



EUROPEAN MIGRATION NETWORK

Third Focused Study 2013

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

*The Third Focussed Study 2013 is co-funded by the EU and the Greek Ministry of Interior
in the context of the European Migration Network*



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

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We would like to thank for their cooperation the Group for the Receipt and Evaluation of the Study at the National Contact Point of the European Migration Network:

- a) Vitsentzatos Athanasios
- b) Apostolopoulou Spyridoula
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We would also like to thank for their cooperation and contribution towards this study the Ministry of Interior, the Asylum Service, the Department of Combating Human Trafficking/Sub-Division of Combating Organised Crime/Division of Security of Attica of the Hellenic Police, the First Reception Service, the EU Department of the Ministry of Justice, Transparency and Human Rights and the National Coordination Mechanism to Monitor and Combat Trafficking in Human Beings/ Office of the Secretary General of the Ministry of Foreign Affairs.

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

The European Migration Network (EMN) was established in 2003, originally as a preparatory action of the European Commission, with the aim to provide the European Commission and the Member States with objective, reliable, comparable and up-to-date data on migration and asylum, so as to underpin European Union policy-making and consequently national policies of the Member States in these areas. In turn, the Council of the EU, in 2008, with the Council Decision 381/2008/EC founded the EMN, as a permanent structure, operating within the European Commission, with the participation of Member States in order to achieve these goals.

More information on the EMN and its work can be found at:

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This study was undertaken with the financial support of the European Union and the Ministry of Interior within the scope the European Migration Network. The research contents are the sole responsibility of the authors. Under no circumstances the European Union and the Ministry of Interior can be held liable for any use of the information herein contained made by third parties.

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

Table of Contents

Acronyms

Top-line “Factsheet” (National Contribution)

Executive Summary (Synthesis Report)

Section 1: Residence permits, protection statuses and national programmes available to victims of trafficking in Member States

Section 1: Detection, identification and referral of victims in International Protection Procedures

Section 2: Detection, identification and referral of victims in Forced Return Procedures

Section 3: Detection, identification and referral of victims by other related actors

Section 4: Training

Section 5: Statistics

Section 6: Conclusions

Sources / Bibliography / Interviews

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

Acronyms

EASO	European Asylum Support Office
O. N. R.	Office of National Rapporteur
EKKA	National Centre for Social Solidarity
NSRF	National Strategic Reference Framework
EU	European Union
GG	Governmental Gazette
IOM	International Organisation for Migration
MFA	Ministry of Foreign Affairs
NGO	Non-governmental organization
NRM	National Referral Mechanism
OSCE	Organisation for Security and Co-Operation in Europe
PD	Presidential Decree
THB	Trafficking in Human Beings
UNHCR	United Nations High Commission for Refugees
UN	United Nations
UN GIFT	United Nations Global Initiative for Fighting Human Trafficking
UNODC	United Nations Office on Drugs and crime

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

EMN FOCUSED 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

Greece, due to its geographical position, is a destination and transit country for victims of human trafficking. The last few years have seen a renewed momentum in dealing with the phenomenon of human trafficking and significant improvements were introduced in the legislative framework, especially in the areas of dismantling trafficking networks, apprehending the perpetrators and providing protection and assistance to the victims. While this study was pending, Law 4198/2013, entitled "Preventing and combating trafficking in human beings and protecting victims of this and other provisions" incorporating Directive 2011/36/EU was drafted, placed on public consultation and adopted.¹

Victims of human trafficking that have been identified by the Public Prosecutor can obtain a residence permit, regardless of whether they cooperate with the authorities or not. The current problems in the identification of trafficking victims in international protection and forced return procedures relate mainly to the absence of institutionalized mechanisms and concrete indicators for the identification of victims, the lack of specialized protocols for the identification of minors and women, the lack of screening for potential victims among those to be transferred under the Dublin Regulation and those whose application for international protection has been rejected and are in the process of forced return.

Synthesis Report

¹ Law 4198/2013 (GG vol. A, 11.10.2013) “Preventing and combating of human trafficking and protection of trafficking victims and other provisions”; Directive 2011/36/EU “on preventing and combating trafficking in human beings and protecting its victims, and replacing Council framework Decision 2002/629/JHA”, available at: <http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:101:0001:0011:EN:PDF>

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

Greece is the south-eastern border of the European Union. It is the main entry point of illegal/irregular immigrants, the vast majority of which wish to cross its territory and head to other EU member-states. It is therefore a destination and a transit country for persons trafficked for sexual exploitation and forced labour. The two phenomena are closely related: the more the number of illegal/irregular migrants increases and the more difficult it becomes to suppress it on the national and international level, the more the number of victims of human trafficking rises.

Greek legislation regarding the prevention, suppression and punishment of the crime of human trafficking and the identification, support and protection of victims, began to evolve gradually since the early 2000s.

In an initial stage an adequate legal framework was created by reviewing the relevant articles of the Penal Code and the special treatment of trafficking with the enactment of Law 3064/2002² "combat trafficking in human beings, crimes against sexual freedom, child pornography and generally the economic exploitation of sexual life and assistance to victims of such acts"² and PD 233/2003 on "Protection and assistance to victims of crimes of Articles 323, 323A, 349, 351, and 351 of the Penal Code, in article 12 of Law 3034/2002/ GG A248". Additionally, according to Article 44 paragraph 7 of Law 2910/2001³, a residence permit was granted to victims of trafficking which was valid as a work permit for six months and could be renewed until the irrevocable judgment by decision of the General Secretary of the Prefecture.

From the initial treatment of the phenomenon as a new form of organized crime, the legislative framework was gradually strengthened and refined and today it focuses not only on the punishment of the perpetrators, the prevention of crime prevention and the normalisation of the legal status of the victim, but also on the rights of the victim and the provision of services aimed to protect and assist victims/potential victims. As part of improving the existing legislation and of the harmonization to the EU *acquis* Greece adopted Law 4198/2013 which incorporated Directive 2011/36 EU⁴ on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA⁵.

Victims of trafficking in Greece may obtain a residence permit if they are formally identified as such by the Public Prosecutor, who remains the only competent authority. If the victim does not cooperate with the authorities a residence permit on humanitarian grounds may be granted, following a joint ministerial decision of the Ministers of Interior and Labour and Social Security, provided that such decision poses no danger to public order and safety (article 44, paragraph 1a Law 3386/2005). If the victim is willing to cooperate then she/he may be granted a residence permit following an application to this effect and after receiving a three month reflection period. This residence permit is issued by the Ministry of Interior provided that there are no public order and security issues (articles 46-52 Law 3386/2005). Here it should be

² Law 3064/2002, (GG vol. A, 248/15.10.2002) "Trafficking in human beings, crimes against sexual freedom, child pornography and economic exploitation of sexual life in general and assistance to victims of such acts",

³ Law 2910/2001 (GG vol. A, 91/2.5.2001) "Entry and Stay of Aliens in Greek Territory. Acquisition of Greek citizenship by naturalization and other provisions".

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

noted that Law 3386/2005 does not apply to refugees and persons who have applied for international protection. Therefore in order for the applicant to request a residence permit as a victim of trafficking he/she should withdraw their application for international protection or he/she should have received a final negative decision on their request for international protection (article 33 of Presidential Decree 113/2013).⁴

Victims of human trafficking can be detected and identified both during their stay in First Reception Centres, mainly by NGOs working in the field, and during the examination of their asylum claim at a regional asylum office, during an interview for international protection, on appeal against the first instance decision or by submitting extra documentation. In order to facilitate the detection and identification of victims of human trafficking all stakeholders in the above procedures are trained by competent national authorities and international organizations. Particular emphasis is placed on training and education dealing with the special needs of children, women and victims of violence and torture.

Where there is evidence of trafficking, the competent authority shall investigate the case. The same obligation exists when a person applying for international protection declares either in person or through a lawyer or an NGO that he/she is a victim of trafficking. If his/her case is accepted then the applicant will either acquire the residence permits foreseen in Law 3386/2005 (as a victim of trafficking) or she/he will be entitled to asylum or subsidiary protection, granted by the Asylum Service in the first instance and the Appeals Authority on the second instance.

Greece has not adopted yet a specific mechanism for the detection and identification of trafficking victims. All persons residing in reception centres are informed of their rights and obligations (article 11, paragraph 1 of Law 3907/2011) and screened for possible signs of trafficking. NGOs active in the reception centres apply certain indicators that facilitate the competent authorities in the identification of trafficking victims. If a third country national is assessed as a possible victim, then the Head of the reception centre refers her/him to structures providing social assistance and protection.

Regarding unaccompanied minors and female victims no special protocols are in place regarding their identification. As far as children are concerned, the Greek legislator considers minority an element of vulnerability (article 11, paragraph 2 Law 3907/2011)⁵ and requires all officers that interview children to be trained accordingly (article 11 par.2 Presidential Decree 113/2013). For women the Greek legislation provides that they should be interviewed by trained female officers and in the presence of female interpreters. In cases that this is not made possible, then it should be mentioned in the report of the oral interview. With the exception of the above, there is no other difference of treatment compared to that of

⁴ PD 113/2013 (GG vol. A, 146/14.06.2013) “Uniform procedures for recognition to foreigners and stateless persons of refugee status”.

⁵ Law 3907/2011 (GG vol. A, 7/26.01.2011) “Establishment of the Asylum Service and the First Reception Service, adaptation of Greek legislation to the provisions of Directive 2008/115/EC on common standards and procedures in Member-States returning illegally residing third-country nationals "and other provisions”.

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

men.

For cases where according to Regulation 343/2003⁶ the competent authority decides that another Member State is responsible for examining a request for international protection and the applicant is identified as a victim or potential victim of trafficking, then the application of the Dublin procedure ceases. This however is not automatic but has to be triggered either by the potential victim or by other relevant actors.

During forced return procedures of those whose request for international protection has been rejected there are no institutionalized mechanisms for the detection and identification of victims of trafficking. The competent authorities shall consider only cases where there is a relevant statement by the victim to this effect or information provided by some other actor involved with the victim. In the event that the person is found to be a victim of trafficking then he/she shall not be deported but will either be released, or placed in a shelter under the care of an NGO that is active in the holding facility. Otherwise deportation procedures continue.

In conclusion, Greece by developing the appropriate legal framework and structures is showing a rising momentum in the field of protection and assistance to victims of human trafficking. Victims are no longer treated as illegal immigrants, but rather as persons whose fundamental rights and freedoms have been violated and who require assistance and protection.

Section 1

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

Q.1 What residence permit(s) specifically for victims of trafficking in human beings are available in your Member State? (list them here)

The law provides for two different types of residence permits:

- a) A residence permit specifically for victims of human trafficking, according to articles 46-52 of

⁶ Regulation (EC) No 343/2003 of 18 February 2003 “concerning the criteria and mechanisms for determining the Member State responsible for examining applications for asylum lodged in a Member State of a third country”.

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

Chapter Θ' of Law 3386/2005 and

- b) A residence permit for humanitarian grounds, according to article 44 paragraph 1a of Law 3386/2005.⁷

Q.1a. Are they conditional on cooperation with the authorities?

Usually this requires the cooperation of victims with the Authorities. In certain cases though, and under certain conditions, it is possible for the Public Prosecutor to issue an Act of formal identification even though the victim does not cooperate with the Authorities.⁸

Greek legislation provides for a special residence permit for victims of trafficking in accordance to articles 46-52 of Chapter Θ' of Law 3386/2005, for third country nationals who cooperate with the competent authorities. The above mentioned permits are granted for one year and are issued by decision of the Minister of Interior, in priority and without payment of a fee, following a relevant Act of the Public Prosecutor formally characterizing a third country national as a victim of human trafficking, unless issues of public order and safety arise. These permits are renewed until the conclusion of criminal proceedings with the issue of an irrevocable judgment. The residence permit is not renewed and can be revoked if the holder resumes his/her contacts, actively and voluntarily, with the accused perpetrators of the crime or in case that the Authorities conclude that the cooperation of the victim or the reporting of the crime was fraudulent or abusive or there are concerns of public order and safety.

The above mentioned residence permit grants its holder access to the labor market, medical and psychological support, and access to professional training and education in accordance with the conditions prescribed by the legislation in force. After the conclusion of criminal proceedings, victims of trafficking are given the possibility to acquire a different type of residence permit, for one of the grounds and according to the prerequisites described in Law 3386/2005.

The application of these protective provisions was also extended to victims that do not cooperate with the Authorities. In more detail, according to Article 44 paragraph 1 of Law 3386/2005⁹ it is possible to grant a

⁷ Amended with Article 4 of Law 3875/2010 (GG vol. A, 158/20.9.2010) "Ratification and implementation of the UN Convention against Transnational Organized Crime and its three Protocols thereto and related provisions".

⁸ Article 1 paragraph 2a and article 47 of Law 3386/2005 (GG vol. A, , 212/23.08.2005): "The said Act is also issued for victims who do not cooperate with the competent authorities when the Court of First Instance, with the assent of the Public Prosecutor, judges that the requirements of article 1 par 2 of the PD 233/2003 are met or that the victim is not cooperating because of threats against his/her family members living in Greece or in the country of origin or anywhere else and that in case the victim is not protected or is expelled, his/her family members are in imminent danger".

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

residence permit on humanitarian grounds to victims of trafficking, that despite the fact that they have been officially identified by an Act of the competent Prosecutor of the Court of First Instance, they choose not to cooperate with the Authorities, mainly because of threats directed against their families residing either in Greece or in their country of origin. This type of residence permit applies to victims of human trafficking even when the conditions of PD 233/2003 and articles 46 et seq. of Law 3386/2005 are not met.¹⁰

The duration of the initial residence permit is annual and each renewal can be for two years only, under the condition that the investigation of the criminal proceedings is ongoing. If the criminal proceedings are in any way terminated or discontinued, then the permit may be renewed for another ground foreseen in Article 44 of Law 3386/2005, with the ascent of the Immigration Committee of Article 89 paragraph 1 of Law 3386/2005 and only if deemed, from the general circumstances and the case evidence, that there are exceptional reasons for doing so.

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

The special residence permit for victims of human trafficking, as amended, was introduced in 2005 with Law 3386/2005 and in particular Chapter Θ' (Articles 46-52) and was revised in 2010 with Law 3875/2010. The residence permit for victims of human trafficking on humanitarian grounds was introduced in 2011 with Law 3907/2011.

The previous law, i.e. Law 2901/2001, provided for the possibility to suspend the deportation of third country nationals that were residing in the country illegally, following the issuance of an Act of the Public Prosecutor of the Court of First Instance with the approval of the Prosecutor of the Court of Appeals, when they reported acts promoting prostitution, pending final judgment for such crimes (article 44, paragraph 7a). In cases where it was proved that the complainant was a victim of pimping/prostitution and sexual exploitation in general, the Secretary General of the Region was under the obligation to issue a residence permit, notwithstanding the provisions of Law 2910/2001 (article 44, paragraph 7c). The initial provision of article 44, paragraph 7 of Law 2910/2001 was subsequently amended by article 34, paragraph 7 of Law 3274/2004, so that residence permits issued to officially identified victims of trafficking had a six month duration and were also valid as work permits.

Q.2 Are international protection status(es) granted to third-country nationals for the reason of being a

⁹ Amended with Article 4 of Law 3875/2010 (GG vol. A, 158/20.9.2010) "Ratification and implementation of the UN Convention against Transnational Organized Crime and its three Protocols thereto and related provisions".

¹⁰ See Explanatory Report of Law 3875/2010 (GG vol. A, 158/20.9.2010). Available at: <http://www.ministryofjustice.gr/site/LinkClick.aspx?fileticket=xjxkOsYgl1y4%3d&tabid=142>

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

victim of trafficking in human beings in your Member State? Yes / No

Yes, if the special conditions of the Geneva Convention for Refugees and domestic law are met (PD 141/2013, vol. A', 226).¹¹ The fact that a person is characterized as a victim of human trafficking does not lead automatically to granting of international protection status.

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

Both, i.e. refugee status or subsidiary protection, if the legal requirements are met.

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

Yes. In 2009 a National Coordinating Mechanism was established in the Ministry of Foreign Affairs with the aim of coordinating all competent authorities and NGOs in the fight against trafficking in human beings, and the implementation and assessment of anti-trafficking activities at national level.

The recently adopted Law 4198/2013, which brings in line domestic legislation with Directive 2011/36/EU, establishes in Article 6 the Office of the National Rapporteur, role that until the adoption of Law 4198/2013 was informally discharged by the National Coordinating Mechanism against Trafficking in Human Beings of the Ministry of Foreign Affairs in cooperation with officials from Ministries, IOM and certified NGOs. The purpose of the National Coordinating Mechanism against Trafficking in Human Beings was to secure cooperation and networking with international organizations, to implement binding obligations and achieve the extroversion of national actions and policies.¹²

In more detail, Law 4198/2013 launched the Office of the National Rapporteur in the Central Service of the Ministry of Foreign Affairs with the scope of developing, coordinating and implementing a national strategy to address trafficking in the levels of prevention, suppression and prosecution of offenders and protection of victims of trafficking, which reports directly to the Minister of Foreign Affairs. The purpose and responsibilities of the Office of the National Rapporteur are: a) To coordinate all competent authorities and accredited non-governmental organizations, as well as to promote regular training in the identification process, tracking and assistance to alleged victims of human trafficking. b) To ensure, through the

¹¹ PD 141/2013 (GG vol. A, 226/21.10.2013) "Adaptation of the Greek legislation to the provisions of Directive 2011/96/EU of the European Parliament and the Council of 13 December 2011 (L337) on standards for the qualification and status of third country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast)".

¹² Interview with representative from the [National Coordination Mechanism to Monitor and Combat Trafficking in Human Beings](#), Ministry of Foreign Affairs.

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

organization of training programs, that the authorities in charge of the criminal investigation and prosecution of human trafficking offenses receive appropriate training and expertise. c) To cooperate with the police and judicial authorities with all relevant national and international authorities such as the International Organization for Migration and the certified non-governmental organizations in order to collect data related to trafficking. d) To plan and/or to implement programs of research, education and training, and undertake projects of raising awareness, through the press, through the Internet or by any other means, in collaboration with the authorities mentioned in this article in order to prevent the supply and demand for services related to trafficking. e) To prepare an annual national report, which enlists the statistics regarding confirmed incidents of trafficking and estimates on new trends emerging from the study of the previous and by which the national rapporteur proposes measures to tackle trafficking. The annual national report on combating human trafficking will be presented by the Minister of Foreign Affairs at the Greek Parliament and will be sent to the relevant national and international authorities. f) To provide data of this annual national report to the Coordinator of Action against Trafficking in Human Beings of the European Union. g) To represent the country in the Network of National Rapporteurs or equivalent mechanisms of the European Union.

Section 1

Detection, identification and referral of victims in International Protection Procedures¹³

This section first examines the mechanisms that are used to detect and identify victims in the procedure for international protection,¹⁴ It then explores how identified victims are given access to appropriate assistance and support and specifically looks at mechanisms for coordination and referral between procedures.

Where relevant, please distinguish between first instance and appeal procedures, where applicable.¹⁵

Observations:

1. It should be noted here that the procedure for granting asylum in Greece was recently overhauled with the establishment of a new Asylum Service (independent from the Police) and the adoption of new procedures on the first and second instance, in order for Greece to adhere to its obligations from international and European law and correct the shortcomings of the previous procedure. The new structures and services became operational in June 2013 and consequently not enough data is

¹³ This Section was completed with the contribution of the Asylum Service and the Ministry of Interior.

¹⁴ In Ireland, this would imply covering both procedures for asylum and subsidiary protection, as no single procedure is in place.

¹⁵ For example, in Ireland there is no appeal procedure for subsidiary protection application, and this is decided on the basis of papers submitted. (The implications of CJEU Judgment of 22/11/12 and Irish HC Judgment of 23/1/13 in *MM v Min. for J&E* case that applicants for Sub/Protection have ‘a right to be heard’ are currently being considered in *DJ&E*.)”.

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

available in order to reach safe conclusions.

2. Given the fact that neither Law 397/2013, nor PD 233/2003 include a definition of who is a victim of human trafficking, the general definition of article 1 (i) of Law 3386/2005 (latest codification) applies: *“Victim of trafficking in human beings” shall mean both the natural person for whom there are reasonable grounds for being considered as a victim of any crime referred to in articles 323,323A, 323B, 348A, 349,351 and 351A of Penal Code before a criminal prosecution is pursued, and the person against whom any of the above crimes was committed, with a criminal prosecution being pursued against them, regardless of whether the person has entered the country legally or illegally”.*

1.1 Legislative framework

Q.4 Are there established mechanisms for detecting and identifying victims of trafficking in human beings in the procedure for international protection?¹⁶ Yes/No

No.

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

- a. Process for detection and identification of victims in the procedure for international protection is outlined in legislation (if yes, provide reference to the legislation).*
- b. Process for detection and identification in the procedure for international protection is outlined in soft law – e.g. a ‘protocol’ (if yes, provide the reference).*
- c. Process is not outlined in official documents, but there is a working system or standard practice in place, which is understood and used by the actors concerned (if yes, provide a brief description).*

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

No.

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

Despite the fact that no special protocols have been adopted, there are special provisions for minors. According to the law, minority constitutes in itself a reason of vulnerability (article 11, paragraph 2a of Law 3907/2011) and for this reason children that apply for asylum and especially unaccompanied

¹⁶ (Member) States should here only refer to mechanisms for detection/identification used in international protection procedures – i.e. they should not refer to those used specifically by law enforcement, NGOs or other persons coming into contact with victims in situations outside of international protection procedures.

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

children that are victims/resumed victims of trafficking have increased guarantees of protection in the asylum process compared to adult victims/presumed victims of trafficking.

PD 113/2013 article 11, paragraph 2: “Case workers conducting personal interviews with unaccompanied minors must have the necessary knowledge regarding the special needs of minors and conduct the interview in such a way so that they are fully understood by the applicant, taking into particular consideration his age”.

Article 17, paragraph 1: “...Regarding minors, a special interview is conducted, taking into particular consideration their maturity and the psychological consequences of their traumatic experiences”.

Article 17, paragraph 7 (a): “Every case worker has the necessary qualification in order to be able to appreciate the personal and general circumstances surrounding the application, including the cultural background of the applicant. In particular, case workers are educated on the special needs of women, children and victims of violence”.

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

No.

Q6a. If yes, please briefly describe how these differ¹⁷ and why.

Despite the fact that no special protocols for men and women exist, there is special provision for interviews, in that, to the extent possible, they are to be conducted by women case workers and women interpreters.

PD 113/2013 article 17, paragraph 1 Personal Interview: “...When the interview concerns a female applicant, special effort is made to be conducted by a trained female case worker, with the presence of a female interpreter. In case that this is not possible, special mention to the reasons is made in the report...”

Article 17, paragraph 7 (a): “Every case worker has the necessary qualification in order to be able to appreciate the personal and general circumstances surrounding the application, including the cultural background of the applicant. In particular, case workers are educated on the special needs of women, children and victims of violence”.

1.2 Detection and identification of victims

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

¹⁷ E.g. only female officers can screen / assess women.

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

Potential victims of human trafficking can be detected in different stages of the asylum process, e.g. in the First Reception Centres (for those arrested for illegal entry in the country), during the registration of their asylum application at a regional asylum office, during proceedings at the first instance/interview for examining their request for international protection, during proceedings at the second instance/appeal from evidence in their file or by supplementary additional evidence.

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

- a. The competent authority¹⁸ proactively screens all applicants for indications of trafficking in human beings;*

Yes. When there are indications during the interview, the case worker will ask more detailed /exploratory questions.

- b. The competent authority proactively screens applicants with a particular profile¹⁹ for indications of trafficking in human beings (please provide information on the type of profile);*

No.

- c. Victims self-report;*

Yes. The applicants can self-report something that will lead to further investigation of their case.

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

Yes. A lawyer or a NGO can indicate the possibility that a particular application is/might be a victim of trafficking in human beings.

- e. Other (please specify).*

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

Yes. The applicant may submit, within the deadline set by law, additional information at his appeal

¹⁸ Here, “competent authority” refers to the authority competent for examining the merit of the third-country national’s case for international protection. In many (Member) States, this is a ‘case worker’.

¹⁹ E.g. unaccompanied minors; children; women; women from particular geographical regions; women or children who, for example, when describing the route from their country to origin to the EU Member State, refer to a known route used by traffickers.

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

(article 26, paragraph 3 of PD 113/2013). A subsequent application can also be filed, which will be considered if it includes new material evidence that affects the judgment regarding his application for international protection (article 23, paragraph 2 and paragraph 4 PD 113/2013). After this stage, i.e. an appeal against the judgment on appeal (appeal filed before an administrative court), the applicant cannot provide new information/evidence.

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

Currently, there is no standard procedure/protocol setting out the next steps regarding the assessment of a potential victim. Potential victims may be referred to the competent Prosecutor of the Court of First Instance on a case by case basis.

Q8a. Does the Member State apply a standard set of indicators to assess whether the person is a (potential) victim?

No.

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

Q8b. Are other mechanisms²⁰ used by the competent authority to assess whether a person detected as a (potential) victim should be identified as such (or referred onto formal identification procedures)?
Yes.

a. If yes, what are these?

The mechanism is described in Law 3386/2005 (article 1, paragraph 2a). A person can be formally identified as victim of human trafficking with an Act of the competent Prosecutor of the Court of First Instance, immediately after the initiation of prosecution as well as before a criminal prosecution is pursued. In the latter case, a written opinion delivered by two scientists is required before the issue of the Act. The scientists must be psychiatrists, psychologists or social workers and serve in Services or Units of protection and assistance referred to in PD 233/2003, or in NGOs, the IOM or other International Organisations or specialized protection and assistance agencies recognized by the state, as specified in articles 2, 3 and 4 of the PD 233/2003.

b. If no, why not?²¹

²⁰ E.g. interviews.

²¹ E.g. legislation foresees that the slightest indication that a person may be a victim of trafficking in human beings is sufficient for automatic identification.

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

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

She/he will not be considered to belong to a vulnerable group, so beneficial provisions concerning the examination of her/his asylum application will not apply. She/he will not have access to specialized assistance and protection, but will have the rights that all asylum seekers are entitled to by law.

If the negative assessment was made by the Prosecutor of the Court of the First Instance (who is the competent authority for formal identification) then the applicant will not be able to request a re-assessment of his case from another authority. However, if the applicant has new evidence that he is a victim of human trafficking, then her/his case must be reassessed.

Q9. Have methods for the detection and/or identification of victims in international protection procedures been evaluated in your Member State?

No. The asylum system was reformed recently and became operational in June 2013. At this stage there is insufficient evidence to make any assessment and evaluation of the methods of detection/identification of victims of trafficking.

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

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

The effectiveness of a system of international protection in locating and identifying victims of trafficking rests on a number of conditions, e.g. education and continuous training of all stakeholders involved, multidisciplinary approach to asylum seekers/alleged victims of trafficking, existence of referral mechanisms and Standard Operating Procedures etc. Some of these elements are present in the process for granting international protection in Greece, while others remain vague and incomplete. The method of identifying victims of trafficking could be improved, particularly through the provision of specialized training to caseworkers dealing with requests for international protection.

1.3 Referral

Q10. If an applicant is identified as a (potential) victim, can s/he access tailored statutory assistance and support whilst remaining in the international protection procedure (i.e. without referral to other procedures)? Yes.

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

The victim has access to social services, protection and assistance under the same conditions as other applicants for international protection, provided in Law 3907/2011. The provider of assistance can be a governmental agency/state structure (e.g. hospital, state-run hostels/safe houses etc). Assistance and

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

protection can also be provided by civil society institutions, that meet certain criteria and are registered in a special registry kept at the Central Asylum Service (article 2, paragraph 7 of Law 3907/2011) and the Central First Reception Service (article 9, paragraph 5 of Law 3907/2011). The services provided are usually compensated by the State (e.g. interpretation, legal assistance, safe-house/hostel accommodation, psychosocial support).

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

No. No formal identification is needed in order for victim/potential victim to have access to assistance and protection services. Formal identification is necessary for obtaining a residence permit, the right to work etc.

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

Currently, no such mechanisms or agreements exist. However, the law provides for a special registry for collaborating civil society actors, kept in the Central Asylum Service (article 2, paragraph 7 of Law 3907/2011) and the Central First Reception Service (article 9, paragraph 5 of Law 3907/2011). Civil society actors included in the registry can handle pertinent tasks where there is a lack of adequate personnel in the Asylum and First Reception Service. The law also provides for the referral of vulnerable groups for assistance and protection to the competent authorities and actors. (Article 11, paragraph 2 of Law 3907/2013 and PD 233/2003). The state organization responsible for the majority of cases is the National Centre for Social Solidarity (EKKA), that provides protection and assistance services either directly or it refers cases to cooperating state and non-state actors.

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

The main obstacles are limited accommodation and services and the lack of infrastructure, qualified personnel and resources, which make the accommodation of requests for referral problematic.²²

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

²² See Annual Report of EKKA for 2012, available at:
http://www.ekka.org.gr/portal_docs/forceaccount/picture/19_1062.pdf

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

measures²³ how does this work in practice?

According to article 2, paragraph 1 (c), (d), (e) of Law 3386/2005, this law does not apply to refugees and persons who have applied for refugee status, according to the Geneva Convention of 1951 (ratified by Legislative Decree 3989/1959 (Government Gazette 201 A') and currently in force), to persons enjoying temporary protection or have applied for temporary protection and to persons enjoying subsidiary protection or have applied for subsidiary protection. Therefore, in order for a person seeking international protection to be able to apply for a residence permit as a victim of trafficking, either on the basis of Articles 46-52 of Law 3386/2005 (Directive 2004/81/EC) or on the basis of humanitarian grounds according to Article 44, paragraph 1a of Law 3386/2005, he/she should quit his/her application for international protection or receive a final decision rejecting his application for international protection.

The prerequisites to obtain international protection (asylum/subsidiary protection) are stricter because in addition to being a victim of human trafficking, the applicant has to show that he is persecuted for reasons mentioned in the 1951 Geneva Convention for Refugees. The fact that he/she is a victim of trafficking is not enough *per se*. The aim of international protection is to protect the applicant of major human rights violations in his country of origin.

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

Yes.

a. If yes, can s/he re-open the procedure for international protection if s/he is not granted a residence permit under Directive 2004/81/EC? Yes/No, please elaborate the process.

A subsequent application can be made, but in order for it to be accepted and considered it should include new material elements (article 2 (k), Article 18 (e) and article 23 of PD 113/2013). Otherwise, this new application will be rejected as inadmissible.

b. If no, please elaborate – how does this work in practice? Does the victim have to be formally identified by a different competent authority? (Yes / No) – if yes, state which authority.

Yes. By the Prosecutor of the Court of First Instance.

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

²³ As mentioned, Denmark, Ireland and the United Kingdom have not opted into Directive 2004/81/EC.

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

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

Yes.

- b. *The competent authority contacts the authorities responsible for issuing a reflection period or residence permit. (If yes, please elaborate).*
- No.

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

A National Referral Mechanism is under development. EKKA, which is a key pillar of the informal national coordinating mechanism against human trafficking currently in place, is mandated by law to refer victims/potential victims of trafficking either to state accommodation or to shelters run by cooperating NGOs. In this context, EKKA assists the competent prosecuting and investigating authorities on the identification and referral of victims of trafficking. At the moment, Greece is in the process of establishing a national referral mechanism in line with international good practices, and is actively involved in the adoption of said good practices through the implementation of EU and National Strategic Reference Framework Projects, such as ISEC “Development of common guidelines and procedures relating to the identification victims of trafficking and human trafficking”, the implementation of which has been undertaken by the Office of the National Rapporteur.

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

There is no precedent so it will be examined on a case by case basis.

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

There is the possibility for a person to obtain a residence permit based on one of the grounds and under the respective conditions foreseen in national legislation, in accordance to Article 52 of Law 3386/2005, only if following his/her issuance with a residence permit as a victim of human trafficking (see above Q. 11), the relevant asylum process has come to an end.

In order for a person to obtain international protection status (refugee status/subsidiary protection) as a victim of human trafficking, the requirements and special grounds of the 1951 Geneva Convention for Refugees and of domestic law must also be met. (See above Q. 2).

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

Q12a. Can the applicant (where relevant, with the support of his/her legal representative) decide whether or not s/he wishes to apply for the residence permit / international protection on these grounds?

Yes.

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

Within a month from the conclusion of the relevant criminal proceedings with the issuance of an irrevocable judicial decision, it is possible for the holder of a residence permit as trafficking victim, (according to Article 47 of Law 3386/2005) to obtain a residence for one of the grounds and under the relevant conditions foreseen in Law 3386/2005. When considering the granting of a residence permit, the Authorities give particular consideration to the fact that the applicant is or was a holder of a residence permit as a victim of human trafficking.

Likewise, in cases where a third country national characterized as a victim of human trafficking has been issued with a residence permit on humanitarian grounds according to Article 44 paragraph 1a of Law 3386/2005 and the criminal process has been concluded or abandoned, then the residence permit can be renewed for another ground foreseen in Article 44 of Law 3386/2005, with the ascent of the Immigration Committee of Article 89 paragraph 1 of Law 3386/2005 and only if deemed, from the general circumstances and the evidence of the case, that there are exceptional reasons for doing so.

Asylum or subsidiary protection status obtained from the Asylum Service or the Appeals Authority (in case of a successful appeal) under the conditions prescribed in the law. These are mentioned in PD 141/2013.

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

Yes, for a residence permit on humanitarian grounds, the victim must be formally identified as a victim of human trafficking (article 44, paragraph 1 (a) of Law 3386/2005) with an Act of the Public Prosecutor. For all other categories of residence permits such formal identification is not necessary, however, the fact the victim/applicant was a holder of a residence permit as a victim of human trafficking is positively assessed (article 52 of Law 3386/2005).

Can the authorities responsible for processing applications for international protection formally identify in these circumstances?

No. The only competent authority is the Public Prosecutor.

Q12d. When can the application procedure be started?

The applicant must resign from his/her application for international protection or a final decision rejecting his/her application for international protection must be issued, in order to be able to file an

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

application for a residence permit on humanitarian grounds. The same applies for filing an application for a specialised residence permit as a victim of human trafficking.

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

- a. *When a first instance decision has been made as to whether the applicant can be granted asylum;*

No. Unless he waives his/her right to appeal, or the decision becomes final.

- b. *When a first instance decision has been made both in regard of whether the applicant can be granted asylum and, if not, whether s/he can be granted subsidiary protection;*

No. Unless he waives his/her right to appeal, or the decision becomes final.

- c. *When the third-country national has received a (final) negative decision on his/her application for asylum;*

Yes. Unless subsidiary protection is granted. (In Greece all claims are examined automatically for both protection statuses, i.e. refugee status - subsidiary protection).

- d. *When the third-country national has received a (final) negative decision on his/her applications for (other types of) international protection;*

Yes. (In Greece all claims are examined automatically for both protection statuses, i.e. refugee status - subsidiary protection).

- e. *Other, please specify.*

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

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

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

Yes.

- b. *The competent authority starts up the procedure for the other form of protection. (If yes, please elaborate)*

No.

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

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

elaborate).

A National Referral Mechanism is under development. EKKA, which is a key pillar of the informal national coordinating mechanism against human trafficking currently in place, is mandated by law to refer victims/potential victims of trafficking either to state accommodation or to shelters run by cooperating NGOs. In this context, EKKA assists the competent prosecuting and investigating authorities on the identification and referral of victims of trafficking. At the moment, Greece is in the process of establishing a national referral mechanism in line with international good practices, and is actively involved in the adoption of said good practices through the implementation of EU and National Strategic Reference Framework Projects, such as ISEC “Development of common guidelines and procedures relating to the identification victims of trafficking and human trafficking”, the implementation of which has been undertaken by the Office of the National Rapporteur.

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

Yes.

Q13. Have systems of referral of (potential) victims of trafficking in human beings from international protection procedures to other procedures been evaluated in your Member State?²⁴

No. (See above Q9).

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

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

The NRM in Greece is in the process of further development as it has not integrated fully all the necessary elements and functions, e.g. no central database and uniformly kept statistical data, lack of common indicators and protocols for victim identification etc.

1.4 Detection and identification and referral in relation to Dublin procedures

Q14. If, in accordance with Council Regulation 343/2003, the competent authority decides that another Member State is responsible for examining the application for international protection (i.e. Dublin

²⁴ For example, if a national referral mechanism or (other) coordination mechanism exists, has this been evaluated?

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

procedures apply) and the applicant is detected as a (potential) victim of trafficking in human beings, does this trigger Article 3(2)²⁵ and/or Article 15²⁶ of the Regulation – i.e. can the Dublin transfer be suspended?

Yes.

If yes, please answer the following questions:

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

- a. The competent authority²⁷ proactively screens all applicants subject to Dublin transfer for indications of trafficking in human beings;*

No.

- b. The competent authority proactively screens applicants subject to Dublin transfer with a particular profile²⁸ (please provide information on the type of profile);*

No.

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

Yes.

- d. Other (please specify).*

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

²⁵ Article 3(2) states that “each Member State may examine an application for asylum lodged with it by a third-country national, even if such examination is not its responsibility under the criteria laid down in this Regulation”.

²⁶ Article 15(1) states that “Any Member State, even where it is not responsible under the criteria set out in this Regulation, may bring together family members, as well as other dependent relatives, on humanitarian grounds based in particular on family or cultural considerations. In this case that Member State shall, at the request of another Member State, examine the application for asylum of the person concerned. The persons concerned must consent.” Article 15(3) refers specifically to Unaccompanied Minors and states, “If the asylum seeker is an unaccompanied minor who has a relative or relatives in another Member State who can take care of him or her, Member States shall if possible unite the minor with his or her relative or relatives, unless this is not in the best interests of the minor”.

²⁷ Here, “competent authority” refers to the authority competent for examining the merit of the third-country national’s case for international protection. In many (Member) States, this is a ‘case worker’.

²⁸ E.g. unaccompanied minors; children; women; women from particular geographical regions; women or children who, for example, when describing the route from their country to origin to the EU Member State, refer to a known route used by traffickers.

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

The evidence will be examined and assessed on a case by case basis.

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

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?

No.

1.5 Future measures

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

Yes.

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

Soon selected operators of requests for international protection of the Asylum Service will receive specialized training in interview techniques of vulnerable groups. This training is offered by the EASO.

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

Section 2

Detection, identification and referral of victims in Forced Return Procedures²⁹

2.1 Legislative framework

Q18. Are there established mechanisms for detecting and identifying victims of trafficking in human beings in forced return procedures³⁰? Yes/No

No.

²⁹ This Section was completed with the contribution of the Hellenic Police.

³⁰ (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.

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

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

- a. Process for detection and identification in forced return procedures is outlined in legislation (if yes, provide the reference).*
- b. Process for detection and identification in forced return procedures is outlined in soft law – e.g. a ‘protocol’ (if yes, provide the reference).*
- c. Process is not outlined in official documents, but there is a working system or standard practice in place, which is understood and used by the actors concerned (if yes, provide a brief description)*

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

Yes.

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

According to article 25 of Law 3907/2011, which integrated Directive, 2008/115/EC special treatment is provided for minors who receive special assistance from the actors mentioned in article 19 of PD 220/2007 before the decision to return them is issued. In any case this decision must be in the best interests of the minor. Also in accordance with article 48 of Law 3386/2005, as in force, in the case of a third country national victim of trafficking or illegal migrant smuggling which is unaccompanied minor, “the competent Prosecuting Authority shall take every step necessary to determine his/hers identity and nationality and to establish the fact that he/she is not accompanied, shall make every effort for the fastest possible tracking of his/hers family and shall take immediate necessary measures to ensure his/hers legal representation and, if necessary, his/hers representation in criminal proceedings”.

Q20. Are there different protocols and/or practices for men and women?

No.

Q20a. If yes, please briefly describe how these differ and why³¹

2.2 Detection of victims

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

³¹ E.g. only female officers can screen/assess women.

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

forced return procedures?

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

- a. The competent authority³² proactively screens all rejected applicants for indications of trafficking in human beings;*

No.

- b. The competent authority proactively screens all rejected applicants with a particular profile³³ for indications of trafficking in human beings (please provide information on the type of profile);*

No.

- c. Victims self-report;*

Yes. The 3rd Department of the Sub-Division for Combating Organised Crime in the Division of Security of Attica of the Hellenic Police is responsible to interview, assess and further handle the case. In the event that a person is considered a victim of trafficking he/she shall not be deported, but will be released, or placed in a shelter with the assistance of an NGO.³⁴

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

Yes. NGOs operating on the spot.

- e. Other (please specify).*

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?

Q22a. Does the Member State apply a standard set of indicators to assess whether the person is a (potential) victim?

No.

³² Here, “competent authority” refers to the law enforcement official or other authority competent to supervise and enforce forced return process of applicants for international protection who are subject to a return order.

³³ E.g. unaccompanied minors; children; women; women from particular geographical regions; women or children who, for example, when describing the route from their country of origin to the EU Member State, refer to a known route used by traffickers.

³⁴ Interview with the Hellenic Police.

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

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

Q22b. Are other mechanisms³⁵ used by the competent authority to assess whether a person detected as a (potential) victim should be identified as such (or referred onto formal identification procedures)?

Yes.

c. *If yes, what are these?*

Interview at the 3rd Department of the Sub-Division for Combating Organised Crime in the Division of Security of Attica of the Hellenic Police and followed further case management.³⁶

d. *If no, why not?³⁷*

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

No. The procedures for his/her forced return continue.

Q23. Have methods for the detection and/or identification of victims in forced return procedures been evaluated in your Member State?

No.

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

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

There is no literature or empirical data demonstrating the effectiveness of detection / identification during the forced return procedures.

2.3 Referral

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

Q24a Can the rejected applicant (where relevant, with the support of his/her legal representative)

³⁵ E.g. interviews.

³⁶ Interview with the Hellenic Police.

³⁷ E.g. legislation foresees that the slightest indication that a person may be a victim of trafficking in human beings is sufficient for automatic identification.

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

decide whether or not s/he wishes to access the provisions of Directive 2004/81/EC or national equivalent measures? Yes/No

Yes.

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

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

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

According to paragraph 1 of article 48 of Law 3386/2005, as is in force, the competent Prosecutor or the appropriate police authority or the responsible institutions of social support provided in PD 233/2003, as applicable, and any of the entities referred to in paragraph 2 of article 1 shall inform the third country national - victim of trafficking or of migrant smuggling about his/hers right to make a request to be granted a residence permit under the above, providing him/her with the necessary information to do so.

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

No.

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

A National Referral Mechanism is under development. EKKA, which is a key pillar of the informal national coordinating mechanism against human trafficking currently in place, is mandated by law to refer victims/potential victims of trafficking either to state accommodation or to shelters run by cooperating NGOs. In this context, EKKA assists the competent prosecuting and investigating authorities on the identification and referral of victims of trafficking. At the moment, Greece is in the process of establishing a national referral mechanism in line with international good practices, and is actively involved in the adoption of said good practices through the implementation of EU and National Strategic Reference Framework Projects, such as ISEC “Development of common guidelines and procedures relating to the identification victims of trafficking and human trafficking”, the implementation of which has been undertaken by the Office of the National Rapporteur.

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

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

No.

Q25. Have systems of referral of (potential) victims from forced return procedures to other procedures been evaluated in your Member State?³⁸ Yes/No

After reviewing the relevant sources, no references were found on the evaluation of detection and identification of victims of trafficking in forced return procedures.

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

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

No further evidence was found.

2.4 Future measures

Q26. Are any future measures anticipated in relation to improving or facilitating the detection and identification of victims of trafficking in human beings in procedures for forced return?

No.³⁹

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

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

Section 3

Detection, identification and referral of victims by other related actors

3.1 Detection and identification of victims in reception centres⁴⁰/ detention facilities

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

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

According to Law 3907/2011 "Establishment of the asylum and First Reception Service" it is provided:

³⁸ For example, if a national referral mechanism or (other) coordination mechanism exists, has this been evaluated?

³⁹ Interview with the Hellenic Police.

⁴⁰ The part of this section that refers to First Reception Centres was completed with the contribution of the First Reception Service.

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

Article 7, paragraph 1 (e) "In a procedure of first reception are submitted all third-country nationals found to enter without the legal formalities in the country. The procedure of first reception of third country nationals include: ... (e) care for those belonging to vulnerable groups in order to be subjected to the accordingly prescribed procedure. "

Article 11, paragraph 2 (g) "The head of the Centre or Unit of First Reception, upon recommendation of the head of the medical assessment and psychosocial support team refers persons belonging to vulnerable groups in the responsible social support or protection institution. In any case it is ensured the continuity of the treatment in cases where it is required. Vulnerable groups as defined for purposes of this are.....g) victims of trafficking ".

- b. Whilst detained in detention facilities for irregular migrants awaiting return (where these exist in Member States)⁴¹?*

NGOs operating in detention facilities screen detainees.

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

- a. All residents / detainees are screened for indications of trafficking in human beings;*
Yes.
- b. All residents /detainees with a particular profile⁴² for indications of trafficking in human beings;*
No.
- c. Victims self-report;*
Yes.
- d. Another actor in contact with the victim draws attention to the potential victimisation (if so, please refer to section 3.4 if (optionally) completed);*
- e. Other (please specify).*

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

⁴¹ In some (Member) States, third-country nationals awaiting return are not detained at all, whereas in some (Member) States, returnees are detained in regular prisons or in migration reception centres. These cases fall outside of the scope of this Study, and only detention facilities will be covered.

⁴² E.g. unaccompanied minors; children; women; women from particular geographical regions; women or children who, for example, when describing the route from their country to origin to the EU Member State, refer to a known route used by traffickers.

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

Yes. Regarding the First Reception Centres there are Guidelines while issuance of a relevant circular is pending.

Q29. Are there different protocols and/or practices for children and adults?

No. Regarding the First Reception Centres the screening for unaccompanied minors and other vulnerable persons is made in a previous stage of the procedure.

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

Q30. Are there different protocols and/or practices for men and women?

No.

Q30a. If yes, please briefly describe how these differ⁴³

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

According to article 1, paragraph I.2.a. of Law 3386/2005, the term "victim of trafficking", is attributed with an Act of the competent Public Prosecutor, either immediately after the initiation of the prosecution for an offense referred in articles 323, 323A, 323B, 348A, 349, 351 and 351A of the Penal Code, or before the initiation of prosecution for any of these offenses. In the latter case, the adoption of this Act requires a written opinion prepared by two experts- either psychiatrists, psychologists or social workers- who are serving in an Institution or a Protection and Assistance Unit provided in articles 2, 3 and 4 of PD 233/2003, as applicable, or in an NGO or the IOM or another International Organization, or other qualified and recognized by the state actors of protection and assistance in accordance with the provisions of articles 2, 3 and 4 of the previously mentioned PD. The identification Act is issued even when the victim does not cooperate with the authorities. In cases where the Prosecutor considers, with the assent of the Prosecutor of the Court of Appeals, that the conditions of article 1, paragraph 2 of PD 233/2003 are met, or that the victim does not cooperate because of threats against his/her family which is in Greece or in the country of origin or elsewhere and that, if he/she is not protected or deported, he/she will face immediate danger.

Q31a. Is there a standard set of indicators used to assess whether the suspected victim should be identified as a victim?

No.

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

Q31b. Are other mechanisms⁴⁴ used to assess whether a suspected victim should be identified as such?

⁴³ E.g. only female officers can screen / assess women.

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

No.

- a. *If yes, what are these?*
- b. *If no, why not?*⁴⁵

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

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

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

According to article 11, paragraph 1 of Law 3907/2011 the First Reception Services inform third country nationals about their rights and obligations.

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

According to article 11, paragraph 2 (g) "The head of the Centre or Unit First Reception, upon recommendation of the head of the medical assessment and psychosocial support team refers persons belonging to vulnerable groups to the responsible institution of social support or protection. In any case it is ensured the continuity of the treatment in cases where it is required. Vulnerable groups as defined for purposes of the present... g) victims of trafficking ". Then, regarding responsible institutions of social support or protection it is applied the PD 233/2003

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

The law provides that in this case the referral to a suitable structure is made by the Head of the centre.

*Q33. Have systems of detection and referral by actors in reception centres or detention facilities to procedures for victims of trafficking in human beings been evaluated in your Member State?*⁴⁶ Yes / No

44 E.g. interviews.

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

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

There are no references in the related sources regarding the evaluation of methods of referral of victims of trafficking in detention centres. Regarding the evaluation of detection and referral methods for victims of trafficking in First Reception Centres, the first centre began its trial operation on March 2013 and consequently there is no sufficient evidence for an evaluation.

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

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

3.3 Role of other actors (optional)

Q34. Do other actors coming into contact with applicants and rejected applicants – e.g. legal representatives, civil society organisations, medical staff – formally detect detection (potential) victims amongst third-country nationals in international protection and/or forced return procedures and refer them onto other authorities competent to identify and assist⁴⁷? Yes / No

There are civil society organisations that visit detention centres, access however is restricted and requires prior authorisation.

Q34a. If yes, describe the mechanisms for detection.

The Greek branch of NGO A21 in Thessaloniki visits women's detention centres near Thessaloniki twice a week with a social worker, and sometimes with a lawyer, to detect potential trafficking victims among detainees.

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

When A21 identifies women who consider themselves to be victims / potential victims, it submits the information to the director of the detention centre and the Unit for Combating Trafficking in human beings of the Hellenic Police in Thessaloniki.⁴⁸

Section 3

⁴⁶ For example, if a national referral mechanism or (other) coordination mechanism exists, has this been evaluated?

⁴⁷ Only describe detection amongst third-country nationals in international protection / forced return procedures; not for detection in general.

⁴⁸ Interview with the First Reception Service.

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

Training

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

a. Content of training, specifically:

i. Indicators for detecting / identifying victims.

Yes. (Note that although there are no officially adopted indicators, there is a leaflet drafted by the Hellenic Police,⁴⁹ translated in 13 languages, which is distributed to potential victims and which includes indicators in the form of questions in order to facilitate self-identification of victims).

ii. Profiling techniques.

Yes.

iii. Gender-sensitive approaches for engaging with victims.

Yes. Future Planning.

iv. Building trust and engaging with (potential) victim.

Yes. Future Planning.

v. Others (please briefly describe).

b. Type of stakeholder trained.

Operators/case workers of requests for international protection of the Asylum Service, Judges, Prosecutors, officers of the Hellenic Police.

c. Type of training / guidance (e.g. Training module, Training workshop, Examination, Guidelines, Brochure, Other (please describe)).

The training provided by EASO is based on an online platform where the trainees study course materials, practice and submit assignments. The training module is completed with live training sessions provided by trainers certified by the EASO. Greek prosecutors and judges receive an initial training during their studies at the National School of Judges on issues of identification of victims of trafficking. This initial training is reinforced with annual seminars. Part of the activities of Frontex is the training of officers of the Greek Police, with emphasis placed on identifying the different stages of human trafficking, the geographical distribution of the phenomenon, the distinction between trafficking and

⁴⁹ Available at: <http://www.astynomia.gr/images/stories/2009/DIAFOR09/hellasANTITRAF.pdf>

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

migrant smuggling, trafficking in children, the identification of victims and perpetrators of human trafficking, as well as the methods to conduct interviews with potential "victims of trafficking.

d. Authority / organisation providing the training

National School of Judges, IOM, Frontex, EASO, National Coordinating Mechanism for Combating Human Trafficking of the Ministry of Foreign Affairs, Police Academy of the Hellenic Police, UNHCR.

e. Frequency of the training (e.g. annually, one-off, induction training, etc.)

Most trainings are held annually. Certain trainings are one off events.

f. Whether the training is obligatory. Yes / No.

Yes. It is obligatory for the Police, the Police Academies, the National School of Judges and the Asylum Service.

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

No joint trainings for staff involved in different aspects of international protection have been organised yet. However, the Hellenic Police, under the auspices of the operational plan "ILAEIRA"⁵⁰ has organized trainings and operational exercises involving judges, prosecutors, NGOs, military personnel, coast guard officers, as well as state and non-state actors providing assistance and protection.

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

No.

Section 5

Statistics

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

Q37. Has your Member State conducted any research into the scale of victims of trafficking in human beings

⁵⁰ More information available at:

http://www.astynomia.gr/index.php?option=ozo_content&perform=view&id=1717&Item

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

in international protection procedures and/or procedures for forced return? Yes / No

No.

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

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

Section 6

Conclusions

Human trafficking is a profitable "industry", and Greece, due to its geographical location, is a country of destination and transit for victims of human trafficking towards other countries of the European Union.

In recent years the efforts of the Greek legislator to address the phenomenon of human trafficking aim not only at the punishment of the offenders and prevention crime, but also at the protection and assistance of victims by providing specialized care, assistance and protection in all stages of the process after their detection/identification. The Greek legislative framework has been largely harmonized with EU rules, which has resulted in the rapid improvement of the deficiencies and problems that existed till recently in almost all levels. In addition to the above, Law 3907/2011⁵¹ and PD 114/2010⁵² PD113/2013⁵³, and PD141/2013 ensure and facilitate the right to submit an application for international protection, and provide the applicant with a number of procedural guarantees regarding the examination of his/her claim. According to Law 3386/2005⁵⁴ victims officially identified by the Prosecutor are entitle to a residence permit, regardless of whether they cooperate with the Authorities or not. Victims are treated as persons that their fundamental rights have been violated and as such their protection is no longer conditional on their prior cooperation with the authorities. However, the effective implementation of the law demands a certain period of time for the creation of appropriate structures and channels of cooperation between all the relevant stakeholders, and for the training of the personnel involved in international protection procedures. Given that, it is believed that it will be possible to overcome the current problems relating to the detection and identification of victims through the better coordination of all the involved actors. The adoption of the law 4189/2013 legislation that introduced the Directive 2011/36/EU is expected to help coordinate the different authorities, services and non-state actors through the institutionalization of the National Coordinator Bureau at the Ministry of

⁵¹ *Supra*, fn. 5.

⁵² Presidential Decree 114/2010 (GG vol. A, 95/22.11.2010) "Uniform identification process to foreigners and stateless persons of the refugee status or subsidiary protection", in compliance with Directive 2005/85/EC".

⁵³ *Supra*, fn. 4.

⁵⁴ *Supra*, fn. 8.

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

Foreign Affairs.

Today the biggest hurdle in order the necessary assistance and protection to victims of trafficking applying for international protection is the lack of institutionalized mechanisms for their detection and identification. Victims are detected mainly through self-reporting or through NGOs active on the field. The same problem exists in the case of rejected applicants for international protection, which are in the process of forced return. In this case no screening based on specific indicators takes place, unless a detainee self-reports as a victim/potential victim or is identified as such by an NGO that was in conduct with her/him. In case that a potential victim fails to be identified there exists no further opportunity for review. In the first case, i.e. the asylum process, selected case workers will soon receive from EASO specialized training on interview techniques with vulnerable groups. In the second case, that of forced return, for which the Hellenic Police is mainly responsible, no future measures are currently foreseen regarding the improvement or the facilitation of the detection and identification of victims of trafficking. The lack of screening is also an issue in the case of victims subjected to returns under the Dublin Regulation.

In the case of minors and women who are victims of trafficking, no particular mechanism or specialised indicators have been adopted in order to facilitate detection and identification by the competent authorities.

With the new legal framework victims of trafficking are treated as persons belonging to a particularly vulnerable group and need protection. In the same way they should be treated by all parties involved in the process of identifying a person as a victim of trafficking.

*Identification of victims of trafficking in human beings in international protection and forced return procedures***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
<i>Third-country nationals identified as (potential) victims and who have <u>withdrawn</u> from or <u>stopped</u> procedures for international protection</i>						
<p>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)⁵⁵ and who have (later) been granted a <u>reflection period</u> 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).</p> <p>Where possible, please disaggregate for:</p>						The competent authorities do not keep relevant statistics.

⁵⁵ 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.

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

- Gender, age, nationality of the person identified.						
<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) applied for a (temporary or permanent) residence permit as a victim of trafficking in human beings 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).⁵⁶</p> <p>Where possible, please disaggregate for:</p> <p>- Gender, age, nationality of the person identified.</p>						The competent authorities do not keep relevant statistics.
<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 granted a (temporary or permanent) residence permit as a victim of trafficking in human beings (i.e. under procedures outlined in Directive 2004/81/EC or alternative procedures where your (Member) State does not implement this Directive).</p>						The competent authorities do not keep relevant statistics.

⁵⁶ 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.

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

Where possible, please disaggregate for: - Gender, age, nationality of the person identified.						
<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>						
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) ⁵⁷ been granted a (non-EU harmonised) protection status or residence permit (e.g. on humanitarian grounds) ⁵⁸ as a victim of trafficking in human beings (e.g. due to humanitarian reasons). Where possible, please disaggregate for: - Gender, age, nationality of the person identified.						The competent authorities do not keep relevant statistics.
Number of third-country nationals who have <u>been rejected</u> from (EU						The competent

⁵⁷ **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.

⁵⁸ Where possible, please specify the type of protection status / residence permit.

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

<p>harmonised) international protection procedures <u>following a negative decision</u> and who have – following official identification procedures - (later) been granted a reflection period as a (potential) victim of trafficking in human beings (e.g. under procedures outlined in Directive 2004/81/EC or Directive 2011/36/EU or other national provisions).</p> <p>Where possible, please disaggregate for:</p> <ul style="list-style-type: none"> - Gender, age, nationality of the person identified. 						authorities do not keep relevant statistics.
<p>Number of third-country nationals who have <u>been</u> rejected from (EU harmonised) international protection procedures <u>following a negative decision</u> and who have – following official identification procedures - (later) been granted a residence permit as a victim of trafficking in human beings (i.e. under procedures outlined in Directive 2004/81/EC or alternative procedures where your (Member) State does not implement this Directive).</p> <p>Where possible, please disaggregate for:</p> <ul style="list-style-type: none"> - Gender, age, nationality of the person identified. 						The competent authorities do not keep relevant statistics.
Statistics on referrals to national referral mechanisms (where existing in (Member) States)						
If an national referral mechanism (NRM) exists in your (Member)						For more information on the

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

<p>State, please provide statistics on:</p> <ul style="list-style-type: none"> - Number of third-country nationals referred by the authorities responsible for <u>examining and deciding upon applications</u> for international protection to the NRM. - Number of third-country nationals referred by the authorities responsible for <u>enforcing forced returns</u> to the NRM. - Number of third-country nationals referred by the authorities responsible for <u>managing reception centres</u> to the NRM. - Number of third-country nationals referred by the authorities responsible for <u>managing detention facilities</u> to the NRM. - Number of third-country nationals referred by <u>legal representatives</u> to the NRM. - Number of third-country nationals referred by <u>civil society</u> to the NRM. - Number of third-country nationals referred by <u>other actors</u> to the NRM. 						<p>National Referral Mechanism see q.3. It was established in 2009 and does not keep relevant statistics.</p>
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Identification of victims of trafficking in human beings in international protection and forced return procedures

Where possible, please disaggregate for:						
- Gender, age, nationality of the person identified.						
General statistics ⁵⁹						
Number of third-country nationals who have been granted a (non-EU harmonised) protection status or residence permit as a victim of trafficking in human beings (e.g. due to humanitarian reasons). ⁶⁰						
Number of third-country nationals who have been granted a reflection period as a victim of trafficking in human beings (e.g. under procedures outlined in Directive 2004/81/EC or Directive 2011/36/EU).						The Ministry of Justice does not keep aggregated data regarding nationals of foreign countries who have been granted a

⁵⁹ 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.

⁶⁰ Where possible, please specify the type of protection status.

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

						reflection period.
Number of third-country nationals who have been granted a residence permit as a victim of trafficking in human beings (i.e. under procedures outlined in Directive 2004/81/EC or alternative procedures where your (Member) State does not implement this Directive). ⁶¹	68	74	84	72	68	
Number of third-country nationals referred to procedures for victims of trafficking in human beings through the NRM .						For more information on the National Referral Mechanism see q.3. It was established in 2009 and does not keep relevant statistics.

⁶¹ Source: Ministry of Interior .

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

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Legislation

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6. **Law 4052/2012** "Law concerning the responsibilities of the Ministry of Health and Social Welfare and of the Ministry of Labour Social Security regarding the application of Law 4046/2012", [GG vol. A, 41/01.03.2012]
7. **Law 4198/2013** "Preventing and combating trafficking in human beings and protecting victims of this and other provisions" [GG vol. A, 215/11.10.2013]
8. **Presidential Decree 233/2003** "Protection and assistance under Article 12 of Law 3064/2002 to victims of crimes of Articles 323, 323A, 323B, 348A, 349, 351 and 351A of the Penal Code, and Articles 87 paragraphs 5, 6 and 88 of Law 3386/2005", [GG vol. A, 204/28.08.2003]

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

9. **Presidential Decree 114/2010** “Uniform identification process to foreigners and stateless persons of the refugee status or subsidiary protection”, in compliance with Directive 2005/85/EC”, [GG vol. A, 195/22.11.2010]
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11. **Presidential Decree 113/2013** “Uniform procedures for recognition to foreigners and stateless persons of the refugee status”, [GG vol. A, 146/14.06.2013]
12. **Presidential Decree 141/2013** "Adaptation of Greek legislation to the provisions of Directive 2011/95/EK the Council of 13 December 2011 laying down minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection for other reasons (L 304/30.9.2004)”, [GG vol. A, 152/21/10.2013]
13. **Regulation (EC) No 343/2003**, of 18 February 2003 “concerning the criteria and mechanisms for determining the Member State responsible for examining applications for asylum lodged in a Member State of a third country”.
14. **Directive 2004/81/EC** of 29 April 2004 "On the residence permit issued to third-country nationals victims of trafficking in human beings or to facilitate illegal immigration, who cooperate with the competent authorities."
15. **Directive 2011/36/EU** "on preventing and combating trafficking in human beings and protecting its victims, and replacing Council framework Decision 2002/629/JHA".

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