



TRACKS

IDENTIFICATION OF
TRAFFICKED ASYLUM SEEKERS'
SPECIAL NEEDS

Identification and response to the needs of Trafficked Asylum Seekers

SUMMARY REPORT

OF THE COMPARATIVE REPORT
FOR THE REPUBLIC OF CYPRUS, FRANCE,
IRELAND, ITALY, SPAIN, THE UK
AND SWITZERLAND

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Partnership

The project TRACKS – identification of TRafficked Asylum see Kers' Special needs, is a two-year project implemented by Forum réfugiés-Cosi, the project coordinator, and its European partners British Red Cross (BRC), Churches Commission for Migrants in Europe (CCME), Spanish Commission for Refugees (CEAR), Immigrant Council of Ireland (ICI), Italian Red Cross (ItRC) and Action for Equality, Support, Antiracism (KISA), in association with the Swiss Refugee Council (OSAR) – that is also implementing the project in *Switzerland*.

UNHCR Europe office, the French Office for the Protection of Refugees and Stateless persons (OFPRA), Amicale du Nid Rhône, UK Institute for Migration Research and the Human Trafficking Foundation are associated partners to this project.

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Executive summary

The project TRACKS has been implemented in *Cyprus, France, Ireland, Italy, Spain, Switzerland* and the *UK*. It aims to analyse the asylum-trafficking in human beings (THB) nexus through the prism of special needs of trafficked asylum seekers and to equip national asylum authorities and civil society organisations to tackle cross-cutting issues (i.e. protection, housing, rehabilitation, psychosocial support as well as security). Indeed, the international protection of these asylum seekers might be challenged by their very specific vulnerability.

Asylum seekers identified as victims of trafficking need to benefit from specific social and legal support and reception conditions, as well as from a procedure adapted to their needs. Meeting such needs can best ensure that trafficking victims can benefit from international protection. Very few victims of trafficking applying for asylum are granted refugee status or subsidiary protection mainly because they have enormous difficulties to express their individual story: they are often under influence, are rarely aware of their rights and went through traumatic experiences. Their stories could be often encountered with mistrust on behalf of the authorities.

Moreover, the asylum application can be used by criminal networks and traffickers exploiting victims to make sure they could legally stay on the territory. In those cases, the victims are given invented stereotyped asylum narratives they have to tell to asylum authorities and support organisations. Therefore, issues of credibility and trust building are key to address. How shall the asylum procedure be adapted and what kind of accompaniment shall be provided to these persons to enable their protection as early as possible? Among specific issues identified are housing, social and health support, legal and procedural support as well as cross-cutting issues such as security, trust building, stability and training of stakeholders.

Overall, the project is about formalising tailored, comprehensive and complementary accompaniment and support of victims of trafficking by a range of actors (i.e. regarding social and legal support, health, security issues, etc.) throughout the asylum procedure. This aim is achieved through the creation of a tool-box for practitioners which is, together with the consolidated report “Identification and responses to the needs of trafficked asylum seekers”, the main outputs of the TRACKS project.

Main findings

Legal framework

The analysis of the legal framework applicable reveals that amongst Member States bound by the recast Procedures and Reception Conditions Directives, i.e. *Cyprus, France, Italy* and *Spain*, transposition is uneven or has not occurred yet in the case of *Spain, Ireland*, the *UK* and *Switzerland* are not bound by those Directives. Only *Cyprus, France, Ireland, Italy* and the *UK* have transposed the Anti-Trafficking Directive of April 2011 which also applies to the asylum context. The Palermo Protocol, the Convention on action against trafficking in human beings of the Council of Europe and the Convention and Protocol relating to the Status of Refugees therefore constitute a necessary legal background and framework to work on the asylum-THB nexus.

Statistics and data collection

It is very difficult to collect harmonised and comparable data on victims of trafficking in human beings in the asylum process while it is crucial in order to better assess and monitor the scale of the phenomenon and enhance the tailored support provided to these victims. Cross-cutting data on asylum and THB only exist in *Switzerland* and are centrally produced by one national authority, the State Secretariat for Migration. Hence, statistical data on asylum seekers who are potential victims of trafficking are gathered based on the assignment of a specific code. Although the system put in place by the State Secretariat for Migration alone does not provide an accurate measure of the phenomenon studied, it gives a real indication and demonstrates the legal and technical feasibility of such a data collection system. Nonetheless, the accuracy of the available data cannot be guaranteed yet and underreporting as well as misreporting is possible.

Detection of victims of trafficking in the asylum process

In most of the countries studied the assessment of whether the applicant is an applicant with special procedural or reception conditions' needs, as foreseen by the recast Procedures and Reception Conditions Directives, is rarely, or only partially conducted, which hinders the

detection of victims of trafficking in the asylum process. Amongst countries studied, *France* seems to have the most advanced legal framework for identifying applicants with special needs. However, in practice the system reveals weaknesses that prevent the systematic detection of victims of trafficking in the asylum process. Furthermore, *Ireland*, the *UK* and *Switzerland* are not bound by the above mentioned Directives.

Nevertheless, a judgement of the Swiss Federal Administrative Court of July 2016 highlighted the State's obligation to identify victims of trafficking, which arises from Article 10 of the Council of Europe Convention. Such obligation concerns every public authority that may have been in contact with victims including asylum authorities. According to the Court, the obligation to take action to detect victims of trafficking, which can be derived from Article 4 ECHR and Article 10 CoE Convention, is of particular importance within the asylum procedure, as detection is a precondition for decisions about the granting of asylum or the compliance with the non-refoulement principle.

In practice, the countries studied do not provide for effective institutional mechanisms to identify asylum seekers with special needs. It therefore seriously harms the possibility for victims of trafficking to benefit from appropriate and timely support in their asylum process, both with regard to the procedures and reception conditions.

Compatibility and coherence between National Referral Mechanisms (and similar mechanism) and asylum procedures

In *Cyprus*, *Ireland*, *Italy*, *Spain* and the *UK*, detection of potential cases of trafficking by the asylum authorities has to systematically lead to the orientation of the applicant to the authorities competent for formally identifying victims of trafficking. In practice, rather good practices have been identified in the *UK* where the Home Office and the National Referral Mechanism (NRM) Unit may refer people from one procedure to the other if considered relevant. Complementary mechanisms in place provide the possibility for the identification and asylum procedures to be conducted simultaneously without harming the right of victims of trafficking to be formally identified, and possibly recognised as such, and to apply for international protection.

In addition, not only is the compatibility of procedures fundamental but also the compatibility of rights and benefits attached to each status. In all countries studied, victims of trafficking and asylum seekers are granted with different rights and benefits. Major difficulties have been reported in *Cyprus* as well as in *Ireland* where victims of trafficking seeking asylum are systematically granted rights attached to the status of asylum seekers, which are considerably less favourable than the rights of recognised victims of trafficking. Good practices have been identified in *Italy* and in the *UK* where victims of trafficking seeking asylum have access to the rights and benefits of both statuses.

Procedural safeguards for victims of trafficking as a category of applicants with special needs

Most countries studied do not, or insufficiently, provide procedural safeguards for victims of trafficking. The three procedural safeguards most commonly foreseen by national legal framework studied and applying in theory to all vulnerable applicants are 1) the possibility for the authority competent for conducting the personal interview to prioritise the examination of the claim and thus the date of the interview because of the personal circumstances of the applicant; 2) the possibility for the applicant to ask for the asylum officer conducting the interview to be of the same sex and 3) the possibility for the applicant to be accompanied by a third party (or third parties) during the personal interview. However, in practice these safeguards might not systematically apply to victims of trafficking. Examples of good practices have been provided mainly from *France* where the determination office, the French Office for the Protection of Refugees and Stateless Persons, has increasingly taken into account applicants with special needs, in particular victims of trafficking, and is working closely with civil society organisations supporting trafficked victims seeking asylum.

Dublin Regulation

Amongst the countries studied, only the *UK* has proactive mechanisms to detect victims of trafficking within the Dublin procedure. In addition, in most countries studied, the individual interview foreseen by the Dublin Regulation is not conducted in an appropriate environment for detection or self-identification of victims of trafficking.

In all countries studied, identification and reporting of victims of trafficking under the Dublin Regulation essentially rely on legal and social support organisations and/or self-reporting of victims themselves without precluding the Dublin procedure to be carried out. Indeed, in practice, being identified as a victim of trafficking does not have, or only rarely has, an impact on the Dublin procedure. In *France, Ireland, Italy, Spain* and *Switzerland*, victims of trafficking are regularly processed under the Dublin Regulation. Cases of trafficked asylum seeking minors transferred to another Member State have been reported in *Ireland*. In practice, the countries studied generally do not apply the discretionary clause foreseen in Article 17 to victims of trafficking.

Identified special needs of victims of trafficking in relation to asylum procedures

- Need for building mutual trust
- Need for information provision and legal support
- Need for a specific and flexible approach as regards to time-scale
- Need for a more victim-centred approach within the Dublin system
- Need for specific guarantees during the interview, including a friendly environment; support from a lawyer and/or a psychologist; the possibility to express preferences for a same-sex interviewer and interpreter in certain cases; no multiple interviews etc.

Access to international protection for victims of trafficking

A victim of trafficking might be entitled to be granted refugee status or subsidiary protection when there is a real risk of persecution or serious harm in case of return to the country of origin. Hence, the access to a procedure for international protection shall be considered as one possible form of protection. In terms of level of protection, it remains unmatched and still offers the highest level of protection that an individual could be granted. To grant refugee status domestic courts have developed criteria for determining the meaning of 'social group', as well as other factors, in order to protect victims of human trafficking as members of such group. These are namely the geographical origin, the attempt to leave or successfully leave the traffickers, the insufficient protection of the authorities, the possibility of internal relocation and the fact that the group which the victim belong to is considered as a social group by the rest of the population. These criteria are interpreted in a cumulative way. Amongst countries studied, only jurisprudences from *France*, *Ireland* and the *UK* have been found and analysed. A crucial difference may be drawn from the comparative analysis of French and *UK* case-law regarding application of the social group criteria. According to the *UK* approach – defended by UNHCR, the judges may recognise the existence of a social group regardless of whether individuals belonging to that social group are persecuted due to their affiliation to that group or not. It leads to situations whereby an applicant is clearly recognised as a member of a particular social group without being granted international protection because of the absence of (risk of) persecutions. In *France*, once a social group being persecuted has been defined and the membership to that particular social group is confirmed by the Court, then the refugee status is systematically granted.

Reception conditions applied to victims of trafficking seeking asylum

None of the countries studied have a legal framework making it compulsory to adapt reception conditions for victims of trafficking within the asylum system despite the fact that in several countries, in particular *France*, *Cyprus*, *Italy* and *Spain*, reception conditions granted to vulnerable asylum applicants, who have special needs, must be adapted to meet the requirements of the recast Reception Conditions Directive.

In practice, in the countries studied, reception conditions offered to applicants who are victims of trafficking widely differ from one to another. In *Ireland*, in the *UK* and in *Switzerland*, reception conditions offered to victims of trafficking seeking asylum are not tailored to their situation as victims of trafficking but follow general rules applicable to all asylum seekers. In *Italy* and in *Spain*, victims of trafficking who seek asylum tend to be accommodated in housing designed for victims of trafficking and receive tailored care and support to meet their specific needs. In *France* and in *Cyprus*, reception support provided to victims of trafficking who seek international protection tends to vary. Although they are generally accommodated into the asylum reception system, specific projects exist that allow some of them to benefit from tailored support. The limited access to specific accommodations for victims of trafficking to which they are also eligible when they seek asylum is mainly due to a lack of sufficient capacities and resources. Their gender, age and type of exploitation suffered can also impact the support available as for instance existing shelters are mostly available for women, for adults or for victims of sexual exploitation.

Identification of special reception needs of victims of trafficking seeking asylum

Based on the research conducted, it is apparent that victims of trafficking have similar reception needs, irrespective of the type of procedure in which they are. However, one distinction cannot be overlooked: the legal support available must be tailored to the specific procedure they are in. Amongst asylum seekers on the other hand, victims of trafficking have different reception needs, which have to be highlighted.

- Need for a safe space taking into consideration security, privacy, gender, presence of a child and mother-care
- Need for tailored mental-health support
- Need for being empowered including in favouring financial sustainability, autonomy in their daily life as well as prospects for the future (education; employment)

RECOMMENDATIONS



Disclaimer

These recommendations are formulated by the project partners only and do not reflect the views of the European Commission nor the associate partners.

The below recommendations are based on the findings of the TRACKS project, for the purpose of which seven European countries have been studied, namely *Cyprus, France, Ireland, Italy, Spain, Switzerland* and the *UK*. These recommendations are addressed to the relevant authorities and institutions as well as to policy and legislation makers at national and European levels to whom the relevant legal frameworks apply. As described in Chapter 1 of the consolidated report, the common relevant legal framework applicable goes beyond the European Directives and Regulations and encompasses the Palermo Protocol, the Convention on Action against Trafficking of the Council of Europe and the Convention and Protocol relating to the status of refugees.

At EU level, the European Commission shall ensure that the relevant Directives^[1] are fully transposed and implemented in an appropriate manner to ensure that victims of trafficking who are seeking asylum are effectively identified, supported and referred to the relevant support organisations and/or mechanisms. In that perspective as well as in order to guarantee compliance with the international law and standards, the co-legislators should, when needed, revise the Community law. States shall guarantee that the special needs of asylum applicants who are victims of trafficking are individually assessed and taken into consideration as relevant throughout the asylum process, without undermining their right to be formally identified as victim of trafficking and to benefit from the rights they are entitled to as such. Formal recognition, adequate support and effective protection have to go hand in hand.

^[1] The relevant European Directives analysed for the purpose of this report are the Asylum Procedures Directive (recast), the Reception Conditions Directive (recast) and the Anti-trafficking Directive.

OVERARCHING RECOMMENDATIONS

1. Set up or improve existing data collection systems on victims of trafficking seeking international protection in order to better assess and monitor the scale of the phenomenon and enhance the tailored support provided to these victims. This should be done in line with the principle of data protection and in cooperation with the civil society.

In particular,

1.1 National authorities responsible for granting international protection should collect relevant data on asylum seekers who are victims of trafficking, with full respect for the principle of confidentiality of the asylum claim as well as witness protection and for the security and dignity of the person.

1.2 Where a national referral mechanism exists, it should include in its data collection system referrals made by and to the asylum authorities

▲ At EU level, a specific cross-sector multi-stakeholder working group should be set up by the European Commission, including amongst others EASO, Eurostat, UNHCR and Member States' representatives, to discuss the relevant methodologies and approaches that could be developed to collect such data in a coherent, consistent and protective way.

▲ At national level, a similar cross-sectoral working group should be set up bringing together the relevant institutions and organisations, including national authorities and offices responsible for the asylum procedures and receptions conditions, the national rapporteur on trafficking, the national authorities responsible for the identification of victims of trafficking, service providers to asylum seekers and civil society organisations providing support to asylum seekers and/or victims of trafficking.

▲ Where possible at national levels, data should be extrapolated based on available outcomes within the asylum system for trafficked people.

2. Provide systematic and regular training as well as capacity-building and support activities to all relevant practitioners in the asylum system in order to improve the identification of victims of trafficking seeking international protection as well as the identification of their special needs

In particular,

2.1 Sufficient funding and resources, including staff resources, should be made available by the EU and Member States to ensure that regular, quality and targeted training is offered to asylum practitioners, including asylum officers responsible for the determination of international protection status and interpreters as well as case-workers working for service providers in the asylum system.

2.2 Likewise, qualitative training on international protection needs should be provided to persons involved in the identification of victims of trafficking.

2.3 States should facilitate information sharing and capacity-building between relevant practitioners at national and local level on the issue of victims of trafficking in the asylum process and how their specific needs are identified and can be taken into account throughout the asylum system.

▲ The EASO training curriculum on trafficking and international protection can be a very useful and relevant tool to support Member States on the above.

▲ National Action Plans on the fight against trafficking in human beings should better reflect the asylum-THB nexus and the particular issues pertaining to the support and protection of victims of trafficking seeking international protection in order to favour the comprehensive and sustainable implementation of actions such as training and capacity building.

▲ The tool-box created and completed within the context of the TRACKS project should be considered as a relevant support tool for strengthening capacities of practitioners.

3. Ensure sustainable, transparent and regular cooperation between relevant stakeholders, including amongst others, state representatives at national and local levels, asylum authorities, asylum service providers and organisations providing support to victims of trafficking and/or asylum seekers to improve the support that should be provided to victims of trafficking in the asylum system and meet their special needs.

In particular,

3.1 Clear cooperation and coordination mechanisms between the above mentioned practitioners should be defined or, when they exist, should be strengthened at national and local levels.

3.2 Clear rules governing information sharing between practitioners should be defined or, when they exist, should be reminded to all practitioners, with full respect for the principle of confidentiality of the asylum claim and for the security and dignity of the asylum seeker.

▲ Promote the existing efforts and the successful attempts of cooperation led by the EASO office in this regard with a view to bringing the multinational best practices to national level.

▲ National legislation on asylum and trafficking in human beings should clearly specify a duty on the officers involved to inform asylum and anti-trafficking authorities respectively when it transpires in either of the two procedures that an asylum seeker is victim of trafficking and vice versa.

▲ National Action Plans on the fight against trafficking in human beings should specifically provide for the situation of victims of trafficking with international protection needs and include governments and civil society. National governments should lead and provide the environment for these forums to exist and set-up coordination mechanism at national and local levels

▲ When deemed necessary, formal channels for communication and information sharing should be set up at national levels for all relevant stakeholders to coordinate their actions. To facilitate such process, specific interlocutors/referral persons should be designated within all relevant organisations – be they civil society organisations or institutions.

DETECTION OF VICTIMS OF TRAFFICKING WITHIN THE ASYLUM SYSTEM

4. Fully comply with state parties' obligations derived from Article 4 ECHR and Article 10 of the CoE Convention to take action to detect victims of trafficking in the asylum process, in order to be able to offer them the appropriate support and protection they should be entitled to.

In particular,

- 4.1** Set up, or in case they already exist, strengthen clear and effective mechanisms to detect vulnerabilities, including trafficking in human beings, at each stage of the asylum process, including reception conditions, and ensure there are trained professionals to carry out this obligation.
- 4.2** Clearly define the roles and responsibilities of each actor with regard to the detection of vulnerabilities, including trafficking in human beings, as well as what they should do or refrain from doing when they detect a victim of trafficking.

- ▲ On the basis of the information received from Member States on the transposition of Article 24 of the recast Asylum Procedures directive and of Articles 2.k) and 22 of the recast Reception Conditions directive, the European Commission, in consultation with EASO, UNHCR and relevant civil society organisations, should address detailed guidelines to Member States for them to improve detection of victims of trafficking, as applicants with special needs, in the asylum process, both with regards to their special procedural and reception needs.
- ▲ The findings gathered in the TRACKS consolidated report should be considered as relevant material to draft such guidelines.

5. Fully guarantee the right to be formally identified as a victim of trafficking without prejudice to the right to seek and be granted international protection in accordance with Article 14(5) of the CoE Convention.

In particular,

5.1 Reconcile the different legal and policy frameworks that apply respectively to asylum seekers and victims of trafficking to ensure compatibility of procedures and rights attached to each of them, in particular as regards protection, housing, health care, employment and access to social welfare.

5.2 Member States that have not yet set up a National Referral Mechanism (NRM) should do so as soon as possible and include the nexus between trafficking and asylum.

5.3 The most favourable and appropriate rights and benefits shall be granted to meet the needs of victims of trafficking seeking international protection, irrespective of their status as asylum seekers, where this is the case.

5.4 Improve the coordination between the NRM (and similar mechanisms) and asylum procedures, in particular concerning the interviews, with full respect to the principle of confidentiality of the asylum claim and to the security and dignity of the person. Multiple interviews where the individual is expected to recall the case might lead to re-traumatisation and re-victimisation and shall therefore be avoided as much as possible when it does not breach the principle of confidentiality.

▲ The above mentioned issues could be discussed in the context of the EASO working group on vulnerable applicants, for example on the occasion of EASO international conference on international protection and trafficking in human beings. In parallel, the EU Anti-trafficking Coordinator Office could focus on this topic and organise a joint meeting with civil society organisations' representatives from the EU Civil Society Platform against THB and national rapporteurs on trafficking.

▲ These discussions should lead to detailed action plans on how to practically reconcile the different legal frameworks applicable respectively to asylum seekers and victims of trafficking and ensure that the most favourable and appropriate rights and benefits can be granted to meet each individual needs.

IDENTIFICATION OF SPECIAL NEEDS OF VICTIMS OF TRAFFICKING SEEKING ASYLUM

6. Systematically assess the special needs of asylum applicants who are identified or are potential victims of trafficking.

In particular,

6.1 The Recast Asylum Procedures Directive foresees that special procedural guarantees shall apply to asylum seekers who are identified as vulnerable applicants. While acknowledging the above, it is necessary that special procedural needs of those applicants who are victims of trafficking are assessed on an individual basis, taking into account the specific circumstances and views of each victim.

6.2 The Recast Reception Conditions Directive, in combination with the Palermo Protocol and the Anti-Trafficking Directive, foresees that special reception conditions shall be granted to asylum seekers who are victims of trafficking. While acknowledging the above, it is necessary that the special reception needs of the applicants are assessed and evaluated on an individual basis, taking into account the specific circumstances and willingness of each victim.

6.3 Considering that many victims of trafficking remain unidentified throughout the asylum process, as soon as there is reason to believe that an asylum applicant might be a victim of trafficking, his or her special needs should be assessed accordingly.

6.4 Maintain attention to the special needs of victims of trafficking in the asylum process, as defined by the Anti-trafficking directive as deriving from pregnancy, health, seriousness of the violence suffered by them and accordingly attend to such needs.

▲ Specific mechanisms should be set up to guarantee an individual assessment of the best protection solution as well as the appropriate reception conditions. Such assessment would include a multidisciplinary analysis of different options, carried out jointly by the victim, asylum and other migration authorities, law enforcement, legal assistance and victim support services, as well as other actors where appropriate (for example guardians in cases of minors). It should lead to the identification and proposal of the relevant procedural and reception solutions that shall be granted throughout the asylum process as well as where relevant throughout the NRM.

TAKING INTO CONSIDERATION IDENTIFIED SPECIAL NEEDS IN THE ASYLUM SYSTEM

7. Grant victims of trafficking who are seeking asylum the rights they are entitled to as victims of trafficking as soon as there are reasons to believe that they are victims of trafficking, irrespective of whether they have been formally and/or conclusively identified as such in the respective Member State, and irrespective of the fact that they are asylum seekers.

In particular,

7.1 Ensure availability and effective access to specialised legal advice, protection, social support, and medical and mental care as well as adequate housing.

7.2 Allow for a recovery and reflection period that should be offered and granted, at the minimum in the meaning of the CoE Convention (safe and adequate accommodation, access to specialised support and information on the person's rights and options, including the right to seek international protection). In addition to enabling the victim to make an informed decision about whether or not to cooperate with law enforcement agencies, the recovery and reflection period must create the conditions which allow victims of trafficking to effectively avail themselves of the asylum procedure or make an informed decision not to do so.

▲ The Commission should take the necessary steps to ensure that EU legislative instruments on asylum and trafficking are aligned so as to allow for and clearly provide the rights of victims of trafficking when they are seeking asylum or when an asylum seeker is identified in the asylum process as a victim of trafficking, with a view to provide for the most extensive rights.

▲ The relevant Commission Directorates on asylum and trafficking should cooperate and mainstream in each other's work the issues of asylum and trafficking respectively.

▲ Member States are to ensure the availability of services, and that these services are activated as soon as reasonable, and not only when people enter the NRM. Clear referral pathways are to be agreed and implemented with referring agencies properly resourced to meet the needs of the people they support.

▲ Victims of trafficking who are seeking asylum shall have access to these services. For this to be effective they need to be informed or to know where they can find reliable information. The creation of one stop shops or the setting up of a hotline informing on trafficking in general and on the nexus with international protection in particular, might be relevant in many cases.

8. Effectively apply the necessary procedural safeguards to victims of trafficking who are seeking asylum, including, but not limited to, the safeguards foreseen in the Recast Asylum Procedures Directive that should apply to asylum applicants identified as applicants with special needs.

In particular,

- 8.1** Assess the relevance to prioritise the examination of the asylum claim made by victims of trafficking. Alternatively, assess the relevance to postpone the summons to the asylum interviews, when necessary and based on an individual needs' assessment.
- 8.2** Ensure that asylum claims of victims of trafficking are not processed under accelerated or border procedures.
- 8.3** Ensure that victims of trafficking are provided with adequate legal support and information prior to the asylum interviews and are actively involved in the whole process.
- 8.4** Ensure that, if they want to, victims of trafficking can be accompanied during their asylum interviews by approved third parties including, when relevant, by a lawyer, psychologist, cultural mediator or any other relevant support professional or authorised person of trust.
- 8.5** Ensure that victims of trafficking can be interviewed by a same-gender person if they want to. Similar gender-sensitivity provisions shall apply for the provision of interpretation services, at all stages of the process including possible appeal.
- 8.6** Apply after an individual examination of the case the criteria and the discretionary clause to victims of trafficking under the Dublin Regulation to avoid transfer to a Member State where they had been or may be exploited or where no sustainable victim protection is available.
- 8.7** Adopt a child-friendly approach and systematically consider the best interest of the child in situation where the applicant is a minor victim of trafficking (self declared or presumed).

▲ The ongoing revision of the Recast Asylum Procedures Directive is an opportunity to go further and provide appropriate procedural safeguards to victims of trafficking seeking international protection.

▲ If the revision of the Recast Asylum Procedures Directive leads to the adoption of a Regulation, instead of a Directive, more detailed guidelines should be provided to Member States on how to meet special procedural needs of each 'category' of vulnerable applicants, including victims of trafficking. Contrary to unaccompanied minors and victims of torture there is no detail on the procedural guarantees that should be applied to victims of trafficking in the existing Directives.

▲ These guidelines could be produced by EASO, thanks to their growing expertise on vulnerable applicants, in consultation with civil society organisations providing direct support to victims of trafficking in the asylum procedure. National determination offices should also be consulted to share their perspective on this issue and share the reality of their missions and tasks. The findings gathered in the TRACKS consolidated report should be considered as relevant material to draft such guidelines.

▲ For the Member States that are not bound by the Recast Asylum Procedures Directive, they should acknowledge that while not being bound by this directive, the Directive aims to encapsulate minimum standards that are recognised as good practice and are therefore in the interest of trafficked people. Member States could use the asylum forum as recommended in section 3 above, and seek the support and guidance from civil society about best practices in supporting trafficked asylum seekers through their asylum system. *Ireland* should opt in to the Directive or adopt the Regulation, if such is the outcome of the revision

9. Effectively provide appropriate reception conditions meeting special needs of victims of trafficking who are seeking asylum as foreseen by the Recast Reception Conditions Directive in combination with the Palermo Protocol, the CoE Convention and the Anti-Trafficking Directive. that they are asylum seekers.

In particular,

9.1 Guarantee the provision of safe accommodation. The level of safety of such accommodation is to be determined with the victim depending on her/his needs.

9.2 Guarantee the provision of appropriate health support, in particular mental health care as early as possible and throughout the asylum process.

9.3 Guarantee, as far as possible, the provision of appropriate accommodation where victims of trafficking can have privacy and a certain level of autonomy.

9.4 Take due consideration of the obligation for a provision of gender-sensitive assistance to victims of trafficking in the asylum process. For instance, depending on the needs of the victims, the possibility should be offered to the victim not to be accommodated in facilities where men and women are accommodated together.

9.5 Provide victims of trafficking seeking asylum with the opportunity to engage into empowering activities including, when legally possible, employment, vocational training and education.

9.6 Provide long-term subsistence, including access to the appropriate therapy and provision of financial assistance. Such support is to be adaptable to the person, as not everyone needs the same level and form of support.

▲ Individualised assessments should be guaranteed for each person to determine how long they require support for, and the availability of that support should be provided for an extended period if required.

▲ In countries where victims of trafficking seeking international protection are being accommodated within the general asylum reception system, the authorities responsible for providing material reception conditions shall take into account identified and reported needs as well as a gender-perspective. In order to meet the special reception needs of victims of trafficking who are seeking asylum, the system shall be adaptable and cooperation with support organisations should be emphasized.

▲ Sufficient means and resources shall be made available to provide for secured shelters for victims of trafficking, including when they are seeking asylum. A sufficient level of health, psycho-social and legal support shall also be made available.

INTERNATIONAL PROTECTION FOR VICTIMS OF TRAFFICKING

10. Fully respect the right of victims of trafficking to be granted international protection in cases where there is a nexus to one of the Geneva Convention grounds, in particular the membership to a particular social group.

In particular,

10.1 Member States shall acknowledge that trafficking by itself may be a ground for asylum on its own, and therefore they are to develop processes for authorities to grant asylum on this ground.

10.2 Evidence such as formal complaint to the police, cooperation with the authorities and involvement in a criminal procedure cannot be made mandatory or represent a pre-requisite to international protection.

▲ An EU round-table, followed if relevant by a training programme, involving UNHCR and EASO, should be organised to gather representatives from Member States, in particular representatives from asylum determination authorities and competent courts, in order to discuss the application of the Geneva Convention to victims of trafficking, raise issues and share practices to better protect victims of trafficking. If relevant, law enforcement authorities may be associated as well. It could build upon activities of networking already undertaken by EASO.

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