



EMN Focussed Study 2013

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

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EMN Focussed Study 2013:
Identification of victims of trafficking in human beings in international protection and forced return procedures

Aim of the study Identification of victims of trafficking in human beings in international protection and forced return procedures is to examine whether, and how, victims of trafficking in human beings are detected and identified in Member States' procedures for international protection, and in forced return procedures if they have received a (final) negative decision on their application(s) for protection or have abandoned the procedure.

Following is the input of EE EMN NCP to the EMN Focussed Study. This document was produced by Helina Maasing the expert of EE EMN NCP. Experts from the Police and Border Guard Board, Ministry of Social Affairs, Ministry of Justice and others were consulted during the compiling process of this document. The web version is available at www.sisekaitse.ee/emn.

Disclaimer: The following responses have been provided primarily for the purpose of completing a Synthesis Report for the above-titled EMN Focussed Study. The contributing EMN NCPs have provided information that is, to the best of their knowledge, up-to-date, objective and reliable within the context and confines of this study. The information may thus not provide a complete description and may not represent the entirety of the official policy of an EMN NCPs' Member State.

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Top-line “Factsheet”

Government of Estonia considers combating against trafficking in human beings to be an important priority. On national level trafficking in human beings is coordinated through the implementation of the national developmental plan of reducing violence for the years 2010-2014¹.

EU directives related to trafficking in human beings 2004/81/EC² and 2011/36/EU³ are transposed to our national legislation and came in effect in the years 2007 and 2013 respectively. Consequently, Estonia is issuing temporary residence permit to victims of trafficking in human beings, if they cooperate with the authorities in the criminal proceedings, and assures support services for victimised persons.

Persons who have been or are at risk of being trafficked may also fall within the definition of person eligible for refugee status according to the 1951 Refugee Convention's⁴ Article 1 A (2) or within the wider definition of persons eligible for subsidiary protections according to EU directive 2004/83/EC⁵. Estonia has transposed to its national legislation the same principles. Thus, if there is a ground for international protection a victimised person may receive that status. There are no national protection statuses foreseen for victims of trafficking in human being solely on the ground of being a victim.

A person is identified as a victim of trafficking in human beings in the criminal proceeding. In other procedures, whether in international protection procedure, residence permit procedure or return procedure, the case-officer may identify the person as a potential victim of trafficking in human beings. In Estonia, different departments of one institution - the Police and Border Guard Board - are carrying out the procedures of international protection, residence permit, return and criminal procedure. Thus, if a suspicion arises in the international protection procedure that an applicant may be a victim of trafficking in human beings, the case-officer notifies the Central Criminal Police (a department within the Police and the Border Guard Board) about the fact. The Central Criminal Police may start a separate procedure - a criminal proceeding to investigate the claim. Furthermore, if the police or prosecutor's office believes that the rights of Directive 2004/81/EC apply to a third country national, a residence permit procedure might be started, as well. At the same time the applicant can be part of all these procedures - international protection procedure, residence permit procedure and criminal procedure.

Case-officer, who comes first in contact with the potential victim of trafficking in human beings (whether in international protection, residence permit or criminal proceeding), notifies the applicant about the services available for victims of trafficking in human beings based on the Victim Support Act⁶. The police shall immediately contact the Estonian National Social Insurance Board⁷ about a (potential) victim and the applicant is referred to the victim's support system.

To enhance coordination and cooperation among key actors and for policy coherence, a national roundtable

¹ For more details please see <http://www.just.ee/49973>.

² 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. 19–23

³ 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

⁴ Available at: <http://www.unhcr.org/3b66c2aa10.html>

⁵ 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, OJ L 304, 30.9.2004, p. 12–23

⁶ Victim Support Act, RT I 2004, 2, 3, www.riigiteataja.ee

⁷ <http://www.sotsiaalkindlustusamet.ee/?lang=en>

of trafficking in human beings was established in 2006. This was an initiative of the Ministry of Justice, which is responsible for this policy area. The aim of the national roundtable is to bring together all relevant public authorities and civil society, to better identify, refer, protect and assist victims. The national roundtable involves representatives of ministries (Ministry of Justice, Ministry of Interior, Ministry of Social Affairs, and Ministry of Foreign Affairs), Police and Border Guard Board, NGO's (e.g. Eluliin, Living for Tomorrow) working with trafficking issues. The roundtable meets at least twice a year. Members of the roundtable were actively engaged in working out procedural guidelines for identifying and assisting victims.

In 2009, Ministry of Social Affairs and Ministry of Justice in cooperation with other relevant authorities (Police and Border Guard Board, NGO-s, etc.) issued a tool named "Victim of trafficking in human being's identification and assistance guidance"⁸. This tool was revised in 2013. The guideline contains the definition of human trafficking, set of indicators to identify different victims (victims of sexual exploitation, victims of labour exploitation and victims of organ removal), instructions about referral practices specifying different options, rules for ethical interviewing and a model-interview, contacts of assistance service providers and anti-trafficking actors in Estonia. Special attention is paid to minor victims and unaccompanied minors in this document. This tool is used by the Police and Border Guard officials in they work as a support material for identifying (potential) victims of trafficking in human beings.

Although, there are tools in place for officials to identify potential victims of trafficking in human beings in the international protection proceeding, so far there have not been any identification done which would have led to referrals to other proceedings. This also means that no requests for the reflection period have been made and no residence permits for victims of trafficking in human beings have been issued. Thus, we are unable to share experiences and challenges in this matter.

However, according to the Human Rights Centre⁹, a NGO offering legal advice to asylum applicants, they have had suspicions regarding some asylum applicants that they are also victims of trafficking in human beings. According to the Human Rights Centre in 2012 suspicion regarding victimised applicants emerged in 4 cases; 3 of the asylum applicants received an international protection status based on the situation in their origin country, and not as victims of trafficking in human beings and 1 applicant left the country. In 2013, there have been 10 cases where a suspicion has emerged regarding victimisation; 6 of the applicants received a negative decision regarding their asylum application and 4 applications are still in the proceedings.¹⁰ Thus, there are cases where asylum applicants may be victims of trafficking in human beings; however it is difficult to collect data on them, because some of them may receive international protection status on other reasons than being a victim of trafficking in human beings and they are not identified in the procedure.

Residence permits, protection statuses and national programmes available to victims of trafficking in Estonia

This section briefly outlines the residence permits and protection statuses available to victims of trafficking in human beings in Member States. The aim of this section is to contextualise the section on referral. Information on rights should not be provided in detail, as it falls outside of the scope of this Study.

Q.1 What residence permit(s) specifically for victims of trafficking in human beings are available in your

⁸ Unofficial translation

⁹ <http://humanrights.ee>

¹⁰ Response to the EE EMN NCP's questionnaire 17.12.2013

Member State? (list them here)

Q1a. Are they conditional on cooperation with the authorities?

Q1b. In which year was it/were they introduced?

As of 1st February 2007 Estonia is issuing a residence permit to the victims of trafficking in human beings. Amendments that entered into force in the Aliens Act on that date were made to transpose into Estonian legislation the Council Directive 2004/81/EC¹¹ 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 irregular immigration, who cooperate with the competent authorities.

Temporary residence permit issued to victims of trafficking in human beings under the directive 2004/81/EC is named: *“residence permit in case of substantial public interest”*. As of 1st January 2015 this type of residence permit is re-named to *“temporary residence permit for participation in criminal procedure”*, which better conveys the aim of the residence permit.

According to the Aliens Act¹² § 203 a third country national may be granted a temporary residence permit *in case of substantial public interest* in the ascertaining of the facts of the subject of proof of a criminal offence if:

- 1) (s)he is a victim or a witness in a criminal procedure, the object of which is a criminal offence provided for in § 133-133³, 138-140 or 175 of the Penal Code¹³ (see Table 1);
- 2) a victim who was illegally employed or a witness was a minor child;
- 3) the health and life of a victim who was illegally employed or of a witness was endangered or their human dignity was violated.

One condition set for the victims or witnesses of trafficking in human beings, to receive a residence permit, is that they shall cooperate with the authorities. Aliens Act¹⁴ stipulates that applicants shall have to previously facilitate the ascertaining of facts relating to the subject of proof of a criminal offence or have given consent for doing so. Furthermore, they must have been broken off all the relations with the persons who are being suspected or accused of committing the respective offence.

The (potential) victim or witness of trafficking in human beings is given 30 to 60 calendar days of reflection period to think if (s)he wishes to facilitate in clarification of the circumstances of the evidence of the crime. If the potential victim wishes to do so, the Prosecutor's Office shall initiate the procedure for granting a residence permit.

Trafficking in human beings paragraphs in the Penal Code

Since 14 April 2012 trafficking in human beings is criminalized as a distinct provision. Previously the Penal Code included 12 sections that to a larger or lesser extent were related to trafficking in human beings.

The amendments made in 2012 supplement the Penal Code with three offences regarding trafficking in human beings: trafficking in human beings for the purposes of sexual abuse, enslaving and removal of an organ. Amendment to article 133 of the Penal Code stipulates that the penalties for trafficking offenses now range up to 15 years' imprisonment, penalties that are sufficiently stringent and commensurate with penalties prescribed for other serious crimes.

¹¹ OJ L 261, 6.8.2004, p. 19–23

¹² Aliens Act, RT I 2010, 3, 4, www.riigiteataja.ee

¹³ Penal Code, RT I 2001, 61, 364, www.riigiteataja.ee

¹⁴ Aliens Act § 203 section 2, RT I 2010, 3, 4, www.riigiteataja.ee

Table 1. Trafficking in human beings paragraphs in the Penal Code

Offense	Punishment
<u>Trafficking in human beings.</u> Placing a person in a situation where he or she is forced to work under unusual conditions, engage in prostitution, beg, commit a criminal offence or perform other disagreeable duties, or keeping a person in such situation, if such act is performed through deprivation of liberty, violence, deceit, threatening to cause damage, by taking advantage of dependence on another person, helpless or vulnerable situation of the person is punishable by.	1 to 7 years' imprisonment. Penal Code § 133
The same act, if committed against two or more persons; against a person of less than 18 years of age; against a person in a helpless situation; in a torturous or cruel manner causing serious health damage, danger to life committed by two or more persons	3 to 15 years' imprisonment
The same acts if committed by a legal person	pecuniary punishment or compulsory dissolution.
<u>Support to human trafficking.</u> Transportation, delivery, escorting, acceptance, concealment or accommodation without prior authorisation of a person, or aiding without prior authorisation his or her forced acts in any other way	5 years' imprisonment. Penal Code § 133 ¹
The same act if committed against two or more persons; against a person of less than 18 years of age; against a person in a helpless situation; committed by taking advantage of official position	2 to 10 years' imprisonment
The same acts if committed by a legal person	pecuniary punishment or compulsory dissolution.
<u>Pimping.</u> A person who organises meeting of a person engaged in prostitution with a client, owns, manages a brothel, aids prostitution or rents premises for keeping a brothel, or influences a person to cause him or her to commence or continue prostitution	pecuniary punishment or up to 5 years' imprisonment. Penal Code § 133 ²
The same acts if committed by a legal person	pecuniary punishment or compulsory dissolution.
<u>Aiding prostitution.</u> A person knowingly aiding prostitution	pecuniary punishment or up to 3 years' imprisonment. Penal Code § 133 ³
The same acts if committed by a legal person	pecuniary punishment or compulsory dissolution.
<u>Illegal conduct of human research.</u> Conduct of medical or scientific research on a person who has not granted consent thereto pursuant to the procedure prescribed by law or who before granting such consent was not notified of the essential potential dangers arising from the research	pecuniary punishment or up to 3 years' imprisonment. Penal Code § 138
The same acts if committed by a legal person	pecuniary punishment or

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	compulsory dissolution.
<u>Forcing person to donate organs or tissue.</u> Placing a person in a situation where organs, tissue or cells are removed from him or her, if such act is performed through deprivation of liberty, violence, deceit, threatening to cause damage, by taking advantage of dependence on another person, helpless situation or vulnerable situation of the person	up to 5 years' imprisonment. Penal Code § 138 ¹
The same act if committed against two or more persons; against a person of less than 18 years of age; against a person in a helpless situation; committed in a torturous or cruel manner; causing serious health damage or danger to life;	2 to 10 years' imprisonment
The same acts if committed by a legal person	pecuniary punishment or compulsory dissolution
<u>Illegal removal of organs or tissue.</u> Removal, for transplantation purposes, of human organs or tissue by a person with the corresponding right arising from law, if the person from whom the organs or tissue are removed has not been notified of the essential potential dangers arising from the removal of organs or tissue before he or she grants consent thereto, or if the person removing the organs or tissue was aware that the person from whom the organs or tissue are removed will receive remuneration therefor	pecuniary punishment or up to one year of imprisonment. Penal Code § 139
<u>Inducing person to donate organs or tissue.</u> Illegal inducing of a person to grant a consent for removal of his or her organs, tissue or cells	pecuniary punishment or up to one year of imprisonment. Penal Code § 140
The same act, if committed against a person of less than 18 years of age	up to 5 years' imprisonment
<u>Human trafficking in order to take advantage of minors.</u> A person who influences a person of less than 18 years of age in order to cause him or her to commence or continue commission of a criminal offence, begging, engagement in prostitution or working under unusual conditions or to appear as a model or actor in the manufacture of a pornographic or erotic performance or work, and a person aiding the above-mentioned activities of a person of less than 18 years of age	2 to 10 years' imprisonment. Penal Code § 175
The same acts if committed by a legal person	pecuniary punishment or compulsory dissolution

*Q.2 Are international protection status(es) granted to third-country nationals for the reason of being a victim of trafficking in human beings in your Member State? **Yes / No***

Q2a. If yes, please name which statuses are granted here

Persons who have been or are at risk of being trafficked may fall within the definition of person eligible for refugee status according to the 1951 Refugee Convention's¹⁵ Article 1 A (2) or within the wider definition of

¹⁵ Available at: <http://www.unhcr.org/3b66c2aa10.html>

persons eligible for subsidiary protections according to EU directive 2004/83/EU¹⁶. Estonia has transposed to its national legislation the same principles. In Article 4 of the Act on Granting International Protection to Aliens¹⁷ the definitions of refugee and subsidiary protection are given as follows:

Refugee is...	A person enjoying subsidiary protection is...
an alien who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, political opinion or membership of a particular social group, is outside the country of nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country and with regard to whom no circumstance exists precluding recognition as a refugee.	an alien who does not qualify as a refugee and with regard to whom no circumstance exists which would preclude granting of subsidiary protection and in respect of whom substantial grounds have shown for believing that his or her return or expulsion to his or her country of origin may result in a serious risk in the specified country, including: <ol style="list-style-type: none"> 1) imposition or execution of death penalty to him or her, or 2) torture or inhuman or degrading treatment or punishment of him or her, or 3) individual threat to his or her life or the lives of civilians or violence towards him or her or civilians by reason of international or internal armed conflict.

Estonia does not issue national protection statuses to victims of trafficking in human beings, other than the temporary residence permit under the directive 2004/81/EC.

Q3. Does your Member State have a national referral mechanism? Yes / No

One of the actions under the EU Strategy towards the Eradication of Trafficking in Human Beings 2012-2016¹⁸ is the establishment of national referral mechanisms, involving all relevant public authorities and civil society, to better identify, refer, protect and assist victims.

By the leadership of Ministry of Justice a national roundtable of trafficking in human beings was established in 2006. The roundtable meets approximately twice a year and brings together all the relevant actors in the field of trafficking in human beings: representatives from the Ministry of Justice, Ministry of Social Affairs, Ministry of Interior, Ministry of Foreign Affairs, Police and Boarder Guard Board, IOM Tallinn, NGO-s Living for Tomorrow, Eluliin, etc.

In cooperation of the actors in the roundtable a guideline for the identification of the victims of trafficking in human beings has been compiled. Furthermore, other support materials about the referral procedure and actions taken by different actors are mapped in cooperation with the roundtable.

¹⁶ 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, *OJ L 304, 30.9.2004, p. 12–23*

¹⁷ Act on Granting International Protection to Aliens, *RT I 2006, 2, 3, www.riigiteataja.ee*

¹⁸ Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52012DC0286:EN:NOT>

Additionally, the referral of a victim of trafficking in human beings is to some degree stipulated in the legislation. For example, a (potential) victim of trafficking in human being has to be referred to the criminal proceedings to receive support services (according to Victim Support Act); for receiving a residence permit under the directive 2004/81/EC the potential victim has to be referred to the criminal proceedings as well (according to Aliens Act).

The referral procedure in case a potential victim of trafficking in human beings is discovered in asylum or return procedure is described in Annex 1, Chart 1.

Detection, identification and referral of victims in International Protection Procedures

This section first examines the mechanisms that are used to detect and identify victims in the procedure for international protection, It then explores how identified victims are given access to appropriate assistance and support and specifically looks at mechanisms for coordination and referral between procedures.

1.1 Legislative framework

*Q.4 Are there established mechanisms for detecting and identifying victims of trafficking in human beings in the procedure for international protection?*¹⁹ **Yes/No**

There is no specific standard procedure for identification of victims of trafficking in human beings, but the Ministry of Social Affairs and Ministry of Justice in cooperation with other relevant authorities (Police and Border Guard Board, NGO-s, etc.) issued a tool named “Victim of trafficking in human being’s identification and assistance guidance” (hereinafter also referd as guideline) in 2009 and revised the document in 2013. This guideline was made mainly to support social workers to better understand the phenomena of trafficking in human beings and help them to identify victims though a set of indicators worked out by the relevant counterparts. The guideline contains the definition of human trafficking, set of indicators to identify different victims (victims of sexual exploitation, victims of labour exploitation and victims of organ removal), instructions about referral practices specifying different options, rules for ethical interviewing and a model-interview, contacts of assistance service providers and anti-trafficking actors in Estonia. Special attention is paid to minor victims and unaccompanied minors in this document.

This guideline was distributed to Police and Border Guard officials, who might come into contact with victims of human trafficking (i.e. border guard officials, officials in the international protection and in forced return procedure). However, it is a voluntary support material for officials and not an obligatory guideline to follow. According to the interview with Police and Border Guard Board official the guideline has not been used often in the international protection procedure to identify victims of trafficking in human beings. Partly for that reason a revised version of the guideline was adopted in 2013. Necessity for the new guideline rose, because the indicators of human trafficking, which are mentioned in the guidance, are not effectively working in practice and are rarely used by state officials and law enforcement²⁰.

¹⁹ (Member) States should here **only** refer to mechanisms for detection/identification used in international protection procedures – i.e. they should not refer to those used specifically by law enforcement, NGOs or other persons coming into contact with victims in situations outside of international protection procedures.

²⁰Blumberg, S. Estonia. Living for Tomorrow, Tallinn. Available: <http://www.e-notes-observatory.org/phenomenon/estonia/>

Q4a. If yes, please state whether one of the scenarios below or a combination thereof applies in your (Member) State:

- a. Process for detection and identification of victims in the procedure for international protection is outlined in legislation (if yes, provide reference to the legislation)

No.

- b. Process for detection and identification in the procedure for international protection is outlined in soft law – e.g. a ‘protocol’ (if yes, provide the reference)

The guideline on identification of victims on trafficking in human beings is considered soft law. This document is not for public use- it is only for internal use for police and border guard officials and social workers who (might) come into contact with (potential) victims of human trafficking.

- c. Process is not outlined in official documents, but there is a working system or standard practice in place, which is understood and used by the actors concerned (if yes, provide a brief description)

No.

Q5. Are there different protocols and/or practices for children and adults? **Yes / No**

Q5a. If yes, please briefly describe how these differ and why.

Yes, in the “Victim of trafficking in human being’s identification and assistance guidance” there is a separate section on specific indicators of (unaccompanied) minor victims. For example, in case a suspicion of an unaccompanied minor arises, an additional interview will be carried out with the child at the border. Furthermore, this document contains information in which stage different authorities are responsible for helping/supporting the (unaccompanied) minor victim.

Q6. Are there different protocols and/or practices for men and women? **Yes /No**

Q6a. If yes, please briefly describe how these differ²¹ and why.

In the “Victim of trafficking in human being’s identification and assistance guidance”, there is no gender aspect taken into account.

The gender aspect is taken into account in the asylum proceedings when examining the applicant and in the interviewing process. The Act on Granting International Protection²² § 15 section 3 stipulates that a person shall be examined by a person of the same sex. Furthermore, according to the good practise, in the interviewing process, the applicant should be given the right to choose which sex case-officer and translator (s)he wants to talk to. This might be very important if the applicant has been sexually abused.

1.2 Detection and identification of victims

Q7. How are (potential) victims of trafficking in human beings detected in procedures for international protection?

Potential victims of trafficking in human beings are detected in the procedure for international protection mainly by interviewing the applicants about their travel routes, their identity, entry to the country etc. Also, the indicators set in the “Victim of trafficking in human being’s identification and assistance guidance” help

²¹ E.g. only female officers can screen / assess women.

²² Act on Granting International Protection to Aliens, [RT I 2006, 2, 3](#), www.riigiteataja.ee

the case-officer to identify a potential victim of trafficking in human beings. The guideline contains some initial indicators, which might raise a suspicion of a person being a victim of trafficking in human beings. The initial indicators that the officer should turn attention to are following: 1) health indicators (e.g. signs of physical or sexual violence, scars, psychological problems), 2) behavioural indicators (e.g. avoiding contact with authority, “learned” story), 3) indicators of free movement and control (e.g. limited freedom of movement), 4) financial indicators (e.g. all or part of persons income is taken from him/her).

If the suspicion emerges, that an applicant might be a victim of trafficking in human beings, this information is imparted to the Central Criminal Police (a department within the Police and Border Guard Board) for further investigation. The status of being a victim of trafficking in human beings is formally identified in the criminal procedure.

If there is a reasonable doubt that a person is a victim of trafficking in human beings, in parallel a residence permit procedure might be started by the prosecutor’s office, for the residence permit foreseen for victims according to the Directive 2004/81/EC.

Q7a. Please state whether one of the scenarios below or a combination thereof is applicable to your (Member) State. For each, state Yes / No and (if yes) give a brief description of how this works:

- a. The competent authority²³ proactively screens all applicants for indications of trafficking in human beings;*

There is no proactive screening of all applicants. However, if during the interview with the applicant about his/her identity, travel route and entry into the country a suspicion of trafficking emerges, it should be investigated further.

- b. The competent authority proactively screens applicants with a particular profile²⁴ for indications of trafficking in human beings (please provide information on the type of profile);*

There is no proactive screening of applicants with a particular profile. However, if during the interview with the applicant about his/her identity, travel route and entry into the country a suspicion of trafficking emerges, it should be investigated further.

- c. Victims self-report; i.e. a victim describing their story / what happened*

Yes. Victims of trafficking in human beings can bring up victimisation themselves with the authorities. Applicants in the international protections procedure are encouraged to bring up every piece of information that might be important for making a decision about his/her application. Thus, if any indication of trafficking in human beings emerges with regard to the applicant, it should be investigated further.

- d. Another actor in contact with the victim draws attention to the potential victimisation (if so, please refer to section 3.4 if (optionally) completed);*

Yes. Victimisation in trafficking in human beings can be brought up by the applicant’s attorney/counsel, non-governmental organisations related to victim’s support, the personnel of the reception or detention centre or health care professionals, for instance. As for work-related exploitation, victimisation can also be brought up

²³ Here, “competent authority” refers to the authority competent for examining the merit of the third-country national’s case for international protection. In many (Member) States, this is a ‘case worker’.

²⁴ E.g. unaccompanied minors; children; women; women from particular geographical regions; women or children who, for example, when describing the route from their country to origin to the EU Member State, refer to a known route used by traffickers.

by an occupational safety and health authority.

e. Other (please specify).

No.

Q7b. Is there a stage the applicant for international protection can no longer be screened (e.g. after the first negative decision)? Yes / No. If yes, please describe the circumstances.

According to national law an application for asylum shall be considered clearly unfounded if the applicant has been refused asylum or the applicant's application for asylum has been rejected and no new circumstances exist which were not known during previous asylum proceedings.²⁵ Thus, the applicant cannot be screened after the first negative decision, except if new important circumstances arise.

Q8. If the competent authority detects that an applicant may be a victim of trafficking in human beings, what are the next steps in terms of assessment?

Q8a. Does the Member State apply a standard set of indicators to assess whether the person is a (potential) victim? Yes / No

Yes.

a. If yes, please give further details, provided the information is not considered of a sensitive nature. How have these been developed? Are they based, for example, on international standards?

In the document "Victim of trafficking in human being's identification and assistance guidance" different indicators are set to identify a victim of trafficking in human beings. In the guideline, there are outlined general set of indicators that might raise initial suspicion. Furthermore, the document has brought out indicators for specific victims, e.g. sexual exploitation, work-related exploitation, victims of organ removal. Additionally, the indicators of under-age victims and unaccompanied minors are defined separately.

As this document is not for public use, the indicators cannot be described further.

The indicators were developed in cooperation of relevant counterparts who take part of the national roundtable of trafficking in human beings.

Q8b. Are other mechanisms²⁶ used by the competent authority to assess whether a person detected as a (potential) victim should be identified as such (or referred onto formal identification procedures)? Yes/No

a. If yes, what are these?

Mainly interviews. If during the interviews with the applicant a suspicion arises that the person may be a victim of trafficking in human beings, the case-officer also notifies the Central Criminal Police for further investigation.

b. If no, why not?²⁷

Q8c. If, following detection, the third-country national concerned is not assessed as a (potential) victim, what happens? Can the third-country national seek an alternative assessment elsewhere?

If the case-officer is not identifying the applicant as potential victim of human trafficking, an alternative

²⁵ Act on Granting International Protection to Aliens §20 section 1 (4), [RT I 2006, 2, 3](#), www.riigiteataja.ee

²⁶ E.g. interviews.

²⁷ E.g. legislation foresees that the slightest indication that a person may be a victim of trafficking in human beings is sufficient for automatic identification.

assessment can be accepted. If the Police and Border Guard Board receives information from NGO-s dealing with victims of human trafficking or from the applicant's legal representative or from the applicant him-/herself, that the person might be a potential victim of human trafficking, this information is taken into account and a criminal investigation might be started. The Police and Border Guard Board has 10 days to decide, whether to start a criminal proceedings regarding victimization of the applicant²⁸. In the criminal proceeding a person is formally identified as a victim of human trafficking or not. This information gives a ground to possibly start a residence permit procedure for victims and witnesses for trafficking in human beings under Directive 2004/81/EC or issue an international protection status.

Q9. Have methods for the detection and/or identification of victims in international protection procedures been evaluated in your Member State? Yes/No

No.

Q9a. If yes, how well are they considered to be working? Is there any evidence to suggest that (potential) victims are going undetected / unidentified? Provide evidence.

Q9b. If no, please provide any other evidence of the effectiveness (or otherwise) of detection / identification in international protection procedures.

There have not been identified any human trafficking cases in the international protections procedure.

1.3 Referral

Q10. If an applicant is identified as a (potential) victim, can s/he access tailored statutory assistance and support whilst remaining in the international protection procedure (i.e. without referral to other procedures)? Yes/No

The applicant can stay in the international protection procedure, however to receive victim's support and services, (s)he has to be referred to the criminal proceedings as well.

If an applicant is identified as a (potential) victim, (s)he has the right to services and support described in the Victim Support Act²⁹ and in the Act on Granting International Protection to Aliens³⁰. Services foreseen to a (potential) victim of trafficking in human being, who apply international protection, are wider than support and services offered to general applicants in the international protection procedure.

The applicant has the right to the victim support service if the Estonian National Social Insurance Board has received a report from the police that a criminal report has been issued or criminal proceeding has been started regarding potential victimisations. In practise, that means, the applicant stays in the international protection proceedings and the international protection application is processed as usual, separate from the criminal case. In parallel a criminal proceeding might be started to investigate a potential victimisation of the applicant. Thus, the applicant might be subject of both proceedings.

The services offered to (potential) victim of human trafficking includes:

- 1) counselling of victims;
- 2) assisting victims in communicating with state and local government authorities and legal persons;
- 3) ensuring safe accommodation (for minors a substitute home service or foster care may be provided);
- 4) ensuring catering;
- 5) ensuring access to necessary health services;
- 6) providing necessary material assistance;

²⁸ Code of Criminal Procedure § 198, RT I 2003, 27, 166, www.riigiteataja.ee

²⁹ Victim Support Act, RT I 2004, 2, 3, www.riigiteataja.ee

³⁰ Act on Granting International Protection to Aliens, RT I 2006, 2, 3, www.riigiteataja.ee

- 7) providing necessary psychological assistance;
- 8) enabling necessary translation and interpretation services for receiving the services provided within the framework of victim support services;
- 9) providing other services necessary for physical and psycho-social rehabilitation of victims.³¹

Furthermore, services offered by the Accommodation centre for asylum seekers (reception centre) to asylum seekers, like Estonian language instruction, supply of money for urgent small expenses, transportation necessary for the performance of procedural acts in the international protection procedure, apply to (potential) victims of trafficking in human beings³².

Q10a. If yes, please briefly describe how the assistance is provided (e.g. state programme, access to general state welfare services, government-funded assistance provided by NGOs, etc.).

Q10b. If yes, describe under what conditions the assistance can be provided (without referral to other procedures) – specifically, does the (potential) victim have to be formally identified by a competent authority (e.g. law enforcement) in order to access the assistance? (Yes / No) – if yes, state which authorities are competent.

10a-10b.

In case a suspicion arises in the international protection procedure that an applicant may be a victim of human trafficking, the case-officer notifies the Central Criminal Police (a department within the Police and the Border Guard Board) about the fact. The Central Criminal Police may start a separate procedure - a criminal procedure to investigate the claim. If the police or prosecutor's office believes that the rights of Directive 2004/81/EC apply to a third country national, a residence permit procedure might be started, as well. At the same time the applicant can be part of all these procedures - international protection procedure, residence permit procedure and criminal procedure.

The case-officer (whether in international protection, residence permit or criminal procedure) notifies the applicant about the services available for victims of trafficking in human beings based on the Victim Support Act. Furthermore, the Police and Border Guard contacts the Estonian National Social Insurance Board about a potential victim to offer him/her the support services.

Victim's support is a free public social service, which is financed from the state budget.

The victim's support services offered to the victim of trafficking in human beings is connected to criminal proceedings, i.e. the victim has the right to the services before, during and after the criminal proceedings. In paragraph 3 of the Victim Support Act (VSA) a definition of the victim of trafficking in human beings is given, i.e. a person in the case of whom criminal proceedings have been commenced with regard to the criminal offence committed against him/her based on the elements of criminal offence specified in § 133-133³, 138-140 or 175 of the Penal Code. Thus, the right to the support services arises when the criminal procedure is started.

In addition the VSA stipulates that the right to receive the services prescribed for victims of trafficking in human beings applies to the following person:

- 1) if the Social Insurance Board has doubts that a criminal offence provided for in § 133-133³, 138-140 or 175 of the Penal Code has been committed against the person and the Social Insurance Board has submitted a report on a criminal offence to an investigative body or prosecutor's office for deciding on the commencement of criminal proceedings;
- 2) the person himself/herself or another person has submitted a report on a criminal offence to an investigative body or prosecutor's office and the content thereof is a criminal offence provided for in § 133-

³¹ Victim Support Act § 3 section 2, RT I 2004, 2, 3, www.riigiteataja.ee

³² Act on Granting International Protection to Aliens § 32, RT I 2006, 2, 3, www.riigiteataja.ee

133³, 138-140 or 175 of the Penal Code and the Police and Border Guard Board has submitted a respective report on the person to the Social Insurance Board.

Thus, the right for support services arises when the report on a criminal offence is submitted to the police or prosecutor's office.

The services described in the VSA are provided until the need for the services cease to exist. In case of a third country national this means:

- If criminal proceeding is not commenced, the services shall be provided to the third-country national until the Social Insurance Board is notified of the refusal to commence criminal proceedings by an investigative body or prosecutor's office.
- If criminal proceedings are commenced the services will be offered:
 - during the reflection period;
 - until the end of the residence permit issued in case of substantial public interest;
 - during the international protections procedure and until the end of international protection status.

Victim's support services are provided in every county of Estonia. Information concerning the possibilities of using the victim support service shall be available at local government, police, rescue, health care and social welfare and other relevant authorities.

Q10c. What mechanisms are in place to facilitate this type of referral (to assistance, whilst remaining in international protection procedures)? Are there any agreements in place? Does it form part of a National Referral Mechanism?

Referral to the victim's support system is regulated by the Victim Support Act. Thus, if any indication of trafficking in human beings emerges the Police and Border Guard Board (different departments of which are responsible for processing international protection applications, residence permit applications, and criminal procedure) makes the referral for the applicant to be admitted to the victim's support system.

As stipulated in the Victim Support Act referral for the admittance of an applicant to the support system can be initiated by not only an authority, but also by the victim of trafficking in human beings him-/herself or by any other person. However, the Police and Border Guard Board must notify the Social Insurance Board on the commencement of criminal investigation.³³

When the Social Insurance Board is notified that a criminal investigation has been commenced or criminal offence report submitted, they can start offering the assistance and support services to the (potential) victim.

The Social Insurance Board offers services based on the Victim Support Act as of 18 April 2013. Thus, the practise of referral to the assistance system is almost non-existing. Before that date assistance was provided through NGOs.

Q10d. Are there any obstacles to this type of referral?

As there have not been any referrals from the international protection procedure or residence permit procedure to the victim's support system, thus it is difficult to comment on the practical aspects of this

³³ Victim Support Act § 3 section 2(2), RT I 2004, 2, 3, www.riigiteataja.ee

regulation.

Q11. If an applicant is identified as a (potential) victim and there is the possibility to change to (or participate in parallel in) procedures as foreseen under Directive 2004/81/EC or national equivalent measures³⁴ how does this work in practice?

Yes, the applicant who is identified as a (potential) victim may participate in parallel in international protection procedure and in procedure foreseen under Directive 2004/81/EC, i.e. in the residence permit procedure.

Q11a. Does the applicant have to withdraw from the procedure for international protection in order to do so? Yes/No

No.

- a. If yes, can s/he re-open the procedure for international protection if s/he is not granted a residence permit under Directive 2004/81/EC? Yes/No, please elaborate the process.*
- b. If no, please elaborate – how does this work in practice? Does the victim have to be formally identified by a different competent authority? (Yes / No) – if yes, state which authority*

The case-officer in the international protection procedure notifies the Central Criminal Police of the Police and Border Guard Board about any suspicions of a potential victim of trafficking in human beings. When the investigative authority (police) or prosecutor's office believe that the rights of Directive 2004/81/EC apply to a third-country national, they notify the person of the possibilities and conditions of the issue of a temporary residence permit in case of substantial public interest and the grant of international protection. In addition the (potential) victim of trafficking in human beings is notified of the services offered during the reflection period. If the victim is willing to cooperate after the reflection period with the authorities, the prosecutor's office starts the application procedure for the residence permit under Directive 2004/81/EC.

The person is identified formally as a victim of trafficking in human beings in the criminal procedure.

Q11b. How is referral to the procedure as foreseen under Directive 2004/81/EC organised? Please highlight which one option, or a combination thereof, is applicable in your Member State:

- a. The victim is given information on his/her rights and possibilities, but has to initiate the procedure on his/her own (where applicable with the help of his/her legal representative).*

No.

- b. **The competent authority contacts the authorities responsible for issuing a reflection period or residence permit.** (If yes, please elaborate)*

Yes. The case-officer notifies the Central Criminal police or the nearest police prefecture about any suspicions of trafficking in human beings. When the police or prosecutor's office believe that the rights of Directive 2004/81/EC apply to a third-country national, they notify the person of the possibilities and conditions of the issue of a temporary residence permit in case of substantial public interest and the grant of international protection. In addition the victim or witness of trafficking in human beings is notified of the services offered during the reflection period.

Upon the decision of the prosecutor's office a reflection period of 30 to 60 calendar days is granted to the third-country national from the moment when (s)he is notified of the possibilities and conditions to receive a residence permit or international protection status. The reflection period allows the victim or witness to make

³⁴ As mentioned, Denmark, Ireland and the United Kingdom have not opted into Directive 2004/81/EC.

a decision whether (s)he wishes to cooperate with the investigative authority or the prosecutor's office. If the person agrees to cooperate and wants a residence permit under Directive 2004/81/EC, the prosecutor's office starts the application procedure.

A temporary residence permit in case of substantial public interest shall be issued if the conditions of issue of temporary residence permit provided for in the Aliens Act are met, *inter alia* they cooperate with the authorities, and have broken off all the relations with the persons who are being suspected or accused of committing the respective offence. Also, they must not constitute a threat to public order or national security. The residence permit application is submitted to the Police and Border Guard Board for deciding by the prosecutor's office. The decision whether to grant/extend or refuse to grant a residence permit must be made by the Police and Border Guard Board in ten working days³⁵.

A temporary residence permit in case of substantial public interest shall be issued for the term stated in the application of the prosecutor's office, but for not longer than for one year. The residence permit is renewable up to one year, if the conditions are still met.

c. *There is a national referral/cooperation mechanism that helps him/her. (If yes, please elaborate). **No.***

*Q11d. Can the applicant's dossier /evidence gathered to date in the procedure for international protection (e.g. personal interview) be transferred to and used in the new procedure for a reflection period or residence permit as foreseen under Directive 2004/81/EC? Yes / **No** / **in some cases** (please elaborate)*

No, because the international protection procedure is confidential. However, if the applicant gives his/her consent to transfer his/her dossier or part of the evidence gathered to the residence permit procedure, it is allowed.

Q12. If an applicant is identified as a victim and there is the possibility to change to obtain a residence permit (other than that described in Q11) or international protection status on grounds of being a victim of trafficking in human being, how does this work in practice?

Estonia does not grant a residence permit to persons who are victims of trafficking in human beings only on the grounds that they are victims, other than stated in the Directive 2004/81/EC. There are no non-EU harmonised protection statues foreseen for victims of trafficking in human beings.

If the applicant fulfils requirements set in the national law to receive a temporary residence permit, (s)he may apply for the residence permit as any other third-country national. In addition to the residence permit foreseen for victims or witnesses of trafficking in human beings, Estonia grants temporary residence permits for employment, business, education, family reunification reasons and based on international agreements.

In Estonia, the residence permit application process is not bound with the international protection procedure. These are two separate procedures that can run in parallel. At the same time the applicant can take part of residence permit application process as well as international protection process. Thus, the submission of residence permit application can happen in any phase of the international protection procedure. In case the applicant receives positive decision in both procedures, (s)he can choose which status to receive.

As the same organisation - the Police and Border Guard Board- processes the applications, the case-officers

³⁵ List of data and documents added to the form for the commencement of a temporary residence permit application in case of substantial public interest at the request of Prosecutor's Office, and the application form for the prosecution. Decree no 30, 14.07.2010 of the Minister of Interior, [RT I 2010, 61, 441](#), www.riigiteataja.ee

are aware of the status of both procedures and cooperate in this regard.

Q12a. Can the applicant (where relevant, with the support of his/her legal representative) decide whether or not s/he wishes to apply for the residence permit / international protection on these grounds? Yes/No

Not applicable (N/A).

Q12b. If yes, please name the title of the residence permit / protection status and the conditions under which (potential) victims of trafficking in human beings can apply for it.

N/A

Q12c Does the (potential) victim have to be formally identified by a competent authority (e.g. law enforcement) in order to apply for the residence permit / protection status? (Yes / No) – if yes, state which authorities are competent. Can the authorities responsible for processing applications for international protection formally identify in these circumstances?

N/A

Q12d. When can the application procedure be started?

N/A

Please highlight which one option, or a combination thereof, is applicable in your Member State:

- a. When a first instance decision has been made as to whether the applicant can be granted asylum;*
- b. When a first instance decision has been made both in regard of whether the applicant can be granted asylum and, if not, whether s/he can be granted subsidiary protection;*
- c. When the third-country national has received a (final) negative decision on his/her application for asylum;*
- d. When the third-country national has received a (final) negative decision on his/her applications for (other types of) international protection;*
- e. Other, please specify.*

Q12e. How is referral to the procedure for the residence permit / international protection on grounds of being a victim of trafficking in human beings organised?

N/A

Please highlight which one option, or a combination thereof, is applicable in your Member State:

- a. The victim is given information on his/her rights and possibilities, but has to initiate the procedures on his/her own (where applicable with the help of his/her legal representative).*
- b. The competent authority starts up the procedure for the other form of protection. (If yes, please elaborate)*
- c. There is a national referral/cooperation mechanism that helps him/her. (If yes, please elaborate).*

*Q12f. Can the applicant's dossier /evidence gathered to date in the procedure for international protection (e.g. personal interview) be transferred to and used in the new procedure? Yes / **No** / **in some cases (please elaborate)***

No, because the international protection procedure is confidential. However, if the applicant gives his/her

consent to transfer his/her dossier or evidence gathered to the residence permit procedure, it is allowed.

*Q13. Have systems of referral of (potential) victims of trafficking in human beings from international protection procedures to other procedures been evaluated in your Member State?*³⁶ **Yes /No**

No.

Q13a. If yes, how well are they considered to be working? Provide evidence.

Q13b. If no, please provide any other evidence of the effectiveness (or otherwise) of referral here.

1.4 Detection and identification and referral in relation to Dublin procedures

*Q14. If, in accordance with Council Regulation 343/2003, the competent authority decides that another Member State is responsible for examining the application for international protection (i.e. Dublin procedures apply) and the applicant is detected as a (potential) victim of trafficking in human beings, does this trigger Article 3(2)³⁷ and/or Article 15³⁸ of the Regulation – i.e. can the Dublin transfer be suspended? **Yes/No/other response***

Act on Granting International Protection to Aliens § 21 section 1 (1) stipulates that asylum proceedings are terminated by a decision to reject the application for asylum if another country is responsible for reviewing the application for asylum according to a treaty or Council Regulation (EC) 343/2003³⁹ establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national.

In case a person who is subject to Dublin transfers, is suspected to be a victim of trafficking in human beings, the case-officer contacts the Central Criminal Police to start a criminal investigation. Furthermore, the prosecutor's office or the police authority will notify the person of the possibilities and conditions of the issue of a temporary residence permit in case of substantial public interest.

Until the decision regarding the criminal procedure and/or temporary residence permit in case of substantial public interest is made, the Dublin transfer is suspended. If temporary residence permit is issued to the victim of trafficking in human beings, the responsibility for this person is going over to Estonia.

If yes, please answer the following questions:

Q14a If yes, how are (potential) victims subject to Dublin transfers detected? Please specify which

³⁶ For example, if a national referral mechanism or (other) coordination mechanism exists, has this been evaluated?

³⁷ Article 3(2) states that "each Member State may examine an application for asylum lodged with it by a third-country national, even if such examination is not its responsibility under the criteria laid down in this Regulation."

³⁸ Article 15(1) states that, "Any Member State, even where it is not responsible under the criteria set out in this Regulation, may bring together family members, as well as other dependent relatives, on humanitarian grounds based in particular on family or cultural considerations. In this case that Member State shall, at the request of another Member State, examine the application for asylum of the person concerned. The persons concerned must consent." Article 15(3) refers specifically to Unaccompanied Minors and states, "If the asylum seeker is an unaccompanied minor who has a relative or relatives in another Member State who can take care of him or her, Member States shall if possible unite the minor with his or her relative or relatives, unless this is not in the best interests of the minor".

³⁹ OJ L 050, 25.02.2003, pp 1-10

applies:

- a. *The competent authority⁴⁰ proactively screens all applicants subject to Dublin transfer for indications of trafficking in human beings;*

No, there is no proactive screening of all applicants subject to Dublin transfers. However, if during the interview with the applicant about his/her identity, travel route and entry into the country a suspicion of trafficking emerges, it should be investigated further.

- b. *The competent authority proactively screens applicants subject to Dublin transfer with a particular profile⁴¹ (please provide information on the type of profile);*

No, there is no proactive screening of applicants with particular profile, who are subject to Dublin transfers. However, if during the interview with the applicant about his/her identity, travel route and entry into the country a suspicion of trafficking emerges, it should be investigated further.

- c. *There is no systematic screening, but victims can self-report / other actors can draw attention to the potential victimisation (cf. section 3.4 if (optionally) completed);*

Yes. Victimisation in trafficking in human beings can be brought up by the applicant's attorney/counsel, non-governmental organisations that support the victims or for instance or by the personnel of the reception/detention centre.

- d. *Other (please specify).*

No.

Q14b. If a (potential) victim is detected, what are the next steps in terms of assessment and identification? Is there a specific level of evidence needed to suspend a Dublin II transfer?

See Q14.

Q15. If being a victim of trafficking in human beings does not trigger Article 3(2) or Article 15 in your Member State can Dublin II transfers be suspended anyway? Yes / No / in some cases. Please elaborate on your answer.

Dublin transfers will be suspended until the decision regarding criminal proceeding and/or the temporary residence permit in case of substantial public interest is made (in case the prosecutor's office or an investigative authority started the procedure for temporary residence permit under Directive 2004/81/EC).

Q16. Are third-country nationals subject to Dublin procedures informed of possibilities offered under Directive 2004/81/EC or national equivalent measures, or other residence possibilities?

Yes, if there is indications that a person is a potential victim of trafficking in human beings. This information is not provided to all persons who a subject to return.

Thus, when the prosecutor's office or an investigative authority believe that the rights of Directive 2004/81/EC apply to a third-country national, they notify the person of the possibilities and conditions of the issue of a temporary residence permit in case of substantial public interest. In addition the potential victim of

⁴⁰ Here, "competent authority" refers to the authority competent for examining the merit of the third-country national's case for international protection. In many (Member) States, this is a 'case worker'.

⁴¹ E.g. unaccompanied minors; children; women; women from particular geographical regions; women or children who, for example, when describing the route from their country to origin to the EU Member State, refer to a known route used by traffickers.

human trafficking is notified of the services offered during the reflection period.

1.5 Future measures

Q17. Are any future measures anticipated in relation to improving or facilitating the detection and identification of victims of trafficking in human beings in procedures for international protection? Yes/No

There are no concrete measures planned in relation to improving or facilitating the detection and identification of victims of trafficking in human beings in procedures for international protection.

The roundtable of trafficking in human beings will continue its meeting at least twice a year for coherent policy planning and for planning future cooperation.

The guideline for identifying victims of trafficking in human beings will be reviewed by relevant counterparts each year, so the document would be as up to date as possible.

Q17a. If yes, please briefly describe the anticipated measures here: what type of mechanisms to be covered, actors involved, etc.

Q17b. If no, are there any obstacles to the introduction of measures?

Identification and referral of victims in Forced Return Procedures

This section first examines the mechanisms that are used to detect and identify victims who have received a (final) negative decision on their application(s) in international protection, or who have abandoned the procedure, i.e. “rejected applicants”, who are subject to a forced return procedure. It then explores how (potential) victims are given access to appropriate assistance and support and specifically looks at mechanisms for coordination and referral between procedures.

*Please note that wherever reference is made to forced return in this section, it relates to the **forced return of rejected applicants for international protection** only rather than other persons subject to forced return measures (e.g. irregular migrants).*

2.1 Legislative framework

Q18. Are there established mechanisms for detecting and identifying victims of trafficking in human beings in forced return procedures⁴²? Yes/No

There is no specific standard procedure for identification of victims of trafficking in human beings. The identification is based on the offences describe in the Penal Code regarding trafficking in human beings and the indicators set in the guideline “Victim of trafficking in human being’s identification and assistance guidance”. The guideline contain the definition of human trafficking, set of indicators to identify different victims (victims of sexual exploitation, drudgery, and victims of organ removal), instructions about referral practices specifying different options, rules for ethical interviewing and a model-interview, contacts of assistance service providers and anti-trafficking actors in Estonia. This document has been distributed to Police and Border Guard’s officials responsible for forced return procedure and generally they use this

⁴² (Member) States should here **only** refer to mechanisms for detection/identification used in forced return procedures – i.e. they should not refer to those used to detect/identify in situations outside of forced return procedures.

document for initial identification. The guideline is a voluntary support material for the officials, helping them to turn attention to signs of victimization.

Q18a. If yes, please state whether one of the scenarios below or a combination thereof applies in your (Member) State:

- a. Process for detection and identification in forced return procedures is outlined in legislation (if yes, provide the reference) **No**.*
- b. Process for detection and identification in forced return procedures is outlined in soft law – e.g. a ‘protocol’ (if yes, provide the reference)*

The “Victim of trafficking in human being’s identification and assistance guidance” is considered soft law. This document is not for public use- it is only for internal use for police and border guard officials and social workers who (might) come into contact with (potential) victims of human trafficking.

- c. Process is not outlined in official documents, but there is a working system or standard practice in place, which is understood and used by the actors concerned (if yes, provide a brief description) **No**.*

*Q19. Are there different protocols and/or practices for children and adults? **Yes / No***

Q19a. If yes, please briefly describe how these differ and why.

In the “Victim of trafficking in human being’s identification and assistance guidance”, there is a separate section on specific indicators of (unaccompanied) minor victims. These are general indicators, i.e. they apply in every proceeding including in the return proceeding.

According to the main principle stipulated in the Obligation to Leave and Prohibition on Entry Act, the needs of (unaccompanied) minors and other vulnerable groups are taken into account in the forced return procedure⁴³.

*Q20. Are there different protocols and/or practices for men and women? **Yes / No***

Q20a. If yes, please briefly describe how these differ and why⁴⁴

In the document “Victim of trafficking in human being’s identification and assistance guidance”, there is no gender aspect taken into account. The gender aspect is taken into account in the forced return proceedings when examining the applicant. The Obligation to Leave and Prohibition on Entry Act stipulates that a person shall be examined by a person of the same sex⁴⁵.

2.2 Detection of victims

Q21. How are (potential) victims of trafficking in human beings detected, amongst rejected applicants, in forced return procedures?

In the procedure of forced return, potential victims of trafficking in human beings are detected mainly by interviewing the rejected applicants about their identity, travel routes, entry to the country etc. Also, the indicators set in the “Victim of trafficking in human being’s identification and assistance guidance” help the case-officer in the forced return procedure to identify a potential victim of trafficking in human beings.

Also, the rejected asylum applicant can bring up his/her victimisation him-/herself. Despite, that in the

⁴³ Obligation to Leave and Prohibition on Entry Act § 6⁷, [RT I 1998, 98, 1575](#), [www.riigiteataja.ee](#)

⁴⁴ E.g. only female officers can screen / assess women.

⁴⁵ Obligation to Leave and Prohibition on Entry Act § 19¹, [RT I 1998, 98, 1575](#), [www.riigiteataja.ee](#)

international protection procedure, it is emphasised to a person applying for international protection that (s)he should bring up all matters that affect the processing of his/her case. The same obligation applies also to the applicant's legal representative. Thus, the rejected asylum applicant might bring up his/her victimisation in the return procedure only to avoid the enforcement of the removal decision.

In case the rejected applicant is bringing up his/her victimisation after the removal decision is made, it should be investigated before the enforcement of the decision, unless it has already become clearly evident in asylum investigations carried out or otherwise that the claim cannot hold true.

Q21a. Please state whether one of the scenarios below or a combination thereof is applicable to your (Member) State. For each, state Yes / No and (if yes) give a brief description of how this works:

a. The competent authority⁴⁶ proactively screens all rejected applicants for indications of trafficking in human beings;

There is no proactive screening of all rejected applicants. However, if during the interview with the rejected applicant about his/her identity, travel route and entry into the country a suspicion of trafficking emerges, it should be investigated further.

b. The competent authority proactively screens all rejected applicants with a particular profile⁴⁷ for indications of trafficking in human beings (please provide information on the type of profile);

There is no proactive screening of rejected applicants with particular profile. However, if during the interview with the rejected applicant about his/her identity, travel route and entry into the country a suspicion of trafficking emerges, it should be investigated further.

c. Victims self-report;

Yes. Victims of trafficking in human beings can bring up victimisation in human trafficking themselves with the authorities. If any indication of trafficking in human beings emerges with regard to the rejected applicant, it should be investigated further. However, in the international protection procedure, it is emphasised to a person applying for international protection that (s)he should bring up all matters that affect the processing of his/her case. Thus, rejected asylum applicants might bring up new circumstances only to avoid return and the new claims are assessed quite critically by the return officials.

d. Another actor in contact with the victim draws attention to the potential victimisation (if so, please refer to section 3.4 if (optionally) completed);

Yes. Victimisation in trafficking in human beings can be brought up by the applicant's attorney/counsel or a non-governmental organisation. However, already in the international protection procedure, it is emphasised to the legal representative of the applicant that all information about the applicant should be brought up that affect the processing of the case.

*e. Other (please specify). **No.***

Q22. If the competent authority detects that a rejected applicant may be a victim of trafficking in human

⁴⁶ Here, "competent authority" refers to the law enforcement official or other authority competent to supervise and enforce forced return process of applicants for international protection who are subject to a return order.

⁴⁷ E.g. unaccompanied minors; children; women; women from particular geographical regions; women or children who, for example, when describing the route from their country to origin to the EU Member State, refer to a known route used by traffickers.

beings, what are the next steps in terms of assessment?

Q22a. Does the Member State apply a standard set of indicators to assess whether the person is a (potential) victim? Yes / No

b. If yes, please give further details, provided the information is not considered of a sensitive nature. How have these been developed? Are they based, for example, on international standards?

In the forced return procedure the same guideline is used as in the international protection procedure. In the document "Victim of trafficking in human being's identification and assistance guidance" different indicators are set to identify a victim of trafficking in human beings. There are outlined general set of indicators that might raise initial suspicion. Furthermore, the document has brought out indicators for specific victims, e.g. sexual exploitation, work-related exploitation, victims of organ removal. Additionally, the indicators of under-age victims and unaccompanied minors are defined separately.

Q22b. Are other mechanisms⁴⁸ used by the competent authority to assess whether a person detected as a (potential) victim should be identified as such (or referred onto formal identification procedures)? Yes/No

c. If yes, what are these?

Interviews with the applicant about his/her travel route, entry to the country etc.

*d. If no, why not?*⁴⁹

Q22c. What happens if, following the assessment, the competent authority decides that the third-country national concerned is not a (potential) victim? Can the third-country national seek an alternative assessment elsewhere?

In case the rejected asylum applicant is not identified as a potential victim in the forced return procedure, the applicant him-/herself, or his/her legal representative or representative of a NGO can submit a crime report to start criminal investigation about the claim. The victim of human trafficking is formally identified in the criminal proceedings.

The return procedure is suspended until the decision regarding the criminal procedure is made. If the person is not identified as a victim of trafficking in human beings, the return will be enforced.

Q23. Have methods for the detection and/or identification of victims in forced return procedures been evaluated in your Member State? Yes/No

No.

Q23a. If yes, how well are they considered to be working? Is there any evidence to suggest that (potential) victims are going undetected / unidentified? Provide evidence.

Q23b. If no, please provide any other evidence of the effectiveness (or otherwise) of detection / identification in forced return procedures here.

2.3 Referral

⁴⁸ E.g. interviews.

⁴⁹ E.g. legislation foresees that the slightest indication that a person may be a victim of trafficking in human beings is sufficient for automatic identification.

Q24. If a rejected applicant is identified as a (potential) victim and there is the possibility to open up a procedure as foreseen under Directive 2004/81/EC, how does this work in practice?

If reasonable suspicion about the rejected asylum applicant's victimisation arises in the forced return procedure, the case-officer contacts the investigative authority- the Central Criminal Police.

When the investigative authority or prosecutor's office believe that the rights of Directive 2004/81/EC apply to a third-country national, they notify the person of the possibilities and conditions of the issue of a temporary residence permit in case of substantial public interest. The prosecutor's office notifies the victim or witness of trafficking in human being of the services offered during the reflection period and of the suspension of the forced return procedure for the reflection period and of the conditions. At the same time the victim is referred to the victim's support system.

A reflection period of 30 to 60 calendar days is granted to the third-country national from the moment when (s)he is notified of the possibilities and conditions to receive a residence permit or international protection status. The reflection period allows the victim or witness to make a decision whether (s)he wishes to cooperate with the police and the prosecutor's office. If the person agrees to cooperate and wants a residence permit under Directive 2004/81/EC, the prosecutor's office starts the application procedure.

The residence permit application is submitted to the Police and Border Guard Board for deciding by the prosecutor's office. The decision whether to grant/extend or refuse to grant a residence permit must be made by the Police and Border Guard Board in ten days⁵⁰.

A temporary residence permit in case of substantial public interest shall be issued if the conditions of issue of temporary residence permit provided for in the Aliens Act are met, *inter alia* they cooperate with the authorities, and have broken off all the relations with the persons who are being suspected or accused of committing the respective offence. Also, they must not constitute a threat to public order or national security. A temporary residence permit in case of substantial public interest shall be issued for the term stated in the application of the prosecutor's office, but for not longer than for one year. The residence permit is renewable up to one year, if the conditions are still met.

Q24a Can the rejected applicant (where relevant, with the support of his/her legal representative) decide whether or not s/he wishes to access the provisions of Directive 2004/81/EC or national equivalent measures? Yes/No

Yes, the rejected applicant can decide whether to cooperate with the authority or not, to receive a residence permit under the provisions of Directive 2004/81/EC. In case the rejected applicant refuses to cooperate with the authorities to receive a residence permit and (s)he has no legal basis to stay, (s)he will be returned from the country.

Q24b. How is referral to the procedure as foreseen under Directive 2004/81/EC organised?

Please highlight which one option, or a combination thereof, is applicable in your Member State:

- a. The (potential) victim is given information on his/her rights and possibilities, but has to initiate alternative procedures on his/her own (where applicable with the help of his/her legal representative).*

⁵⁰ List of data and documents added to the form for the commencement of a temporary residence permit application in case of substantial public interest at the request of Prosecutor's Office, and the application form for the prosecution. Decree no 30, 14.07.2010 of the Minister of Interior, [RT I 2010, 61, 441](#)

- b. The authorities competent for implementing the forced return procedure contact the authorities responsible for issuing a reflection period or residence permit. (If yes, please elaborate)**

Yes. See Q24.

- c. There is a national referral/cooperation mechanism that helps him/her. (If yes, please elaborate).**

Q24c. Can the applicant's dossier /evidence gathered to date by the law enforcement authorities be transferred to and used in the new procedure for a reflection period or residence permit as foreseen under Directive 2004/81/EC? Yes / No / in some cases (please elaborate)

Evidence gathered in the international protection procedure is confidential and cannot be transferred to other procedures. Information about the applicant gathered in the administrative or misdemeanour proceedings can be transferred to the return proceedings if it is relevant.

Q25. Have systems of referral of (potential) victims from forced return procedures to other procedures been evaluated in your Member State?⁵¹ Yes/No

No.

Q25a. If yes, how well are they considered to be working? Provide evidence.

Q25b. If no, please provide any other evidence of the effectiveness (or otherwise) of such referral mechanisms.

2.4 Future measures

Q26. Are any future measures anticipated in relation to improving or facilitating the detection and identification of victims of trafficking in human beings in procedures for forced return? Yes/No

The same future measures in relation to identification, detection and assistance of victims of trafficking in human beings are planned as named in Q17.

Q26a. If yes, please briefly describe the anticipated measures here: what type of mechanisms to be covered, actors involved, etc.

Q26b. If no, are there any obstacles to the introduction of measures?

Detection, identification and referral of victims by other related actors

This section looks at detection, identification and referral of (potential) victims who are residing in (i) reception centres; and (ii) detention facilities awaiting forced return. It optionally looks at detection and referral by other actors.

3.1 Detection and identification of victims in reception centres / detention facilities

Q27. How are (potential) victims of trafficking in human beings detected in the following situations:

- a. Whilst residing in reception centres for applicants of international protection (where these exist in Member States)?**

There are no specific tools for detecting victims of trafficking in human beings in the reception centre.

⁵¹ For example, if a national referral mechanism or (other) coordination mechanism exists, has this been evaluated?

Currently the employees of the reception centre are not identifying victims based on any guidelines or other documents. Mainly, if a suspicion arises or the victim him-/herself or any other person notifies the reception centre about a victimisation of a person. Based on the suspicion the reception centre may submit a crime report to the Police and Border Guard Board to investigate the situation further.

- b. Whilst detained in detention facilities for irregular migrants awaiting return (where these exist in Member States)⁵²?*

The detention facility is part of the Police and Border Guard structure. Thus, all supporting documents for the identification of victims of trafficking in human beings are available to officers working in this facility. Personnel of the detention facility may detect a potential victim of trafficking by using the guideline "Victim of trafficking in human being's identification and assistance guidance". Also a victim or his/her legal representative may bring up victimisation him-/herself.

In case a suspicion arises the personnel of the detention facility will contact the Central Criminal police or a closest police prefecture to investigate the claim further. If necessary the potential victim will be referred to the victim's support system.

In case the victim brings up his/her victimisation, first (s)he will be referred to the victim's support system and the criminal police officer will be contacted.

Q27a. Please state whether one of the scenarios below or a combination thereof is applicable to your (Member) State:

- a. All residents / detainees are screened for indications of trafficking in human beings;*

No.

- b. All residents / detainees with a particular profile⁵³ for indications of trafficking in human beings;*

No.

- c. Victims self-report;*

Yes, victims themselves can bring up victimisation.

- d. Another actor in contact with the victim draws attention to the potential victimisation (if so, please refer to section 3.4 if (optionally) completed);*

Yes, other actors (NGO-s, legal representative, medical staff, etc.) may draw attention to the potential victimisation.

- e. Other (please specify).*

Q28. Is the practice described above based on established guidelines / protocol (if yes, please provide a reference / information)

General guidelines on how to identify a potential victim of human trafficking, how to interview the victim, where to refer the victims, etc. are set in the "Victim of trafficking in human being's identification and

⁵² In some (Member) States, third-country nationals awaiting return are not detained at all, whereas in some (Member) States, returnees are detained in regular prisons or in migration reception centres. These cases fall outside of the scope of this Study, and only detention facilities will be covered.

⁵³ E.g. unaccompanied minors; children; women; women from particular geographical regions; women or children who, for example, when describing the route from their country to origin to the EU Member State, refer to a known route used by traffickers.

assistance guidance”.

Q29. Are there different protocols and/or practices for children and adults? Yes / No

Q29a. If yes, please briefly describe how these differ.

In the “Victim of trafficking in human being’s identification and assistance guidance”, there is a separate section on specific indicators of (unaccompanied) minor victims. These are general indicators, i.e. they apply in every proceeding, including in the forced return proceeding.

Q30. Are there different protocols and/or practices for men and women? Yes / No

Q30a. If yes, please briefly describe how these differ⁵⁴

Q31. What are the next steps in terms of assessment and identification?

Q31a. Is there a standard set of indicators used to assess whether the suspected victim should be identified as a victim? Yes / No

Not in the reception centre.

In the detention centre the same indicators are used as in international protection or return procedure to identify a victim of trafficking in human beings. The indicators are set in the “Victim of trafficking in human being’s identification and assistance guidance”.

a. If yes, please give further details, provided the information is not considered of a sensitive nature.

Q31b. Are other mechanisms⁵⁵ used to assess whether a suspected victim should be identified as such? Yes/No

a. If yes, what are these?

b. If no, why not?⁵⁶

3.2 Referral of (potential) victims in reception centres / detention facilities

Q32. What are the next steps in terms of referral?

a. The (potential) victim is provided information on his/her rights and possibilities, but s/he has to initiate alternative procedures on his/her own (where applicable with the help of his/her legal representative).

No.

b. **The reception centre / detention facility manager or other contact point in these institutions contacts the authorities responsible for issuing a reflection period or residence permit. (If yes, please elaborate)**

Yes. If reasonable suspicion about a person’s victimisation arises, the reception centre’s/detention centre’s manager contacts the investigative authority- the Central Criminal Police or the nearest police prefecture to further investigate the claims. Also, the victim him-/herself, his/her legal representative or any other person can turn to the police and submit a crime report about the victimisation claim. The police shall decide whether to start a criminal procedure or not in 10 days.

⁵⁴ E.g. only female officers can screen / assess women.

⁵⁵ E.g. interviews.

⁵⁶ E.g. legislation foresees that the slightest indication that a person may be a victim of trafficking in human beings is sufficient for automatic identification.

When the police or prosecutor's office believe that the rights of Directive 2004/81/EC apply to a third-country national, they notify the person of the possibilities and conditions of the issue of a temporary residence permit in case of substantial public interest. The prosecutor's office notifies the victim or witness of trafficking in human being of the services offered during the reflection period and of the suspension of the forced return procedure for the reflection period and of the conditions.

A reflection period of 30 to 60 calendar days is granted to the third-country national from the moment when (s)he is notified of the possibilities and conditions to receive a residence permit or international protection status. During the reflection period the potential victim has the right to victim's support services, including to safe accommodation. If the person agrees to cooperate and wants a residence permit under Directive 2004/81/EC, the prosecutor's office starts the application procedure.

- c. *There is a centralised national referral / coordination mechanism/contact point that helps him/her. (If yes, please elaborate).*

Q33. *Have systems of detection and referral by actors in reception centres or detention facilities to procedures for victims of trafficking in human beings been evaluated in your Member State?⁵⁷ Yes / No*

No.

Q33a. *If yes, how well are they considered to be working? Provide evidence.*

Q33b. *Please provide any other evidence of the effectiveness (or otherwise) of such referral mechanisms here.*

3.3 Role of other actors (optional)

Q34. *Do other actors coming into contact with applicants and rejected applicants – e.g. legal representatives, civil society organisations, medical staff – formally detect detection (potential) victims amongst third-country nationals in international protection and/or forced return procedures and refer them onto other authorities competent to identify and assist⁵⁸? **Yes / No***

Q34a. *If yes, describe the mechanisms for detection.*

A victim of trafficking in human beings may first come to contact with a NGOs, which help the victims or any other person (e.g. his/her legal representative). Victims of trafficking in human beings are detected by other actors by using the guideline "Victim of trafficking in human being's identification and assistance guidance" or by victim's self-report.

NGO Living for Tomorrow⁵⁹, which is one organisation in Estonian providing assistance to victims of trafficking in human beings, has stated that they have quite effectively used the indicators set in the "Human trafficking victim identification and assistance guidance" to detect victims of trafficking in human beings.

Legal representatives, labour inspectors and medical staff or others usually relay on the information received from the applicant him-/herself.

An organisation offering legal advice to the asylum applicants, Human Rights Centre, had in 2012 suspicion regarding victimised applicants in 4 cases; 3 of the asylum applicants received an international protection status based on the situation in their origin country (not as victims of trafficking in human beings) and 1

⁵⁷ For example, if a national referral mechanism or (other) coordination mechanism exists, has this been evaluated?

⁵⁸ **Only** describe detection amongst third-country nationals in international protection / forced return procedures; not for detection in general.

⁵⁹ Homepage www.lft.ee

applicant left the country. In 2013, there have been 10 cases where a suspicion has emerged regarding victimisation; 6 of the applicants received a negative decision regarding their asylum application and 4 applications are still in the proceedings. The police was also notified about the potential victimisation of the rejected applicants, however Human Rights Centre has no information what was made with this piece of information.⁶⁰

Q34b. If yes, describe what happens in terms of referral.

The applicant is referred to the criminal proceedings for formal identification, after which the person is referred to the assistance system.

The victim him-/herself, representative of a NGO, victim's legal representative or other persons may submit a crime report to the police, to investigate the victimisation. The investigative body must inform the victim about the support services offered to the victims of trafficking in human beings and notify the Social Insurance Board about a potential victim.

However, when it is necessary and justified the victim or someone on his/her behalf may first turn to the Social Insurance Board to receive the support services. The support services offered, duration of the services are described in section 1.3.

⁶⁰ Replay to the EE EMN NCP inquiry, 17.12.2013

Training

Q35. What guidance and training do competent authorities (and optionally other actors) receive regarding the detection and identification of victims? Please specify the following for each type of training described:

Police and Border Guard Board officials including criminal police officials, migration surveillance inspectors and asylum officials receive training regarding the detection and identification of victims of trafficking in human beings. The trainings are organised by different state authorities (Ministry of Social Affairs, Ministry of Justice, Public Prosecutor's Office, Supreme Court) or by international organisations (e.g. Frontex). Trainings are provided to Police and Border Guard Board officials as a rule once a year.

Content of training offered to Police and Border Guard officials:

- a. Content of training, specifically:
 - i. Indicators for detecting / identifying victims - **yes**
 - ii. Profiling techniques - **yes**
 - iii. Gender-sensitive approaches for engaging with victims - **yes**
 - iv. Building trust and engaging with (potential) victim - **yes**
 - v. Others (please briefly describe)
- b. Type of stakeholder trained – **Police and Border Guard Board officials including criminal police officials, migration surveillance inspectors, and asylum officials.**
- c. Type of training / guidance (e.g. Training module, Training workshop, Examination, Guidelines, Brochure, Other (please describe)) - **Training module, Guidelines, Brochure**
- d. Authority / organisation providing the training – **Ministry of Social Affairs, Ministry of Justice, Public Prosecutor's Office, Supreme Court, several International organizations incl. FRONTEX.**
- e. Frequency of the training (e.g. annually, one-off, induction training, etc.) – **as a rule there is at least one training per year. In other cases training takes place occasionally and according to official's interest.**
- f. Whether the training is obligatory. Yes / No. – **No**

Q36a. Specifically please describe whether your Member State has organised **joint training sessions** of trainees from different backgrounds – e.g. personnel involved in procedures for international protection, forced return and those for victims of trafficking in human beings. –

Yes, joint training for personnel coming into contact with international protection, forced return and victims of trafficking in human beings has been organized. There have been no joint training for case workers actually involved both in procedures of asylum or forced return and trafficking in human beings due to the fact that case workers of trafficking in human beings have the criminal investigation authority, asylum/forced return officials don't have it.

Q36b. Specifically please describe whether your Member State has organised **multi-disciplinary training** – i.e. as provided by a range of experts. –

Yes, officials from Police and Border Guard Board, courts, Prosecutor's Office, social workers and members of non-governmental organizations have participated in joint guidance activities.

Training provided to other actors

Ministry of Social Affairs is providing training to victim support workers and to personnel of reception centre. Trainings organised by the Ministry of Social Affairs in cooperation with Ministry of Justice include aspects of indicators for detecting/identifying victims, profiling techniques, gender-sensitive approaches for engaging with victims. As in the recent years there have been important changes in the legislation, officials and other actors, who come into contact with victims of human trafficking, are train on legal changes too. The Penal Code was amended in 2012 and with the amendments trafficking in human beings was criminalized as a distinct provision. In 2013, the Victim Support Act was amended with regard the transposition of the Directive 2011/36/EU⁶¹ on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA.

Statistics

This section provides statistics that indicate the scale and scope of (potential) victims detected and identified in procedures for international protection and forced return.

Q37. Has your Member State conducted any research into the scale of victims of trafficking in human beings in international protection procedures and/or procedures for forced return? Yes / No

No. So far, there has not been any research conducted on the scale of victims of trafficking in human beings in international protection procedures and/or procedures for forced return.

In 2013 an empirical study on “Exploitation of migrant workers in Finland, Sweden, Estonia and Lithuania” was published by HEUNI⁶². The study was compiled in the framework of ADSTRINGO⁶³ project which is financially supported by the European Commission.

⁶¹ OJ L 101, 15.4.2011, p. 1–11

⁶² www.heuni.fi

⁶³ ADSTRINGO – “Addressing trafficking in human beings for labour exploitation through improved partnerships, enhanced diagnostics and intensified organisational approaches” is a transnational project that focuses on trafficking for forced labour and labour exploitation in 9 countries in the Baltic Sea region.

There is research on wider aspects of trafficking in human beings in Estonia, which are available on the web-pages of Ministry of Social Affairs (<http://www.sm.ee/tegevus/sooline-vordoiguslikkus/inimkaubandus-ja-prostitutsioon/uuringud.html>) and Ministry of Justice (<http://www.just.ee/inimkaubandus>).

A separate evaluation was done in 2011 on unaccompanied minors by the IOM Tallinn, which can be found: <http://www.just.ee/orb.aw/class=file/action=preview/id=56511/Saatjata+laste+ja+vanematest+lahutatud+va+rjupaigataotlejate+vastuv%F5tt+Eestis.pdf>

Q37a. If yes, briefly describe it here, providing the reference to the Study, its aims, and any key findings relevant to this present study.

*Q38. Please complete the table in **Annex 1** as far as possible, based on statistics available in your (Member) State.*

Unfortunately, there are no reflection period and/or residence permits issued to victims of trafficking in human beings. Furthermore, there are no (reliable) data regarding referrals made which would be suitable to the common template for this EMN study. Some data about this matter is presented in Q34.

Conclusions

Although all EU legal provisions that regulate the rights and recognition of victims of trafficking in human beings are in place in Estonia, so far in practice there have not been any cases where victims of trafficking in human beings would have been identified in the international protection or forced return procedure. Furthermore, there have been no requests for the reflection period and residence permits under the directive 2004/81/EC issued since the regulation was established in 2007. This makes the evaluation of the policy in place very difficult and makes the author unable to share good experiences and challenges in this matter.

In a wider aspect the issue of trafficking in human beings is dealt actively in Estonia. The Government of Estonia considers combating against trafficking in human beings to be an important priority. On national level trafficking in human beings are coordinated by the Ministry of Justice through the implementation of the national developmental plan of reducing violence for the years 2010-2014. By the leadership of Ministry of Justice a national roundtable of trafficking in human beings was established in 2006, involving all relevant public authorities and civil society, for discussions how to better identify, refer, protect and assist victims. In cooperation of the actors in the roundtable a guideline for the identification of the victims of trafficking in human beings has been compiled, a tool which is used by the Police and Border Guard Board's officials dealing with asylum seekers and return, in their work. Although, it is a good practise to have tools or mechanism for helping officials to identify victims of trafficking in human beings, the guideline has not been effectively used by Police and Border Guard Board official in the international protection procedure. This was partly the reason why a revised version of the guideline was adopted in the end of 2013.

In Estonia, a potential victim of trafficking in human beings may in parallel take part of different procedures. Meaning, an asylum applicant who might be a victim of trafficking in human beings, may also be subject to receive a residence permit under the directive 2004/81/EC, as well as take part of a criminal procedure. In the latter procedure a victim of trafficking in human beings is officially identified. Moreover, the referral to the criminal proceedings is a basis to receive support services foreseen for victims of trafficking in human beings.

In case, the victim receives a positive decision in both procedures (international protection status and residence permit), (s)he has the right to decide which status (s)he wants. As the different departments of Police and Border Guard Board deal with these (including return) procedures, there is collaboration between

the case-officers; that has to be positively assessed as well.

Regardless of the fact, that case-officers in international protection and return procedures have not identified any victimised persons, they regularly participate in trainings, thus improving their qualification in identifying of victims of trafficking in human beings. In such way the readiness of the staff to perform their duties in detection, prevention and combating of the cases of trafficking in human beings is ensured. The topic of trafficking in human beings is also somewhat adopted in the curriculum in Estonian Academy of Security Sciences to train future police and border guard officers. This can be considered a good practice to ensure qualified employees for the Police and Border Guard Board also in the area of trafficking in human beings.

There is a lack of training for the personnel in the reception centre. However, the Ministry of Social Affairs is planning trainings for that target audience for next year. The 2013 Trafficking in Persons Report (TIP)⁶⁴ issued by the U.S. Government recommends for Estonia to strengthen anti-trafficking training and a reference was made to a study that concluded that awareness of trafficking (especially labour trafficking) remained low among government officials.

In the 2013 TIP report it was also recommended for Estonia to increase government efforts to identify victims of trafficking proactively. Currently, asylum applicants and rejected asylum applicants are not proactively screened for signs of victimisation. Thus, the applicant has to be active to bring up victimisation him-/herself. This may be one reason why there has not been any identification of victims of trafficking in human beings, because many victims remain ignorant of their legal options or are prevented by their sense of shame or trauma from talking about their exploitation.

However, to educate vulnerable individuals and refer victims to care the government has sponsored some awareness campaigns for students and potential migrants, as well as a hotline.

⁶⁴ U.S. Government's 2013 Trafficking in Persons Report, available: <http://www.state.gov/documents/organization/210739.pdf>

ANNEX 1

Chart 1. Referral procedure in case a potential victim of trafficking in human beings is discovered in asylum or return procedure. Referral to criminal procedure and to victim’s support services.

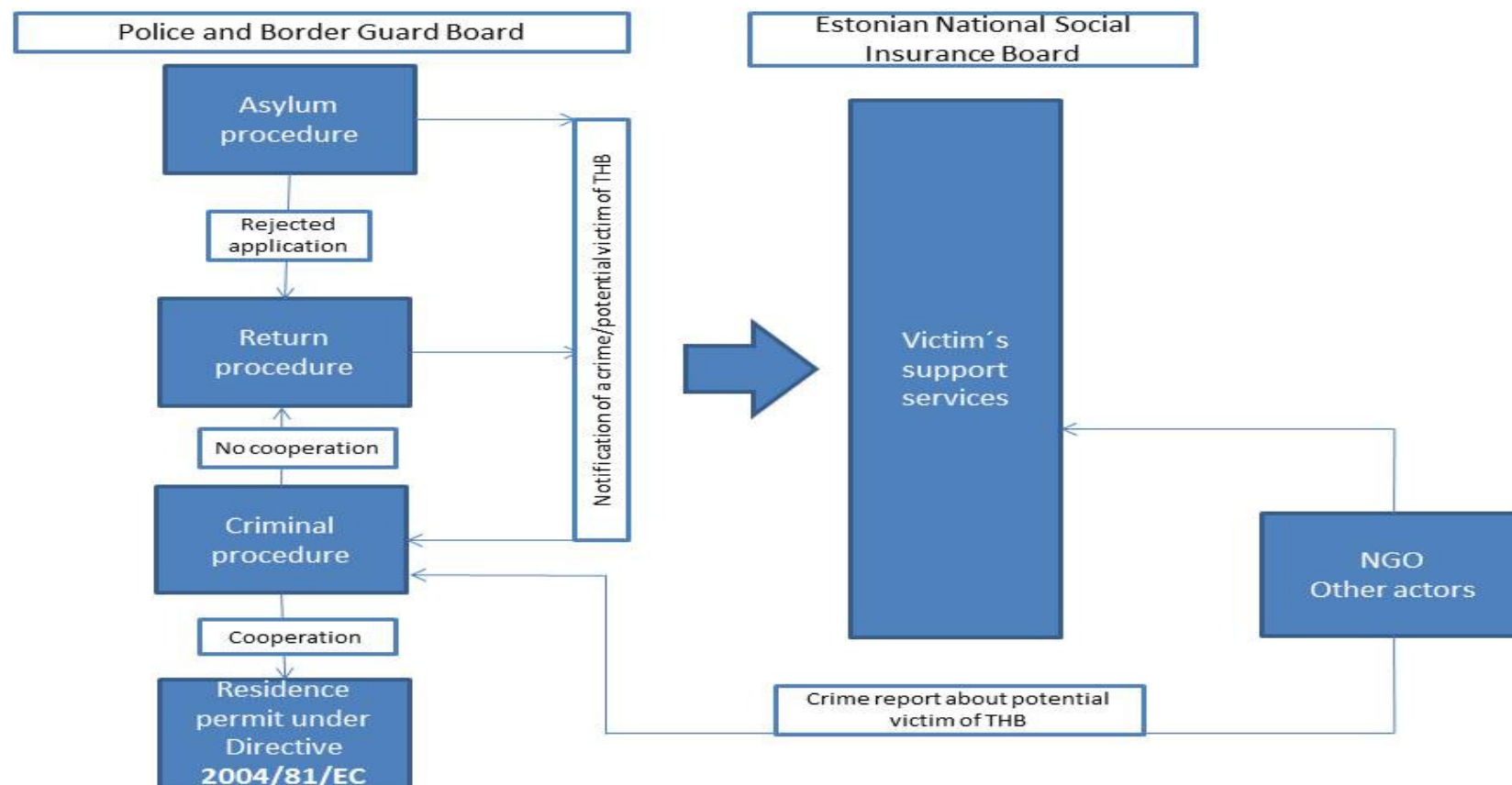


Table 1 – Statistics on third-country national victims of trafficking in human beings identified in procedures for international protection and forced return

	2008	2009	2010	2011	2012	Source / further information
<i>Third-country nationals identified as (potential) victims and who have <u>withdrawn</u> from or <u>stopped</u> procedures for international protection</i>						
Number of third-country nationals who have <u>withdrawn</u> from or <u>stopped</u> (EU harmonised) international protection procedures (or – where relevant – have stayed in international protection procedures) ⁶⁵ and who have (later) been granted a reflection period as a (potential) victim of trafficking in human beings (e.g. under procedures outlined in Directive 2004/81/EC, Directive 2011/36/EU or other national provisions). Where possible, please disaggregate for: - Gender, age, nationality of the person identified	0	0	0	0	0	
Number of third-country nationals who have <u>withdrawn</u> from or <u>stopped</u> (EU harmonised) international protection procedures and who have (later) applied for a (temporary or permanent) residence permit as a victim of <u>trafficking in human beings</u> cooperating with the authorities (i.e. under procedures outlined in Directive 2004/81/EC or alternative procedures where your (Member) State does not implement this Directive ⁶⁶). Where possible, please disaggregate for: - Gender, age, nationality of the person identified	0	0	0	0	0	
Number of third-country nationals who have <u>withdrawn</u> from or <u>stopped</u> (EU harmonised) international protection procedures and who have (later)	0	0	0	0	0	

⁶⁵ The measure provided here depends on the (Member) State's response to Q11a – i.e. whether the applicant has to withdraw from the procedure for international protection in order to be granted a reflection period and/or residence permit under Directive 2004/81/EC.

⁶⁶ Denmark, Ireland and the United Kingdom are not signatory to and therefore do not transpose Directive 2004/81/EC; however, each of these offers alternative procedures for granting residence permits.

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<p>been granted a (temporary or permanent) residence permit as a victim of trafficking in human beings (i.e. under procedures outlined in Directive 2004/81/EC or alternative procedures where your (Member) State does not implement this Directive).</p> <p>Where possible, please disaggregate for:</p> <ul style="list-style-type: none"> - Gender, age, nationality of the person identified 						
<i>Third-country nationals identified as (potential) victims and who have been rejected from procedures for international protection following a (final) negative decision</i>						
<p>Number of third-country nationals who have been <u>rejected</u> from (EU harmonised) international protection procedures <u>following a (final) negative decision</u> on their application and who have (later)⁶⁷ been granted a (non-EU harmonised) protection status or residence permit (e.g. on humanitarian grounds)⁶⁸ as a victim of trafficking in human beings (e.g. due to humanitarian reasons).</p> <p>Where possible, please disaggregate for:</p> <ul style="list-style-type: none"> - Gender, age, nationality of the person identified 	0	0	0	0	0	
<p>Number of third-country nationals who have <u>been rejected</u> from (EU harmonised) international protection procedures <u>following a negative decision</u> and who have – following official identification procedures - (later) been granted a reflection period as a (potential) victim of trafficking in human beings (e.g. under procedures outlined in Directive 2004/81/EC or Directive 2011/36/EU or other national provisions).</p> <p>Where possible, please disaggregate for:</p> <ul style="list-style-type: none"> - Gender, age, nationality of the person identified 	0	0	0	0	0	

⁶⁷ **Note:** in some (Member) States, where all third-country nationals applying for international protection are assessed against all categories of international protection simultaneously in the same process, this reference to two separate processes may not be relevant. (Member) States with single procedure are not required to provide an answer here, and can state “Not Applicable” in the box.

⁶⁸ Where possible, please specify the type of protection status / residence permit.

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

Number of third-country nationals who have <u>been</u> rejected from (EU harmonised) international protection procedures <u>following a negative decision</u> and who have – following official identification procedures - (later) been granted a residence permit as a victim of trafficking in human beings (i.e. under procedures outlined in Directive 2004/81/EC or alternative procedures where your (Member) State does not implement this Directive).	0	0	0	0	0	
Where possible, please disaggregate for: - Gender, age, nationality of the person identified						
<i>Statistics on referrals to national referral mechanisms (where existing in (Member) States)</i>						
If an national referral mechanism (NRM) exists in your (Member) State, please provide statistics on: - Number of third-country nationals referred by the authorities responsible for <u>examining and deciding upon applications</u> for international protection to the NRM - Number of third-country nationals referred by the authorities responsible for <u>enforcing forced returns</u> to the NRM - Number of third-country nationals referred by the authorities responsible for <u>managing reception centres</u> to the NRM - Number of third-country nationals referred by the authorities responsible for <u>managing detention facilities</u> to the NRM - Number of third-country nationals referred by <u>legal representatives</u> to the NRM - Number of third-country nationals referred by <u>civil society</u> to the NRM - Number of third-country nationals referred by <u>other actors</u> to the	N.A.	N.A	N.A	N.A	N.A	N.A

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

NRM						
Where possible, please disaggregate for: - Gender, age, nationality of the person identified						
General statistics ⁶⁹						
Number of third-country nationals who have been granted a (non-EU harmonised) protection status or residence permit as a victim of trafficking in human beings (e.g. due to humanitarian reasons). ⁷⁰	0	0	0	0	0	
Number of third-country nationals who have been granted a reflection period as a victim of trafficking in human beings (e.g. under procedures outlined in Directive 2004/81/EC or Directive 2011/36/EU).	0	0	0	0	0	
Number of third-country nationals who have been granted a residence permit as a victim of trafficking in human beings (i.e. under procedures outlined in Directive 2004/81/EC or alternative procedures where your (Member) State does not implement this Directive).	0	0	0	0	0	
Number of third-country nationals referred to procedures for victims of trafficking in human beings through the NRM	N.A	N.A	N.A	N.A	N.A	N.A

⁶⁹ The purpose of presenting these general statistics is to allow for the possibility to present the statistics above as a proportion of wider groups of (potential) victims of trafficking in human beings.

⁷⁰ Where possible, please specify the type of protection status.