

## EMN FOCUSSED STUDY 2013

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

Top-line “Factsheet”  
(National Contribution)  
Executive Summary  
(Synthesis Report)

#### National contribution

The Study provides an overview of the Hungarian National Contribution combating human trafficking within the context of applicable national legislation. It places particular emphasis on the rights, responsibilities and opportunities of trafficked third-country nationals. The primary points of interest are the detection and identification procedures of victims of trafficking in general and in the in asylum and immigration proceedings in particular. It examines the available support and assistance for victims during the different international protection procedures. The study discusses the application of the National Referral Mechanism in general and examines the EU regulations in practice. It considers the correct transposition as foreseen under 2004/81/EC Directive<sup>1</sup> on the residence permit of the trafficked third country nationals. Residence permit may be granted on humanitarian grounds to victims/witnesses of any crime if it is presumed that the person’s involvement in the investigative and subsequent court proceedings will contribute to its success. An important provision of the regulation is the 30-day reflection period provided for the victims of THB to decide whether they wish to cooperate in the proceedings. Additionally, the study examines if victims are given appropriate information on the conditions of cooperation, their rights and eligibilities in different cases and if they are provided appropriate care, if Hungarian authorities respect gender sensitivities and if the applicable laws and regulations provide for appropriate safeguards for sensitive treatment of men and women respecting the various different forms and methods of coercion. The study explores how children VoT-s and unaccompanied minors are given access to protection and assistance. It explores their possibilities and rights and considers the intention of family reunification as a primary objective. Furthermore, the competent authorities proactively screen for signs indicating human trafficking when the applicants seeking for international protection status..

The second section examines the detection and identification procedures in cases of victims who received a negative decision on their application. Furthermore, it explores available assistance and support for victims focusing on the National Referral Mechanism.

In the last section the study describes research and capacity building and training courses that the competent authorities received in order to develop and enhance counter trafficking actions in terms of identification and available information and assistance.

#### Synthesis Report

Trafficking in human beings, among drugs and weapons, is one of the best thriving and least risky fields of organized crime. Because of the difficulties of evidence and light sanctions, situations often lead to criminalizing vulnerable victims who end up considered not as victims

<sup>1</sup> See: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:101:0001:0011:hu:PDF> (downloaded: 22.10.2013).

but as criminals who break the law. Perpetrators frequently force victims to commit illegal acts and keep them in illegal status or make them believe they are in an illegal status; therefore, victims are under pressure, traumatized and consequently quickly lose their autonomy and decision making powers. Most of the time, at the end of the judicial procedures human trafficking is not substantiated by evidence and perpetrators, if convicted at all, receive court penalties for crimes other than human trafficking. Although, a victim of trafficking would still be considered a victim by the court even without testimony or direct legal action against the traffickers, the lack of willingness of victims to testify seriously hinders the court procedures. Victims are constantly under pressure and frightened of being abused and threatened by traffickers that lead them to withdraw their denunciation. Human traffickers generally belong to criminal organisations, this way the ones that aren't involved into criminal procedures pose a threat on the victims. The tool of 'earnest money' is used by human traffickers in case of somebody lands a perpetrator in prison.

The new Hungarian Criminal Code (Act C of 2012) entered into force on 1 July 2013 which modified Article 192 on Human Trafficking and Article 193 on Forced Labour. Government Decree 354/2012 (XII. 13.) on the Identification Order of the Victims of Human Trafficking entered into force on 1 January 2013. They were based on the Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011<sup>2</sup> on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA<sup>3</sup>. Sanctions for offenses in the penal code are somewhat stronger than they had been before the modification, and it provides more details and penalties in the crime of human trafficking. Article 192 of the new Criminal Code has added exploitation as well which had not existed previously in the Article about Human Trafficking at all. This first improvement was essential for the effective improvement of combating human trafficking in Hungary.

There are more and more victims with Hungarian origins migrating to western European countries. According to local Organizations in the field of THB, there are more than 1000 sexually exploited Hungarian women both in Amsterdam and Switzerland. Although labour exploitation in construction and other economic areas are on the rise, approximately 90% of the victims are still exploited in the sex industry. In Hungary the people most at risk of being trafficked are those who live in foster homes and in extreme poverty in various different regions of the county, specifically the north-eastern and south-western regions of Hungary. Barren living conditions and environment, low levels of education and the lack of promising future prospects easily drive youth into the role of victims. Dysfunctional family background is also very common among them. The effectiveness of fighting against human trafficking greatly depends on the improvement of the living conditions of a wide stratum of the society, who lives in abject poverty. Raising awareness providing information and proper assistance for potential victims are essential. Furthermore, Hungary has to take steps to change the attitude of the society, even including those who work with victims at competent authorities and are responsible for detecting and identifying presumed victims.

Hungary is first of all, a country of origin and transit. Authorities hardly ever detect and identify victims of third country nationals. NGOs that provide assistance for victims of human trafficking only meet Hungarian cases, third country national victims take part in asylum procedures. Therefore, even if organizations detect some foreign victims they would not be prepared to provide appropriate assistance for them. Third country nationals are all referred

<sup>2</sup> See: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:101:0001:0011:EN:PDF>.

<sup>3</sup> See: [http://www.asser.nl/upload/euowarrant-webroot/documents/cms\\_eaw\\_96\\_1\\_OJL203.2002.p1.pdf](http://www.asser.nl/upload/euowarrant-webroot/documents/cms_eaw_96_1_OJL203.2002.p1.pdf).

into reception centres or in the case of criminal issues and rejected applicants are placed into detention facilities.

In the protocol of the shelter, run by the Ministry of Human Resources (hereinafter: EMMI), stated that Hungarian and EU citizens are both provided with accommodation and assistance. Victims are eligible to be sheltered without being obligated to cooperate with authorities.

Victim support tasks of the police and the former border guards were completed in 2007 according to The Act CXXXV of 2005 on Crime Victim Support and State Compensation<sup>4</sup> (hereinafter Ást) and to Decree 17/2007 (13 March) of the Minister of Justice and Law Enforcement about providing information for victims. It is important to note that there were no victims of third-country nationals in the view of victim support services of the Office of Administration of Justice in the last couple of years.

Since Hungary is not officially recognized as a country of destination, therefore, there has been no data available in the cases of foreign victims. Despite the availability of the legal instrument, no residence permits on humanitarian grounds have been granted to third-country national victims of trafficking yet. Third-country nationals usually cross the Hungarian border illegally. They often have no documents and this drives them into procedures with the authorities. However, they still have the opportunity after they have been detected by the authorities to apply for refugee status.

Third-country nationals crossing the Hungarian border from Serbia, flee from armed conflicts or lack of economic opportunities. Furthermore, there are a great number of unaccompanied minors who are often sent by their parents or they lose their families and join small groups to leave their homeland. These groups of migrants travel with the help of smugglers towards Europe. Migrants are mainly from Serbia or Kosovo, and there are Slovakian, Czech, Romanian, Albanian, Moldavian youth, as well as a wide number of people are originated from Iraq, Iran, Afghanistan, Pakistan, Syria and Somalia and there are also some cases when the country of origin of the migrants and the asylum seekers is not recognizable. The international protection procedure is under the responsibility of Office of Immigration and Nationality (hereinafter: OIN).

Despite of the existence of trafficked third-country nationals, the vast majority of victims are Hungarian nationals. There are many Hungarian trafficked persons repatriated from abroad however, lots of Hungarians stays in the country and exploited locally. The mentioned victims often have their passports or personal documents taken away or destroyed by traffickers. Returned and local victims both must have the benefit of assistance measures and protection for they are being vulnerable. The reflection period provided is independent of the proceedings against those responsible for the trafficking. Service providers always have to work with severely traumatized victims. Their borderline personalities need a long term special care to normalize victims' mental health status. The aim of the long term assistance is reintegrating victims into the society and providing them with skills to be able to live independently.

The Mechanism ensures that the above mentioned service provider is entitled to assist the presumed trafficked persons. It involves the Office of Justice and Administration Victim Support Service<sup>5</sup>, providing its services country-wise, the National Family and Social-political Institute under the Ministry of Human Resources, the 24-hour hot line at the National Crisis Management and Information Telephone Services, furthermore, the employees of the Ministry of Foreign Affairs assisting victims abroad. There have been mainly presumed

<sup>4</sup> See: [http://net.jogtar.hu/jr/gen/hjegy\\_doc.cgi?docid=A0500135.TV](http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0500135.TV) (downloaded: 12. 08. 2013).

<sup>5</sup> See: <http://kih.gov.hu/miben-tudunk-segiteni> (downloaded: 14. 08. 2013).

victims of forced labour and some victims of sexual exploitation asking for travel support. Lately, there have been a number of repatriated victims of forced labour from Belgium assisted by the consulates.

In Hungary, the cooperation is stated in a Memorandum of Understanding, however National Referral Mechanism and other governmental agencies do not support service providers financially; therefore, assistance measures and services are often deficient and not satisfying.

### Section 1

#### Residence permits, protection statuses and national programmes available to victims of trafficking in Member States

*Q.1 Available residence permit specifically for victims of trafficking in human beings in Hungary (conditional and/or cooperational)*

According to Article 29(1)e of Act II of 2007 on the entry and stay of third country nationals, for substantial national security or law enforcement reasons – by initiative of the national security or law enforcement agency – any third-country national or other affiliated third-country nationals on his/her account, who has cooperated with the authorities in a crime investigation and has provided significant assistance to gather evidence is entitled to receive residence permit for humanitarian purposes. If this person is a victim of THB, then according to Act CXXXV of 2005, Article 9/A on Crime Victim Support and State Compensation he will be informed and provided with a 30 days long grace period to decide on cooperation.

*Q2. International protection statuses*

Hungarian legislation distinguishes four protection statuses: admitted persons, unaccompanied minors, stateless persons and victim of human trafficking. Eligibility for these forms of protection shall be determined on individual basis.

*Q3. National Referral Mechanism*

The National Referral Mechanism was established by a Memorandum of Understanding (MoU) in 2005. It involved the Ministry of Interior, the Ministry of Foreign Affairs, the International Office of Migration, Ministry of Social Affairs and Labour and the Hungarian Baptist Aid. The Mechanism was added to an NGO coordination round table on 20 December 2011. It is a consultation working group which includes several civil members.

The Hungarian Anti-Trafficking Coordinator is the European and International Deputy State Secretary of the Ministry of Interior. The Coordinator ensures the cooperation among different governmental and non-governmental organizations. It is responsible for taking steps in the fight against human trafficking on international, European and national level. The framework of government action against human trafficking was laid down for cooperating actors in Hungary by the Government Decree 1018/2008 (III.26.) on the national strategy against human trafficking for 2008-2012 which has expired on 31 December 2012. Government Decree 1351/2013 (VI. 19.) on the national strategy against human trafficking for 2013 – 2016 has been published on 19 June 2013.

### Section 2

#### Detection, identification and referral of victims in International Protection Procedures

**1.1 Legislative framework**

*Q.4 Are there any established mechanisms for detecting and identifying victims of trafficking in human beings in the procedure for international protection?*

The Government Decree No 354/2012. (13 December) (hereinafter: Government Decree) on the identification of victims of human trafficking came into force in 1 January 2013 in Hungary. This legal instrument tends to satisfy the provisions in the 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. The Government Decree defines the authorized official agencies, authorities and non-governmental organizations to detect and identify victims of human trafficking.

The official agencies are the following; health care services, state agencies in the field of health care, agencies providing personal care, educational institutions and agencies, the police, labour authorities, consulates, OIN, this regulation applies to Hungarian citizens and persons having the right to freedom of movement and residence within the EU.

*Q5. In case of children*

According to Article 17 (2) of Act XXXI of 1997 on the protection of children and guardianship administration the authority identifying minor victims is obligated to initiate official administration procedure and notify the local child protection service about the case. In case of a child at-risk, every citizen and child advocacy non-governmental organization is entitled to notify the relevant authorities and launch a legal administration procedure. Justifiable reasons to launch a legal administration procedure when identifying a child victim are; if a child is abused, neglected, his/her condition is very poor or there are other jeopardizing factors are present. There are no shelter facilities for child victims in Hungary; they are only hosted there from age 18. Children coming from third-countries and crossing the border illegally or left unaccompanied are placed in foster homes. Third-country citizen children are placed to Károlyi, István Children Centre in Fót, Hungary, or to the Szent Ágota Child Protection Service in Hódmezővásárhely, a new hosting facility for children, opened at the beginning of 2013. There is no relevant data about child victims of human trafficking.

*Q6. In case of men and women*

The identification procedure is similar to men and women. The Government Decree does not distinguish genders in identification. In practice women who are victims of sexual exploitation- which means the 90% of victims in Hungary -, or exploited in any other ways cannot be placed to shelters where there are also men. On the other hand, there are no shelter facilities available for men so far, therefore in practice, this problem has been lying with civil organizations' volunteer care. The shelters capacity which belongs to the Ministry of Human Resources (hereinafter: EMMI), and the other one, run by Hungarian Baptist Aid that was established by the support of EMMI in January 2013, are suitable to accommodate and assist 6 women each. The Hungarian Baptist Aid has more facilities to accommodate victims in protected houses but those capacities depend on applied implemented international projects.

**1.2 Detection and identification of victims**

*Q7. Victims of trafficking in human beings detected in procedures for international protection*

The identification procedure has to follow the Government Decree in effect since 1 January 2013. There is no relevant experience in practice about this new regulation. There has been cooperation among the representatives of civil and governmental sectors since 2005. There had been no official indicators issued that were in use for official and non-official

organizations. In practice, those civil organizations that provide assistance to victims, have been accommodating, protecting and assisting identified Hungarian victims, trafficked in country and/or those who are repatriated Hungarian victims. International protection procedures are conducted by the OIN. Third-country citizens have a possibility to self-report themselves as victims; also, the OIN has been practicing non-official identification procedures with presumed victims at the first interview. The office examines the travelling route of the asylum seekers which they used from their home country to Hungary. There are some regions and routes where they might meet traffickers.<sup>6</sup>

Most of the third-country nationals use Hungary as a transit stop. Smuggler nets transporting migrants to Europe and beyond. These persons trying to reach Western Europe cross the Schengen border or travel as far as the USA or Canada. There is no data available about victims of THB identified in these flows for the international protection procedure. If a victim is detected by the OIN, normally they do not change the procedure of an asylum seeker. There are no special facilities (protected houses/shelters) for third country national victims of THB.

The OIN issued data about the numbers of asylum seeker unaccompanied children in 2004. There is no data available about unaccompanied trafficked children victims of third country nationals arriving to Hungary. Hungary is also only a transit stop for alien children. They do not even know in which country they stopped when they are found by the competent authority.

*Q7b. Is there a stage the applicant for international protection can no longer be screened?*

If the application of the asylum seeker is rejected (by the asylum authority or the court) or if the applicant cancels the application during the procedure, and the asylum authority/court doesn't determine that in case of return to her/his country of origin s/he would be subjected to torture or her/his life would be endangered for other reasons, than s/he has to return to her/his home country or to a country that admits her/him.

If after rejection the person submits a new asylum application, than the Hungarian asylum authority examines (in a preliminary examination procedure) if there any facts or circumstances occurred that indicates the entitlement for international protection. In case the asylum authority considers that the new application doesn't include any new element compared to the first one, than declares it inadmissible.

*Q8 Steps in terms of assessment when the competent authority detects that an applicant may be a victim of trafficking in human beings*

The Identification Questionnaire (hereinafter: Questionnaire) in the Government Decree is used to help in the identification procedure. The Questionnaire is also a written agreement of the victim to be assisted, provided with health care or shelter placement. S/he also agrees with being officially identified as a victim of trafficking. Third-country nationals stay in international protection procedure. They receive residence permits for humanitarian purposes for the duration of the procedure and if they are victims of trafficking they have to cooperate with authorities.

Indicators for identification: according to the Questionnaire personal data is collected first, after that there are several questions to make during an interview to identify a presumed victim. It examines the victims' health condition, possibility of being a child, sign of abuse and violence, physical condition and other signs such as poor clothing. It examines the sign of restricted personal freedom, living conditions, accommodation, and number of abandoned

<sup>6</sup>Based on interview with the manager of the reception center in Békéscsaba (phone interview 27. August 2013).

children and working conditions.

If an eligible organization detects a Hungarian citizen or a person having the right to freedom of movement and residence within the EU who is a presumed victim of human trafficking, it interviews the person for identification. The official authority in many cases is the Police, the National Crisis Management and Information Telephone Services (herein after: OKIT), National Bureau of Investigation (hereinafter: NNI) and last but not least the International Organization for Migration (hereinafter: IOM). According to the National Referral Mechanism (hereinafter: Mechanism) these actors are all entitled to refer victims to shelters. When a victim is officially identified, and the victim is able to provide a written consent, the next step is to notify the local victim supporter service. The Office of Victim Support follows regulations under Act CXXXV of Supporting the Victims of Crimes and on State Mitigation of Damage 2005 (herein after: Ást) parallel to this, if the victim has no secure accommodation, under the victim written authorization, the identification organ notifies the OKIT. The service of OKIT is in contact with the management of the shelters and OKIT informs the victim about the conditions and the circumstances provided by the shelters. If a victim requests accommodation in a shelter, the OKIT calls the managers of the shelters and connect them to the identified victim to organize his/her secure transportation and adaptation.

The first sign of a presumed victim might occur at the National Crisis Management and Information Telephone Services, OKIT which is a 24-hour, toll-free hot-line service. One phone call lasts for 7 minutes assisted by specially educated social workers. There are about 50 calls per day and 20-25 of them are considered as real issues<sup>7</sup>. OKIT is also assists victims of domestic violence.

It is important to note that the Government Decree after regulating the order of accommodating a victim, it disposes of the about reintegration procedure. The expression of reintegration is essential at this point for we may see that the Regulation focuses on repatriated Hungarian citizens, which is a specific and particular remark of the country in comparison to other European countries. The mentioned civil and governmental organizations in the Mechanism, that are entitled to identify victims, almost without exceptions, they only meet Hungarian trafficked persons. They either become a victim inside the county or are taken to abroad.

*Q8c. If the third-country national concerned is not assessed as a (potential) victim can the third-country national seek an alternative assessment elsewhere?*

Unaccompanied minors arriving to Hungary are placed in the framework of child protection services. Since 2011 unaccompanied minors are accommodated in Fót Károlyi István Child Crisis Centre in case they apply for asylum and since 2013 in two new other places, in Hódmezővásárhely and Ópusztaszer in case they do not wish to apply for asylum.

*Q9. Evaluation of identification procedures*

The official identification procedure came into force 1 January 2013 according to the above mentioned decree. There is no evaluated data on its practice. There have been no official indicators for identification used by official or non-official organizations.

### **1.3 Referral**

*Q10. Available assistance*

The identification of trafficked third-country nationals is done by the OIN during the first

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<sup>7</sup> OKIT.

interview of the international protection procedure. There is no particular facility for sheltering or accommodating alien victims in Hungary. Victims are entitled to be provided with a residence permit on humanitarian purposes. Even though, they would still be placed in reception centres or detention facilities during the time of the procedure. There is no data about providing different or special assistance and protection for victims than those provided for regular asylum seekers. The state does not provide psychosocial assistance for asylum-seekers. Such support is covered by civil organizations.<sup>8</sup> They apply for financial support at different donors. Civil organizations work in detention centres and provide psychosocial assistance for third-country nationals. Professionals of The Cordelia Association work at reception centres, regularly visiting traumatized persons there. All of the employees are psychologists and psychiatrists. According to the modification of Article 89 of Act II of 2007, which was modified on 29 July 2013, civil, non-governmental organizations, local governments and churches may provide institutional assistance for trafficked third-country nationals.

Before the modification of the criminal offence on human trafficking in the Criminal Code the definition of human trafficking had not been in compliance with the definition of the Council of Europe Convention. The lack of proper definition was very sensitive in the practice of law enforcement and caused many failures in providing satisfactory evidence. The legislation did not consider exploitation as a crime, trafficking only occurred in cases as a crime when selling and buying of a human being could be proofed. Therefore, the legislation came to realization in practice only when a commercial exchange demonstrably occurred; otherwise, the legislation in practice did not consider such act as a crime in human trafficking. As previous annual reports show, there were hardly ever any criminal cases in combating human trafficking as a crime. It was apparent that the law enforcement officials had difficulties in proving the offences which refer explicitly to human trafficking and tended to opt instead to secure convictions for other offences, such as earning money illegally out of illegal immigration or smuggling. Law enforcement officials indeed found it easier and less time-consuming to get convictions on other charges. Trafficked persons were hardly ever able to get payments in damages or compensation and even if they received any, it was a very little amount.

*Q10a. Brief description about the provided assistance*

Hungarian Baptist Aid (hereinafter: HBAid) provides accommodation to trafficked persons so as the other shelter run by EMMI. The two organizations provide assistance and support in rehabilitation and in reintegration procedures for victims of THB. The shelters not only guarantee safe accommodation for victims of trafficking, but they also provide social services, job consultations, job placement support, medical, legal, psychosocial counselling, competency development, educational and vocational trainings in hand. The aim is to help victims to be able to live individually. The Hungarian Baptist Aid finances its services and assistance by non-state grants. The two organizations host, protect and assist presumed victims, who are not identified by official actors in the Mechanism. In these cases the hosting organizations do the identification procedures by themselves. Furthermore, it also happens that church organizations, child welfare institutions or family supporter services refer victims to shelters. Provided assistance does not depend on the cooperation of victims with the authorities.

*Q10b. Assistance can be provided under the following conditions*

<sup>8</sup> Interview with a legal profession of the Hungarian Helsinki Committee (8 of August 2013).



HBAid was the first protection and assistant provider in this field in 2005. Ever since the organization has accepted every presumed victim in its shelter who declared her/himself as a VoT and provided proper services. HBAid considered and treated presumed trafficked persons as victims even before the competent authorities had the slightest indication that the person a victim of THB. During the identification process the presumed trafficked person has access to assistance and support, regardless of whether s/he is able or willing to testify. HBAid provides assistance and protection for long term period even if a VoT is not willing to testify. Reintegration of victims starts after the first 6 months; victims may stay in shelters for up to 3 years to be able to start a monitored life independently. According to a Memorandum of Understanding (MoU) going back to the time when HBAid operated the official shelter HBAid is allowed to decide whether a presumed victim needs recovery and reflection period or not.

Ást is aimed at implementing the EU Council Directive 2004/80/EC 2004 relating to compensation to crime victims. Article 1 section (1) of Ast stipulates that trafficked persons are entitled to receive victim support. Victim assistance is provided by the county offices of the Office of the Justice Victim Support Service and covers monetary and legal aid and state compensation to victims of crimes when individuals suffered severe physical or mental damage as a direct consequence of a crime. In reality, compensation is rarely granted.

The Victim Support Service can secure psychological assistance for crime victims within the frame of facilitating the victims' interests. At the Budapest Victim Support Service, psychological help is available once a week on the basis of an agreement between the Office of Justice and a psychologist. There have been no trafficked persons from third-country nationals referred to them to apply for any support.<sup>9</sup>

*Q10c. What mechanisms are in place to facilitate this type of referral? Are there any agreements in place? Does it form part of a National Referral Mechanism?*

The framework of government action against human trafficking was laid down for cooperating actors in Hungary by Government Decree 1018/2008 (III.26.) on the national strategy against human trafficking for 2008-2012 which has expired on 31 December 2012. Government Decree 1351/2013 (VI. 19.) on the national strategy against human trafficking for 2013 – 2016 has been released on 19 June 2013.

Government Decree 1018/2008 appointed the Deputy State Secretary for European Union and International Relations of the Ministry of Interior for the anti-human trafficking coordinator of Hungary in order to take steps in combating human trafficking and create an anti-trafficking national action plan. The national coordinator had its first meeting in February 2009. In December, 2011, the NRM has changed its profile and invited several NGOs and civil representatives who are involved in women issues and in countering THB. The coordination mechanism has been dealing with obligated changes of legislation in THB for the EU published its 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. Hungary prepared the modification and the ratified the new law instrument in time on 6 April 2013. The new Criminal Code entered into force on 1 July 2013.

The Directive introduces minimum regulations on the level of European Union about the human trafficking and also defines crimes and sanctions. It regulates the implementation of effective prevention and the empowerment of victim protection.

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<sup>9</sup> Victim Support Service.

The new legislation in the Criminal Code about defining human trafficking satisfies the expectations of the Act CII 2006 on the Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention against Transnational Organized Crime, Act XVIII of 2012 on the Council of Europe Convention on Action against Trafficking in Human Beings CETS No.: 197 (hereinafter: CETS No.: 197) and the 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, replacing Council Framework Decision 2002/629/JHA. The Article 192 in the new Criminal Code, regulates exploitation as a new element in combating crime in human trafficking.

The CETS No.: 197 consists provisions about law instruments about prosecution, criminal law, prevention, victim protection and support. Transposing the Directive 2011/36/EU made the ratification of the **Act XVIII of 2013** possible with the Agreement, accepted on 16 May 2005. The Act XVIII of 2013 entered into force on 1 August 2013. The aim of the Agreement is the preventing and combating human trafficking, ensuring gender equality, protecting human rights of victims, further, facilitating international cooperation in fighting against human trafficking.

The members of the Mechanism are the National Police (herein after: ORFK), the NNI Human Trafficking Department, the OKIT phone line, Victim Protection Services, the IOM, the EMMI, Ministry of Interior (hereinafter: BM), Ministry of Foreign Affairs, Consular services, Hungarian Baptist Aid, and the Representative of the „official shelter”. The different actors cooperate with each other in combating human trafficking. All the official actors (ORFK, NNI, OKIT, IOM, Consulates) are eligible to refer victims to shelters. The task of the BM is to coordinate and manage the Mechanism. The EMMI is obligated to keep a shelter, the OKIT has to run a 24 hours hot-line telephone service for presumed victims and refer identified victims to shelters. If the identified victims of THB, are EU citizens, can ask for assistance at support services as well as they can receive it from their own Embassies.

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

Third-country nationals submitting asylum application can be accommodated in private accommodations, reception centres (in Bicske, Vámosszabadi and Debrecen cities) or guarded asylum detention centres (in Békéscsaba, Debrecen and Nyírbátor cities). The number of migrant refugees has been constant for many years but the migration pressure of this year influenced significantly this trend and their numbers reached more than 16000 until October 2013. In most cases victims of human trafficking are not identified. However, if a trafficked third country national is identified as a victim of THB, s/he still stays in a reception centres for the duration of procedure. Consequently, a trafficked third country national has no access to proper psychosocial assistance as a victim. NGOs that provide shelter assistance are not able to provide protected accommodation and services for foreign victims of THB for they are not reachable for the civil organizations.

The Mechanism does not mention trafficked third-country nationals. Shelters are not prepared to provide appropriate assistance or crisis intervention for aliens or taking them through an integration procedure.

*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 measures<sup>10</sup> how does this work in practice?*

There is no practical experience that cases of third country national victims were changed from procedure for international protection to another procedure, in Hungary there wasn't any victim of human trafficking identified.

During the international protection procedure, asylum seekers, or rejected applicant, might be identified as a victim of human trafficking. The following comes into practice; Article 9/A Act CXXXV of 2005 In the event the victim supporting authority establishes that the national of the third country requesting support is a victim of trafficking in human beings – besides those specified in Article 9(1) – the authority shall inform him/her on the followings a) the victim has one month time to consider whether s/he is willing to co-operate with the law enforcement authorities; b) “the victim is entitled to certificate of temporary residence for the reflection period, and to receive residence permit for the period of cooperation with the authorities”

Other instruments of law do not regulate special care of rejected applicants when identified as a victim of human trafficking. Article 29.(1)e of Act II of 2007 by initiative of the national security or law enforcement agency – to any third-country national, or other affiliated third-country nationals on his/her account, who has cooperated with the authorities in a crime investigation and has provided significant assistance to gather evidence is entitled to receive residence permit for humanitarian purposes. If a person is a victim of THB according to Ást s/he is eligible to be supported and provided assistance. Further, under Article 30 (1) lit. e) of Act II of 2007 third-country nationals being victim of THB have to be provided certificate of temporary residence.

It is to be mentioned that Article 9/A and Article 43(3), which came into force on 1<sup>st</sup> July 2007 with the aim of implementing sections 5 and 6 of Council Directive 2004/81/EC on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities. There is no data available about cases when third country national victims changed or participated in parallel in asylum and other procedures deriving from THB for identified victims.

*Q11a Does the applicant have to withdraw from the procedure for international protection in order to change to procedures?*

There is no practical experience in this issue.

If the OIN decides that the third-country national concerned is not a potential victim may apply residence permit as an asylum seeker for other reasons in Hungary. The Office measures the reasons of the applicant and in 3-6 months decide about providing a refugee status for the third-country national. During the procedure the person is issued a residence permit based on humanitarian purposes.

*Q11 b How is referral to the procedure as foreseen under Directive 2004/81/EC organised?*

Because of modification in the provisions of the Act CXXXV of 2005 on Crime Victim Support and State Compensation (Ást) Hungarian victims of trafficking in human beings can

<sup>10</sup> As mentioned, Denmark, Ireland and the United Kingdom have not opted into Directive 2004/81/EC.

receive special supports for victims of THB irrespectively of their cooperation in the criminal proceeding.

According to Article 9 Ást victims of human beings always have access to information on relevant court and administrative proceedings in a language which they can understand. Victims are told about all the procedures they can use to obtain compensation for the damage suffered. Victims only eligible to receive state compensation if they are able to prove any legal proceedings about them being a victim of a criminal. They have to be informed about the available support and services of the state, local governments, civil and church organizations, furthermore depending on the type of crime informing them how to prevent revictimisation.

In case of aliens, victims are informed by the competent authorities about how long they can remain in the country. The county offices give a wide range of information and advice to anybody on the most important legal rules relating to crime victims (for example on the rights and obligations the victim has in criminal proceedings, the forms of support available to the victim and the conditions for application therefore, any available benefits, allowances and opportunities to assert the victims' rights etc.).

Under Article 9/A, the competent authorities have to inform presumed foreign trafficked persons that they have one month to consider whether they are willing to cooperate with the law enforcement authorities, are entitled to a certificate of temporary residence for a reflection period, and to receive a residence permit for the period of cooperation with the competent authorities. Article 29(1)e of Act II of 2007 provides that any third-country national, or other affiliated third-country nationals, who cooperated with the authorities throughout the investigation and contribute to gather information and evidence is entitled to receive a residence permit for humanitarian purposes.

*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?*

There is no practical experience that cases of third country national victims were changed from procedure for international protection to another procedure.

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

According to Article 29 of Act II of 2007 third country nationals have to be granted residence permit based on humanitarian purposes. Furthermore, those migrants are entitled who are recognized as refugees or apply for protection at the competent authorities, furthermore, unaccompanied minors and abandoned children who were born in Hungary. Residence permits are dependent on national security and prosecution case to make investigation provable. A third-country national victim of forced labour, or a minor who was employed without a residence permit in Hungary, have to be provided with a residence permit on humanitarian purposes proposed by the court. This permit is valid for one year and can be extended for an additional year. In the case of forced labour, the permit is valid for the time of the investigation and till the end of the prosecution. During the procedure third-country nationals are placed in reception centres in order to be available, and to limit their movement. Therefore, lots of the aliens cancel their international protection proceedings.

The migration authority will place the migrant for the period of the procedure to private

accommodation or to reception centre except for the migrant is under a measure restricting personal liberty, penalty or measure restricting personal liberty enacted in immigration proceeding. Unaccompanied minors will be placed in child protection institution.

Trafficked third-country nationals are referred by the Police to reach international protection procedures. The official identification proceeding is conducted by the Police, aliens are not detected by other organizations. There is no other possibility available for victims other than cooperating with the competent authorities after receiving 30-day reflection period. International protections of third-country nationals are conducted by the OIN. The procedure starts immediately under the regulation of Article 9 on Ást about informing victims about consequences of investigation and prosecution procedure, furthermore, about available support, services and the assistance provided by civil or church organizations. Trafficked third-country nationals are entitled to be informed about the 30-day reflection period and the following residence permit on humanitarian purposes. During the reflection period, the person is provided with a certificate of temporary residence permit.

#### *Q13. Evaluation of the Mechanism*

The National Referral Mechanism does not refer to third-country nationals' statuses. There is no data available about evaluating the Mechanism.

#### *Q13a. How well is the mechanism considered to be working?*

The Mechanism by itself works rudimentarily. The official and civil members cooperate with each other; however it does not provide any financial support for civil organizations in the field. Therefore, NGO's apply for international grants to be able to assist victims properly. The new 4-year strategy about combating human trafficking supposes the improvement of the Mechanism to work more effectively.

### **1.4 Detection and identification and referral in relation to Dublin procedures**

#### *Q14-15 Possibilities for victims during Dublin II. procedures*

The migration authority examines during the preliminary examination procedure the conditions for application of the Council Regulation No 343/2003 of 18 February 2003 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 (hereinafter: Dublin II regulation) and Commission Regulation No 1560/2003 of 2 September 2003 (hereinafter: Dublin II. implementing regulation). Preliminary international protection procedure shall be taken within 30 days. It examines the application for asylum, whether Dublin II. procedure is competent or not, furthermore, it examines if the applicant has been in procedure already and the result of that. The applicant cannot apply for a second time as an asylum seeker. The OIN asks for personal data, explores the route of the migration by which the applicant arrived to Hungary. At this point it could be found out that the examined person arrived by smugglers and might have met traffickers on the way to Hungary, therefore, s/he might be a presumed victim. During the interview the OIN collects information about the person's family, relatives, about their location and finally the reason of leaving his/her home country. If the applicant is rejected, the office makes a risk assessment to send the rejected person to a secure country. Applicant cannot be sent to the country where s/he was rejected previously as an asylum seeker. On the other hand, a proper country must be chosen to send the rejected applicant to with family reunification as a primary objective in mind. During the 30-day procedure, the Office has to decide if it starts the asylum procedure or not. After that there is a detailed procedure of examination for the most of 60 days. If an applicant is rejected after this 60 days, s/he is entitled to appeal at court. The procedure at court lasts for maximum

60 days as well. The applicant is entitled to a residence permit based on humanitarian purposes during the mentioned procedure. This residence permit for third-country nationals is issued in three days at the beginning of the procedure. The Dublin II. procedure is not valid anymore, if an applicant spends at least 3 months outside of the EU, therefore the person is not transferred from Hungary to another country.<sup>11</sup>

*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?*

If an applicant is identified as a victim of THB, during Dublin II procedure, s/he is entitled to receive a residence permit based on humanitarian purposes. In this case the victim has to cooperate with the legal authorities during the investigation and prosecution procedure. However, applicants are entitled to a residence permit for humanitarian purposes during international protection procedure, therefore the applicant is not interested in being identified as a victim of THB. Unless, the applicant was first rejected, a new procedure may be launched considering the person as a victim. The Office provides a full set of information for third-country nationals about their rights, liabilities and possibilities. According to Article 3(4) of Dublin II an applicant has to be informed about the deadlines and legal effects of the procedure on the language which the applicant understands.

### **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?*

The Governmental Regulation about identification of victims of Human trafficking came into force on 1 January 2013. There is no data about other planned relevant modification.

## **Section 2**

### **Detection, identification and referral of victims in Forced Return Procedures**

#### **2.1 Legislative framework**

*Q18. Are there established mechanisms for detecting and identifying victims of trafficking in human beings in forced return procedures<sup>12</sup>*

Residence permits based on humanitarian grounds may be rejected or not issued for longer than one year (according to Act XCIII of 2013 Amendment of Certain Acts) in the following cases; the procedure is closed, the third-country national is not cooperating with the authorities, permission is not entitled anymore, the third-country national states untrue facts in his/her testimony, provides false data or the authority initiates the rejection of the residence permit.

Procedure of detecting and identifying victims of trafficking is regulated in the Government Decree that came into force on 1 January 2013. It indicates the authorities eligible to identify victims, the OIN; dealing with international protection is among them. Therefore, the OIN's

<sup>11</sup> Interview with manager of reception centre in Békéscsaba (phone interview, 27. August 2013).

<sup>12</sup>(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.

responsibility to identify victims according to the new legal instrument.

Since the regulation just came into force, the practice of last years has been that aliens who may be victims of trafficking have been usually expelled from the country before they would be identified. Hungary did transpose the EU directive 2004/81/EC on providing residence permits to those victims who cooperate with the authorities and the reflection period for them to make a decision on whether or not they would like to use the opportunities provided by this legal instrument, however, no third country national has yet benefitted from this. If an investigation is launched the victim/witness is obligated under the law to testify.

*Q19. In case of children*

Protocol for children is different. When an unaccompanied third-country national minor illegally crosses the border of Hungary, s/he is placed in a suitable foster home for Hungarian children. Children are only placed into reception centres together with their families. A great number of unaccompanied minors can be found at some particular regions of the country, one of the frequented areas is Csongrád county as they are travelling north from Serbia. Lots of them are detected by the authorities in this area, others reach the capital city, therefore, Budapest is the other location for detecting alien children. It is very common that children have no travel documents; consequently, several adults are placed into foster homes as well as they self-report themselves as being under the age of 18 to be placed rather in foster homes. A new age assessment examination was introduced in Hungary in 2013 for avoiding these cases.

If an alien child is placed in a foster home by the competent authority s/he is entitled to have a 72-hour crisis intervention procedure. During the 3-day procedure proper professionals have to try to find the parents or relatives of the child and organize a family reunification. If the family members cannot be found, a child protection procedure has to be initiated and the child must be referred to a temporary reception. The international protection procedure of unaccompanied minors is conducted by the OIN. Children have the right to use their mother tongue during the procedure and an interpreter has to be provided by the OIN. There has to be a case guardian provided whilst a child is interviewed. During the crisis intervention children are eligible for pocket money and health services. Third-country national children without guardians usually stay in Hungary for 2-3 days than they travel on, most of the time with smugglers to reach their desired destination country.<sup>13</sup>

There is an information leaflet available for unaccompanied children in various languages about basic information and cultural traditions at Child Protection Methodological Services. Communication difficulties are a great obstacle in taking proper mental and physical care of the children. It would be essential to provide psychosocial care, crisis intervention and health care for frequently occurred latent infections and other health problems coming from the poor conditions of the children. During the procedure, foster homes have very little information about expected actions and results about the outcome of the protection procedures, therefore, the insecurity and the lack of information make children more anxious.

The *Szent Ágota Child Protection Service* opened its home for refugee children in 2013 in Hódmezővásárhely, Csongrád, Hungary. The home is able to host 18 children. They have only received male unaccompanied minors so far. There is a big fluctuation as it mentioned above, however, there are 7 children who have been staying in the home for longer time. 99% of these young boys apply for refugee status as soon as they arrive, even if they know that

<sup>13</sup> Children protection procedure is based on the interview with Child Protection Methodological Services (personal interview, 05 August 2013).

they will not stay more than 2-3 days. The OIN provides them residence permit on humanitarian grounds for one year. Children do not have to cooperate with authorities.<sup>14</sup> There is no data about child VoT's in procedure.

*Q20. In case of men and women*

Hungary recognizes that men and women are victims of different kinds of pressure whilst being exploited and forced. Men and women are not placed together in facilities unless they belong together, although, there is no shelter home for aliens nor for men. In procedures, there is no data available that case workers would be chosen considering victims' gender sensitivity. On the other hand, in the shelters only female social workers and psychologists work with female victims.

## **2.2 Detection of victims**

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

In case of rejected applicants the OIN makes a risk assessment about circumstances of the rejected persons' security before they return to their country of origin. Since, during the first interview of the international protection procedure the OIN examines for identification of presumed victims, therefore rejected applicants are not sent into countries that could victimise them. Further, a victim is entitled to appeal in court against rejection.<sup>15</sup>

*Q22. If the competent authority detects that a rejected applicant may be a victim of trafficking in human beings, what are the next steps in terms of assessment?*

If the OIN detects that a rejected applicant may be a victim of trafficking in human beings it will use the Questionnaire included in Government Decree to identify the victim officially. The identification procedure is based on the 2011/36/EU Directive. Indicators can be found in the Identification Questionnaire of the Government Decree in an interview form. Therefore the competent authority interviews the presumed victims, further, the authority has to pay special attention of marks and signs to be able to identify if the involved person is a potential victim or not.

Under Ást. Article 9/A, the competent authorities have to inform presumed foreign trafficked persons that they have one month to consider whether they are willing to cooperate with the law enforcement authorities, are entitled to a certificate of temporary residence, to a reflection period, and to receive residence permit for the period of cooperation with the competent authorities. In Article 29(1) lit. e) of Act II of 2007 provides that any third-country national, or other affiliated third-country nationals, who cooperated with the authorities throughout the investigation and contribute to gather information and evidence is entitled to receive a residence permit for humanitarian purposes. The victim is eligible to receive regularly financial, legal and psychosocial support during her/his stay, furthermore, in needs of accommodation a victim is provided facilitations as well.

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

If the OIN decides that the third-country national concerned is not a potential victim may apply residence permit as an asylum seeker for other reasons in Hungary. The Office

<sup>14</sup> Information is based on the interview with the manager of the Szent Ágota Child Protection Service (phone interview, 21 August 2013).

<sup>15</sup> Based on the interview with the manager of Békéscsaba facility (phone interview, 27 August 2013).



measures the reasons of the applicant and in 3-6 months decide about providing an refugee status for the third-country citizen. During the procedure the person is issued a residence permit based on humanitarian purposes.

*Q23. Evaluated methods for the detection and/or identification of victims in forced return procedures*

Methods for identification of victims in forced return procedures have been not evaluated in Hungary since, the official regulation came into force 1 January 2013. Identification had been not followed any official methods during the international protection procedure.

### **2.3 Referral**

*Q24. Procedure in case of rejected applicants when identified as a victim of THB*

During the international protection procedure, asylum seekers, or rejected applicant, might be identified as a victim of human trafficking. The following comes into practice; Article 9/A Act CXXXV of 2005 In the event the victim supporting authority establishes that the national of the third country requesting support is a victim of trafficking in human beings – besides those specified in Article 9(1) – the authority shall inform him/her on the followings a) the victim has one month time to consider whether s/he is willing to co-operate with the law enforcement authorities; b) “the victim is entitled to certificate of temporary residence for the reflection period, and to receive residence permit for the period of cooperation with the authorities”

Other instruments of law do not regulate special care of rejected applicants when identified as a victim of human trafficking. Article 29. (1)e of Act II of 2007 by initiative of the national security or law enforcement agency – to any third-country national, or other affiliated third-country nationals on his/her account, who has cooperated with the authorities in a crime investigation and has provided significant assistance to gather evidence is entitled to receive residence permit for humanitarian purposes. If a person is a victim of THB according to Ást s/he is eligible to be supported and provided assistance. Further, under Article 30(1) lit. e) of Act II of 2007 third-country nationals being victim of THB have to be provided certificate of temporary residence.

Article 45(4) of Act II of 2007 provides that if during the 30-day reflection period a trafficked third-country national hurts public safety, public or national security the applicant will be rejected and referred into forced return procedures.

*Q25. Evaluation of systems of referral*

The Ministry of Interior is planning to implement a transnational referral mechanism. Therefore, it has submitted a project together with Belgium and the Netherlands. They will work on details of the methods later on.<sup>16</sup>

### **2.4 Future measures**

*Q26. Future measures in protection of forced return*

There are no data available about 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

## **Section 3**

<sup>16</sup> The information was provided by the Ministry of Interior.

Detection, identification and referral of victims by other related actors

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

#### *Q27. Detection in different situations*

In case of illegal migrants the asylum procedure is conducted by the Office. The third-country citizens primarily apply for refugee status. Third country nationals submitting asylum application can be accommodated in private accommodations, reception centres (in Bicske, Vámoszabadi and Debrecen cities) or guarded asylum detention centres (in Békéscsaba, Debrecen and Nyírbátor cities). Furthermore, if there is an ongoing criminal case of a third-country citizen who doesn't apply for asylum s/he is placed into a detention facility (in Budapest, Kiskunhalas, Győr or Nyírbátor cities). Identification of a presumed victim is conducted by the Office. The preliminary procedure lasts for 30 days, During this procedure there is a possibility to detect or identify a victim of human trafficking. The Office have further two months to decide if an asylum seeker is eligible for a residence permit or not. During this procedure the applicant is provided residence permit based on humanitarian grounds. Even though, after 3 months, a presumed victim is residing in reception centres, s/he has the right to appeal in court against the decision. The procedure in court lasts for maximum 3 months.<sup>17</sup> If a person is identified as a victim of THB s/he may apply for a residence permit for humanitarian reasons as a victim, however, s/he is obligated to cooperate with the competent authorities during the criminal procedure of being a victim of THB, 30-day reflection period and information is also provided under Article 9 of Act CXXXV of 2005. The Article 73-88 in 2007 regulates of available further support and assistance.

#### *Q27a. Applicable scenarios of identification*

As it was mentioned above the Government Decree provides directions about identification and there is Identification Questionnaire to make an interview with victims of THB. Also, the OIN is aware of some certain regions and routes used by traffickers; therefore they are able to identify victims when interviewing them at the first place.<sup>18</sup> However, the official regulation came into force a month ago; there is no information and outcomes about it in practice. Also, a person is always eligible to self-report about being a victim of THB

#### *Q28. Is the practice described above based on established guidelines / protocol*

The Mechanism defines which official and civil actors are entitled to identify victims of THB. If a presumed victim is a third-country national the OIN is competent to conduct the identification proceeding.

#### *Q29. In case of children*

If unofficial or official person or governmental and non-governmental organization detect a presumed child victim of THB is eligible, official actors are obligated, to initiate child protection procedure. Children first admitted to a child care facility for crisis intervention after that their international protection procedures start. Special assistance of child victims of THB is not solved in Hungary. They are either placed back to their families or they will be enrolled into foster homes; children under 18 are not able to receive protection and assistance in shelters. Their placement in child care facilities often drives them back to the capture of traffickers. On the other hand, family might also be insecure, therefore, a risk assessment have

<sup>17</sup> Information is based on the interviewed manager of Békéscsaba (phone interview 27. August 2013)

<sup>18</sup> Ditto as in 57.

to be made before replacing child victims to their families.

*Q30. In case of men and women*

Hungarian authorities respect gender sensitivities and the various different forms and methods of coercion and exploitations victims suffered from. Provided protection and assistance have to consider the different nature of traumas and result of being forced in terms of gender. A vast majority of women are victims of sexual exploitation and there are some victims of domestic violence and slavery. Men are mainly victims of forced labour in the area of construction or agriculture. Similarly, forced begging and exploitation of homeless in domestic servitude are also becoming more popular among men in Hungary. Shelters for victims of THB are designed to host women as they represent 90% of victims. They are 100% Hungarians. Men are placed to other facilities; there is no data available if third-country nationals have been provided special protection or assistance as victims.

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

The authority processing identification is obligated to examine the health and mental condition of the victim and explore his/her financial situation. Article 73-74 of the Gov. Decree on implementation of Act 2007 II on TCN regulate about support of the victims' health care, and financial support and being provided housing, education and trainings. Victim support is under the responsibility of the Office. Identification procedure is conducted by the Office as it was mentioned above.

*Q31b. Are other mechanisms<sup>19</sup> used to assess whether a suspected victim should be identified as such?*

The official identification is on the Government Decree. Interviews and conversations at reception centres have been on-going to make identifications easier in case of third-country nationals.

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

*Q32.* Victims are eligible to be informed according to Article 9 of Ást about their rights, eligibilities, obligations and the conditions of the prosecution procedure. Article 73-88 of the Gov. Decree 114/2007 (V.24.) on implementation of Act 2007 II on TCN regulates that trafficked third-country nationals are entitled to receive financial and mental support, also other benefits for improving victims' life conditions. There is no data that the OIN has detected potential victims of human trafficking in reception centres or in detention facilities.

*Q33.* The Mechanism is not directing about the availability of other support and assistance shall be provided for trafficked third-county nationals identified at reception centres or detention facilities. Since there is no practice about cases like that, to evaluate the Mechanism from this view is not relevant.

## Section 3 Training

*Q35.*

Government Decision No 1351/2013 (VI. 19.) on the national strategy against human trafficking for 2013 – 2016 states different kinds of guidance and training for professionals and others working on the field implementing them in the next 4 years.

<sup>19</sup> E.g. interviews.

The Ministry of Interior is planning to train 100 policemen from 2014 to 2016. The aim of the project is to develop knowledge and skills of referral and identification of victims. When implementing governmental and civil organizations will be both involved to train.

There is on-going preparation training for experts who work on the field of assisting and protecting victims. The aim of the project is to sensitise victims' need in many different ways. Article 124(1) of Act CXCIX of 2011 on Public Service Officers rules that government officials employed at organs appointed as victim support services sit for an administration exam within two years following their appointment, where they are tested on their justice-related knowledge as well. Detailed provisions on this administration examination are included in Ministry of Public Administration and Justice Decree No. 22/2010. (XII. 28.). The subjects and requirements of victim supporters' examinations are listed under Article 7 of the decree which will be completed with expectations related to human trafficking, the characteristic features of human trafficking victims and on victim protection. Protocol and legislation amendment [Ministry of Justice Decree 22/2010. (XII. 28.)] will be implemented until 31 December 2013.

The Ministry of Interior, the Police and the National Administration University have been working on building a network of professionals at the Police that provides special knowledge the participants of the training. Training of professionals on the field of trafficking in human beings is on-going until 2016. Governmental and civil organizations are both involved in the training providing e-learning material.

Case managers will be prepared and placed to every county in Hungary from 2013 to 2015. Twenty social workers will receive training to be able to provide proper forms of service, assistance and support for victims. The prepared social worker will be placed at the victims support service at every county. Civil organizations also participate to implement to project.

The 24-hour crisis telephone service of OKIT will be extended to be able to be available for victims from abroad as well. The implementation of this project will be in 2014.

There is an on-going project about sensitizing organs in the field of identification and supporting victims and authorities working on prosecution procedures. The aim of the project is to obligate employees of authorities in the field of justice and official organization that are eligible to identify victims to inform victims about available assistance, rights, and possibilities about advocacy of theirs.<sup>20</sup>

#### ***Q36a. joint training sessions and multi-disciplinary trainings***

The Ministry of Interior joins the project Capacity Building for Combating Trafficking for Labour Exploitation. In the framework of the project a „Training on Combating Trafficking for Labour Exploitation: Identifying Victims, Investigating Cases, Prosecuting Offenders” took place on 19-22 November 2012 in the Ministry of Interior. The objective of the training was to provide participants of the target and destination countries with more knowledge on the topic of trafficking in persons for labour exploitation; to discuss existing practices in the investigation and prosecution of trafficking cases and share lessons learned; to expand the network of professionals dealing with the issue at hand; to equip participants with practical tools they can use in their daily work on investigating and prosecuting trafficking cases. Target groups of training were police officers, prosecutors, inspectors, and detectives, legal experts from Belgium, Bulgaria, Croatia, Czech Republic, Denmark, Hungary, Poland, Romania, Slovakia, Slovenia, the Netherlands, and United Kingdom. Nearly 60 participants

<sup>20</sup> Information is based on the National Strategy 2013-2016.

took place in the training.

Thanks to the support and contribution of the Royal Netherlands Embassy several trainings have been organized by MONA Foundation for the women in Hungary which aim was the fight against trafficking in persons. 57 persons participated in the trainings “Inter-professional cooperation against the suppression of prostitution, trafficking and for the assistance to victims” during the period 2010-2012. The training intended to help and prepare law enforcement, social, health and child protection experts in identifying and assisting potential victims of trafficking, sexual exploitation and child prostitution.

Thanks to the support and contribution of the Embassy of Netherlands and the Embassy of Sweden a professional seminar “Combat human trafficking for sexual exploitation” was organized by MONA Foundation in 2012. 14 police officers of the Hungarian Police-Headquarters attended the seminar.

The Hungarian Police Headquarters and the representation of the Hanns Seidel Foundation (HSA) in Budapest organized a conference called “Fight against human trafficking – unprotected victims” in October 2012.

Police officers responsible for victim protection attended a professional training in 2012 which focused on the fight against trafficking in persons. The main training topics were: Victims of child prostitution in boarding schools; Building inter-professional cooperation in Hungary for the fight against trafficking in persons and prostitution; Future outlook of migrant prostitutes in Hungary and in Switzerland; Prostitution, forced prostitution, trafficking in persons; EU Strategy towards the Eradication of Trafficking in Human Beings (2012-2016); Transposition of Directive on preventing and combating trafficking in human beings and protecting its victims; Role of the church in victim protection; etc.

On the occasion of the Memorial Day to Victims of Crime the Office of Public Administration and Justice organize a 1 day event and seminar in the end of February 2012. Priority theme of the day was trafficking in human beings, victims support experts, police officers, jurists, etc. attended there.

The Ministry of Interior takes part in the project “Integrated approach for Prevention of Labour exploitation in origin and destination countries” with Romania. The project’s general objective is to decrease the dimensions of trafficking in persons for labour exploitation in origin, transit and destination countries. The project partners are: European Public Law Organization from Greece, National Commission for Combating Trafficking in Human Beings from Bulgaria, Organization for Equality, Support and anti-racism (KISA) from Cyprus, Ministry of Interior of FYROM.

In the framework of the project a regional seminar was held in March 2013 in the Ministry of Interior to improve inter institutional cooperation and increase the capacity of fighting against trafficking in human beings for labour exploitation for labour inspectors, judges, prosecutors, police officers, social workers, NGOs.<sup>21</sup>

## Section 5

<sup>21</sup> Information was provided by the Ministry of Interior.

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## Section 6 Conclusions

This study very well illustrates that Hungary is not a country of destination among the European countries which are considered as ones. Hungary has relatively few immigrants in comparison with other, Western-European countries. Extreme poverty – similarly to the third-countries – is largely present on the whole area of Hungary, especially in the Eastern, North-Eastern and South-Western territories. At these areas of the country, misery and lack of positive expectations for the future are very similar to living circumstances in the third-countries. Therefore, Hungary has a unique role in the European stage of human trafficking. It is largely a country of origin, so its task is to rehabilitate and reintegrate repatriated victims into society. Third-country nationals use Hungary mainly as a transit country – it is 90% typical in case of unaccompanied children travelling through Hungary.

In the past two years Hungary has made significant changes in the fight against human trafficking. Such as the Government Decree on identification. This area has been the most disorganised area in Hungary: the identification procedure of victims was not regulated; there was no official order of identification or generally used indicators. Identification was done by civil organizations, OKIT and the police by using their own, unofficial indicators. Since the statute about identification is new, it is early to report on the measurement of its practical use. In case of third-country nationals, there is no practice of using any particular method or protocol for the identification of victims of human trafficking. This shortcoming is clearly visible in the study. The cause of this is partly the fact that Hungary is not officially recognised as a country of destination. The other reason is that this country generates tens of thousands of victims for human trafficking. Large numbers of these victims are present within the borders and several thousand migrate to Switzerland, the Netherlands, Germany, Italy,

Spain, Great Britain, etc. Helping Hungarian victims, protecting their rights and interests and strengthening the fight against human trafficking, including changing the attitude of the society, are great challenges in Hungary for official and civil organizations equally. The solution of this problem carries with itself the circumstance that it is not a priority to facilitate a facility that would be prepared to serve as a shelter for third-country nationals. The presently operating shelters exclusively house women. These women are victims of sexual exploitation; they represent 90% of victims of human trafficking. Men becoming victims of forced labour have no officially organised protected accommodation. Most of foreign refugees and transferring migrants are men, almost every single unaccompanied child travelling through is a boy. Even if there are victims of human trafficking among them, they are not brought to the attention of organisations in the field that provide professional assistance for other victims of human trafficking in Hungary. The Office of Immigration and Nationality and the organizations fighting against human trafficking have no official contract of cooperation. The Office performs a refugee procedure in the case of victims of human trafficking and they are then transferred to refugee camps. The civil organizations providing special services for victims are not prepared for receiving aliens and would not be able to provide effective professional assistance for them. Homes for unaccompanied children are good examples of what kind of preparation it takes to effectively provide for foreign victims. The questions in the second half of the research seem repetitive because Hungarian legal instrument does not deal in such detail with trafficked third-country nationals. Transferring foreigners always refers back to Act II. of 2007, the rights and opportunities of the victims refer back to *Ást*.

The service for foreign refugees lacks state provided psychosocial help that would make crisis intervention and rehabilitation possible and would also help draw the attention of professionals to victims of human trafficking entering the procedure.

The annex of the study clearly demonstrates that in Hungary, questions about third-country nationals are not relevant at the moment. Even if some have received humanitarian right of abode in 2012, there is no data about them receiving special care or being brought to the attention of the victim protection service. The procedures start immediately; no-one had been provided the 30 day reflection period, therefore, there have been no prosecution procedures conducted in case of officially identified trafficked third-country nationals.



**ANNEX 1****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
<b><i>Third-country nationals identified as (potential) victims and who have <u>withdrawn from or stopped</u> procedures for international protection</i></b>						
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) <sup>22</sup> and who have (later) been granted a <b><u>reflection period</u></b> 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						
Number of third-country nationals who have <u>withdrawn</u> from or <u>stopped</u> (EU harmonised) international protection procedures and who have (later) <b><u>applied for</u></b> a (temporary or permanent) <b><u>residence permit</u></b> as a <u>victim of 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 <sup>23</sup> ).  Where possible, please disaggregate for: - Gender, age, nationality of the person identified						

<sup>22</sup> 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.

<sup>23</sup>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>Number of third-country nationals who have <u>withdrawn</u> from or <u>stopped</u> (EU harmonised) international protection procedures and who have (later) been <b>granted</b> a (temporary or permanent) <b>residence permit</b> as a <u>victim of trafficking in human beings</u> (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"> <li>- Gender, age, nationality of the person identified</li> </ul>						
<b><i>Third-country nationals identified as (potential) victims and who have <u>been rejected</u> from procedures for international protection <u>following a (final) negative decision</u></i></b>						
<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)<sup>24</sup> been <b>granted</b> a (<b>non-EU harmonised</b>) <b>protection status or residence permit</b> (e.g. on humanitarian grounds)<sup>25</sup> 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"> <li>- Gender, age, nationality of the person identified</li> </ul>						
<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 <b>granted</b> a <b>reflection period</b> 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>						

<sup>24</sup>**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.

<sup>25</sup> Where possible, please specify the type of protection status / residence permit.

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Where possible, please disaggregate for: - Gender, age, nationality of the person identified						
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 <b>granted a residence permit</b> as a <u>victim of trafficking in human beings</u> (i.e. under procedures outlined in Directive 2004/81/EC or alternative procedures where your (Member) State does not implement this Directive).						
Where possible, please disaggregate for: - Gender, age, nationality of the person identified						
<b><i>Statistics on referrals to national referral mechanisms (where existing in (Member) States)</i></b>						
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						

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<ul style="list-style-type: none"> <li>- Number of third-country nationals referred by <u>civil society</u> to the NRM</li> <li>- Number of third-country nationals referred by <u>other actors</u> to the NRM</li> </ul> <p>Where possible, please disaggregate for:</p> <ul style="list-style-type: none"> <li>- Gender, age, nationality of the person identified</li> </ul>						
<b>General statistics</b> <sup>26</sup>						
Number of third-country nationals who have been <b>granted</b> a (non-EU harmonised) <b>protection status or residence permits</b> a victim of trafficking in human beings (e.g. <b>due to humanitarian reasons</b> ). <sup>27</sup>						
Number of third-country nationals who have been granted a <b>reflection period</b> as a victim of trafficking in human beings (e.g. under procedures outlined in Directive 2004/81/EC or Directive 2011/36/EU).						
Number of third-country nationals who have been granted a <b>residence permit as a victim of trafficking in human beings</b> (i.e. under procedures outlined in Directive 2004/81/EC or alternative procedures where your (Member) State does not implement this Directive).					<b>22</b>	
Number of third-country nationals <b>referred</b> to procedures for victims of trafficking in human beings through the <b>NRM</b>						

<sup>26</sup> 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.

<sup>27</sup> Where possible, please specify the type of protection status.