forth in paragraph 1 has been used.

6. For the purpose of this Directive, 'child' shall mean any person below 18 years of age.

The results of the analysis of transposition are set out in the figure below.



Changes	

The main identified changes since 2016 were:

- All these changes have improved the transposition of the Directive, and in some cases mean that MS have fully transposed a provision of the Directive for the first time.
- Regarding Article 2(2):
    - **ES**: the 2016 Assessment concluded partial transposition because the term 'abduction' is not mentioned as one of the means by which the offence is committed (in Article 177a(1) of the Spanish Criminal Code). However, ES clarified that the omission of the term 'abduction' was deliberate, since abduction is an offence in its own right in Spanish law, punishable by penalties up to 20 years' imprisonment. When the means of committing another offence constitutes an offence in its own right - a 'means to an end' - it is governed in Spanish law by the concept of concurrent offences, as specified in the general part of the Code, under Article 77. For this reason it would not have been appropriate to insert the precise term into Article 177a without actually implying, on the contrary, less criminal protection or that such acts would not be prosecuted when committed in this way. **The assessment made in the context of the evaluation finds that ES has transposed Article 2(1) of the Directive.**
- Regarding Article 2(3):
    - **EE**: *This change is being clarified with the national correspondent.*
    - **EL**: In 2019 Article 323 A of the Greek Penal Code came into force, this includes all forms of exploration as foreseen in the Directive. **Based on the assessment made in the context of the evaluation, this change means that EL has now transposed Article 2(3) of the Directive.**
    - **HU** amended its legislation to include "Forced Labour" as a possible purpose of trafficking in human beings. The previous system provided a standalone crime for forced labour, thus hampering conformity with the transposition of Article 2(3). Moreover, the definition of "Forced Labour" was further specified. **Based on the assessment made in the context of the evaluation, this change means that HU has now transposed Article 2(3) of the Directive.**
    - **LT:** *This change is being clarified with the national correspondent*.
    - **SE** amended its legislation in a way that it now specifies some forms of exploitation, which were previously covered by a catch-all provision transposing **Article 2(3)**. Specifically, Swedish law now explicitly refers to "*forced labour*", "*labour under clearly unreasonable conditions*" and "*begging*".
- Regarding Article 2(4):
    - **EL**: In 2019 an amended Article 323 A of the Greek Penal Code came into force, this includes reference to the fact that the consent of the victim is

irrelevant, in case this has been extracted through means of deception or abuse of power or other. **The assessment made in the context of the evaluation finds that this change means that EL has now transposed Article 2(4) of the Directive.**

- Regarding Article 2(5):
  - **EL**: In 2019 Article 323 A of the Greek Penal Code came into force, this includes that where the victim is a minor, the consent is irrelevant regardless if means have been deployed to extract his or her consent or not. **The assessment made in the context of the evaluation means that EL has now transposed Article 2(5) of the Directive.**

Overall status of transposition/ gaps in transposition:

- Article 2(1): While the use of threat, force, other forms of coercion and the abuse of position of vulnerability are covered by all Member States, some Member States[389] still do not explicitly include other means covered by article 2(1).
- Article 2(2): Some Member States[390] define the position of vulnerability in different ways, and they do not always cover all the forms of vulnerability.
- Article 2(3): Several Member States[391] do not include explicit references to some of the forms of exploitation referred to in Article 2(3), such as slavery, servitude, begging or the exploitation of criminal activities.
- Article 2(4): Most Member States are compliant with Article 2(4) on the irrelevance of the victim's consent. Although a few Member States[392] do not make an explicit refence to this element in their national legislation.
- Article 2(5) and Article 2(6): For DE, a "child" for the purposes of THB is a person under the age of 14, thus possibly hampering conformity with both Articles 2(5) and 2(6).

Article 3: Incitement, aiding and abetting, and attempt

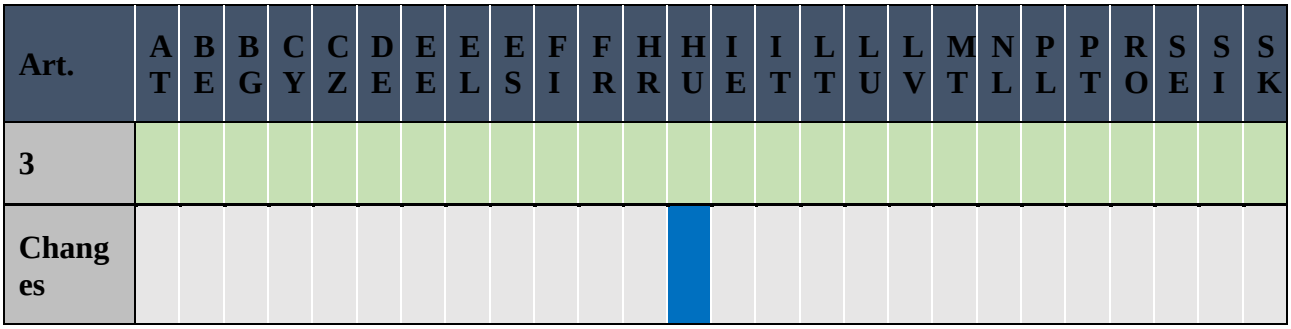
Article 3 of the Directive requires Member States to "take the necessary measures to ensure that inciting, aiding and abetting or attempting to commit an offence referred to in Article 2 is punishable". The provision is set out below.

Article 3: Incitement, aiding and abetting, and attempt

Member States shall take the necessary measures to ensure that inciting, aiding and abetting or attempting to commit an offence referred to in Article 2 is punishable.

[389] In EE, FR, LV, HU and FI, there is no explicit mention of "abduction" and "fraud". IT does not explicitly include "abduction", SI does not refer to "fraud", AT does not refer to "abduction", EE, HU and SI do not refer to "giving or receiving of payments or benefits".
[390] For instance, some national laws only mention the "abuse of a position od dependency" (BG, CZ). Similar problems have been identified in DE, FR, HR and SI.
[391] Forms of exploitation that are not explicitly referred to in national legislations: Begging (HR, LV, SI), slavery and practices similar to slavery (BE, IT), exploitation of criminal activities (PL, RO, FI). Although Some Member States provide criminal sanctions for these crimes, conformity is affected because these forms of exploitation should be listed among the purposes for trafficking in human beings.
[392] For example, there is no reference to the irrelevance of victims' consent in DE, LV, NL.

The results of the analysis of transposition are set out in the figure below.



The main identified changes since 2016 were:

- **HU**: Incitement, aiding and abetting, and attempt were already punishable acts under Hungarian law in 2016 and remain to be so. The change relates to the penalty thresholds set for these acts. An amendment of Article 192 of the Hungarian Criminal Code set the penalty threshold up to one year imprisonment for preparation of the acts set out in Article 192(1), up to three years of imprisonment for preparation of the acts in Article 192(2)-(3) and between one to five years of imprisonment for the acts in Article 192(4).

Overall status of transposition/ gaps in transposition:

- All Member States have transposed Article 3 in their national laws.

Article 4: Penalties

Article 4 lays down the minimum level of the maximum penalty that should be applicable for the offence of THB (Article 4(1)). It also lists aggravating circumstances (Article 4(2)), which should lead to the imposition of higher maximum penalties. The provisions are set out below.

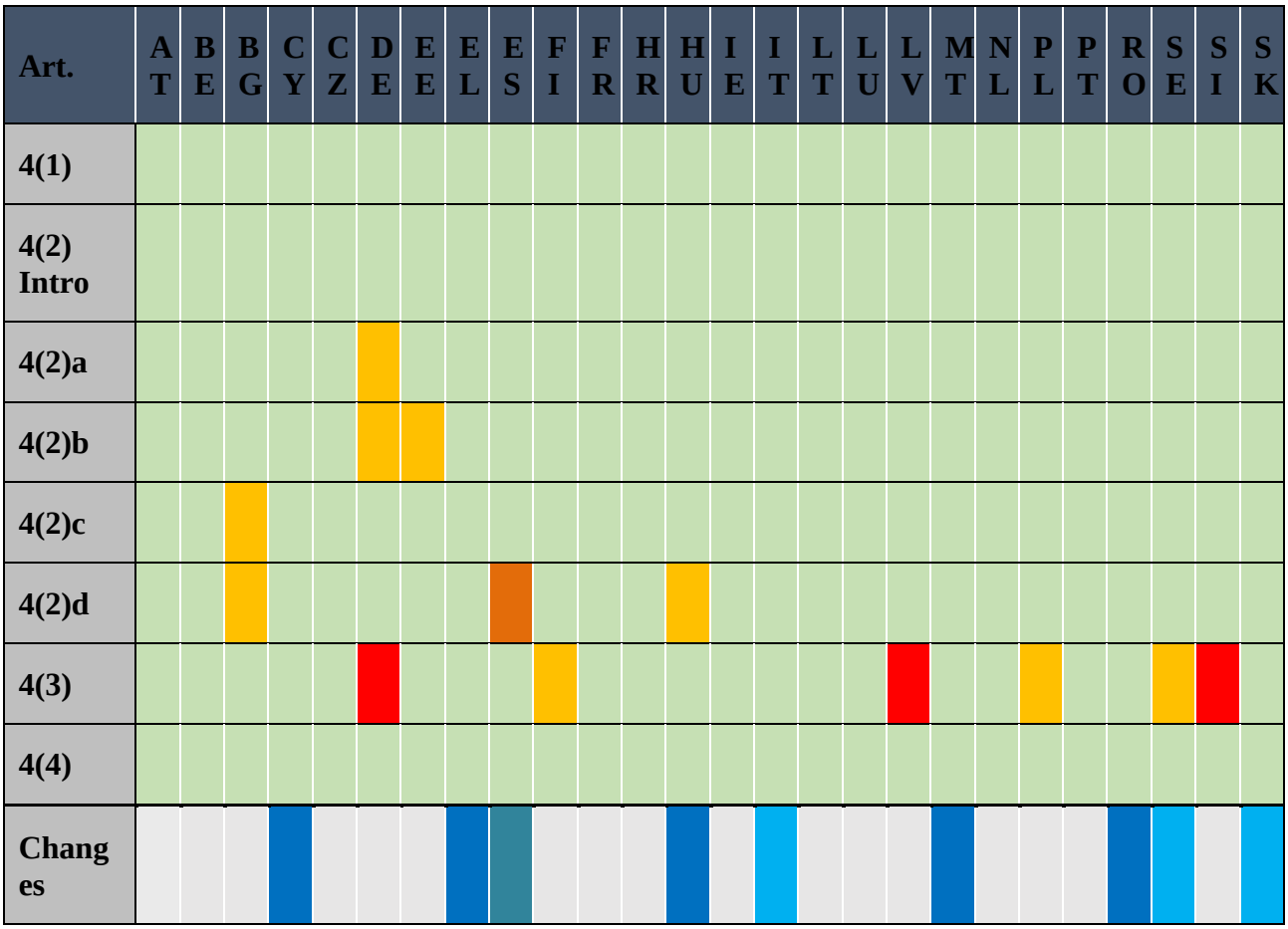
Article 4: Penalties

1. Member States shall take the necessary measures to ensure that an offence referred to in Article 2 is punishable by a maximum penalty of at least five years of imprisonment.
2. Member States shall take the necessary measures to ensure that an offence referred to in Article 2 is punishable by a maximum penalty of at least 10 years of imprisonment where that offence:
   (a) was committed against a victim who was particularly vulnerable, which, in the context of this Directive, shall include at least child victims;
   (b) was committed within the framework of a criminal organisation within the meaning of Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime (15);
   (c) deliberately or by gross negligence endangered the life of the victim; or
   (d) was committed by use of serious violence or has caused particularly serious harm to the victim.

3. Member States shall take the necessary measures to ensure that the fact that an offence referred to in Article 2 was committed by public officials in the performance of their duties is regarded as an aggravating circumstance.

4. Member States shall take the necessary measures to ensure that an offence referred to in Article 3 is punishable by effective, proportionate and dissuasive penalties, which may entail surrender.

The results of the analysis of transposition are set out in the figure below.



The main identified changes since 2016 were:

- All the Member States who made changes were already at least partially compliant in 2016.
- Regarding Article 4(2):
    - **ES**: the 2016 assessment conclude partial transposition of Article 4(2)(d). However, ES has clarified that under Article 177a(4) of the criminal code, imprisonment of between eight years and one day and twelve years is imposed where "(a) the life or physical or mental integrity of the persons subjected to the offence has been endangered; b) the victim is particularly vulnerable because of illness, pregnancy, disability or personal circumstances, or is a minor." "Serious violence" (as stated in the Directive) exists where the victim's life or physical or mental integrity is endangered. **The assessment made in the context of the evaluation means that ES has now transposed Article 4(2) of the Directive.**

- No changes were identified regarding the non-transposition of Article 4(3) by DE, LV and SI.
- **CY** amended its legislation so that the maximum penalty for the offence of THB has been raised. Specifically, for trafficking in adult persons and sexual exploitation of adults (from 10 to 25 years), for labour exploitation (from 6 to 15 years), in case the victim is a child (from 10 years to lifelong), and for sexual exploitation of children (from 20 years to lifelong imprisonment).
- **EL** amended its legislation to enhance the maximum penalty for the offence of THB to "at least 10 years of imprisonment", while before it was punishable by a "maximum penalty of 10 years of imprisonment".
- **HU** raised the penalty thresholds for the offence of THB. Among others, THB for the purpose of forced labour is now punished between 2 and 8 years (compared to the previous 1 to 5 years), and sexual exploitation between 5 to 10 years of imprisonment (compared to the previous 2-8 years).
- **IT** added two aggravating circumstances; where the defendant is the master of a ship used for the purposes of human trafficking; where the defendant is a member of the crew of a ship used for the purposes of human trafficking.
- **MT** amended its criminal code so that the minimum penalty for the offence of THB was increased from 4 to 6 years imprisonment.
- **RO** also increased the minimum length of the penalty for the offence of THB from 3 to 5 years, and from 5 to 7 years for its aggravated form. The maximum penalty stayed the same, namely 10 years of imprisonment, and 12 years for its aggravated form. Moreover, three new aggravated forms of trafficking of minors were introduced, such as if the crime endangered the minor's life, and if the crime was committed by a family member.
- **SE:** *This change is being clarified with the national correspondent*
- **SK** amended its criminal code so that it introduced the use of a stricter criminal sanction (7 to 12 years of imprisonment) where the offence was committed by two or more persons acting in conjunction.

Overall status of transposition/ gaps in transposition:

- Article 4(1): The 2016 Conformity Assessment found that all MS had transposed this Article.
- Article 4(2): Some MS do not include some of the aggravating circumstances listed in this Article in national law (BG, DE, EE). Some Member States do not have provisions applying the requirement of at least 10 years of imprisonment for the aggravating circumstances (BG, DE, HU).
- Article 4(3): Several MS still do not explicitly provide for aggravated penalties for THB offences committed by public officials in the performance of their duties (DE, FI, LV, PL, SE, SI).

Article 5: Liability of legal persons

Article 5 requires Member States to ensure that legal persons may be held liable for the offences referred to in Articles 2 and 3 and specifies the position or capacity of the

perpetrator in relation to the legal person, which will lead to the legal person's liability. The provisions are shown below.

Article 5: Liability of legal persons

1. Member States shall take the necessary measures to ensure that legal persons can be held liable for the offences referred to in Articles 2 and 3 committed for their benefit by any person, acting either individually or as part of an organ of the legal person, who has a leading position within the legal person, based on:

   (a) a power of representation of the legal person;

   (b) an authority to take decisions on behalf of the legal person; or

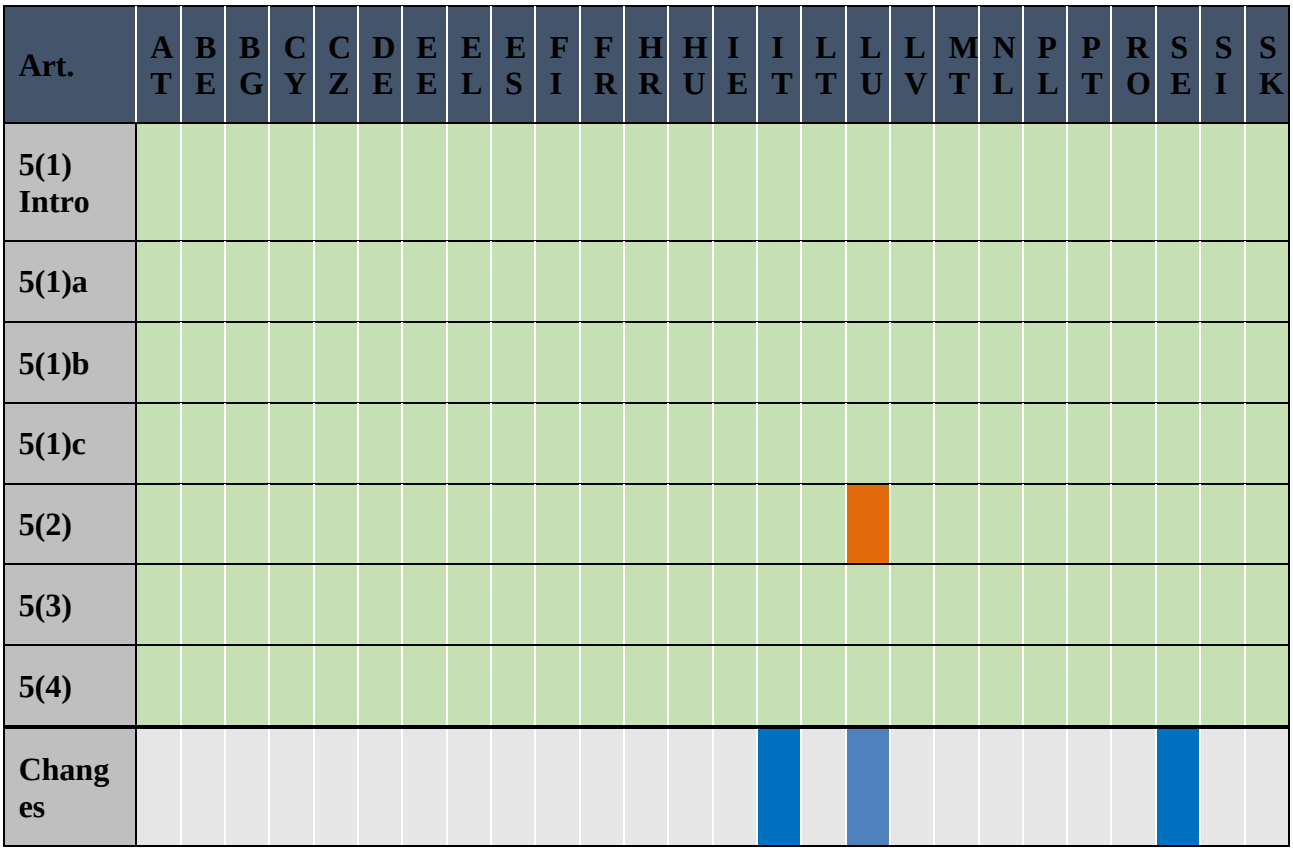
   (c) an authority to exercise control within the legal person.

2. Member States shall also ensure that a legal person can be held liable where the lack of supervision or control, by a person referred to in paragraph 1, has made possible the commission of the offences referred to in Articles 2 and 3 for the benefit of that legal person by a person under its authority.

3. Liability of a legal person under paragraphs 1 and 2 shall not exclude criminal proceedings against natural persons who are perpetrators, inciters or accessories in the offences referred to in Articles 2 and 3.

4. For the purpose of this Directive, 'legal person' shall mean any entity having legal personality under the applicable law, except for States or public bodies in the exercise of State authority and for public international organisations.

The results of the analysis of transposition are set out in the figure below.



The main identified changes since 2016 were:

- **IT**: The liability of legal persons for labour exploitation was specified. The criminal code now stipulates that also intermediaries and third parties can be held responsible, and lists several "exploitation indices" (e.g. unsustainable working hours, violation of safety, healthy and surveillance regulations).
- **LU**: Following the 2019 Commission's request for further information, LU replied that, by reading together Article 34 and Article 66 of the Criminal Code, the main participation by support or assistance to a crime or an offence committed on behalf or in the interest of a legal person includes the lack of supervision or control by one of the legal person's legal bodies or by one or several of its *de jure* or *de facto* managers. **Based on the assessment made in the context of the evaluation, this clarification means that LU can be considered to have transposed Article 5(2) of the Directive.**
- **SE**: New legislation on criminal liability of legal persons entered into force on 1 January 2020, with the aim to ensure the efficiency and effectiveness of the Swedish criminal regulatory framework for legal persons. The maximum amount for corporate fines has increased from 10 million SEK to 500 million SEK. In addition, the scope of application of corporate fines does not only cover business activities, but also public sector activities that can be equated to business activities and other activities conducted by a legal person, if the illegal act was intended to bring the legal person financial benefit.

Overall status of transposition/ gaps in transposition:

- All Member states have introduced criminal or administrative liability of legal persons that shall lead to responsibility for the offence.
- Some MS introduced *ad hoc* provisions concerning corporate liability for the crimes of THB,[393] while others transposed Article 5 (1)(a) to (c) literally.[394]

Article 6: Sanctions on legal persons

Article 6 specifies the sanctions for legal persons which should be available within MS. The provisions are set out below.

Article 6: Sanctions on legal persons

Member States shall take the necessary measures to ensure that a legal person held liable pursuant to Article 5(1) or (2) is subject to effective, proportionate and dissuasive sanctions, which shall include criminal or non-criminal fines and may include other sanctions, such as:

(a) exclusion from entitlement to public benefits or aid;

(b) temporary or permanent disqualification from the practice of commercial activities;

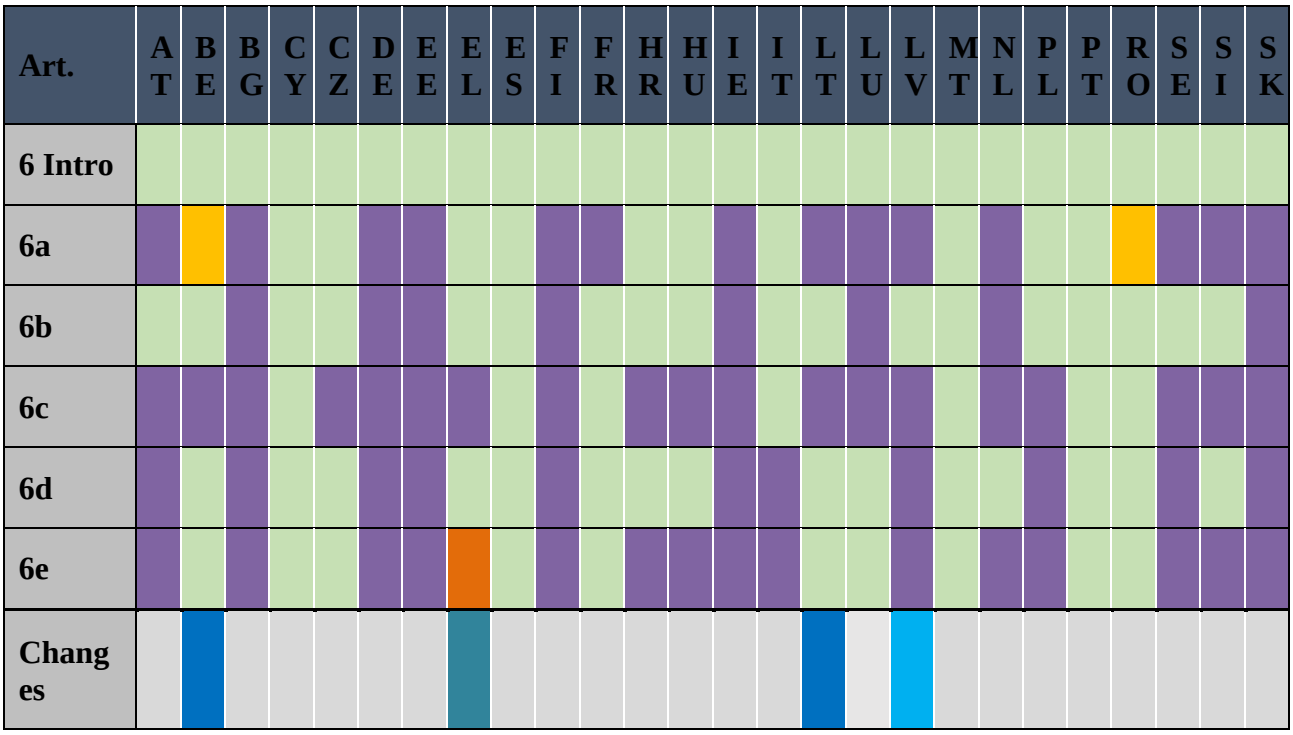
(c) placing under judicial supervision;

[393] LT, MT.
[394] EL, CY, LT, MT, PL, SK.

(d) judicial winding-up;

(e) temporary or permanent closure of establishments which have been used for committing the offence.

The results of the analysis of transposition are set out in the figure below.



The main identified changes since 2016 were:

- **BE**: The criminal code has been amended and it now specifies that only a guilty verdict may be pronounced against certain bodies of the State (i.e. Federal State, Regions and communities, municipalities), to the exclusion of any other penalty. Concerning Article 6(a), Belgian law previously provided that for public contracts, any candidate or tenderer shall be denied access to any public contracts if he/she has been convicted by a judgment which related to the participation to a criminal organisation, corruption, fraud or money laundering. However, this did not correspond to the crime of trafficking in human beings. Therefore, the 2016 conformity assessment concluded that the law was not entirely in conformity with the Directive's optional requirement set out in Article 6(a). BE has now modified its national legislation, and the provisions concerning the exclusion from public tenders for persons and companies convicted for human trafficking have been included in the new text. Concerning Article 6(e), the criminal code already specified that, as a specific sanction for the crimes of trafficking in human beings, the court may order the temporary or permanent, partial or complete closure of the enterprise in which the crime is committed. The amendment specified that the partial or complete closure of the enterprise can be pronounced by a judge for a term of between one and twenty years. However, no changes have been identified concerning the transposition of the optional sanction provided in Article 6(c).

- **EL**: Article 6(e) of the Directive has been included in national law (law 4198/2013, article 3, para 1).

- **LT**: Article 43 of the criminal code – defining the types of penalties for legal entities - was amended by including an additional paragraph (n. 5), which now provides that, besides the penalty, legal persons may also receive one or more of the following punitive measures: contribution to the victims' fund, confiscation of property and extended confiscation of property. The sanction related to the contribution to the Victims' fund may only be imposed in addition to the penalty of restriction of operation of the legal entity (provided in Art. 43 para 2).

- **LV**: Article 708 of the KL (Krimināllikums, Criminal Law) was amended. It now provides that "in determining the type of a coercive measure, the nature of the criminal offence, the harm caused shall be taken into account and whether a coercive measure has been previously applied to a legal person".[395] Article 704 of the KL, which provided that "*a public prosecutor may, in an injunction regarding a coercive measure, apply not more than half of the maximum time for restriction of rights provided for in paragraph one*[396] *of this article*" was abolished from the KL.

Overall status of transposition/ gaps in transposition:

- All Member States have at least a fine for legal persons involved in THB crimes, in accordance with the minimum requirements of the Directive.
- All Member States except BG, EE, FI, IE and SK have at least one of the optional additional sanction among those foreseen by the Directive:

- Article 6 (a): Exclusion from entitlement to public benefits or aid (BE, CZ, CY, EL, ES, HU, HR, IT, MT, PL, PT).[397]

- Article 6 (b): Temporary or permanent disqualification from the practice of commercial activities (AT, BE, CZ, CY, CY, EL, ES, FR, HU, HR, IT, LT, LV, MT, PL, PT, RO, SE, SI).

- Article 6 (c): Placing under judicial supervision (CY, ES, FR, IT, MT, PT, RO).

- Article 6 (d): Judicial winding-up (BE, CY, CZ, EL, ES, FR, HU, HR, LT, LU, MT, NL, PT, RO, SI)

- Article 6(e): Temporary or permanent closure of establishments which have been used for committing the offence (BE, EL, CY, ES, FR, LT, LU, MT, PT, RO).

- Some Member States' legislation also provide for the publication or display of the decision or judgement in which the legal person has been found guilty of the crime (BE, CZ, FR, PT, RO).

Article 7: Seizure and confiscation

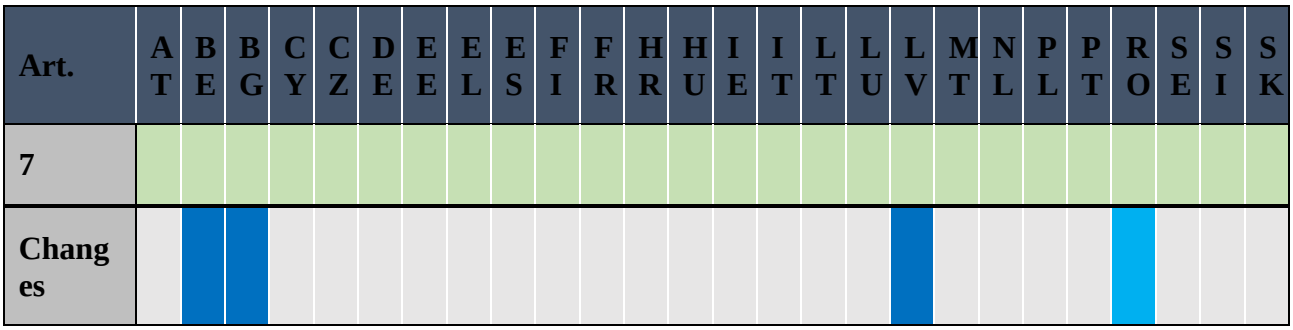
Article 7 of the Directive requires Member States to ensure measures aiming at seizing and confiscating proceeds from the offences related to THB. The provisions are set out below:

[395] The reference to "whether a coercive measure has been previously applied to a legal person" was added.
[396] Paragraph one provides that "Restriction of rights is the deprivation of specific rights or permits or the determination of such prohibition, which prevents a legal person from exercising certain rights, receive State support or assistance, participate in a State or local government procurement procedure, to perform a specific type of activity for a term of not less than one year and not exceeding ten years.".
[397] In **RO**, any economic operator is excluded from any procedure for the award of a public procurement if guilty of committing acts related to trafficking in human beings.

Article 7: Seizure and confiscation

Member States shall take the necessary measures to ensure that their competent authorities are entitled to seize and confiscate instrumentalities and proceeds from the offences referred to in Articles 2 and 3.

The results of the analysis of transposition are set out in the figure below:



The main identified changes since 2016 were:

- A few changes were observed vis-à-vis the transposition of Art. 7 of the Directive. However, none of these changes affect the transposition of this article.
- **BE**: Art. 43bis of the Belgian Criminal Code – which deals with the special confiscation applicable to the material benefits directly obtained from the crime, the goods and values brought in its place and the income from the invested benefits – states that if the goods cannot be found within the property of the convicted person, the judge shall estimate the monetary value thereof and the confiscation shall relate to a corresponding amount. This was amended to state that the measure of special confiscation shall be imposed except where this would result in the sentenced person being subject to an unreasonably harsh penalty. In addition, since 2018, Art. 43quater of the Belgian Criminal Code is explicitly linked to article 433quinquies of the Criminal Code, which means that special confiscation is possible for crimes relating to human trafficking.
- **BG**: Amendments to the text of Art. 53 of the Bulgarian Criminal Code brought clarifications as to the list of instrumentalities and proceeds subject to confiscation. It is now clear that both direct indirect benefits gained through the crime (if they are not subject to return or restoration) are subject to confiscation; where the benefit is missing or is expropriated, its equivalent shall be awarded. Furthermore, several relevant provisions implementing parts of Art. 7 of the Directive were moved to the Counter-Corruption and Unlawfully Acquired Assets Forfeiture Act that replaced the Act on Forfeiture to the Exchequer of Unlawfully Acquired Assets.
- **LV**: In Latvia, Art. 7 of the Directive is transposed in Art. 361 of its Criminal Procedure Law (‘KPL). This article was amended several times since 2016. These amendments redacted the wording and structure of the Article. For example, a new Article 361(9) was introduced in 2017 that stated that a copy of the decision shall be sent or issued to a person whose property is being seized.
- **RO**: Article 112^1 (Law 286/2009) regulating extended confiscation was amended. Extended confiscation can be applied in cases where the defendant was convicted for a crime for which the law stipulates imprisonment of 4 years or more. There is

no longer a specific enumeration of crimes and only the 4 years of imprisonment limit subsists. The court's appreciation in deciding whether to apply the extensive confiscation may also be based on the disproportion between the lawful income and the person's wealth.

Overall status of transposition/ gaps in transposition:

- All Member States have measures in place that ensure that national competent authorities are entitled to seize and confiscate proceeds related to THB crimes.
- Most Member States rely on national criminal laws on seizure confiscation that apply to all crimes, including THB. Only few Member States (BE, CY, EL, ES, FR, UK) have specific provisions aimed at seizing and confiscating proceeds related to THB crimes.

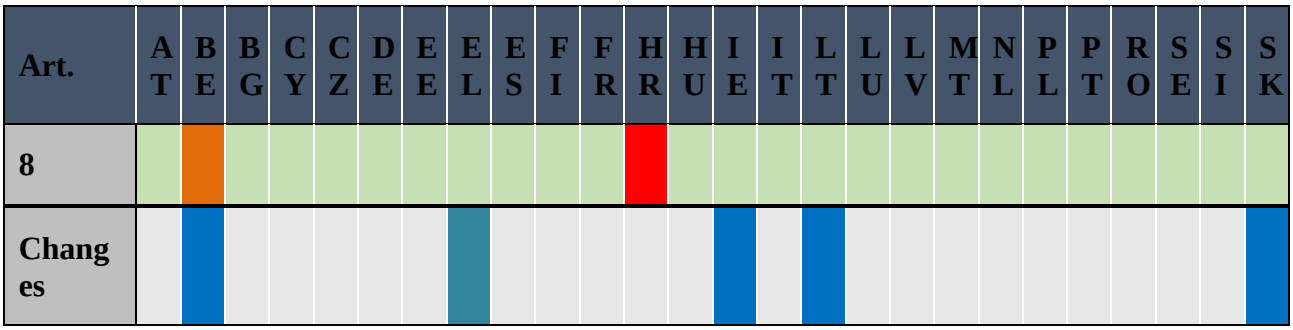
Article 8: Non prosecution of non-application of penalties to the victim

The Directive, under Article 8, protects THB victims from being prosecuted for the criminal activities they committed as a direct consequence of their exploitation. Article 8 leaves discretion to Member States on how to regulate the non-prosecution or non-application of penalties to the victims involved in criminal activities which they have been compelled to commit as a direct consequence of being subject to such a crime. The provisions are set out below.

Article 8: Non-prosecution or non-application of penalties to the victim

Member States shall, in accordance with the basic principles of their legal systems, take the necessary measures to ensure that competent national authorities are entitled not to prosecute or impose penalties on victims of trafficking in human beings for their involvement in criminal activities which they have been compelled to commit as a direct consequence of being subjected to any of the acts referred to in Article 2.

The results of the analysis of transposition are set out in the figure below:



The main identified changes since 2016 were:

- **BE**: Article 443 of the criminal code has been amended, introducing a new paragraph (quinquies). It now specifies that a victim of trafficking in human beings who was involved in a criminal offence as a direct consequence of his or her exploitation shall not be punished for those offences. Article 71 of the criminal code provides that "there is no offense if the defendant or the accused, at the time of the facts, […] was forced by a power which he was unable to resist". As the national law does not define what should be considered as "forced by a power" which the person is unable to resist, the 2016 conformity assessment concluded that

BE's transposition of the Article was only in partial conformance with the Directive, since it does not clearly ensure that victims of trafficking involved in criminal activities which they have been compelled to commit shall not be prosecuted. Although Article 71 of the criminal code has not been amended, the amendment to Article 443quinquies, described above, specifies the non-punishment principle in more detail. **Based on the assessment made in the context of the evaluation, this change means that BE has now transposed Article 8 of the Directive.**

- **EL**: As of 2019 paragraph 8 of article 323 A of Greek Penal Code provides for the application of the principle of non-punishment of the victim of trafficking for offenses committed in connection with the fact that he or she was exploited (even if the perpetrator has been exonerated, but the allegation seems valid).

- **IE:** The Second National Action Plan to Prevent and Combat Human Trafficking in Ireland provides an ad hoc action (action n. 32), which aims to develop guidelines to assist all State authorities in addressing complex cases where persons who have been found engaged in criminal activities may be victims of trafficking. Action n. 42 aims to ensure the effective investigation of human trafficking where criminal activities may have been carried out by the potential victim and the appropriate consideration of non-punishment of victims of trafficking. Activities to implement this action include regular training for the police authorities, information initiatives with relevant bodies to address the issue of non-punishment, and the decision to expunge the criminal records of potential victims of trafficking for sexual exploitation.

- **LT:** Paragraph 3 of Article 147-1 of CC(VIII-1968) was amended by including the same clause as in Articles 147 and 157, stating that also the victim of forced labour may be relieved from criminal liability for the offence which he/ she was directly forced to commit because of the offence done to him/her.

- **SK:** Article 215(2) d of Act no 301/2005 now specifies that the prosecutor may discontinue the criminal proceedings if the person was compelled to commit a crime as a direct consequence of being subjected to trafficking in human beings. The previous wording only provided that "the prosecutor may discontinue the criminal prosecution if a person was compelled to commit a *minor offence* as a direct consequence of being subjected to trafficking in human beings".

Overall status of transposition/ gaps in transposition:

- Around half Member States (BG, EL, ES, CY, LV, LT, LU, MT, NL, RO and SK) explicitly refer to non-prosecution of THB victims, while others refer to the non-prosecution of a person who was compelled, threatened or coerced to commit a criminal act (HU, IT, PL, PT, SE and SI).

- Concerning **HR**, Article 22(1) and (2) of the criminal code (KZ) state that a criminal offence does not exist in case a perpetrator has committed such act in order to avert from himself or from another an imminent danger which could not have been averted in any other way, and a lesser harm was done than that which had been threatened. However, the 2016 conformity assessment concluded that this article sets out a general provision of criminal law on endangerment and lawful defence and does not as such correspond to the scenario foreseen in Article 8 of the

Directive. There have been no changes to HR law on this matter since the 2016 assessment.

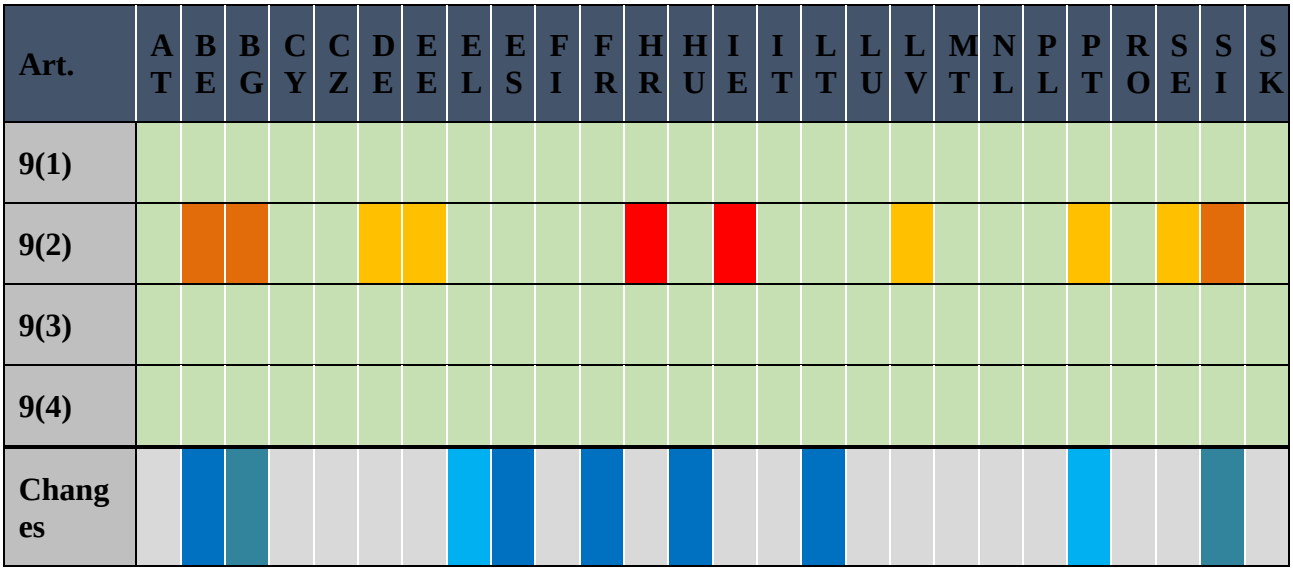
Article 9: Investigation and prosecution

Article 9 of the Directive provides that the investigation and prosecution of THB crimes (i) shall not be subject to victims' reporting or accusation; (ii) prosecution shall be enabled for a sufficient period of time after the victim has reached the age of majority; (iii) investigators and prosecutors are properly trained and (iv) granted with effective investigative tools. The provisions are set out below:

Article 9: Investigation and prosecution

1. Member States shall ensure that investigation into or prosecution of offences referred to in Articles 2 and 3 is not dependent on reporting or accusation by a victim and that criminal proceedings may continue even if the victim has withdrawn his or her statement.
2. Member States shall take the necessary measures to enable, where the nature of the act calls for it, the prosecution of an offence referred to in Articles 2 and 3 for a sufficient period of time after the victim has reached the age of majority.
3. Member States shall take the necessary measures to ensure that persons, units or services responsible for investigating or prosecuting the offences referred to in Articles 2 and 3 are trained accordingly.
4. Member States shall take the necessary measures to ensure that effective investigative tools, such as those which are used in organised crime or other serious crime cases are available to persons, units or services responsible for investigating or prosecuting the offences referred to in Articles 2 and 3.

The results of the analysis of transposition are set out in the figure below.



The main identified changes since 2016 were[398]:

- **BE**: An amendment was made to Article 21 Vt. W, transposing Article 9(2) of the Directive. The amendment extended the right to prosecute crimes committed against minors to 20 years (instead of 15 years), and to 15 years for crimes committed against adults (instead of 10 years). Moreover, Article 21bis (1) has been amended so that it now states that there is no time limitation on prosecution for crimes regarding genocide, crimes against humanity, and war crimes. Article 21bis (2) now states that there is no limitation of prosecution for crimes such as voyeurism, rape, and spreading sexual images, human trafficking, begging, forced labour, and removal of organs. The 2016 conformity assessment concluded that BE national law (Article 21bis (2)) was partially in conform to Article 9(2) of the Directive as it referred solely to sexual exploitation and did not cover all types of exploitation foreseen in the Directive. **Based on the assessment made in the context of the evaluation, this change means that BE has now transposed Article 9(2) of the Directive.**

- **BG:** the 2016 assessment concluded partial conformity. BG clarified that Art. 80 of the Penal Code, the statute of limitations sufficiently covers the period for instituting criminal proceedings after reaching the age of 18 by victims of trafficking. **Based on the assessment made in the context of the evaluation, BG has transposed Article 9(2) of the Directive.**

- **EL**: There has been an extension of the time limit for commencing prosecution, after reaching majority.

- **ES:** Article 132 CC, which transposed Article 9(2) of the Directive, has been modified. It now establishes that for victims of trafficking in human beings who are minors, the term for the prosecution of the offence will not be computed from the time the victim reaches the age of majority, but from the time he/she has 35 years old, or, if he/she dies before, from the date of their death.

- **FR**: Article 7 of the Code of Criminal proceedings transposing Article 9(2) has been updated. The amendment extended the period of time for the right to prosecute the offence of trafficking in human beings against minors to 30 years (instead of 20 years), which only starts to run when the victim reaches the age of majority.

- **HU:** the amendment of Article 28(1a) of the Btk transposing Article 9(2) amended the limitation period regarding trafficking in human being cases against victims who were minors when the offence occurred. The limitation period now starts to run only when the victim comes to the age of 21 years old (instead of 18). Moreover, the national legislation transposing Article 9(4) has also been amended. The relevant provisions regulate the covert information gathering procedure: the amendments made the data information sharing among police authorities more transparent and with stronger rule of law safeguards. Some covert instruments are not subject to prior authorisation (e.g. the surveillance of a premise or a vehicle), while others require the prior authorisation of the court (e.g. interception).

- **LT:** The national law transposing Article 9(4) of the Directive was modified. Specifically, Article 93 paragraph 2 and Article 94 paragraph 1 of XI-1482 extend

[398] The adoption of an updated National Plan for combatting trafficking in human beings [which frequently covers the need to provide trainings for relevant actors – Article 9(3)] was not included in the "minor/major changes" category.

the trainings organised by the National Courts Administration to court civil servants and employees (and not only to judges).

- **PT**: The Framework Law on Criminal policy (n.55/2020) states that trafficking in human beings is a crime of priority (including in terms of prevention and criminal investigation). This piece of legislation is updated every two years.
- **SI**: the 2016 assessment conclude partial transposition of 9(2). SI clarified that Article 90(3) of the Criminal Code determines that notwithstanding paragraph one of that Article (limitation of criminal prosecution), the time limit for the statute of limitations in criminal offences against sexual inviolability and criminal offences against marriage, family or youth, committed against a minor, shall begin when the injured person reaches adulthood. **Based on the assessment made in the context of the evaluation, SI has transposed Article 9(2) of the Directive.**

Overall status of transposition/ gaps in transposition:

- Article 9(1): All Member States have transposed the provision and are compliant; all MS provide that the submission of a complaint is not required to open the investigation, and the withdrawal of a victim's statement does not have influence on the continuation of the investigation or prosecution.
- Article 9(2): The 2016 assessment concluded that HR and IE had not transposed Article 9(2). No relevant changes were identified to legislation in HU and IE since 2016.The 2016 identified some MS as having partially transposed on the grounds that: that national legislation referred solely to the sexual exploitation and do not cover all the types of exploitation foreseen in the Directive (SI, LV, EE); the national legislation did not ensure that young victims would be given a sufficient period of time to initiate criminal proceedings after reaching the age of 18 (PT, SE). With regard to child victims of trafficking, DE legislation does not stay the limitation period up until the age of majority of the child victim.
- Article 9(3): All Member States provide measures for the training of actors responsible for the investigation and prosecution of trafficking in human beings, either in soft-law instruments (e.g. national action plans) or in legal provisions.
- Article 9(4): All Member States have foreseen measures to ensure the availability of effective investigative tools to persons, units or services responsible for investigating or prosecuting trafficking in human beings.

Article 10: Jurisdiction

Article 10 requires MS laws to provide for jurisdiction over THB offences committed not just within their territory, but also where the offender is a national of that country (regardless of whether the act was an offence in the jurisdiction where it was committed and regardless of whether it is reported by a victim). Article 10 also requires MS to inform the EC about any wider jurisdiction. The provisions are set out below:

Article 10: Jurisdiction

1. Member States shall take the necessary measures to establish their jurisdiction over the offences referred to in Articles 2 and 3 where:

   (a) the offence is committed in whole or in part within their territory; or

(b) the offender is one of their nationals.

2. A Member State shall inform the Commission where it decides to establish further jurisdiction over the offences referred to in Articles 2 and 3 committed outside its territory, inter alia, where:

   (a) the offence is committed against one of its nationals or a person who is an habitual resident in its territory;

   (b) the offence is committed for the benefit of a legal person established in its territory; or

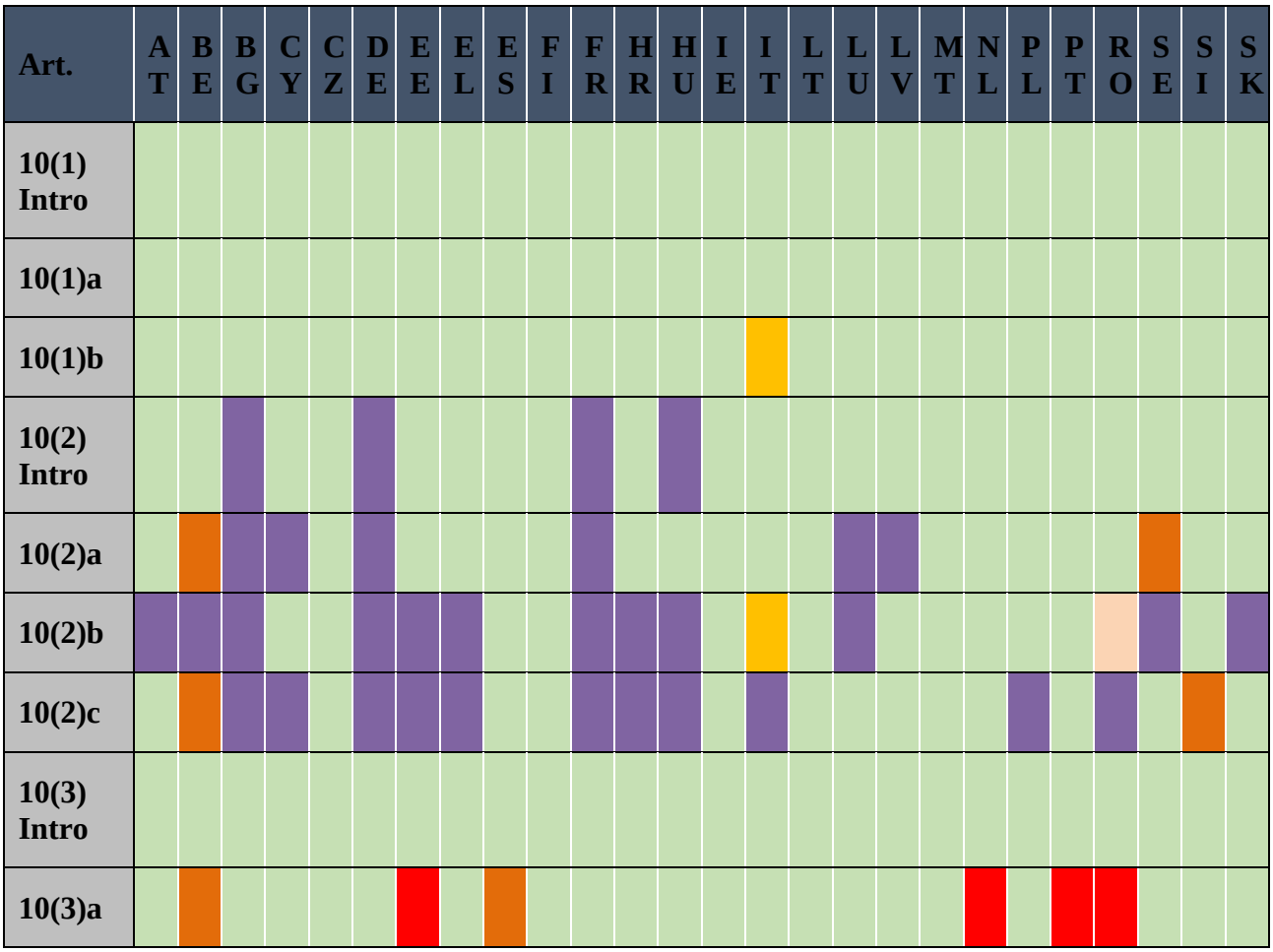
   (c) the offender is an habitual resident in its territory.

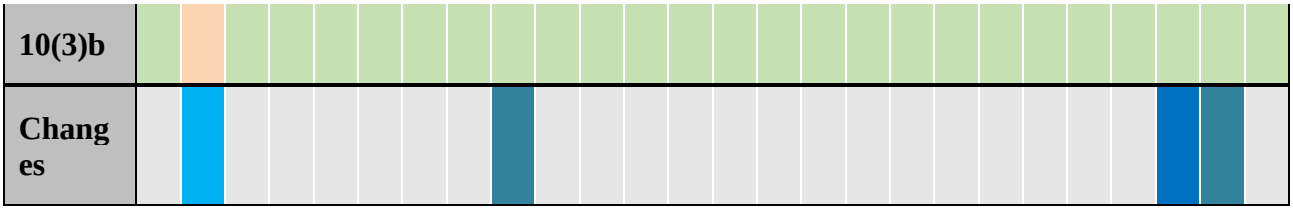
3. For the prosecution of the offences referred to in Articles 2 and 3 committed outside the territory of the Member State concerned, each Member State shall, in those cases referred to in point (b) of paragraph 1, and may, in those cases referred to in paragraph 2, take the necessary measures to ensure that its jurisdiction is not subject to either of the following conditions:

   (a) the acts are a criminal offence at the place where they were performed; or

   (b) the prosecution can be initiated only following a report made by the victim in the place where the offence was committed, or a denunciation from the State of the place where the offence was committed.

The results of the analysis of transposition are set out in the figure below.





The main identified changes since 2016 were:

- **BE**: Articles 10ter, of Vt. W. Sv, which transposes Article 10(1)(b) and Article 10(2)(a) and Article 10(2)(c) and Article 10(3)(a) of the Directive, has been updated. Any person can now be prosecuted if he commits (outside the territory of the State) any of the crimes set in Articles 433 quinquies to 433 octies of the Criminal Code. The new Article 10ter refers to all transposing provisions of the offences referred to in Articles 2 and 3 of the Directive. The 2016 conformity assessment concluded that the national law was partially conform to Articles 10(2)(a) , 10(2)(c) and 10(3)(a), since it did not cross-refer to all transposition provisions of the offences referred to in Articles 2 and 4 of the Directive**. Based on the assessment made in the context of the evaluation, this change means that BE has now transposed Article 10(2)(a) Article 10(2)(c) and Article 10(3)(a) of the Directive.**

- **SE**: In 2022, legislative amendments entered into force, giving to Swedish courts jurisdiction to adjudicate offences committee outside Sweden if those are directed against a Swedish citizen, an alien who habitually resides in Sweden, or to a Swedish legal person. **Based on the assessment made in the context of the evaluation, this change means that SE has now transposed Article 10(2)(a).**

- **SI:** The 2016 assessment conclude partial conformity with Article 10(2)c. SI clarified that: Article 10(1) of the Criminal Code determines that the Criminal Code applies to any person who commits a criminal offense in Slovenia's territory. Article 12 of Criminal Code determines that it is applicable to any citizen of the Republic of Slovenia who commits any criminal offence abroad. The Criminal Code applies to any foreign citizen who has, in a foreign country, committed a criminal offence against the Republic of Slovenia or any of its citizens (Article 13(1) of the Criminal Code) and is also applicable to any foreign citizen who has, in a foreign country, committed a criminal offence against a third country or any of its citizens if he has been apprehended in the territory of the Republic of Slovenia, but was not extradited to the foreign country. In such cases, the court shall not impose a sentence on the perpetrator heavier than the sentence prescribed by the law of the country, in which the offence was committed (Article 13(2) of the Criminal Code). Under Article 13(3) the Criminal Code of the Republic of Slovenia is applicable also to anyone who commits any criminal offence abroad which, under relevant international agreements or general legal rules recognised by the international community, is subject to prosecution, regardless of the location where it was committed. **Based on the assessment made in the context of the evaluation, SI has transposed Article 10(2)c of the Directive.**

Overall status of transposition/ gaps in transposition:

- Article 10(1): All Member States took necessary measures to ensure jurisdiction when the offence is committed within their national territory or the offender is one of their nationals. In IT, conformity is affected because, for crimes committed

outside the Italian territory against the EU, a foreign State or a foreign citizen, the Italian jurisdiction is established only upon request of the Ministry of Justice, and unless extradition has been conceded.

- Article 10(2): All Member States - except BG, DE and FR - had at least one of the optional jurisdictional grounds provided in Article 10(2) (a) (b) and (c).
- Article 10(3): most Member States transposed Article 10(3)(a) in their national legislation and have not introduced such a requirement when determining jurisdiction under Article 10(1). Nevertheless, in EE, NL, PT and RO, jurisdiction for cases in which the offender is one of their nationals is only established when the offence is criminalised in the place where it is committed. Concerning ES, the 2016 conformity assessment concluded that the national law was not in conformity with the Directive, as it provided that the jurisdiction shall not be granted to Spanish Courts in the event such jurisdiction is being granted to an international court or another State whereby proceedings are already initiated. The reply to the 2019 Commission's request for further information explained that, in accordance with the principle of universal jurisdiction, acts committed by Spanish nationals or non-nationals outside the national territory that can be classified according to Spanish law as human trafficking offences are subject to Spanish jurisdiction where any of the conditions set out in Article 23(4)(m) of the OLJP exist. As none of these conditions refer to the double criminality requirement, the Spanish authorities consider that the national law transposing the Directive is in conformity. **Based on the assessment made in the context of the evaluation, this clarification means that ES can be considered to have transposed Article 10(3) of the Directive.**

Article 11: Assistance and support for victims

Pursuant to Article 11 of the Directive, Member States shall provide adequate assistance and support to victims of THB as soon as competent authorities have an indication or reasonable grounds to believe that the person might have been subject to THB offences. The provisions are set out below.

Article 11: Assistance and support for victims of trafficking in human beings

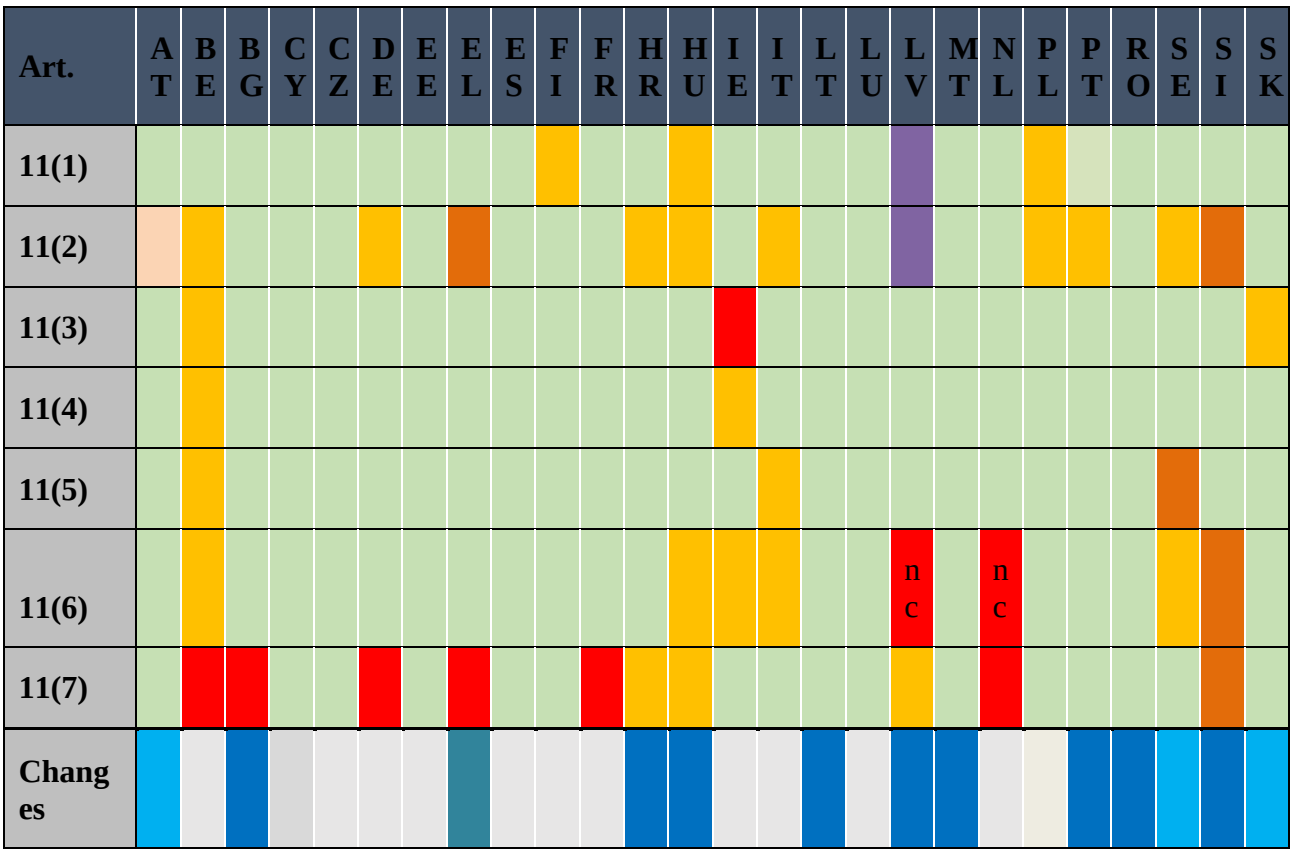
1. Member States shall take the necessary measures to ensure that assistance and support are provided to victims before, during and for an appropriate period of time after the conclusion of criminal proceedings in order to enable them to exercise the rights set out in Framework Decision 2001/220/JHA, and in this Directive.
2. Member States shall take the necessary measures 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 any of the offences referred to in Articles 2 and 3.
3. Member States shall take the necessary measures to ensure that assistance and support for a victim are not made conditional on the victim's willingness to cooperate in the criminal investigation, prosecution or trial, without prejudice to Directive 2004/81/EC or similar national rules.
4. Member States shall take the necessary measures to establish appropriate mechanisms aimed at the early identification of, assistance to and support for victims, in cooperation with relevant support organisations.

5. The assistance and support measures referred to in paragraphs 1 and 2 shall be provided on a consensual and informed basis, and shall include at least standards of living capable of ensuring victims' subsistence through measures such as the provision of appropriate and safe accommodation and material assistance, as well as necessary medical treatment including psychological assistance, counselling and information, and translation and interpretation services where appropriate.

6. The information referred to in paragraph 5 shall cover, where relevant, information on a reflection and recovery period pursuant to Directive 2004/81/EC, and information on the possibility of granting international protection pursuant to Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted (16) and Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status (17) or pursuant to other international instruments or other similar national rules.

7. Member States shall attend to victims with special needs, where those needs derive, in particular, from whether they are pregnant, their health, a disability, a mental or psychological disorder they have, or a serious form of psychological, physical or sexual violence they have suffered.

The results of the analysis of transposition are set out in the figure below.



The main identified changes since 2016 were[399]:

- **AT**: The following identified changes strengthened national measures to provide assistance and support, relevant to Article 11 of the Directive. Section 56(1) point 3 SPG has been amended and it now specifies that police authorities may convey information (personal data) to intervention facilities and counselling centres for violence prevention if this is necessary for the protection of people at risk. Section 25(1) SPG was expanded to include the following sentence: "*To this end*[400]*, security authorities may establish platforms at the regional level with the participation of people involved in the performance of tasks in the public interest, in the framework of which necessary measures are developed and coordinated (so called 'safety forums')".* Section 66a(2) point 1 StPO currently provides that vulnerable victims have the right to demand that they be questioned by a person of the same sex in the preliminary proceedings. Particularly vulnerable victims also have the right to demand that interpretation services be provided by a person of the same sex. In case of a minor victim who has been violated in his or her sexual sphere, he or she will be heard by an expert. The provisions on psychosocial and legal assistance are now regulated in greater detail in Section 66b StPO (formerly regulated under Section 66(2) and (4) StPO). In 2017, the decree of the Labour Inspectorate on the topic of trafficking in human beings and labour exploitation, which had been in place since 2011, was updated. Among other things, the decree was expanded to include the list of indicators for assisting inspection authorities in identifying those possibly affected.

- **BG**: The following identified changes have strengthened national measures to provide information to victims. Article 6 of LAFCCV establishes an obligation of the authorities of the Ministry of Interior, investigative authorities, and victim support organisations, to provide specific information to victims (relevant to Article 11(5) and 11(6) of the Directive). The provision no longer specifies that the information is to be provided in writing or orally, nor that the notification is stored in a record in the premises of the competent authority. The amendment also foresees an obligation for the monitoring prosecutor during the pre-trial proceedings to monitor performance of the investigating authorities' duties concerning the provision of the information. Article 11 LAFCCV currently provides that practical help ensured by victim support organizations also includes providing information about the risk of secondary and repeated victimisation, of intimidation or revenge, as well as providing advice on preventing the latter. Victim support organisations now also have the obligation to provide shelter or any other suitable temporary accommodation to the victims of crimes for which there is an imminent risk of secondary victimisation, intimidation, and revenge.

- **EL**: The 2016 assessment conclude that EL had partially transposed 11(2). EL clarified that presidential decree 233/2003 provides for the assistance measures outlined in Article 11(2). **Based on the assessment made in the context of the**

[399] The adoption of an updated National Plan for combatting trafficking in human beings [which frequently lay down measures related to the assistance and support for victims of trafficking in human beings provided for in Article 11(1))] was not included in the "minor/major changes" category.

[400] The article provides that "In order to prevent dangerous actions against life, health and property of people, security authorities shall promote the willingness and ability of everyone to inform him/her about threats of legal goods and to prevent such actions accordingly". This include information of persons who have been subject to the crime of trafficking in human beings to be provided with assistance and support.

evaluation, this clarification means that EL can be considered to have transposed Article 11(2) of the Directive.

- **HR**: A 2019 Protocol on the integration and reintegration of victims of trafficking in human beings was adopted, which specified several victims' rights to be ensured before, during and after the criminal proceedings.
- **HU**: According to the amended Article 17(6) of Government Decree 354/2012, voluntarily cooperating organisations may conclude identification conversations with presumed victims of trafficking in human beings. In case the victim status is confirmed, the organisation informs the regional victim aid service without delay (relevant to Article 11(2).
- **LT**: Paragraph 5 of Article 8 of CCP (IX-785) was amended by including the victim's right to request a translation of the criminal proceeding's documents in cases where a translation of these documents or parts thereof is necessary for them to take an active part in the criminal proceedings.
- **LV**: Regulation No. 344 (2019) regarding the procedures by which victims of trafficking receive social rehabilitation service, and the criteria for the recognition of a person as a victim of trafficking in human beings clarifies the regulatory framework on assistance and support to victims of trafficking. Regulation No 388 (2017) on the requirements for social service providers was also adopted.
- **MT**: Two new services have been added to the list of minimum services for victims of crimes (Article 12 VCA), namely medical treatment and protection measures against the risks of intimidation and retaliation. The amendments also clarified that these services are to be provided to victims even when the offence was committed in another EU Member State.
- **PT**: Order No-138-E/2021 approved a new model regarding the status of vulnerable victims, including victims of trafficking in human beings. The aim is to ensure that relevant documents for victims are clear and easy to understand, especially the information about their rights. To this end, documents were revised by specialised services to convert legal and procedural technical language into a more accessible language. The rights provided to victims of trafficking include, *inter alia*, the right to file a criminal complaint, the right to be accompanied, the right to legal assistance, right to receive compensation, the right to the reflection period, the right to non-punishment of victims of trafficking their involvement in criminal activities if they were compelled to do so.
- **RO**: New services to support and protect victims of trafficking have been added, such as the provision of day care centres that mainly provide information, emotional and social support for the purposes of reintegration, and social, psychological, legal and financial counselling. The national legislation further specifies that the legal provisions on assistance and support apply in cases of crimes committed on the Romanian territory and for crimes committed outside the territory of Romania but against a Romanian citizen or legal resident. Moreover, Article 43 of the CPE was amended. This article regulates the tasks and purposes of the Fund for Victims' Aid and Post-Penitentiary Aid. The amendments introduced by the Act of 12 July 2017 clarify what the Fund's resources may be used for. Among other things, paragraph 8, item 4, subsection (e) was added to this provision, which states

that the Fund's resources shall be used to promote the system of assistance to persons wronged by crime

- **SE**: Section 1 of Chapter 4 of the Social Services Acts has been amended. It now specifies that anyone who is unable to meet their own needs or can have them met in another way is entitled to assistance from the social welfare board for their support and for their living in general. Those who are unable to support themselves but who can work are entitled to maintenance support according to the first paragraph if he or she is available on the labour market, which includes, if necessary, participating in municipal adult education in Swedish for immigrants or equivalent education at folk high schools. The individual might also be entitled to maintenance support even if he or she is not available on the labour market. The individual must be ensured a reasonable standard of living through the assistance. The assistance must be designed so that it strengthens his or her opportunities to live an independent life. It must be noted that the 2016 conformity assessment specified that, previously to this amendment, it was unclear whether victims of trafficking who do not have a right to reside in Sweden would get support that include at least standards of living capable of ensuring victims subsistence. **The assessment of the Evaluation Team is that this change means that SE has now transposed Article 11(5) of the Directive**.

- **SI**: Article 50 of the Aliens Act has been amended. It now provides for a new reason on the basis of which the police may allow a victim of trafficking in human beings to stary for 90 days in the territory of Slovenia on the basis of the existence of personal circumstances. The 2016 assessment concluded partial and non transposition of parts of Article 11. SI clarified that: in the process of implementation of so-called Victims' Rights Directive, the Criminal Procedure Act and Social Assistance Act have been amdended. Following these changes, each victim is entitled to help and support, regardless of his or her status in the eventual (pre)criminal procedure and also, if (s)he didn't report the criminal offence. The centers for social work provide general support and help to victims of all criminal offences (free of charge), while NGOs provide special services (also for victims of human trafficking). **Based on the assessment made in the context of the evaluation, SI has transposed Article 11 of the Directive.**

- **SK**: According to article 49 of the Criminal Procedure Act (301/2005), victims are informed about (both orally and in a written form), *inter alia*, the specialized programmes offered, for free, to victims of trafficking. Since 2020, the contracted NGO for assistance to victims of trafficking (namely Caritas Slovakia) has been enabled to speak to victims of trafficking and inform them about the specialised programmes and the available services.

Overall status of transposition/ gaps in transposition:

- Article 11(1): Almost all Member State legislation specifies that victims of trafficking are provided with the assistance and protection measures before, during and after the criminal proceedings. The 2016 conformity assessment identified partial transposition in some national legislation, namely LV, FI, PL and HU[401], as

[401] For example, in HU, the national law does not ensure 'aid and support' to third-country national victims before the commencement of the criminal proceedings. Third-country national victims are only entitled to receive care after the issuance of the third country national victims' residence permit which is issued depending on their willingness to cooperate in the criminal investigation.

their national legislation does not explicitly state that the protection measures shall be provided to victims before, during and after the criminal proceedings.

- Article 11(2): Several Member States do not explicitly require that assistance and support should be provided as soon as the competent authorities have an indication or reasonable grounds to believe that the person is a victim of trafficking (PL, HR, LV, IT, PT, SE). Other national legislation seem to make a distinction between victims who are third-country nationals and EU citizens (BE, DE, HU).

- Article 11(3): Almost all Member States have transposed the requirement to ensure that assistance and support for victims are not made conditional on the victim's willingness to cooperate in the criminal investigation. However, in IE, the provision of temporary residence for victims of trafficking is governed by the Administrative Immigration Arrangements (AIA). The provision of temporary residence remains contingent upon cooperation with law enforcement authorities. In BE, the national legislation transposing Article 11(3) only applies to aliens, and not to nationals. In SK, the duration of the so called "emergency treatment" is conditional to the victim's cooperation with the law enforcement authorities.[402]

- Article 11(4): All Member States established different types of mechanisms aimed at the early identification of, assistance to and support for victims of trafficking, in cooperation with relevant support organisations. However, in BE although the Belgian provisions seem to create appropriate mechanisms, those only apply to non-Belgian victims.

- Article 11(5): All Member States transposed the minimum requirements of article 11(5) in different ways that range from the transposition in national law (CY, MT), the inclusion of the provisions in different acts (BE, BG, EL, ES, FR, HU, IT, LV, LT, NL, AT, PL, PT, RO, SI and SK) or via catch-all provisions aimed at ensuring other form of assistance (BG, ES, HR, RO). In BE provisions create appropriate mechanisms, but these only apply to non-Belgian victims. In IT no provision provides that victims must be informed on their rights and on the availability of assistance programmes.

- Article 11(6): In most Member States compliance with article 11(6) can be derived from a set of national provisions on the necessary procedure to gain residence permits for third-country nationals. However, some Member State legislation does not explicitly provide that the person concerned shall be informed about the reflection period (BE, LV, IT), or the possibility of granting international protection (BE, HU, IE, LV, SE, NL).[403]

[402] In addition, Article 9(2) of Decree No 180/2013 provides that if the victim's presence is not necessary for the purposes of criminal proceedings in the Slovak Republic, the victim can be discarded from the program.
[403] In **LV**, the national law transposing Article 11(6) does not specifically ensure the provision of information on the possibility to be granted a reflection period or international protection to a victim of trafficking. Specifically, the victim can only submit to the investigative institution an application for the granting of the reflection period within 3 days after he or she has been granted the status of victim of trafficking, and the national law does not impose an obligation on the authorities to grant a reflection period. The 2016 Commission's report also noted that information in LV might need closer examination. In **NL**, the national legislation ensures that an informational meeting in the form of an interview shall take place prior to a victim filing any report. This meeting aims to provide the victim an explanation concerning the criminal procedure, but the law does not explicitly state that the victim is given the information on the possibility of being granted international protection and it does not mention the principle of non-refoulement.

- Article 11(7): Some Member States include the reference to victims with special needs in soft law instruments (BG, HR), while in other cases the national laws do not clearly set out a special assistance tailored for victims of trafficking with special needs (BE, DE, EL, FR, SI, LV, NL).

Article 12: Protection of victims in criminal investigation and proceedings

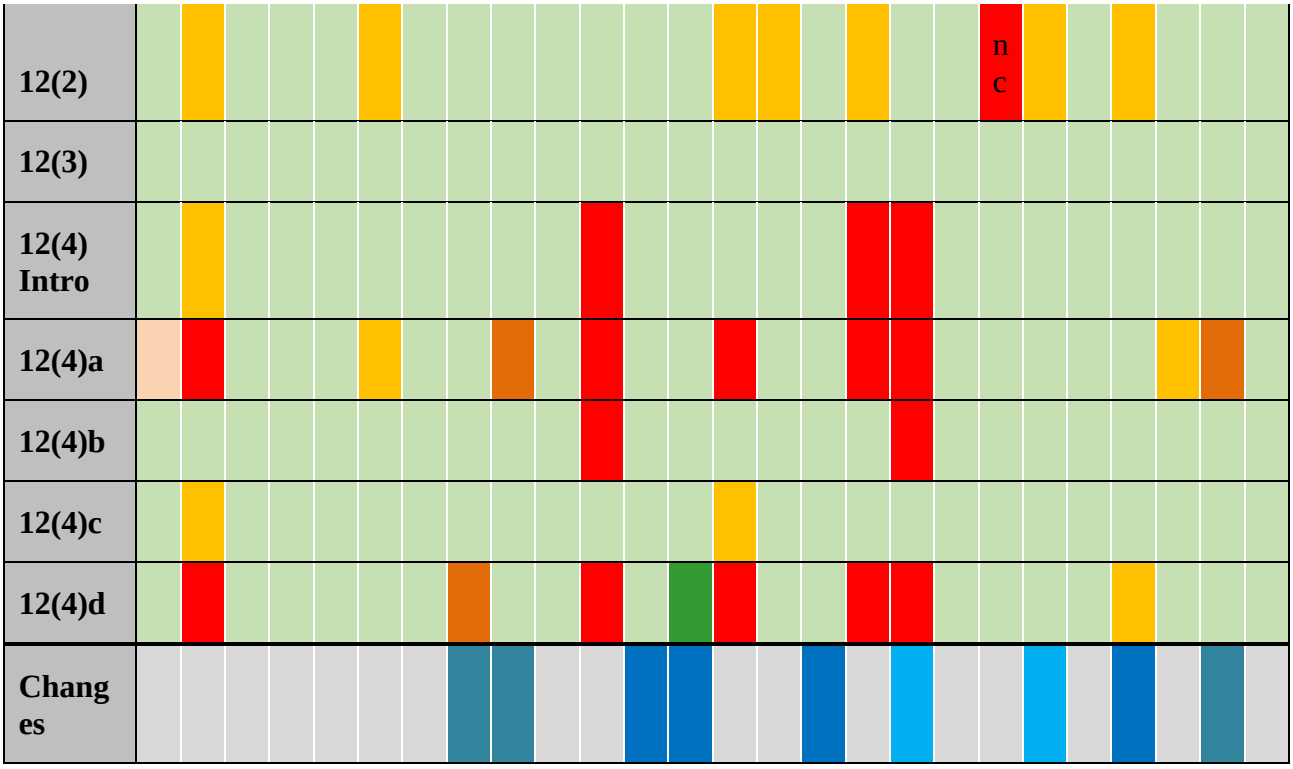
Article 12 of the Directive obliges Member States to provide THB victims with protection measures in criminal investigations and prosecutions. The provisions are as follows:

Article 12: Protection of victims of trafficking in human beings in criminal investigation and proceedings

1. The protection measures referred to in this Article shall apply in addition to the rights set out in Framework Decision 2001/220/JHA.
2. Member States shall ensure that victims of trafficking in human beings have access without delay to legal counselling, and, in accordance with the role of victims in the relevant justice system, to legal representation, including for the purpose of claiming compensation. Legal counselling and legal representation shall be free of charge where the victim does not have sufficient financial resources.
3. Member States shall ensure that victims of trafficking in human beings receive appropriate protection on the basis of an individual risk assessment, inter alia, by having access to witness protection programmes or other similar measures, if appropriate and in accordance with the grounds defined by national law or procedures.
4. Without prejudice to the rights of the defence, and according to an individual assessment by the competent authorities of the personal circumstances of the victim, Member States shall ensure that victims of trafficking in human beings receive specific treatment aimed at preventing secondary victimisation by avoiding, as far as possible and in accordance with the grounds defined by national law as well as with rules of judicial discretion, practice or guidance, the following:
   (a) unnecessary repetition of interviews during investigation, prosecution or trial;
   (b) visual contact between victims and defendants including during the giving of evidence such as interviews and cross-examination, by appropriate means including the use of appropriate communication technologies;
   (c) the giving of evidence in open court; and
   (d) unnecessary questioning concerning the victim's private life.

The results of the analysis of transposition are set out in the figure below.

Art.	AT	BE	BG	CY	CZ	DE	EE	EL	ES	FI	FR	HR	HU	IE	IT	LT	LU	LV	MT	NL	PL	PT	RO	SE	SI	SK
12(1)																										



The main identified changes since 2016 were:

- **ES:** The 2016 assessment concluded Article 12(4)(a) had not been transposed**.** ES clarified that, in order to ensure the correct interpretation of these measures by the various actors involved in the procedure for detecting and protecting the persons concerned, different guides and protocols have been agreed and published which, in implementation of the legislation in question, are intended to standardise these measures. They include the Guide on criteria for judicial action in response to trafficking in human beings. **Based on the assessment made in the context of the evaluation, ES has transposed Article 12(4)a of the Directive.**

- **EL:** the 2016 assessment concluded that Article 12(4)(d) had not been transposed. EL clarified that there is a general principle in court hearings, that only relevant questions are posed. **Based on the assessment made in the context of the evaluation, this clarification means that EL can be considered to have transposed Article 12(4)(d) of the Directive.**

- **HR**: The following identified changes strengthened national measures to provide assistance and support, including special protection measures to victims of trafficking. In 2017, amendments were made to the Croatian CPA (ZKP) which, inter alia, established a mandatory procedure to undertake an individual needs assessment for every victim of trafficking (Article 43.a). The purpose of this procedure is to apply ad hoc mechanisms that protect vulnerable victims and ensure that they are not exposed to secondary victimization through their participation in criminal proceedings. The assessment must be made by the criminal prosecution bodies of the pre-court and court proceedings in co-operation with the authorities, services and institutions of the victim support system, before the victim is interviewed. The aim is to determine whether there is a need for special protection measures and, if so, which specific protection measures should be applied. A Minister of Justice decree, issued in 2017, defines the roles and responsibilities of

different actors (including NGOs) in the procedure of the individual needs' assessment of the victim. Article 44 of the ZKP outlines specific rights of trafficked persons and victims of crimes against sexual freedom including the provision of a free legal advisor, the right to choose to be interviewed by a person of the same sex, and, if possible, to be examined by the same person in the case of re-examination; examination by means of an audio-video device; and the right to request the exclusion of the public from the hearing. According to Article 12 of the 2019 Protocol on integration / reintegration, victims are entitled to primary and secondary legal aid. Primary legal aid covers all legal services for the victim related to the victim/injured person's status in criminal court proceedings. The 2019 Protocol specified several victims' rights both before, during and after the criminal proceedings. From the moment of establishing contact with the competent authorities, victims are entitled to access to information on relevant court and administrative proceedings in a language they understand. Victims should be familiar with their rights and should be provided with free legal aid at the earliest possible stage.

- **HU**: Article 3 of the Government Decree 420/2017 regulates the procedural rules to certify the victim status. In accordance with this decree, in case legal aid is needed, and the client is considered as a victim eligible for victim aid compensation, the regional victim aid service sends the certification of victim status and related documents to the legal aid services chosen by the victim without delay. The detailed rules on granting legal aid are now contained in the New Be., the Act on Legal Aid, as well in Government Decree 421/2017. For the purposes of the transposition of the Directive, there were no material changes in this matter compared to the 2016 assessment. The 2016 conformity assessment observed that it was unclear when, exactly, the victim will have access to legal counselling after the decision of the legal assistance service. However, Act LXXX of 2003 on Legal Aid aims to establish institutions for socially disadvantaged people in order to enhance their access to justice by providing professional legal advice and representation in courts in case of asserting rights and resolving legal disputes. According to the Act, the National Legal Aid Service may grant legal aid in extrajudicial cases, both in civil and criminal procedures. According to the Act, among others, victims of trafficking in human beings may also be provided legal aid in both extrajudicial cases (legal advice, drafting a document) and criminal procedures. Victims of trafficking in human beings can get immediate legal advice from the employees of either the victim support services or the legal aid services for free, in simple legal cases, without a separate application. Otherwise, after the application has been processed, victims can benefit from legal aid in both extrajudicial and litigation cases. Eligibility is facilitated if the applicant has a certificate of victim status. The victim status is declared by the Victim Support Service. Legal aid in extrajudicial cases provided for the applicants can be granted in two basic forms: as free assistance, or by advancing the fees of the assistance. The granting legal aid is based on the financial situation of the applicant. Therefore, the assessment concluded that HU transposed Article 12(2) of the Directive. In addition, Points 1 and 8 of Article 1 of the Act on the Protection Programme were amended. Pursuant to the current rules, the Protection Programme is now extended to every - past or present - participant to the criminal procedure. Furthermore, the New Be. restructured the rules concerning the protection - including data protection - of participants to the criminal procedure. While the Be. regulated the confidential handling of personal data only with regards to witnesses, the New Be. extends these

provisions to all participants of the criminal procedure. The personal data of persons participating in Protection Programme and the related documents shall be handled with confidentiality. The provisions regarding witnesses of special protection were amended with more detailed procedural rules. Chapter XIV. of the New Be. included numerous provisions on the protection of persons with special needs during the criminal procedure. Specifically, it is important to point out that Article 85(1)(c) of the New Be clearly states that the court shall exercise due care in the conduct of the criminal proceeding in order to respect the privacy of the person concerned. The 2016 conformity assessment concluded that Hungarian law transposing Article 12(4) was partially in conformity because the unnecessary questioning concerning the victim's private life was only prohibited in the national strategy 2013-2016, which is a soft law instrument. Therefore, **based on the assessment made in the context of the evaluation, this change means that HU has now transposed Article 12(4)(d) of the Directive.**

- **LT**: Paragraph 1 of Article 185 of CCP (IX-785) was amended by stating that, where necessary to meet the special protection needs of the victim, one or more of the provisions of Article 186 of the Code may apply. Article 186 regulates the questioning of minors. Paragraph 2 of Article 185 was added including a right of a victim of trafficking of human beings to request that the questioning is conducted by a person of the same sex. Paragraph 3 of Article 186 of CCP (IX-785) was amended to include additional provisions regarding the questioning of a minor, namely the mandatory participation of a psychologist.

- **LV**: the national law transposing Article 12(2) has been replaced with Regulation 338 (2017) providing for the requirements for social service providers. However, no specific substantial changes have been identified.

- **RO**: Act of 11 March 2016 introduced article 148a of the CPP, which ensured better protection of victims' personal data.

- **SI**: the 2016 assessment concluded SI partially transposed Article 11. Since then, the process of implementing the so-called Victims Directive, in SI the needs of each victim with regard to the protective measures in the criminal procedure are individually assessed. Various protective measures can be used given the aforementioned assessment. **Based on the assessment made in the context of the evaluation, SI has transposed Article 11 of the Directive.**

Overall status of transposition/ gaps in transposition:

- Article 12(1): All Member States provide that the protection measures enshrined in their national legislation apply in addition to the rights set out in the Framework Decision 2001/220/JHA, currently Directive 2012/29/EU.

- Article 12(2): Most Member States (BG, CY, CZ, EE, EL, ES, FI, FR, HR, LV, LT, MT, PT, SI, SK, FI, SE) have legislation in place that provides THB victims with access without delay to legal counsel and representation, including for the purpose of claiming compensation, and free of charge where the victim does not have sufficient financial resources. More precisely, most Member States included the possibility of legal aid, free of charge, where a person does not have sufficient financial resources. In some Member States (EL, HR, LV and SE) such aid is granted for free, regardless of victims' resources. However, some national legislation does not specify that access to legal counselling and legal representation

should occur without delay (BE, DE, HU, IE, IT, PL, RO), and some Member States have different procedures for third country nationals (LU, IT) or do not cover all kinds of exploitation, thus different "types" of victims (NL).

- Article 12(3): All Member States are compliant with paragraph 3 which obliges them to provide assistance protection to victims on the basis of an individual risk assessment. The assistance protection measures envisaged by the Directive and transposed by all Member States include the access to a witness protection process or to other similar measures.
- Article 12(4): Most Member States have transposed this provision. However, some Member States do not explicitly provide that the practices listed in Article 12(4) (a-d) shall be avoided.

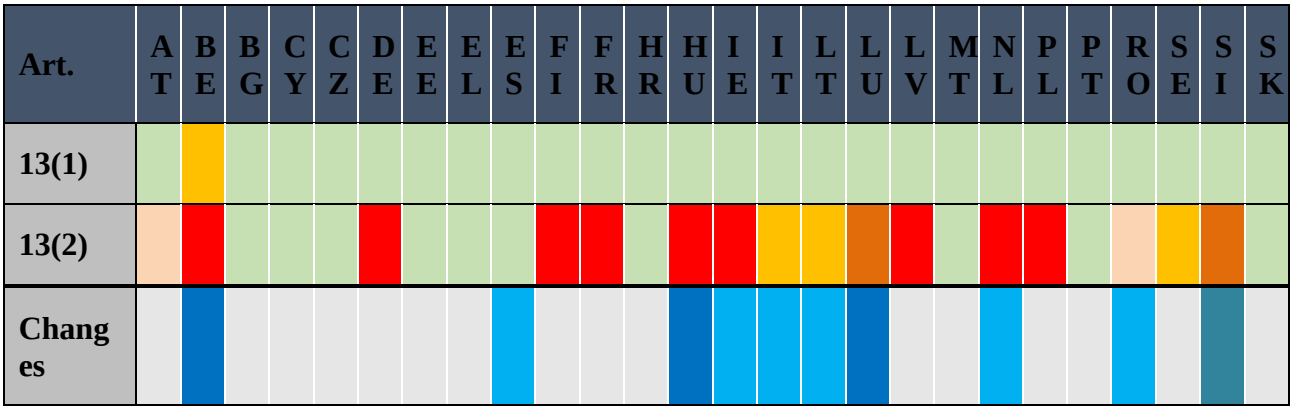
Article 13: General provisions on assistance, support and protection

Article 13 requires that Member States ensure assistance measures to child victims following the child's best interests. The provisions are below:

Article 13: General provisions on assistance, support and protection measures for child victims of trafficking in human beings

1. Child victims of trafficking in human beings shall be provided with assistance, support and protection. In the application of this Directive the child's best interests shall be a primary consideration.
2. Member States shall ensure that, where the age of a person subject to trafficking in human beings is uncertain and there are reasons to believe that the person is a child, that person is presumed to be a child in order to receive immediate access to assistance, support and protection in accordance with Articles 14 and 15.

The results of the analysis of transposition are set out in the figure below.



The main identified changes since 2016 were:[404]

- **BE**: The circular of 26 December 2016 provides that in case of child victims of human trafficking, the police will take into account the specificity of the minor's

[404] Soft law instruments (such as circulars or an updated National Action Plan) which frequently cover general provisions on assistance and protection to victims of trafficking was not included in the "minor/major changes" category.

vulnerability. The understanding is that this circular does not change legislation, so does not change the Transposition Assessment.

- **ES**: Amendments ensure that if the age of a victim cannot be established, they will be considered a minor and be guaranteed all other rights provided for by transposition of Article 15.

- **HU**: Article 43(2) of the Act on the Support of Crime Victims was amended in a way that it no longer requires the severe threat to be directed against the life or the physical integrity of the child represent a prerequisite for the starting of a procedure. Other articles of the Gyvt. Have been amended. The aim was to specify some children's rights, such as the access to special care, rehabilitation, as well as a procedure through which the police can immediately place a presumed child victim of trafficking (who either lives in his/her family or in temporary care) under the care of a special children's home. In addition, Article 84(1) of Gyvt. was amended in such way that a child protection guardian shall be appointed in cases where the child's parents are unknown. Concerning Article 13(2) of the Directive, article 72(1) of the Harmvhr was amended. It now provides that a medical examination shall be carried out to clarify the person's age in case the age is uncertain.

- **IE**: The Second National Action Plan to Prevent and Combat Human Trafficking in Ireland specifies that where the age of a person is uncertain and they claim to be a child, Tusla (the Child and Family Agency) considers them as such initially and provides them with assistance, support and protection as if they are a child.

- **IT**: The so-called Zampa Law (47/2017) introduced a series of changes to the national legislation on unaccompanied minors. Among the most relevant changes, it established a prohibition on rejecting unaccompanied minors at the border and it ensured that reception facilities meet minimum standards in terms of assistance and support services. When choosing where to place a minor, the needs and characteristics of the minor (resulting from an interview) shall be taken into account, in relation to the type of services offered by the facility. Concerning the age assessment of the child, the amendment specified that in the event that there are well-founded doubts as to the age declared by the minor, the public security authority shall proceed to the identification with the help of cultural mediators and in the presence of the guardian or temporary guardian, if already appointed, and only after ensuring immediate humanitarian assistance. This law already provided that the minor age is presumed in the case where the disciplinary procedure performed does not allow to establish with certainty the age of the person.

- **LT**: In all cases where the victim of trafficking is a minor, the State Child Rights Protection and Adoption Service under the Ministry of Social Security and Labour shall now be informed. The national law also specified that assistance to victims of trafficking (including minors) can also be offered by non-governmental institutions.

- **LU**: According to Article 3-7 para 3 of the Criminal Procedure Code (amended by Law 8 Mars 2017), when the age of the victim is uncertain, and there are reasons to believe that the victim is a minor, the victims is presumed to be a minor. **Based on the assessment made in the context of the evaluation, this change means that LU has now transposed Article 13(2) of the Directive.**

- **NL**: While not a change to national legislation, it was noted that the 2021 tender procedure for appointing and organisation to provide the Categorical Reception of Victims of Human Trafficking (COSM) service has started, adopted on behalf of the Ministry of Justice and Security and the Ministry of Health. Compared to the previous COSM, there is a reduction in the number of available places in reception centres for children. This reduction was probably caused by the effects of the Covid-19 pandemic.

- **RO**: the Annex to the Order of the Minister of Labour and Social Protection no. 1335/2020 approving the minimum quality for social services specifies the minimum quality standards for social services with accommodation and assistance services for child victims of human trafficking.

- **SI**: The 2016 assessment conclude SI had not transposed 13(2). SI clarified that Article 64(2) of the CPA transposes this Article. Legislation says that each victim is individually assessed, and the law stipulates that a minor always has special needs for protection (therefore, no need to argue for special needs in the process of individual assessment); Article 143.č of CPA. **The assessment made in the context of the evaluation is that SI has transposed Article 13 of the Directive.**

Overall status of transposition/ gaps in transposition:

- Article 13(1): This provision has been transposed by all Member States. Concerning BE, the 2016 conformity assessment found that the specific measures of assistance and support for all child victims of trafficking in human beings is only contained in a soft law instrument.[405]

- Article 13(2): Several Member States have not transposed Article 13(2), as their national legislation does not explicitly provide for a specific measure ensuring that, where the age of a person is uncertain, the person is presumed to be a child. Specifically, some Member States do not refer to the principle (BE, DE, FI, FR, HU[406], LV, PL, SI),[407] IE does not include it in non-binding instruments,[408] while others limit the scope of the principles to unaccompanied minors or to third-country nationals (IT, LT, NL).

Article 14: Assistance and support to child victims

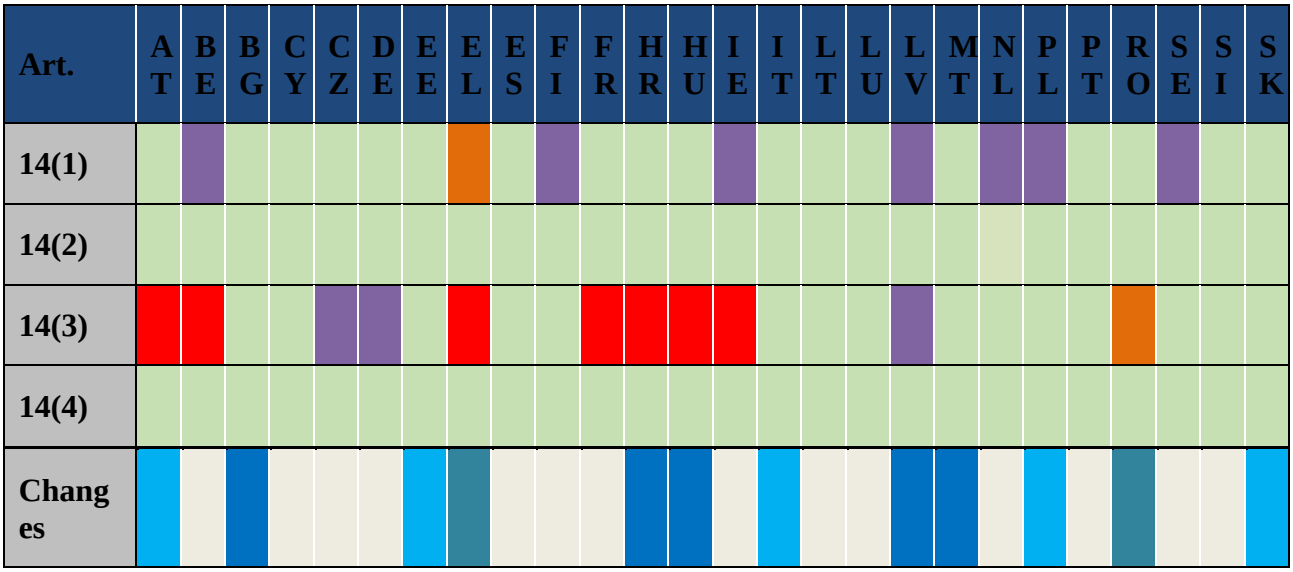
[405] 2016 *Circular on the introduction of multidisciplinary cooperation regarding the victims of trafficking in human beings and/or certain more serious forms of smuggling of human beings* need to be clarified.
[406] Although the amended provision states that a medical examination shall be carried out to clarify his/her age, the articles does not ensure that if the age of the minor is uncertain and there are no reasons to believe that the person is a child, that person is presumed to be a child.
[407] Similarly, in SE, if an asylum applicant claims that he or she is an unaccompanied minor, the Migration Agency shall, providing there are reasons to question that the applicant is under the age of 18, promptly assess the age and issue a temporary decision. According to chapter 13, section 17 of the Swedish Aliens Act, a final judgement about the age of the applicant shall be made in the final decision on the application. The Migration Agency´s temporary decision about the age may be appealed to a migration court. However, the national law does not specifically provide the presumption of minority.
[408] It should be noted that the 2016 conformity assessment stated that Ireland did not transpose Article 13(2) because the SCEP (Statement of Good Practice – which was identified as the national law transposing Article 13(2)) only applied to third country nationals and not to all victims of trafficking. Moreover, as the SCEP was adopted by a non-governmental entity, it does not have binding force. As the National Plan has no binding nature either, the assessment concludes that Ireland did not transpose Article 13(2).

Article 14 requires tailored assistance measures for child victims of THB. The provisions are set out below:

Article 14: Assistance and support to child victims

1. Member States shall take the necessary measures to ensure that the specific actions to assist and support child victims of trafficking in human beings, in the short and long term, in their physical and psycho-social recovery, are undertaken following an individual assessment of the special circumstances of each particular child victim, taking due account of the child's views, needs and concerns with a view to finding a durable solution for the child. Within a reasonable time, Member States shall provide access to education for child victims and the children of victims who are given assistance and support in accordance with Article 11, in accordance with their national law.
2. Members States shall appoint a guardian or a representative for a child victim of trafficking in human beings from the moment the child is identified by the authorities where, by national law, the holders of parental responsibility are, as a result of a conflict of interest between them and the child victim, precluded from ensuring the child's best interest and/or from representing the child.
3. Member States shall take measures, where appropriate and possible, to provide assistance and support to the family of a child victim of trafficking in human beings when the family is in the territory of the Member States. In particular, Member States shall, where appropriate and possible, apply Article 4 of Framework Decision 2001/220/JHA to the family.
4. This Article shall apply without prejudice to Article 11.

The results of the analysis of transposition are set out in the figure below.



The main identified changes since 2016 were:[409]

[409] The adoption of an updated National Plan for combatting trafficking in human beings (IE, PL) [which frequently covers Article 13] was not included in the "minor/major changes" category.

- **AT**: Legislation regarding child and youth welfare tasks which transposed Article 14(1) expired in 2019. However, other existing requirements for child protection and access to education make the necessary provisions for this Article and the Austrian authorities have provided more description to demonstrate this. The legislation requiring the appointment of a guardian (Article 14(2)) has been replaced and the new legislation now specifies the guardian (or 'curator') might be distinct from the legal representative and should be different for each affected minor, if their best interests are in conflict.

- **BG**: The relevant regulation now stipulates that an action plan be agreed upon with the child (depending on age and stage of development). Additionally, periodic meetings to monitor the child now must include 'all interested parties'.

- **EL:** The 2016 assessment concluded that EL had partially transposed Article 14(1). EL clarified that Presidential Degree 233/2003 and other legal instruments concerning child protection ensure that access to education is guaranteed for all minors irrespective of nationality, legal status, or vulnerability. Needs assessment and best interests assessment take place in all cases where a child is under the care of an agency, actor, NGO, etc. (Civil code, law 4554/2018, 4538/2018, law 4636/2019, as amended). **Based on the assessment made in the context of the evaluation, this clarification means that EL can be considered to have transposed Article 14(1) of the Directive.**

- **EE**: The Child Protection Act (2016) provides a comprehensive definition of "child in need of assistance", urging all persons who have knowledge of a child in need of assistance to notify their situation to the local authority (or to a helpline service), which is required to immediately assess the child's need for assistance and provide the relevant assistance measures. The same act provides for other rights related to child's assistance and victim support services.

- **HR**: A section of a new Protocol on unaccompanied minors specifies actions to be taken in the case of suspected THB. The Protocol requires immediate notification of a specialised police officer and subsequent information-sharing with the Coordinator for the Suppression of THB and the National and Regional Coordinators for Combatting THB. The Regional Officer or a centre for social care is authorised to make decisions on safe accommodation for the child without delay and the child should be accompanied there by the regional coordinator and a special guardian.

- **HU**: Changes reported in regard to the transposition of Article 13 are reported to also apply for Article 14. Beyond this, amendments have stated that it is no longer necessary that a child be in danger of direct risk to life or physical integrity for intervention by the relevant authorities to begin. Legislation providing for access to education has been replaced, but this has not resulted in any material changes to the provisions transposing Article 14(1). Legislation has also been amended to state that an unaccompanied minor will be provided with a guardian if their parents are unknown and/or if available, where information shows them to be unaccompanied (Article 14(2)).

- **IT**: A 2017 law changed existing legislation on unaccompanied foreign minors so that the national system of protection and reception is strengthened. It also states that educational institutions of all levels must promote the completion of

compulsory schooling for these minors, including those who are child victims of THB.

- **LV**: Amendments have been made to increase the tasks assigned to the Orphan's Court. These now include the responsibility to evaluate abuse of parental rights, carrying out necessary activities to ensure appropriate care of a child and that their best interests are represented, informing the State Inspectorate for the Protection of the Rights of the Child of cases of repeated termination of parental custody. These are all reported to apply to child victims of THB and to transpose Articles 14(1) and 14(2).

- **MT**: In 2019, legislation transposing Article 14 was replaced with a new act on child protection. This includes a review of the childcare system, protection of children during judicial procedures and the availability of child advocates. These are all applicable to child victims of THB and are reported to transpose Articles 14(1) and 14(2).

- **PL**: Legislation providing access to education for child victims of THB was revoked in 2017 (Article 14(1)). In the same year, a new regulation was issued on the education of children without Polish citizenship or children with Polish citizenship who have previously been education abroad. This provides for access to education for any child arriving from abroad but does not specify provisions for child victims of THB.

- **RO**: In 2019, amendments were made to Law 211/2004 on measures to ensure information, support and protection of victims of crime. Article 1 currently provides that everyone who is a victim has the right to be recognised as such from the moment of identification, to be treated with respect, professionalism, to benefit from individualised protection and support, financial compensation and restoration for rights, and the victim's family members enjoy the same rights. **Based on the assessment made in the context of the evaluation, this change means that RO has now transposed Article 14(3) of the Directive.**

- **SK**: Legislation has been amended to state that if the legal representative of the child victim cannot exercise the rights of the child or if there is danger of omission, the prosecutor can request a judge to appoint a guardian (Article 14(2)).

Overall status of transposition/ gaps in transposition:

- Article 14(1):
    - Most Member States (BG, EL, CZ, EE, ES, FR, CY, HU, LT, PT, RO, SK) refer to general assistance and support measures tailored to children such as counselling, social support, healthcare services and an appropriate form of accommodation. In some Member States (IE, FI, SE) support and assistance measures are only available to a limited group of minors.
    - Only few Member States developed psychological and medical assistance measures for child victims providing them with enrolment in the social welfare system (HR), a temporary residence permit (SI) and the establishment of child protection groups in hospitals (AT).
    - The assistance and support measures offered by some Member States (BE, LV and PL) are applicable to all victims. Article 14(1) also provides that

these measures should assist and support the child "in the short and long term": only France makes explicit reference to the time period of the duration of the assistance measures, while the other Member States seem to provide such measures for a "reasonable time" without specifying the precise time frame.

- Article 14(2): All Member States have made provisions to conform to Article 14(2): a few Member States (CY, NL) adopted specific provisions to that purpose, while the others ensure the appointment through their general rules.
- Article 14(3). The 2016 assessment found that only half of Member States (BG, ES, CY, LT, LU,[410] MT, PL, PT, SI, SK, FI, SE) had adopted specific measures for the family of the child victim. Other Member States (CZ, DE, LV) partially transposed Article 14(3), as their national legislations are very general in terms of assistance and support measures offered to the family of the child victim.

Article 15: Protection of child victims of trafficking in human beings in criminal investigations and proceedings

Article 15 sets out a number of measures to protect child victims during the process of a criminal investigation proceedings. The provisions are set out below:

Article 15: Protection of child victims of trafficking in human beings in criminal investigations and proceedings

1. Member States shall take the necessary measures to ensure that in criminal investigations and proceedings, in accordance with the role of victims in the relevant justice system, competent authorities appoint a representative for a child victim of trafficking in human beings where, by national law, the holders of parental responsibility are precluded from representing the child as a result of a conflict of interest between them and the child victim.
2. Member States shall, in accordance with the role of victims in the relevant justice system, ensure that child victims have access without delay to free legal counselling and to free legal representation, including for the purpose of claiming compensation, unless they have sufficient financial resources.
3. Without prejudice to the rights of the defence, Member States shall take the necessary measures to ensure that in criminal investigations and proceedings in respect of any of the offences referred to in Articles 2 and 3:
   (a) interviews with the child victim take place without unjustified delay after the facts have been reported to the competent authorities;
   (b) interviews with the child victim take place, where necessary, in premises designed or adapted for that purpose;
   (c) interviews with the child victim are carried out, where necessary, by or through professionals trained for that purpose;

[410] In LU, a bill of law on the rights of child victims will soon be submitted for approval to the Council of Government and to the Parliament. This bill will gather the (already existing) procedural rights of child victims in one piece of legislation.

(d) the same persons, if possible and where appropriate, conduct all the interviews with the child victim;

(e) the number of interviews is as limited as possible and interviews are carried out only where strictly necessary for the purposes of criminal investigations and proceedings;

(f) the child victim may be accompanied by a representative or, where appropriate, an adult of the child's choice, unless a reasoned decision has been made to the contrary in respect of that person.

4. Member States shall take the necessary measures to ensure that in criminal investigations of any of the offences referred to in Articles 2 and 3 all interviews with a child victim or, where appropriate, with a child witness, may be video recorded and that such video recorded interviews may be used as evidence in criminal court proceedings, in accordance with the rules under their national law.

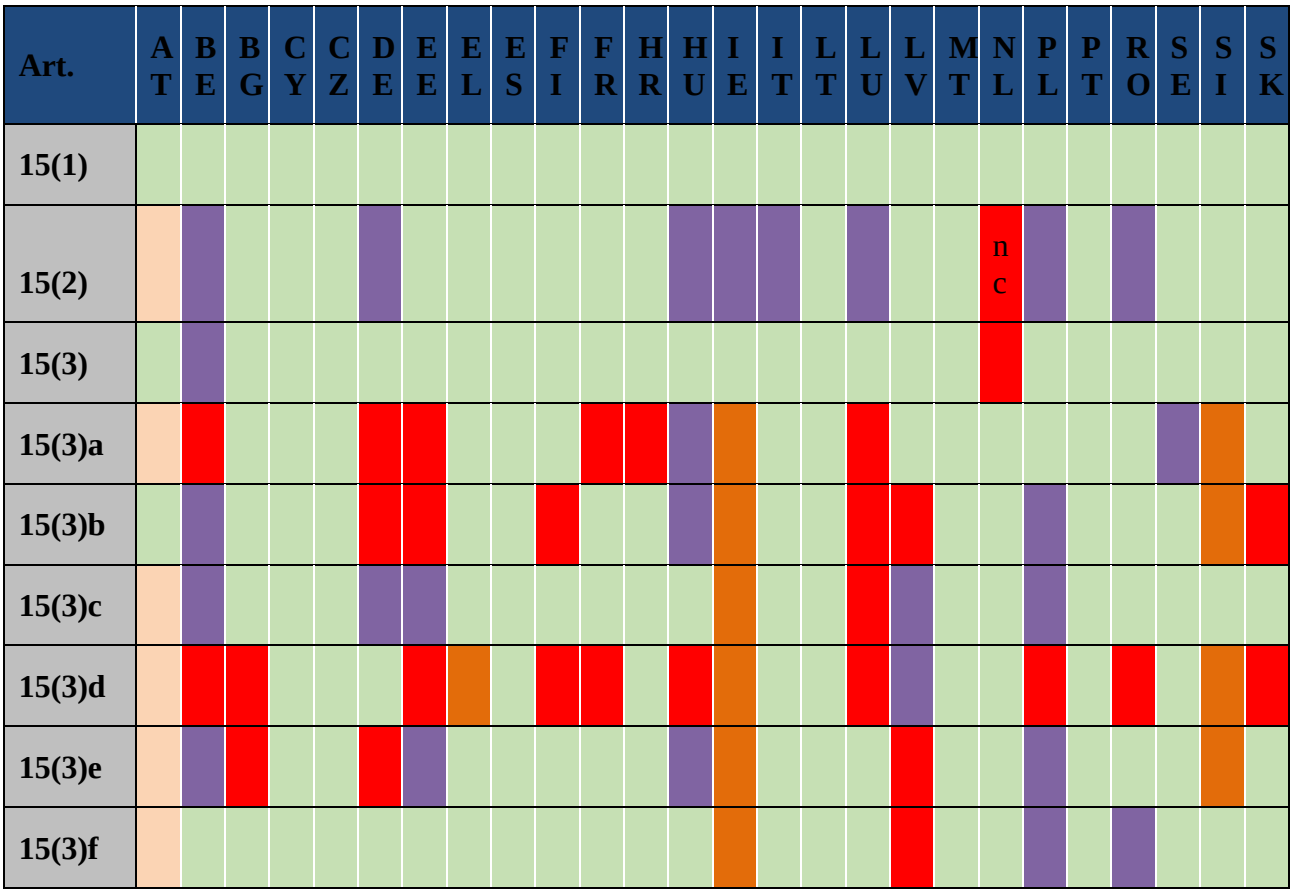
5. Member States shall take the necessary measures to ensure that in criminal court proceedings relating to any of the offences referred to in Articles 2 and 3, it may be ordered that:

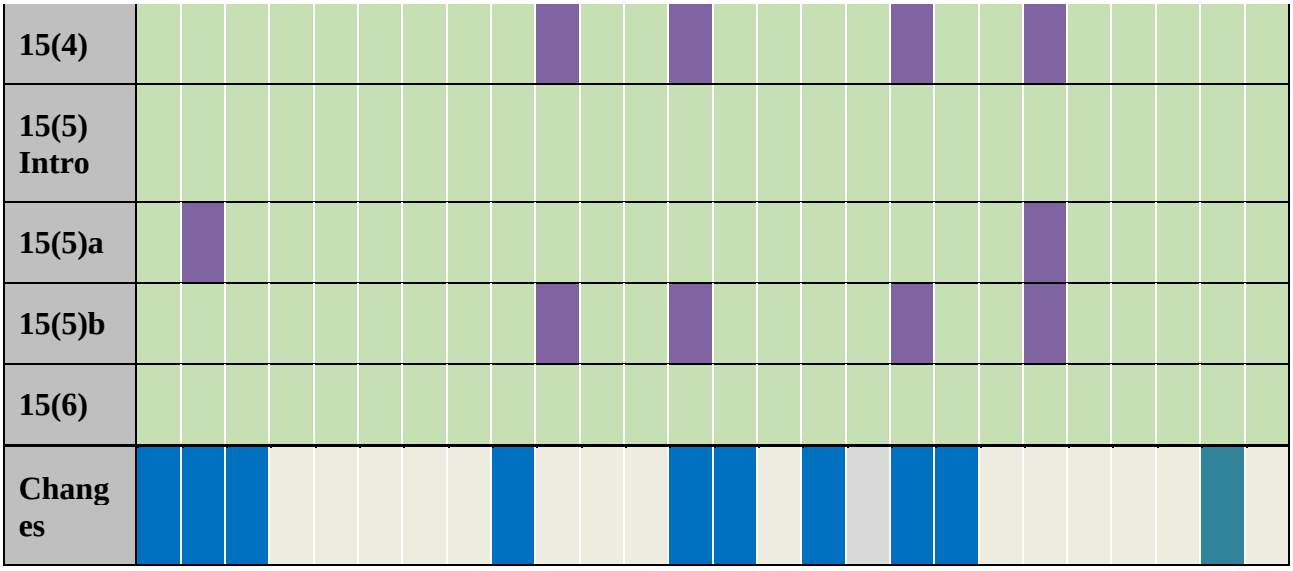
(a) the hearing take place without the presence of the public; and

(b) the child victim be heard in the courtroom without being present, in particular, through the use of appropriate communication technologies.

6. This Article shall apply without prejudice to Article 12.

The results of the analysis of transposition are set out in the figure below





The main identified changes since 2016 were:[411]

- **AT**: Amendments have been made to expand the definition of victim (any person subject to violence or threat or whose personal dependency has been exploited) and to provide victims with the right to have a person of their confidence present during examination.
- **BE**: Provisions have been made so that minor's vulnerabilities are taken into account by police, including the choice of a specialised shelter.
- **BG**: New legislation and amendments define legal aid and oblige investigators to notify victims of their right to legal support. They also require relevant training for judges, prosecutors and investigators and state that minors can give testimony if contact with the accused can be avoided (Article 15(5b).
- **EL:** the 2016 assessment concluded EL had not transposed Article 15(3)(d). EL clarified that this is implemented in practice following standard operating procedures. **Based on the assessment made in the context of the evaluation, this clarification means that EL can be considered to have transposed Article 15(3)(d) of the Directive.**
- **HU**: Changes to legislation are reported but these do not appear to change the conclusions of the 2016 assessment that there is only partial transposition of Article 15(2), 15(3a), 15(3b), 15(4) and 15(5b) for the following reasons: the legislation does not specify that protection should be provided without delay (Article 15(2)), the crime of human trafficking is not sufficiently covered by the provisions quoted as transposing Article 15(3a), provisions transposing Article 15(3b), 15(4) and 15(5b) only refer to minors under 14 or refer to minors under 18 without foreseeing an obligation.
- **IE**: The 2017 Victims' Crime Act currently includes victims' rights enshrined in Article 15(3)(a-f). **Based on the assessment made in the context of the evaluation, this change means that IE has now transposed Article 15(3).**

[411] The adoption of an updated National Plan for combatting trafficking in human beings (IE) [which frequently covers Article 15] was not included in the "minor/major changes" category.

- **LT**: Legislation on the timing and number of interviews of child victims has been amended to state that such proceedings with minors may not be performed between 10pm and 6am unless urgent. Other provisions have been moved between legal articles but are unchanged.

- **LV**: Legislative amendments require that a minor is questioned by an interviewer with knowledge of communication with a minor during criminal proceedings and that a child victim's representative is permitted to participate in the interview.

- **MT**: New legislation allows for the appointment of a trained expert support person for child victims throughout court proceedings and for the appointment of a family law child's advocate to represent the child victim's interests in civil proceedings.

- **SI**: The 2016 assessment concluded some articles had not been transposed. Since then SI has significantly changed its CPA in order to implement so-called Victims Directive. **Based on the assessment made in the context of the evaluation, ES has transposed Article 15 of the Directive.**

Overall status of transposition/ gaps in transposition:

- Article 15(1): All Member States provide the appointment of a guardian or a legal representative in case parents cannot represent a child's interest due to a conflict of responsibility, or for unaccompanied children (please refer to Article 16 below).

- Article 15(2) and (3): the 2016 Assessment noted that these were implemented through general provisions of criminal law, thus specific measures are sometimes lacking and there is some variability in terms of the age of child for whom such measures are available (the Directive specifies under 18, but some Member States apply to under 15 or under 15).

- Article 15(4): Four states have partially transposed this article (FI, HU, LV, PL), with the remainder fully transposing. Finland's amendments do not cover minors of all ages, Hungary's and Latvia's only cover minors under 14 and Poland's only cover minors under 15.

- Article 15(5a): Two Member States have only partially transposed this article. In Belgium, provisions transposing this article have not been consistently applied across the legislation reported on, while the Polish provision to exclude the public from court proceedings is aimed solely at the protection of minors under 15.

- Article 15(5b): Some Member State laws only apply to children under 15 (FI) and 14 (HU, LV). The Directive categorises child victims as under 18. In addition, Polish legislation refers to the rights of the accused to be present (with exceptions) rather than the rights of the child victim. Therefore, these five Member States are considered to have only partially transposed this article.

- Article 15(6): All Member States have transposed this article without prejudice to Article 12 (Protection of victims in criminal investigation and proceedings).

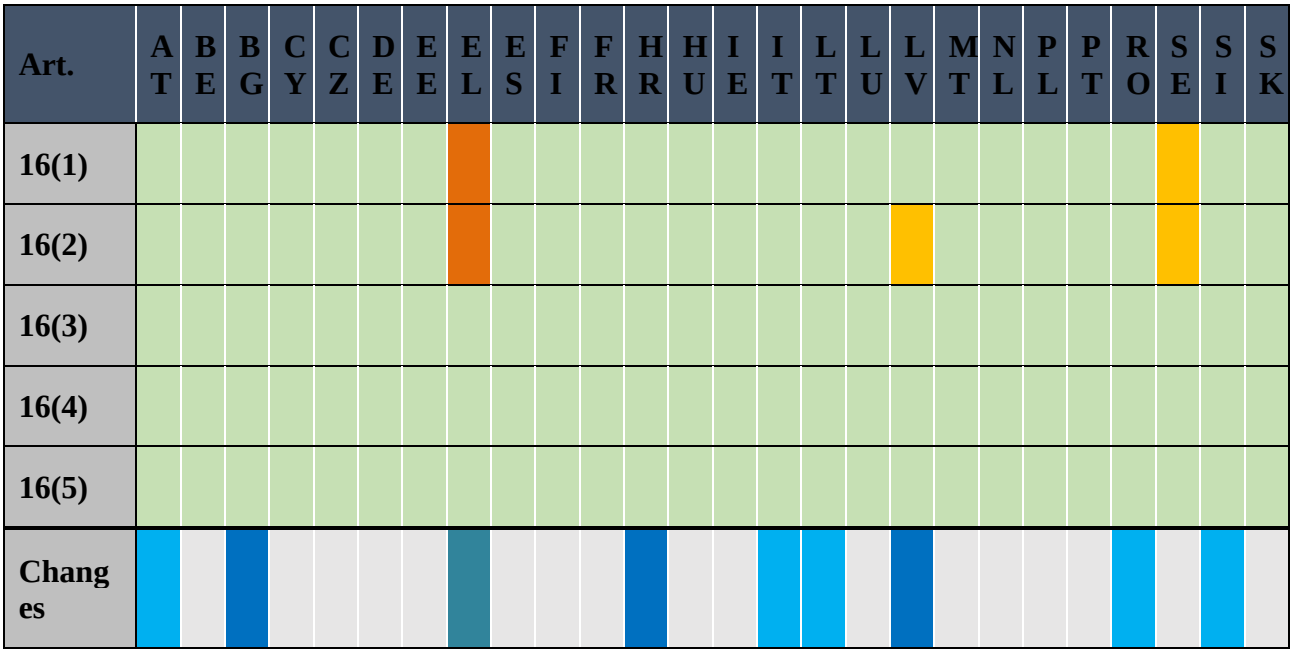
Article 16: Assistance, support and protection for unaccompanied child victims of trafficking in human beings

Article 16 sets out the measures that MS must provide to protect children who are unaccompanied. The provisions are set out below:

Article 16: Assistance, support and protection for unaccompanied child victims of trafficking in human beings

1. Member States shall take the necessary measures to ensure that the specific actions to assist and support child victims of trafficking in human beings, as referred to in Article 14(1), take due account of the personal and special circumstances of the unaccompanied child victim.
2. Member States shall take the necessary measures with a view to finding a durable solution based on an individual assessment of the best interests of the child.
3. Member States shall take the necessary measures to ensure that, where appropriate, a guardian is appointed to unaccompanied child victims of trafficking in human beings.
4. Member States shall take the necessary measures to ensure that, in criminal investigations and proceedings, in accordance with the role of victims in the relevant justice system, competent authorities appoint a representative where the child is unaccompanied or separated from its family.
5. This Article shall apply without prejudice to Articles 14 and 15.

The results of the analysis of transposition are set out in the figure below.



The main identified changes since 2016 were:

- **AT**: Legislation has been updated to re-name the national youth agency, which is entrusted with the custody and care of unaccompanied minors, to 'child and youth' agency.
- **BG**: Amendments to national law oblige the relevant authorities to take measures for the protection of child victims, ensure access to public education and the appointment of legal representation with necessary knowledge, make provisions for an assessment of the child's best interests and a subsequent action plan as well as residential care for child victims of trafficking. The mandatory notification of

victims about their rights now specifies the need to take the age of victims into account.

- **EL:** The 2016 assessment concluded that EL had partially transposed Articles 16(1) and 16(2). However, law 4554/2018 and 4636/2019 now provide that unaccompanied minors are accorded special protection measures, including appropriate for their age and needs accommodation, interpretation, representation, access to healthcare and to education. A risk/vulnerability assessment and a best interest assessment take place in view of identifying durable solutions. These measures apply to all unaccompanied minors in the country. Under Presidential Decrees 18/2020, 106/2020, law 4636/2019 and Presidential Decree 70/2021, the Special Secretariat for the Protection of Unaccompanied Minors has been established within the Ministry of Migration and Asylum as the competent authority for all matters concerning the protection of unaccompanied minors and in particular their accommodation, the quality of service provision, their integration, support, representation/guardianship and institutional protection. **Based on the assessment made in the context of the evaluation, EL has transposed Article 16(1) and (2) of the Directive.**

- **HR**: A new Protocol was adopted in 2019 which outlines actions to be taken in case of suspected TBH: upon identification of a potential child victim, the relevant authority is to notify officers specialising in trafficking or juvenile delinquency and the coordinator for the suppression of THB (Article 16(1) and 16(2)). A special guardian will be proposed (Article 16(3)), and appropriate accommodation should be decided on for the child victim without delay.

- **IT**: New (2017) legislation establishes a national system of protection and reception for unaccompanied foreign minors, ensuring homogeneity of provisions across the national territory. It also aims to strengthen existing protection tools and requires that educational institutions of all levels activate measures to promote the completion of compulsory schooling for unaccompanied minors (Article 16(1) and 16(2).

- **LT**: Legislative amendments now require the participation of a psychologist in any questioning of a minor and mandate that the Migration Department must issue a foreigner's registration certificate within 2 days of receiving information on an identified unaccompanied minor, rather than within 2 working days.

- **LV**: Relevant laws have been amended to empower an Orphans and Custody Court to evaluate cases of abuse or failures in custody and act to secure appropriate alternative care in the best interests of the child. These provisions would also be applicable to (unaccompanied) child victims of trafficking (Articles 16(1) and 16(2). Other amendments replaced 'interim guardian' with 'a guardian for a time period' to reflect the nature of appointing a guardian for unaccompanied children without specifying if temporary or otherwise (Article 16(3)).

- **RO**: Amendments specify that the procedures of identification and assignment of support are considered complete only if the minor is safely reunited with family or handed over to authorities in the country of origin, if there is non-identification of family or if the State of origin will not accept the minor. In the latter two cases, long-term stay permits can be granted and now, international protection in Romania is granted rather than 'a form of protection'. Conditions for these provisions were also added to state that no serious doubts over the minority of the victim may exist.

- **SI**: Legislation previously transposing Article 16(3) is no longer in use, having been replaced by the Family Code. However, the provisions required by Article 16(3) can be inferred from other national provisions on victims of all nationalities.

Overall status of transposition/ gaps in transposition:

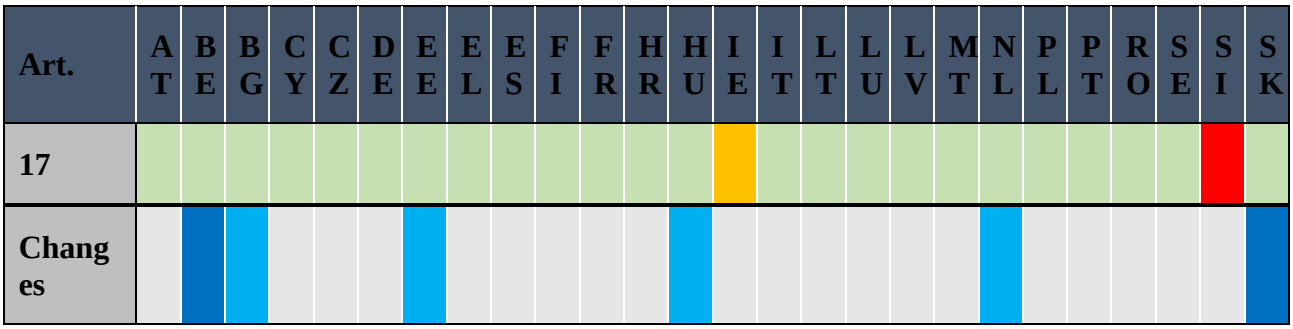
- All MS have at least partially implemented all parts of Article 16. In some MS, measures specify provisions for unaccompanied child victims (HU, IE, CY, AT, SK, FI, FR, LU, NL) while, in others, general rules and regulations on assistance and care for children also are also suitable to cover unaccompanied child victims (BG, EE, HR, LV, PT, SI).
- Latvia's legislation only partially conforms to Article 16(2) as provisions to ensure a rehabilitation plan and the receipt of social services apply to both adult and child victims, therefore not accounting for the specialised assistance required for minors.
- Regarding Sweden, the unclear scope of support and assistance provided to child victims who do not have a right to reside in Sweden (or are 'paperless') means that legislation specifying assistance, support and durable solutions for child victims only partially transposes both Article 16(1) and Article 16(2).

Article 17: Compensation

Article 17 requires Member States to provide compensation measures to THB victims. The provision is set out below:

> **Article 17: Compensation to victims**
>
> Member States shall ensure that victims of trafficking in human beings have access to existing schemes of compensation to victims of violent crimes of intent.

The results of the analysis of transposition are set out in the figure below:



The main identified changes since 2016 were:

- **BE**: Legislation has been amended to specify that exceptional damage caused by the identity and motives of the perpetrator remaining unknown is now basis for compensation. Another amendment states that aid will be granted per intentional act of violence, per applicant, for damages above 500€ to a limit of 125,000€.
- **BG**: Amendments to existing laws transposing Article 17 now specify that victims of crimes can receive assistance for both pecuniary and non-pecuniary damages whereas financial compensation can be granted to victims who have suffered pecuniary damages as a result of THB. The loss of support to dependents has been added to the list of damages which can result in a claim for compensation while

expenses covered by the National Health Insurance fund have been excluded from the medical costs which can be compensated.

- **EE**: The wording of relevant legislation has changed, now stating that 'compensation is payable for economically assessable damage', including for costs arising from incapacity for work, damage to health, death and/or funeral of the victim, damage to spectacles, dentures and other similar appliances for bodily function.
- **HU**: Legislation regarding the support of crime victims was amended in 2020 to make compensation available to all victims regardless of their deprivation status, with the amount of compensation victims can receive clarified: the rate is at most fifteen times the basic sum.
- **NL**: One section of the Code of Criminal Procedure transposing Article 17 has been abolished. However, it is claimed that another section sufficiently establishes victims' rights to compensation.
- **SK**: A piece of legislation which transposed Article 17 was repealed. It has been replaced with a new legislative act which defines the category of 'victim' and 'vulnerable victim' and stipulates rights to compensation for victims of violent criminal offences of any nationality, provided the injury or damages occurred in the Slovak Republic. It also describes the circumstances in which compensation cannot be granted, including scenarios in which the alleged perpetrator is acquitted.

Overall status of transposition/ gaps in transposition:

- All Member States provide compensation measures to THB victims. Such measures include compensation for non-material damages, such as physical and psychological suffering (AT, FI, SK, UK), dual system of compensation (BG, CZ, ES, LT, MT, NL, PT, SE), fund for victims of violent crimes (BE, FR and HR) or other special compensation measures (EE, EL, HU, LV, PL, RO, SK and UK).
- In the case of SI, the 2016 assessment found that compensation appeared to be provided only to victims who are Slovenian or EU citizens. No relevant changes have been identified in national legislation since that assessment was made. In IE, the existing scheme for compensation to victims of violent crimes (namely the Criminal Injury Compensation Schemes) only recovers verifiable expenses, and not pain and suffering. Although the possibility to start a legal action is open, in practice, victims of trafficking' eligibility to free legal aid is not guaranteed.

Article 18: Prevention

Article 18 requires that Member States take steps to prevent THB. This includes actions for awareness-raising campaigns but also education and training measures for their officials involved in the fight against THB. Article 18.4 states that Member States shall *consider* measures to establish as a criminal offence the use of services related to the object of exploitation. The provisions are set out below:

Article 18: Prevention

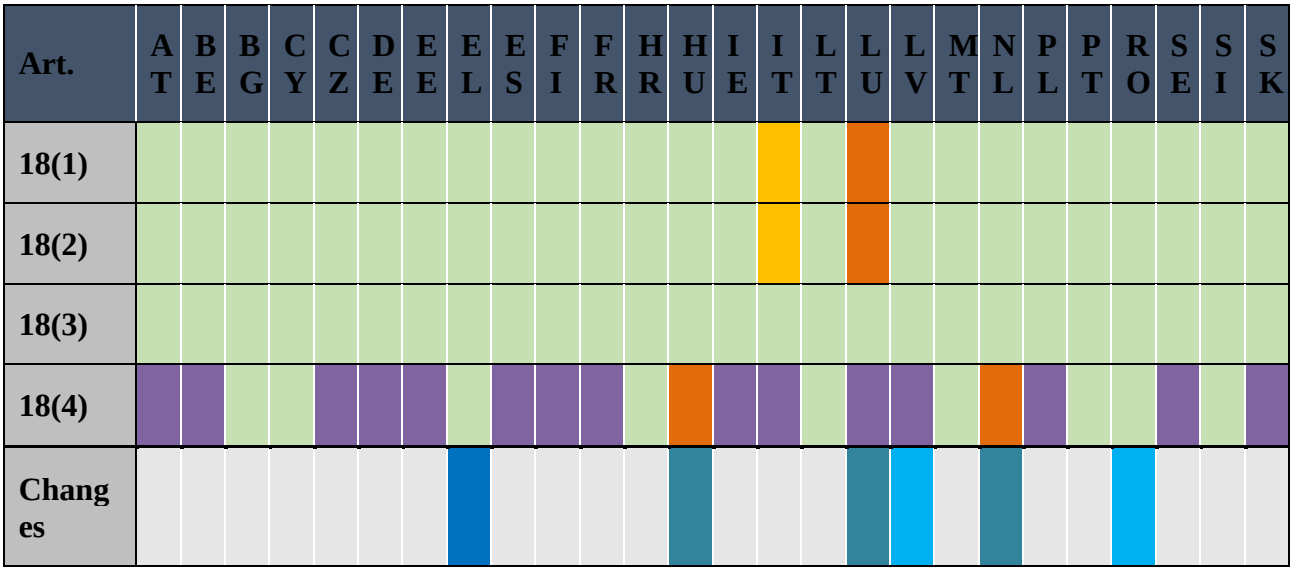
1. Member States shall take appropriate measures, such as education and training, to discourage and reduce the demand that fosters all forms of exploitation related to trafficking in human beings.

2. Member States shall take appropriate action, including through the Internet, such as information and awareness-raising campaigns, research and education programmes, where appropriate in cooperation with relevant civil society organisations and other stakeholders, aimed at raising awareness and reducing the risk of people, especially children, becoming victims of trafficking in human beings.

3. Member States shall promote regular training for officials likely to come into contact with victims or potential victims of trafficking in human beings, including front-line police officers, aimed at enabling them to identify and deal with victims and potential victims of trafficking in human beings.

4. In order to make the preventing and combating of trafficking in human beings more effective by discouraging demand, Member States shall consider taking measures to establish as a criminal offence the use of services which are the objects of exploitation as referred to in Article 2, with the knowledge that the person is a victim of an offence referred to in Article 2.

The results of the analysis are set out in the figure below.



The main identified changes since 2016 were:[412]

- **EL**: The legislation transposing Article 18(1) was annulled but a Ministerial Decision provides for the establishment and operation of the National System for the Identification and Referral of Victims of Human Trafficking and the rest of the measures brought in to conform to this Article of the Directive remain in place.

- **HU**: A new provision transposes Article 18(4) and criminalises the knowing use of the work or services of a trafficked person with a penalty of up to three years' imprisonment. In the case of knowing use of sexual services of a trafficked person, the penalty is up to five years' imprisonment with a minimum sentence of one year's imprisonment. **Based on the assessment made in the context of the evaluation, this change means that HU has now transposed the optional Article 18(4) of the Directive.**

[412] The adoption of an updated National Plan for combatting trafficking in human beings (BE) [which covers the type of actions required by Article 18] was not included in the "minor/major changes" category.

- **LU**: The 2016 conformity assessment was unable to locate measures on education, training, and raising awareness. Therefore, this meant that the actions taken have only partially transposed Article 18(1) and 18(2). Several initiatives were set up after 2017, including Stoptrate.lu, trainings, and other initiatives implemented through the Benelux framework. **Based on the assessment made in the context of the evaluation, this change means that LU has now transposed Article 18(1) and Article 18(2) of the Directive.**

- **LV**: A new Trafficking Prevention Plan for 2021-2023 was developed, including a list of actions to be taken in this time period. These actions are: raising public awareness, improving the identification of victims, stepping up efforts to prosecute perpetrators with the aim of providing a deterrent and, finally, strengthening coordination and information-exchange within Latvia and with partners abroad and in international institutions.

- **RO**: Relevant legislation was amended to clarify the responsibilities of the National Agency Against Trafficking in Human Beings (previously in Persons). These responsibilities are developing campaigns to prevent THB, programs to facilitate assistance to victims and collaboration with public, private and non-governmental organisations for joint campaigns.

- **NL**: The Dutch Parliament passed a law criminalising the use of services exploited from victims of trafficking (linked to sexual exploitation).[413] **Based on the assessment made in the context of the evaluation, this change means that HU has now partially transposed the optional Article 18(4) of the Directive.**

Overall status of transposition/ gaps in transposition

- Article 18(1) and 18(2): Most Member States (BE, EE, EL, ES, FR, HR, HU, IE, CY, LT, MT, NL, AT, PL, PT, RO, SI, SK, SE) have developed general training and educational measures. All Member States have put in place campaigns to raise awareness and enable the reduction of the demand of THB, such as awareness-raising campaigns and lectures among students (FR, LT, SK), round tables and debates (HR, LU), TV and radio campaigns (CY, LU, MT), festivals and annual events (AT, HU, PL, SK)[414]. Some Member States also introduced activities for foreign victims to prevent THB in their country of origin (AT, BE, BG).

- The 2016 conformity assessment concluded that Italy's provisions only partially conform to Article 18(1) and 18(2) due to a missing article in the relevant Decree and the large discretion given to the Department for Equal Opportunities in carrying out prevention measures.

- Article 18(3): All Member States included training activities for competent authorities in their strategy against THB[415]. All Member States reported measures aimed at ensuring that their officials who are likely to engage with victims or potential victims of THB are adequately trained. Some Member States focused more on training of their immigration officers (BE, FR and LU) and border control

[413] Kamerbrief over initiatiefwetsvoorstel strafbaarstelling misbruik van prostitué(e)s die slachtoffer van mensenhandel zijn 34091" Available here.
[414] Website of the European Commission, *Together Against Trafficking in Human Beings – Member States*. Available at: link.
[415] Website of the European Commission, *Together Against Trafficking in Human Beings – Member States*. Available at: link.

staff (HU, LT and PT). Others focused on the training of health-care professionals (BE, FR and LU), staff of social assistance services (BG, HU, IT, LT, LU, MT, PT, SI and SK) or labour inspectors (CZ, FR and SI). The majority of Member States made reference to training measures for public officials involved in investigations and prosecutions such as judges (AT, BE, BG, CZ, HU, LT, MT, PL, PT, SE and SI), prosecutors (BG, CZ, EE, ES, HU, IT, LT, MT, NL, AT, PL, SI and SE), law enforcement bodies (EE, NL and PL) and judicial police (ES).

- Article 18(4): Article 18(4) sets out an option for the Member States to criminalise the use of services which are the object of exploitation.

- Ten Member States[416] have legislation that criminalise the knowing use of services extracted from victims of any form of exploitation. One Member State (CY) has such a standard – the law states that, in the case of the use of sexual exploitation services, a person can be prosecuted for the demand, reception or use of sexual exploitation service, regardless of whether they had a reasonable suspicion that the person was a VoT. CY therefore uses a 'strict liability' standard.[417]

- Ten Member States[418] have legislation that criminalise the knowing use of services by victims of sexual exploitation. **To this extent, the assessment concludes that these Member States have partially transposed the optional Article 18(4).** Additionally, PL reported that there is discussion underway about whether to criminalise knowing use and SK reported that the process is ongoing to criminalise knowing use of the services by VoT.

- Four Member States[419] in effect criminalise the knowing use of services exacted from VoT for sexual exploitation because they follow the 'Nordic Model', which criminalises consumers of prostitution (including those who use the services of sex workers who are VoT). [420] This approach is adopted by Sweden, Finland, Ireland and France. Spain is reported to be considering adopting the Nordic Model.[421] **To this extent the assessment concludes that these Member States have partially transposed the optional Article 18(4).**

- Seven Member States[422] do not have any legislation criminalising knowing use of services exacted from victims.

- Some Member States have legislation that may create criminal liabilities for users of exploited services, but which does not transpose the Directive. For example:

[416] BG; CY; EL; HR; HU; LT; MT; PT; RO; SI.
[417] OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, *Discouraging the demand that fosters trafficking for the purpose of sexual exploitation* (2021). Available at: link.
[418] EE; DE; EL; FI; FR; IE; LU; LV; NL; SE.
[419] FI; FR; IE; SE.
[420] Some countries have outlawed sex buying on the grounds that any purchase of sex is a form of exploitation and related to gender-based violence, regardless of the status of any person in prostitution. This is the so-called Nordic model, which bases the criminalisation of the purchase of sex on the grounds that most sex purchasers are taking advantage of the difficult situation of prostitutes. Because of this analysis, the Nordic model does not criminalise the *selling* of sex. OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, *Discouraging the demand that fosters trafficking for the purpose of sexual exploitation* (2021). Available at: link.
[421] Comment from ES National Rapporteur, Workshop 2.
[422] AT; BE; CZ; ES; IT; PL; SK.

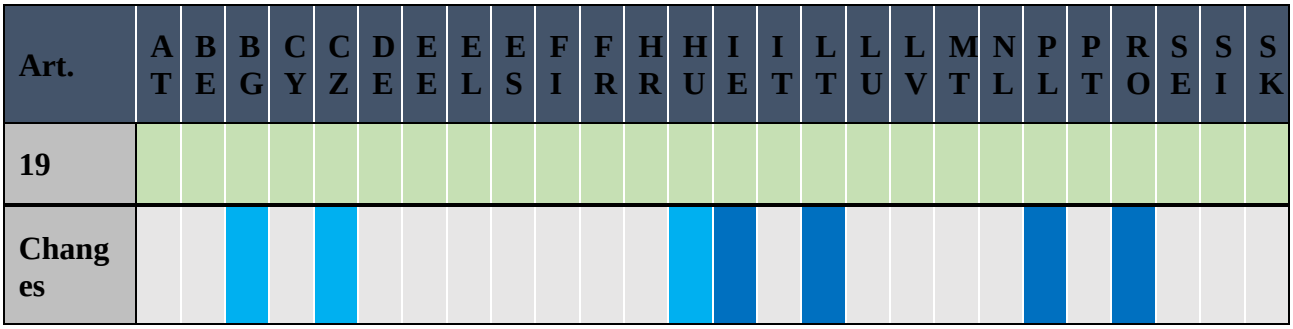
- AT has legislation that criminalises labour exploitation by third country nationals
- CZ makes it an offence not to report trafficking, where a person becomes aware.
- IT has legislation making unlawful brokering and exploitation of labour an offence (in the Criminal Code).
- PL (According to Article 10(1) of the AREIF) it is a criminal offence for an employer to employ an illegally residing foreigner, accompanied by particularly exploitative working conditions. However, the 2016 assessment found that this law does not refer to the condition requiring that the employer has the knowledge that the employee is a victim of trafficking in human beings. In addition, the national provisions are only addressed to third-country nationals. Overall, based on the assessment made in the context of the evaluation, PL has not transposed the optional 18(4).

Article 19: National Rapporteurs or equivalent mechanisms (NREMs)

According to Article 19, Member States shall appoint a national rapporteur or equivalent mechanism with the aim to report periodic national assessment of trends, measures and issues related to the fight against THB. The provision is set out below:

> **Article 19: National rapporteurs or equivalent mechanisms**
>
> Member States shall take the necessary measures to establish national rapporteurs or equivalent mechanisms. The tasks of such mechanisms shall include the carrying out of assessments of trends in trafficking in human beings, the measuring of results of anti-trafficking actions, including the gathering of statistics in close cooperation with relevant civil society organisations active in this field, and reporting.

The results of the analysis of transposition are set out in the figure below.



The main identified changes since 2016 were:

- **BG**: 2019 legislation establishes the National Commission for Combatting Trafficking in Human Beings (NCCTHB) as national rapporteur with authority to request and receive information from all relevant actors and to report to the Council of Ministers.
- **CZ**: The National Strategy for 2020-2023 improves the rapporteur mechanisms. These improvements include revisions to the NRM to improve functionality and increased data collection on THB, especially information on victims' demographics and country of origin.

- **HU**: The relevant legislation (Order of the Minister of the Interior) was replaced with new legislation on the same subject.
- **IE**: In October 2020, IE adopted a law appointing an independent national rapporteur on Trafficking in Human Beings, namely the Irish Human Rights and Equality Commission (IHREC)
- **LT**: The relevant legislation was abolished and replaced with a new order of the minister of the interior in 2017 which appoints a national rapporteur. The order also regulates procedures for the rapporteur's collection of statistical data and other information on THB.
- **PL**: The Committee for Combating and Preventing Trafficking in Human Beings was replaced by the Team for Counteracting Human Trafficking in 2019. The team is tasked with drafting National Action Plans, initiating actions against THB and evaluating the implementation of programmes. The Inter-Ministerial Team for Combatting and Preventing Human Trafficking was abolished in 2018. However, the Head of the Office for Foreigners is a member of the Team for Counteracting Human Trafficking.
- **RO**: Legislative amendments removed the coordination of the implementation of human trafficking policies from the responsibilities of the National Agency against Trafficking Human Beings.

Overall status of transposition/ gaps in transposition

- All Member States have identified a specific person, a body or equivalent mechanism to carry out the tasks envisaged by article 19 of the Directive.

Article 20: Coordination

Article 20 requires Member States to report the information required in Article 19 to the Anti-Trafficking coordinator at the EU level.

Article 20: Coordination of the Union strategy against trafficking in human beings

In order to contribute to a coordinated and consolidated Union strategy against trafficking in human beings, Member States shall facilitate the tasks of an anti-trafficking coordinator (ATC). In particular, Member States shall transmit to the ATC the information referred to in Article 19, on the basis of which the ATC shall contribute to reporting carried out by the Commission every two years on the progress made in the fight against trafficking in human beings.

The results of the analysis of transposition are set out in the figure below.

Art.	AT	BE	BG	CY	CZ	DE	EE	EL	ES	FI	FR	HR	HU	IE	IT	LT	LU	LV	MT	NL	PL	PT	RO	SE	SI	SK
20																										
Changes																										

The main identified changes since 2016 were[423]:

- All Member States had transposed Art. 20 of the Directive as at 2016. A few organisational changes were implemented since, but these had no impact on the transposition of the Directive:
    - **IE**: The Irish Human Rights and Equality Commission (INHREC) recently made its first submission, to contribute to the fourth progress report on the progress made in the fight against trafficking in human beings.
    - **LT**: Order of 6 September 2013 of the Minister of Interior of the Republic of Lithuania No 1V – 750 on the implementation of Articles 19 and 20 of Directive 2011/36/EU was abolished and replaced by the order of the minister of the interior of the Republic of Lithuania of 31 March 2017 on the appointment of the national reporter of the republic of Lithuania on the situation of the fight against trafficking in human beings and statistical data and other information about the situation of trafficking in the protection of human resources No 1V-245. The order regulates the procedure for collecting and providing statistical data and other information on the situation regarding trafficking in human beings to the National Rapporteur on Combating Trafficking in Human Beings and publishing this information.
    - **PL**: The 2016 Assessment concluded that the Polish legislation does not include a provision corresponding explicitly to Art. 20 of the Directive, but that its requirements can be inferred from several national instruments, including the Committee for Combating and Preventing Trafficking in Human Beings. This committee was replaced in 2019 by the Team for Counteracting Human Trafficking (established by Ordinance No. 6 of the Minister of Internal Affairs and Administration of 15 February 2019), which now fulfils that role in implementing Art. 20.
    - **SI**: Previously, Slovenian national law did not include a provision corresponding explicitly to Article 20 of the Directive. However, the 2016 assessment concluded that Slovenia seemed to contribute to the work of the ATC through information provided from the national contact point. In 2020, the Government of the Republic of Slovenia adopted Resolution no. 01203-9/2020/4 amending the decision on the establishment of the Inter-Ministerial Working Group on Combating Trafficking in Human Beings, which appointed a new national coordinator for combatting trafficking in human beings and an updated membership of the working group. Similar to the situation in 2016, this working group fulfils the role of ATC.

Overall status of transposition/ gaps in transposition:

- All Member States have implemented to Article 20.

[423] The adoption of an updated National Plan for combatting trafficking in human beings (FR) [which covers the type of actions required by Article 20] was not included in the "minor/major changes" category.

ANNEX VII. INTERVENTION LOGIC