



**G R E T A**

Group of Experts on Action  
against Trafficking in Human  
Beings

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**Reply from Ireland  
to the Questionnaire  
for the evaluation of the implementation  
of the Council of Europe Convention on Action  
against Trafficking in Human Beings by the Parties**

**Third evaluation round**

**Thematic focus: Access to justice and effective remedies for victims of trafficking in human beings**

**Replies submitted on 11 June 2021**

## Introduction

In accordance with Article 38, paragraph 1, of the Convention on Action against Trafficking in Human Beings ("the Convention"), GRETA evaluates the implementation of the Convention following a procedure divided into rounds. At the beginning of each round, GRETA selects the specific provisions on which the evaluation procedure is based.

The first round of monitoring of the Convention provided an overview of its implementation by State Parties. The second evaluation round of the Convention examined the impact of legislative, policy and practical measures on the prevention of trafficking in human beings (THB), the protection of the rights of victims of trafficking, and the prosecution of traffickers, paying particular attention to measures taken to address new trends in human trafficking and the vulnerability of children to trafficking.

GRETA has decided that the third evaluation round of the Convention will focus on trafficking victims' **access to justice and effective remedies**, which is essential for victims' rehabilitation and reinstatement of rights and reflects a victim-centred and human-rights based approach to the fight against human trafficking. A number of provisions of the Convention establishing substantive and procedural obligations are relevant to this topic. Moreover, victims of trafficking, by virtue of their status as victims of human rights violations, are entitled to effective remedies under the European Convention on Human Rights. Access to justice and effective remedies must be guaranteed, in a gender- and age-sensitive manner, to all victims of trafficking subject to the jurisdiction of State Parties, irrespective of their immigration status or presence on the national territory and notwithstanding their capacity or willingness to co-operate in any criminal investigation.

Access to justice and effective remedies is contingent on the fulfilment of a number of preconditions, including prompt and accurate identification of victims of trafficking, the provision of a recovery and reflection period, the availability of material, psychological, medical and legal assistance, regularisation of the victim's stay, the right to seek and enjoy asylum, and the application of the principle of *non-refoulement*. These preconditions, corresponding to different provisions of the Convention, have been examined at length during the first and second evaluation rounds of monitoring of the Convention. Consequently, GRETA has decided to ask each State Party for an update on the implementation of GRETA's previous recommendations on selected topics, through a separate country-specific part of the questionnaire, rather than including once again questions related to the same provisions in the general questionnaire for the third evaluation round.

States Parties are requested to transmit to GRETA a reply to this questionnaire **within four months** from the date it was sent. The reply to the questionnaire should be submitted in one of the official languages of the Council of Europe (English and French), and preferably also in the original language. Where appropriate, in order to avoid unnecessary repetition, the reply may refer to information contained in the report submitted by the national authorities on measures taken to comply with the Committee of the Parties' recommendation concerning the implementation of the proposals made in GRETA's second evaluation report. States Parties should provide links, copies or extracts of relevant legislation, regulations, national action plans and case law mentioned in the reply to the questionnaire, in the original language and, wherever possible, also in one of the official languages of the Council of Europe.

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A variety of stakeholders and civil society representatives should be effectively consulted in the preparation of the reply to the questionnaire, to ensure that the information provided is as comprehensive as possible.

## Part I - Access to justice and effective remedies

### 1. Right to information (Articles 12 and 15)

**1.1 How, at what stage and by whom are presumed victims and victims of THB informed of their rights, the relevant judicial and administrative proceedings, and the legal possibilities for obtaining compensation and other remedies, in a language that they can understand? Please provide copies of any information materials developed to inform victims of THB, including any materials specifically developed for child victims, in the languages in which they exist.**

Victims of Human Trafficking are provided with information at each stage of the identification, investigation and recovery process. Each of the State Agencies that interact with victims ensure that they are kept informed and have access to any supports they may require. Translators and Interpreters are used as required to ensure effective communication.

#### Legislation

The Criminal Justice (Victims of Crime) Act 2017, which transposed the EU Victims Directive and was passed into law in November 2017, introduced statutory rights for all victims of crime, including victims of human trafficking. The legislation gives all victims of crime an entitlement to information about the system and their case, and supports, and special measures during investigation and court proceedings if necessary. Victims of all offences under s.2 of the Criminal Justice (Victims of Crime) Act 2017 are entitled to information, participatory rights and protections under the terms of the Act.

In addition, under the Victims Charter, which was redeveloped in 2020 and relaunched in Q1 2021, there are now a set of rights and entitlements to services offered by the various state agencies working with all crime victims. Every organisation interacting with victims commits to;

- Speak or write to a victim in simple and easy-to-understand language, taking account of the victims ability to understand and to make themselves understood;
- Be sensitive to the needs of the victim if they cannot read or write very well;
- Provide an interpreter and translation if English is not the victim's first language so that they can take part in the investigation or to act as a witness in court.

#### The National Referral Mechanism

The National Referral Mechanism (NRM) is the national framework for victim identification through which State bodies fulfil their obligations to protect and promote the human rights of trafficking victims, working in partnership with civil society. The supports available under the NRM include accommodation, medical care, care planning, legal advice and aid, immigration permission, police services, employment/ vocational training, voluntary return home and translation and interpretation services. Within the NRM victims have access to the all the above services and the Department of Justice funds contracts with private sector translation companies to provide translation and interpretation services to victims when required during each stage of the NRM process. Within the Department of Justice the International Protection Accommodation Service provides for translation and interpretation services when giving advice and

direction on repatriation, legal services, material assistance (welfare allowances) and access to the labour market.

The development of a new expanded NRM building on work advanced previously and examination of models in other EU Member States was approved by Government on 11 May 2021. The revised NRM will make it easier for human trafficking victims to come forward and receive supports.

Ireland ensures that victims of trafficking have early access to legal practitioners, through the Legal Aid Board (LAB) or by means of funding NGO groups that provide legal assistance. The LAB provides free legal services to potential victims of trafficking through their Human Trafficking Specialised Unit. Identified potential victims of human trafficking are provided with free legal advice in relation to the following:

- The victim's status in Ireland and the measures set out in the Administrative Immigration Arrangements which provide for recovery and reflection and temporary residence, as well as applications for leave to remain in the State;
- Where the victim is seeking redress through the employment protection legislation (legal advice only);
- Information on what is involved in a criminal trial for a victim/witness;
- Information on compensation;
- Information on voluntary return home;
- Criminal matters related to the trafficking offence.

Some victims may decline LAB services if they are not ready yet to engage, and in some cases they may already have access to appropriate legal support through NGOs as part of the NRM.

#### National anti- human trafficking website

Victims of human trafficking can access the [Blue Blindfold website](#) which provides victim support information and contacts for frontline services. The new website provides a user-friendly overview of available supports, information about how the crime of human trafficking manifests in Ireland, how members of the public can spot and report the signs of trafficking, and how the State supports these victims once identified.

The Department of Justice are currently engaging with the International Organisation for Migration (IOM) Ireland on introducing cultural mediators through the Protect 2 Project. Cultural mediators are professionals who facilitate the communication (including interpretation) between people speaking different languages and with different cultural backgrounds and are used to support vulnerable victims and witnesses of migrant backgrounds, with a focus on sexual crimes and human trafficking. The project aims to support migrants who are suspected victims of trafficking or at risk and sexual gender-based violence survivors by providing information on available services and empowering them to seek help of specialised services. Building trust and providing cultural interpretation, these mediators will be fundamental in supporting and enhancing victim referrals, overall engagement and the effective information provision to those otherwise unwilling or unable to access or navigate mainstream national services.

A sample of the information leaflets/ guides provided by some of the relevant agencies who interact with victims of trafficking are linked below;

- A [guide](#) to procedures for victims of human trafficking can be found on the blue blindfold website.
- The Office of the Director of Public Prosecution makes information available to all victims on their [webpage](#). The information leaflets are available in twelve languages.
- Victim information booklets can be found in an array of languages on the [Garda Síochána](#) website. An Garda Síochána also use translation services where necessary when making a report and then when sending the victim their copy of report.
- The [legal aid board](#) also has an information booklet that they provided to any victims which of human trafficking referred to them for legal assistance.
- TUSLA's website for young people, [Changing Futures](#), was created by young people with experience of Tusla services to help other young people. The website offers advice for children, provides details of who they may meet in Tusla and information on the supports they provide.

Information in relation to the legal possibilities available to victims of human trafficking in obtaining compensation is contained at 3.1 below.

## **1.2 How is the obligation to provide translation and interpretation services, when appropriate, met at different stages of the legal and administrative proceedings by different agencies?**

The Department of Justice funds contracts with private sector translation companies to provide translation and Interpretation services when required to victims of human trafficking during each stage of the NRM process such as;

- Accommodation
- Medical care,
- Care planning,
- Legal advice and aid,
- Immigration permission,
- Police services,
- Employment/ vocational training,
- Voluntary return home.

The Legal Aid Board (LAB) is an affiliated statutory body of the Department of Justice. The services of translators and interpreters are provided to clients on their request, or when it becomes apparent that the client cannot proceed without the aid of a translator.

## **2 Legal assistance and free legal aid (Article 15)**

### **2.1 How, by whom and from what moment is legal assistance provided to victims of trafficking? How is legal assistance provided to children?**

Once identified as a victim of human trafficking through the National referral mechanism, a referral can be made by An Garda Síochána to the Legal Aid Board (LAB) in Dublin. The victim must complete an application form. Victims are not financially assessed and do not pay a contribution towards their legal services.

The service will be primarily provided by the Legal Aid Board by solicitors who have received specialist training. The Law Centre (Smithfield) may decide to refer certain applications to Law Centre (Galway). In the case of children, assistance is provided through an intermediary.

The service will be provided to victims acting as witnesses in prosecutions taken under specified provisions of the Criminal Law (Human Trafficking) Act 2008. The solicitor will, at the pre-trial stage, explain and re-assure the potential witness about the procedures that will arise and to notify them about their rights as appropriate, including on issues such as seeking compensation from the alleged trafficker involved in the case.

- A solicitor does not prepare a statement to the Gardaí on behalf of the client nor engage in any collation or preparation of material in anticipation of a criminal trial. The solicitor should only deal with the potential victim and should not take instructions from any other representative that the potential victim may also have acting for them.
- A solicitor or caseworker will not accompany a client, other than a minor client or a client regarded as exceptionally vulnerable, during an interview by investigating Gardaí.
- If a potential victim of human trafficking is charged with a criminal offence they should be advised of the existence of the criminal legal aid scheme and assisted in obtaining representation on foot of that scheme.
- A solicitor or caseworker may, where considered appropriate and necessary, accompany the client during the trial itself, primarily to provide reassurance regarding the actual procedures.
- Due to the sensitivity of human trafficking cases and the potential ongoing danger to potential victims as the case progresses, every care is taken to ensure that the confidentiality of client is maintained. For example, it may be preferable to contact clients directly by telephone to arrange appointments rather than sending letters to them at addresses which may compromise their anonymity.
- The LAB provides free legal services to the potential victims of trafficking through its Human Trafficking Specialised Unit. Some victims may decline these services (if they are not ready yet to engage; or in some cases they may already have access to appropriate legal support through NGOs part of the National Referral Mechanism).

Identified potential victims of human trafficking can be provided with free legal advice in relation to the following:

- The victim's status in Ireland and the measures set out in the Administrative Immigration Arrangements which provide for recovery and reflection and temporary residence, as well as applications for leave to remain in the State;
- Where the victim is seeking redress through the employment protection legislation (legal advice only);
- Information on what is involved in a criminal trial for a victim/witness;
- Information on compensation;
- Information on voluntary return home;
- Criminal matters related to the trafficking offence.

The LAB waives fees for potential victims of trafficking and prioritises requests for assistance in order to ensure that potential victims of trafficking have access to legal services within a reasonable timeframe.

If the victim has or is about to apply for international protection, the LAB can provide legal advice and legal representation in relation to the application.

## **2.2 Do all presumed victims of THB have access to legal assistance, irrespective of immigration status or type of exploitation?**

Yes, legal services will be provided to victims regardless of immigration status. Ireland continues to ensure that the right to seek and enjoy international protection does not impede identification as a victim of trafficking. The International Protection Office places a strong emphasis on watching for the signs of human trafficking in International Protection applicants and has an ongoing training programme in place.

## **2.3 What are the conditions for access to free legal aid for victims of THB, including children? For which types of proceedings is free legal aid available? Is free legal aid available to help victims claim compensation and execute compensation orders? Please provide the text of the relevant provisions.**

There are no conditions to accessing legal aid by victims of human trafficking. The Legal Aid Board waives fees for potential victims of trafficking, including child victims and prioritises requests for assistance in order to ensure that potential victims of trafficking have access to legal services within a reasonable timeframe. The type of proceedings for which legal aid is provided is outlined in 2.1

If the victim has or is about to apply for international protection, the Legal Aid Board can provide legal advice and legal representation in relation to the application. (A €10 fee must be paid as a contribution towards legal services).

Ireland will continue to ensure that victims of trafficking have early access to legal practitioners, including by means of funding NGO groups that provide legal assistance. In addition, to ensure that victims of trafficking have early access to legal practitioners, where appropriate, the Department of Justice will fund NGO groups that provide legal assistance.

## **3 Compensation from the perpetrators (Article 15)**

### **3.1 What measures are in place to enable courts to award compensation to victims of THB, including children, from the perpetrators as part of criminal proceedings? What is the role of prosecutors in this respect?**

There are a number of methods of obtaining compensation currently available to victims in Ireland. These include:

- Under s.6 of the Criminal Justice Act 1993, the court is entitled, instead of, or in addition to any other penalty imposed to make a Compensation Order requiring the convicted person to pay compensation in respect of any personal injury or loss resulting from the offence the individual was convicted of to any person who has suffered such injury or loss.

- Civil Action to claim damages taken either under legislative or common law rules which may relate to an employment situation or personal injuries;
- State bodies dealing specifically with work-related rights and entitlement;
- Through application to the Criminal Injuries Compensation Tribunal.

During proceedings the prosecutor will draw the provisions of section 5 of the Criminal Justice Act 1993 as amended by section 31 Criminal Justice (Victims of Crime) Act 2017 to the attention of a sentencing court and will furnish to that court any evidence or submission received concerning the effect of the offence on the victim, from the victim, or a family member of a victim who is deceased, ill or otherwise incapacitated as a result of the offence.

### **3.2 How is the amount of compensation calculated and are there specific criteria or models for calculating it? What types of injury/damage and costs are covered? Are there any circumstances/conditions that would lead to a reduction of the amount of compensation?**

In criminal cases, The Criminal Justice Act 1993 makes provision for a compensation order to be made by a Court. This type of order is to compensate the victim for any loss or injury suffered as a result of the offence. The amount of compensation is at the discretion of the Judge who will take into account the means and financial commitment of the offender.

A court may order the payment of compensation to a victim under Section 6 of the Criminal Justice Act 1993, which states:

'on conviction of any person of an offence, the court, instead of or in addition to dealing with him in any other way, may ... make ... an order ... requiring him to pay compensation in respect of any personal injury or loss resulting from that offence (or any other offence that is taken into consideration by the court in determining sentence) to any person ...who has suffered such injury or loss.'

In civil actions, compensatory damages are assessed under two main categories: General Damages and Special Damages. Special Damages award the plaintiff for costs and expenses incurred by him/her as a result of the negligence or wrongdoing of the defendant for the financial costs and expenses, both past and future, incurred as a result of the incident.

### **3.3 How are compensation orders/verdicts enforced? What measures are in place to guarantee and ensure effective payment of compensation?**

Where a court decides that an offender must pay compensation to a victim the court may ask the Probation Service to supervise the payment of the compensation.

In a civil action if there is a failure to pay the debt, a creditor/victim can go to court to get a judgment that the debt is owed. If the creditor/victim is awarded a judgment, they can now use different methods to retrieve the money. This is called enforcing a judgment. The legal term is execution of the judgment. There are 4 main ways a creditor can enforce a judgment:

- Execution against goods
- Instalment orders, followed by committal orders (if necessary)

- Attachment of earnings
- Judgment mortgage

Other ways of enforcing judgments include attachment of debts, appointment of a receiver and bankruptcy proceedings. Victims of trafficking, no matter what their nationality, have access to this non-judicial compensation avenue in the same manner as a citizen of the State.

### **3.4 When foreign victims of THB are removed from or choose to leave the country where the exploitation took place, what measures are in place to enable them to obtain compensation and other remedies?**

Criminal cases where a compensation order may be awarded may be taken regardless of the victim's participation or current jurisdiction. Victims of trafficking can also initiate a civil claim for damages and compensation from their country of origin.

Victims of trafficking, no matter what their nationality or location, have access to the non-judicial compensation avenue in the same manner as a citizen of the State (see 4.1). The Employment Permits (Amendment) Act also provides that the Minister for Justice may take a civil action on the foreign national's behalf for compensation for work done or services rendered as well as responsibility for the cost of such action.

### **3.5 What procedures are in place to ensure effective access to compensation for victims of THB for the purpose of labour exploitation? Can such victims bring civil claims for compensation and/or recovery of unpaid wages and social contributions on the basis of tort, labour, employment or other laws? Please specify the relevant measures. Can victims of THB working in irregular employment or without a contract claim unpaid wages and other compensation and if yes, how is the amount of unpaid wages and other compensation established?**

Human trafficking victims for the purpose of labour exploitation in Ireland can file civil suits against trafficking offenders. It is also possible for victims of trafficking to initiate a civil claim for damages and compensation from their country of origin. Civil action may be taken by a victim of crime to claim damages taken either under legislative or common law rules which may relate to personal injuries. Victims of trafficking in Ireland can file civil suits against offenders. Compensatory damages in Ireland are assessed under two main categories: General Damages and Special Damages. Special Damages award the plaintiff for costs and expenses incurred by him/her as a result of the negligence or wrongdoing of the defendant for the financial costs and expenses, both past and future, incurred as a result of the incident.

The Employment Permits (Amendment) Act, enacted in July 2014, addressed the deficiency where a foreign national could not enforce employment rights if a contract of employment was unlawful due to a failure to have an employment permit. The Act provides that it is a defence for the foreign national to the charge of having being without an employment permit where the foreign national can show that all reasonable steps to comply with the requirement to have an employment permit were taken by him/her.

The Act also provides that the Minister may take a civil action on the foreign national's behalf for compensation for work done or services rendered as well as responsibility for the cost of such action.

Persons who are legally employed in the state may seek redress for loss of earnings and other employment rights breaches through the WRC's adjudication service. The Workplace Relations Commission's Inspectorate can also recover unpaid wages for workers and in 2020, the Workplace Relations Commission Inspectorate recovered €1.7 million in unpaid wages for employees and carried out 7,687 inspections over the period. Neither the Workplace Relations Commission, nor the Labour Court have jurisdiction to determine whether a person is a victim of trafficking or not. Such a person could, provided that they had a legal entitlement to work in Ireland, seek restitution through these bodies, but it is not possible to distinguish what percentage of the €1.7 million in unpaid wages that was recovered was in respect of victims of trafficking.

In addition to the above, in 2019 Ireland ratified the 2014 protocol to the Forced Labour Convention. The protocol obligates parties to provide protection and appropriate remedies, including compensation, to victims of forced labour and to sanction the perpetrators of forced labour. It also obligates parties to develop "a national policy and plan of action for the effective and sustained suppression of forced or compulsory labour". Ireland was the 29th country to ratify the protocol placing Ireland among the group known as "50 for Freedom", which stems from an ILO initiative to encourage 50-member countries to ratify the Protocol by the end of 2019.

### **3.6 What training is provided to build the capacity of relevant professionals, such as lawyers, law enforcement officers, prosecutors and judges, to enable victims of THB to obtain compensation and other remedies?**

The Human Trafficking Specialised Unit are a specialised unit within the Government's Legal Aid Board (LAB) who provides free legal assistance to victims to victims of trafficking (see 1.1) including provision of free legal advice in relation to information on compensation.

The Department of Justice established a human trafficking stakeholder's forum in September 2020 to examine avenues of improvement in relation to human trafficking. The forum consists of State, agency and civil society organization stakeholders working together to provide supports to victims of human trafficking. A work plan framework was agreed with immediate, medium and long term goals. The framework includes issues in relation to strengthening national coordination, awareness raising and prevention, protection of victims, review of legislation and international cooperation. The forum will also explore the subjects of training for government officials and frontline service workers and compensation for victims of human trafficking.

## **4 State compensation (Article 15)**

### **4.1 Do the eligibility criteria for State compensation schemes for victims of crimes exclude some victims of THB (e.g. due to irregular residence status, nationality, nature of the offence)? Does access to State compensation depend on the outcome of the criminal case and on failure to obtain compensation from the offenders?**

Ireland's provision of compensation to all victims of crime, including victims of trafficking, is through the Scheme of Compensation for Personal Injuries Criminally inflicted, administered by the Criminal Injuries Compensation Tribunal, a non-statutory agency of the Department of Justice, established on an administrative basis to consider applications from people who suffer a personal injury or death as a result of a crime of violence. Applications to the scheme are not dependent on residence status, nationality and, in the majority of cases, the nature of the offence.

Following an application process, ex gratia compensation may be awarded on the basis of any vouched out of pocket expenses (such as medical expenses), including loss of earnings, experienced by the victim or, if the victim has died as a result of the incident, by the dependents of the victim. However, victims of trafficking, no matter what their nationality, have access to this non-judicial compensation avenue in the same manner as a citizen of the State.

Generally speaking, applications must be made to the tribunal as soon as possible but not later than three months after the incident. The tribunal has discretion under the scheme to extend this time limit in circumstances where the applicant can show that the reason for the delay in submitting the application justifies exceptional treatment of the application.

Since 1 June 2006, the Criminal Injuries Compensation Tribunal has been designated under the EU Council Directive 2004/80/EC as the appropriate body in Ireland for the transmission and receipt of applications for compensation in cross-border cases and, in effect, acts as the Irish assisting and deciding authority, as well as being the national contact point.

State compensation does not depend on the outcome of the criminal case and/or the failure to obtain compensation from the offenders. However, while a victims may seek compensation under both a civil action court order and the Tribunal's Scheme of Compensation for Personal Injuries Criminally Inflicted, they cannot be doubly compensated for any losses suffered. If an application is made for a civil action court order, the processing of any application under the scheme may be suspended until the outcome of the court proceedings is known.

#### **4.2 How is the amount of State compensation calculated so as to address the gravity of the harm endured by the victim?**

Under the Criminal Injuries Compensation Tribunal, the Tribunal only considers financial losses, such as lost earnings, out-of-pocket expenses and bills. It doesn't compensate a victim for pain and suffering. When deciding the amount of the award, the Tribunal will consider any social welfare payments, salary or wages the victim received while on leave from work and will also take into account any compensation paid to the victim by or on behalf of the offender. The amount of compensation depends on the type and circumstances of the case.

#### **4.3 Is it possible for foreign victims of trafficking to submit claims for State compensation in your country after being returned or repatriated to their countries of origin? Please provide examples of any such cases and indicate the measures stipulating such a possibility.**

It is possible for persons who have experienced injury from a reported violent crime committed against them, regardless of their nationality, to seek State compensation under the Scheme of Compensation for Personal Injuries Criminally Inflicted (the Scheme). Vouched out-of-pocket expenses are eligible for reimbursement under the Scheme and awards are made by the Criminal Injuries Compensation Tribunal (the Tribunal). It is a condition of the Scheme, that the injury must have been sustained within the State or aboard an Irish ship or aircraft, on or after 1st October, 1972. It is also a requirement of the Scheme that the crime has been reported to An Garda Síochána (Irish police force) and that the applicant fully co-operates with An Garda Síochána's investigation into the criminal incident.

We are not aware of any such cases arising in relation to the Criminal Injuries Compensation Scheme.

**4.4 Are victims seeking State compensation liable for lawyers' costs and fees? Are State compensation awards subject to taxation? Does the receipt of compensation have consequences for access to social security or other benefits?**

(i) The Scheme is intended to operate in an informal way and this is set out in the terms and conditions. While an applicant is always entitled to seek independent advice or representation, including legal advice and legal representation, the Scheme does not provide for the reimbursement of legal costs. (As outlined in 1.1 legal assistance from the Legal Aid Board may be sought).

(ii) No, the awards are not subject to taxation

(iii) An applicant who receives an award of compensation under the Scheme can still access social security or other benefits (however the determination of certain benefits may involve consideration of a persons' overall means and income e.g. the provision of social security benefits which are based on a means test). It is also the case that a general principle applies under the Scheme that there can be no double compensation made to applicants. Because of this any other payment an applicant may be receiving from another source as a result of the incident (which gave rise to their claim) including social security payments will be taken into consideration by the Tribunal in determining the level of award.

**5.1 Please describe the legislative and other measures adopted by your country which allow to: i) confiscate or otherwise deprive perpetrators of the proceeds of criminal offences, or property of an equivalent value to those proceeds; and ii) identify, trace, freeze or seize rapidly property which is liable to confiscation, in order to facilitate the enforcement of a later confiscation. Do these measures allow the identification, tracing and seizure of property into which the proceeds of illicit activities have been converted?**

- Part II of the Criminal Justice Act 1994 specifically provides for confiscation following conviction on indictment (which includes all offences in relation to human trafficking). The question of whether or not a confiscation application might be appropriate should be addressed at the outset by the investigator and should be considered when a prosecution is being directed upon.

It applies to drug trafficking and offences other than drug trafficking or the financing of terrorism. Additions to Part II of the Criminal Justice Act 1994 were made by Statutory Instrument 540 of 2017 European Union (Freezing and Confiscation of Instrumentalities and Proceeds of Crime) Regulations 2017, took effect on 28 November 2017. Since that date in respect of 'relevant offences' listed in the 1994 Act, a confiscation application can be made not only in respect of the proceeds of the particular

offence for which the offender has been convicted but also in respect of the proceeds of conduct constituting that offence (extended confiscation).

Where a person has been convicted on indictment and sentenced or otherwise dealt with in respect of a list of 'relevant offences' listed in the Criminal Justice Act 1994 as amended, section 8F of the Criminal Justice Act 1994 gives discretion to the Director to apply for a confiscation order, and to the court to make such order, if it is determined that the convicted person has benefited from the offence for which he was convicted or from conduct constituting that offence.

In determining any questions arising under the Criminal Justice Act 1994 as to whether a person has benefited from drug trafficking or financing terrorism or other offences, or as to the amount to be recovered in each case, the standard of proof required to determine those questions is the lower standard applicable to civil proceedings, i.e. the balance of probabilities, as provided in sections 4(6), 8A(6), 8F(8) and 9(7) of the 1994 Act.

Part III of the Criminal Justice Act 1994 provides for the enforcement of confiscation orders, the appointment of receivers in respect of realisable property, and the making of freezing and ancillary or variation orders which preserve property for possible future confiscation following conviction. Section 24 of the 1994 Act allows the Director of Public Prosecutions, in circumstances specified by section 23 of the 1994 Act, to apply to the High Court for freezing orders which prohibit persons from dealing with realisable property. The Office of the DPP should be consulted promptly if any such enforcement orders may be appropriate.

The Illegal Immigrants (Trafficking) Act 2000 – section 4 – provides for forfeiture of any ship, boat, aircraft or mechanically propelled vehicle and associated equipment, fittings and furnishings, involved in the commission of an offence under that Act

These measures allow, in conjunction with the powers of civil forfeiture in relation to Criminal Assets Bureau, the identification, tracing and seizure of property into which the proceeds of illicit activities have been converted.

When undertaking investigations relating to human-trafficking and organised prostitution, An Garda Síochána endeavours to 'follow the money trail' and uncover money-laundering. Depending on the complexity of the investigation, the assistance of other bureaux within An Garda Síochána may be sought, for their expertise in particular areas of crime. As appropriate, referrals are sent to the Criminal Assets Bureau (CAB), which focuses on the assets of Organised Crime Gangs (OCGs), in terms of tax avoidance and asset seizure by way of illustration.

The Criminal Assets Bureau operates under the provisions of the Proceeds of Crime Act, 1996 to 2016. The Bureau can freeze and seize assets which it shows to the High Court are the proceeds of criminal conduct. This is done on the civil standard of proof, which is known internationally as non-Conviction Based Forfeiture.

## **5.2 In what way do victims of THB benefit from seized and confiscated assets of perpetrators of THB? Do the confiscated assets go directly to victims, to a compensation fund**

**or scheme for victims of trafficking or to other programmes for the assistance or support of victims of THB? Please provide information on seizures and confiscations of assets in THB cases and how they were used.**

It is a matter of great importance that the proceeds of the crime are recovered and reinvested back into keeping communities safe. Ireland has a robust legislative framework in place allowing for the freezing, seizure and confiscation of assets that are derived from criminal conduct.

In accordance with the provisions of the Proceeds of Crime Acts 1996-2016, the Criminal Justice Act 1994, as amended, and SI No. 418/2011 - Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011, all confiscations relating to the proceeds of crime are transferred to the Minister for Public Expenditure and Reform to be paid into, or disposed of, for the benefit of the Exchequer. It is from this central fund which the Government draws for expenditure on all necessary public services and investment including for communities affected by crime. Any change to that process would be a matter for the Departments of Finance and Public Expenditure.

Government Departments provide funding from their voted budgets to a range of NGO's that support victims of human trafficking. The following table contains information in relation to funding provided by the Department of Justice funding to anti-human trafficking efforts from 2017 to 2020.

Year	NGO	Mainstream funding from Department of Justice	Dormant accounts	Total by year
2017	Ruhama	€310,000	€6,450	€426,441
	Migrant Rights Centre Ireland	€50,000	€59,991	
2018	Ruhama	€50,000		€375,000
	Migrant Rights Centre Ireland	€325,000		
2019	Ruhama	€350,000		€434,500
	Migrant Rights Centre Ireland	€84,500		
2020	Multiple NGO partners	€687,254		€687,254

**5.3 Is it possible to use plea bargaining or some other form of settlement in cases of THB? If yes, please provide the relevant provisions. What protections are in place for victims of THB to ensure that their right of access to justice and effective remedies is not compromised by the plea bargaining or settlement in the legal process?**

Plea Bargaining is constitutionally impermissible in Ireland, and has been specifically disapproved of by the Irish Supreme Court for many years.

**5.4 What is the average duration of court proceedings in THB cases? In which circumstances are such cases given priority? Do you have a system to fast-track human trafficking-related prosecutions in order to improve the trial process and reduce the burden on victims and witnesses, including children? What safeguards are in place to ensure that judges deal with cases of THB without undue delay?**

According to the most recent figures available, the average duration of a Circuit Court criminal trial (from first appearance in the Circuit Court until the final order is made is 672 days – this is the average figure for all Circuit Court criminal cases. No figures exist for THB cases.

COVID-19 has affected the work of the Office of the Director of Public Prosecution (ODPP) as it has affected all sectors of the Irish economy and wider Irish society. In relation to the work of the ODPP, the single biggest effect has arisen in relation to jury trials. It was not possible to have jury trials for 16 weeks in 2020 due to Covid-19 restrictions. This resulted in the postponement of trials from 2020 to 2021-2022. The core work of the ODPP, making decisions on prosecutions (and by extension to human trafficking investigations), by contrast is largely unaffected. Greater use of ICT solutions, and more flexible working, are now well embedded, and working well. Close working relationships with stakeholder agencies remain strong, and continued liaison is now done remotely as opposed to face to face with no discernible effect on operations. ODPP continues to process the investigation files dealing with human trafficking referred to it by An Garda Síochána. Volumes of human trafficking cases referred to the ODPP have not changed as a result of the pandemic. In fact, overall case numbers are up 22% in 2020 on the 2019 figures.

- ***Do you have a system to fast-track human trafficking-related prosecutions in order to improve the trial process and reduce the burden on victims and witnesses, including children?***  
There is no such system in place at present, but every case is dealt with on its own facts and circumstances, and urgent cases are prioritised.
- ***What safeguards are in place to ensure that judges deal with cases of THB without undue delay?***

There is no such system in place at present, but every case is dealt with on its own facts and circumstances, and urgent cases are prioritised. The prosecution will regularly draw such cases to the attention of the listing judge. Extensive case law on delay requires that cases involving juveniles, and vulnerable persons should be given priority.

The length of time it will take to conclusion of a criminal trial from the date of charging of an accused will vary from case to case and will depend on such issues as whether the accused enters a

plea of guilty or not and the complexity of the relevant prosecution, including whether or not it involves an international dimension. Guilty pleas are dealt with in significantly less time.

## **5.5 How do you ensure that sanctions for THB offences are effective, proportionate and dissuasive?**

In Ireland, following conviction for an offences of trafficking people (including children) for labour or sexual exploitation, removing a person's organs, forced criminality or forced begging, the Courts have the discretion to impose penalties of up to life imprisonment and unlimited fines.

## **2. Ex parte and ex officio applications (Article 27)**

### **6.1 What is the procedural position of a victim of THB in criminal proceedings? What steps are taken to assist victims of THB, including children, to enable their rights, interests and views to be presented and considered during the criminal proceedings against offenders? Who is entitled to assist victims of THB in court? Can victims of THB be represented by NGOs in criminal proceedings?**

In Ireland, victims of crime are not involved in instituting or conducting prosecutions of criminal offences; criminal prosecutions are conducted by the state (Generally led by the Office of the Director of Public Prosecutions). Therefore the procedural position of a victim of THB in criminal proceedings is generally that of a witness (should the prosecution / defence decide to call them as one), although it should be noted that other protections, supports and rights are afforded to victims (see answer to 8.3, below)-

- When reporting a crime (either during their initial statement or during subsequent interviews) THB victims have the right to bring a person of their choice for support, including persons affiliated with NGOs. They can also bring a legal representative.
- THB victims receive access to different supports from NGOs to help them recover from their experiences and help them make decisions about their future. These organisations provide practical and emotional support.
- The victim is provided with access to accommodation through state funded accommodation, material financial assistance, medical screening and access to counselling.
- All victims of THB are assigned a social worker who is specifically trained to assist and support victims of trafficking.
- Victims of THB are provided access to legal advice and legal aid (provided free of charge by the Legal Aid Board) to assist them with their immigration position in the state (should they be a foreign national without an existing valid permission to be in the state). A victim of THB can engage a private solicitor for this purpose should they so wish. An NGO can legally represent a victim of THB in criminal proceedings but only if they are registered as a legal practitioner with the Law

Society of Ireland. If they are not a registered legal practitioner the NGO can still attend court but only to provide emotional assistance, advice and support to the victim of THB.

- A victim of THB has the right to ask to be kept informed about significant developments in the investigation. However, they are not entitled to get any information that could interfere with the investigation or put anyone in danger. This information would normally be provided between the Human Trafficking Investigation and Coordination Unit of the Garda National Protective Services and the victims Legal Representative.
- If a decision is made to stop the investigation, without having identified a suspect, the THB has a right to ask for a summary of the reasons for this decision. In some cases, either the police (Gardaí) or the Director of Public Prosecutions may decide not to prosecute an identified suspect. Again, the victim of THB has a right to ask for a summary of the reasons for this decision and can also ask for the decision to be reviewed and reconsidered.
- While the Gardaí are investigating the case, they will decide whether the THB needs special supports or protections. A Crime Protection Officer is available to provide advice on personal safety and provide victims of THB with a safety and security plan.
- The court can provide a video link facility for victims aged under 17 who are giving evidence in serious sexual or violent crime cases, as well as for other vulnerable or intimidated witnesses.
- The victim of THB has the right to information about when the court case will take place; where it will take place; what the suspect is being charged with; and if the defendant is convicted, the date they are due to be sentenced.
- If the defendant pleads guilty or is found guilty, the victim of THB has the right to make a personal statement to the Court before the perpetrator is sentenced. This is called a victim impact statement. The court may consider the statement when it is sentencing the offender.
- When an offender receives a prison sentence, the victim has the right to be told the expected date of their release; When they are about to be released or transferred; If they have escaped; If they die while in custody.
- The Victim may also be entitled to seek civil and criminal compensation from the perpetrators of the trafficking. If taking civil compensation proceedings, the victim would procedurally be the Applicant to the Court proceedings and the perpetrator would be the Defendant. Criminal compensation is assessed and processed by way of a state funded Tribunal procedure.

## Legislation

The Victims Directive came into effect on 16 November 2015. The legislation which transposed the Directive into Irish law is the Criminal Justice (Victims of Crime) Act 2017. The Victims of Crime Act defines a 'victim' as: a) a natural person who has suffered harm, including physical, mental or emotional harm or economic loss which was directly caused by a criminal offence; b) family members of a person whose death was directly caused by a criminal offence and who have suffered harm as a result of that person's death.

Under the Victims of Crime Act, 'family members' of a deceased victim include: a) the spouse, civil partner or cohabitant of the victim; b) a child (meaning any person below 18 years of age) or step-child, grandchild, parent, grandparent, brother or sister, half-brother or half-sister, aunt, uncle, nephew or niece, and the dependants of the deceased person. In cases where victims lack capacity to look after their own affairs, the prosecutor will treat family members of such persons as victims of crime. A person who is under investigation for, or has been charged with, an offence in connection with the death of a deceased victim does not come within the definition of a family member of a deceased victim in the Victims of Crime Act and is not entitled to request a summary of reasons for a decision not to prosecute.

The Director of Public Prosecutions prosecutes cases on behalf of the People of Ireland and not just in the interests of any one individual. The Office of the DPP will have regard to any views expressed by a victim when deciding whether or not to prosecute or in relation to the acceptance of a plea of guilty to any lesser charge. Although the views and interests of the victim are important, they are not the only consideration when deciding whether or not to prosecute or when deciding to accept a plea of guilty. The Office of the DPP will communicate with victims in simple and accessible language whether orally or in writing, and will take into account the personal characteristics of the victim including any disability which may affect the ability of the victim to understand such communications, or to be understood.

The Garda Síochána also make prosecution decisions. They may institute and conduct prosecutions in the name of the Director of Public Prosecutions. They can only do so for offences specified in a General Direction from the Director of Public Prosecutions under section 8(4) of the Garda Síochána Act 2005. When a Garda Superintendent decides not to prosecute a suspect following the investigation of an offence, victims may request a summary of reasons and a review of that decision from the Garda Síochána.

Under section 8 of the Victims of Crime Act, Victims may request a summary of the reason for the decision made not to prosecute a person for an alleged offence. This provision applies from the 27 November 2017. The Office of the DPP will also provide to a victim upon request a summary of the reason for a decision not to prosecute in respect of the following matters: a) all of its decisions not to prosecute made on or after 16 November 2015; and b) in relation to the death of a victim which occurred on or after 22 October 2008. The Victims of Crime Act provides in section 11 that the Office of the DPP is not required to provide a summary of the reason for a decision not to prosecute where such disclosure could: a) interfere with the investigation of an alleged offence; or b) prejudice ongoing or future criminal proceedings in respect of an alleged offence; or c) endanger the personal safety of any person; or d) endanger the security of the State.

In the case of a victim who does not understand or speak English or Irish, the Office of the DPP will provide to the victim upon request a translation of the summary of the reason for a decision not to prosecute. It is important to note that there are time limits within which a victim must request a summary of the reason. This is to ensure the fair and efficient administration of justice and to balance the rights of a victim with those of a suspect. In some cases, the time limits may be extended but only if there is a good reason and it is in the interests of justice to do so.

A victim who is informed of a decision not to prosecute a person for an alleged offence, may within 28 days after receiving the information, submit a request to the Director of Public Prosecutions for a review of the decision concerned. Where a victim has sought and been given a summary of the reason for the decision made not to prosecute, the Office of the DPP will carry out a review of the decision not to prosecute upon request from a victim who is dissatisfied with the summary of the reason provided for the decision not to prosecute. Alternatively, where a victim has not sought a summary of the reason for the decision not to prosecute but wishes to have that decision reviewed, the Office of the DPP will upon request from the victim review the decision not to prosecute. It is important to note the 28-day time limit set down

by the Victims of Crime Act within which a victim must request a review of a decision not to prosecute. In some cases, the time limit may be extended but only if there is a good reason and it is in the interests of justice to do so.

The Office of the DPP will also give careful consideration to any request by a victim that proceedings be discontinued. It must be borne in mind, however, that the expressed wishes of victims may not coincide with the public interest and in such cases, particularly where there is other evidence implicating accused person or where the gravity of the alleged offence requires it, the public interest may require the continuation of a prosecution despite the victim's wish that it would be discontinued.

The Director of Public Prosecutions will consider any communication received from victims of crime, or the family members of victims of crime who have died, are ill or otherwise incapacitated, in connection with powers granted by law to the Director to appeal or apply in respect of the matters set out in Chapter 11, of the Guidelines for Prosecutors ([www.dppireland.ie](http://www.dppireland.ie)) on Prosecution Appeals and Sentence Reviews.

A comprehensive list of the responsibilities that Prosecutors have to victims of crime can be found on the Director of Public Prosecutions [webpage](#).

## **6.2 If the authorities fail to discharge their obligation to effectively investigate and prosecute suspected cases of trafficking, what possibilities for redress exist for victims of THB and their families? To what extent have victims of trafficking, including children, access to complaint mechanisms, such as Ombudsman institutions and other national human rights institutions?**

Investigations undertaken by An Garda Síochána relating to suspected incidents Referrals to of human-trafficking will typically arise as a consequence of a report made by a victim, or another person on their behalf, regarding the alleged commission of criminal acts which constitute the offence of human-trafficking. The investigation and prosecution of offences are separate and distinct functions within the criminal justice system. The latter being carried out by the Office of the Director of Public Prosecution (ODPP). As a general rule, the ODPP has no investigative function and no power to direct An Garda Síochána or other agencies in their investigations. However, the Director may advise investigators in relation to the sufficiency of evidence to support nominated charges and the appropriateness of charges or in relation to legal issues arising in the course of investigation. Whilst not responsible for the conduct of investigations, the Director is free to indicate what evidence would be required to sustain a prosecution. Prosecutors or members of the Director's staff who become aware of anyone wishing to make a complaint about services provided by the Office of the DPP which directly affected them will inform those persons of the Complaints Policy. Information on the Complaints Policy can be found on the Office website at [Office of the Director of Public Prosecutions](#). Victims of crime, or family members of victims of crime who have died, are ill or otherwise incapacitated, who are dissatisfied with a decision not to prosecute may request a summary of the reasons for the decision or a review of the decision. That is a separate process to making a complaint about services provided by the Office of the DPP.

The Complaints Policy of the Office of the DPP covers complaints about services provided by the Office of the DPP which directly affects victims, witnesses, and suspects. Complaints might relate to a delayed response to a letter sent to ODPP, if someone considers that their rights as a victim have not been met,

or in relation to the conduct of a prosecutor or State Solicitor acting on behalf of the ODPP. This policy does not cover dissatisfaction with decisions not to prosecute, which is separately dealt with under the Criminal Justice (Victims of Crime) Act 2017. Complaints are acknowledged within five working days, and a full response, where possible, is provided within six weeks. In some cases it may take longer. If this happens, we will write to the complainant and confirm when they can expect a reply. In some cases a complaint can be resolved very simply. This might happen, for example, by providing more information, correcting a mistake, or explaining a particular procedure. If a complaint is of a more serious nature, it will be referred to a senior manager. The senior manager will examine the matter and respond to the complainant as soon as possible. If the complainant remains dissatisfied, an appeal procedure is in place, which is dealt with by the Deputy Director.

In addition to the above, the Garda Síochána Ombudsman Commission ("GSOC") provides a further avenue for any person who is dissatisfied with any issue in relation to Garda conduct, to include investigations. Each year, around 2,000 formal complaints are opened, containing around 5,000 allegations of Garda misconduct (because there can be several allegations in one complaint). GSOC also conducts investigations into circumstances where it appears that the conduct of a Garda, or Gardai, may have resulted in death or serious harm to a person. Such incidents are referred to GSOC by the Garda Síochána so that the public can be confident that there is independence in these investigations. The GSOC may investigate matters in relation to the conduct of Gardaí, when it is in the public interest, even if a complaint has not been received. The GSOC may decide to open such an investigation itself, or may be requested to do so by the Policing Authority or by the Minister for Justice. Following amendments in 2016, the Policing Authority or the Minister may also refer a matter for the Commission to consider whether it should investigate it in the public interest.

### **6.3 What reporting and complaint mechanisms are in place for victims of trafficking who are in an irregular migration situation and/or in detention?**

In circumstances in which persons have no legal basis to remain in the State, protection may be granted under the Administrative Immigration Arrangements for the Protection of Victims of Trafficking. 60 day recovery and reflection period and/or 6 month renewable temporary residence permissions may be granted. These permissions are intended for cases in which the trafficked person wishes to assist An Garda Síochána or other relevant authorities in any investigation or prosecution in relation to the alleged trafficking. These arrangements involve a provision for those victims of human trafficking who have been refused asylum, to allow them to have the fact that they have been identified as a suspected victim of human trafficking to be taken into account in any consideration as to whether they may remain in the country under various immigration permissions. In such cases temporary residence permission under the Administrative Immigration Arrangements will automatically issue, pending consideration of any other forms of immigration permission of which the person may wish to avail. Victims of trafficking who are in detention have the same recourse to make a complaint as any other victim.

### **6.4 Can victims of THB bring claims against the State or its officials for: i) direct involvement in THB; ii) failure to prevent THB or protect them from THB? Have there been cases where State agents or persons acting on behalf, or at the direction, of the State were found responsible for engagement in THB and/or failure to prevent it or protect victims from**

**THB by third parties? Please provide information on any prosecutions against diplomatic and consular staff for alleged involvement in THB.**

Any person may bring an action of loss or damages under the usual court rules for bring such civil claims. This includes the right to being an action against the State or its officials, in a personal or public capacity.

Victims may report such matters to AGS in the same manner as any other trafficking related offence. There have been no cases in this jurisdiction where State agents or persons acting on behalf, or at the direction, of the State were found responsible for engagement in THB and/or failure to prevent it or protect victims from THB by third parties.

**6.5 What steps have been taken to strengthen and maintain the capacity of prosecutors to effectively prosecute trafficking cases?**

The ODPP, the Department of Justice, An Garda Síochána, the United States Embassy in Dublin, and the Organisation for Security and Co-operation in Europe work closely in respect of providing specialised training and policy guidance based upon best international practice to law enforcement and civil society. This engagement was coordinated by the High Level Group on Human Trafficking, which includes members from the ODPP, the Department of Justice and An Garda Síochána. To date the Group has assisted in organising:

- Workshops with ODPP and An Garda Síochána's National Protective Services Bureau (GNPSB) to deal with practical and policy advice on investigations
- Dedicated points of communication between ODPP specialists and GNPSB for ongoing, and discreet advice, as the need arises
- Participation in online training with the United Nations International Organization for Migration on trends in TIPS, combatting and responding to same
- Participation in online training with the Office for Security and Co-operation in Europe in relation to the investigation and prosecution of human trafficking offences
- The organisation of, and participation in, online training with the US State Department and US Department of Justice in relation to trends, the investigation and prosecution of human trafficking matters. This training, organized by the ODPP in conjunction with representatives from the US Embassy Dublin, included representatives from the Department of Justice, An Garda Síochána, The Law Society, The Bar Council, the United Nations International Organisation for Migration, the Legal Aid Board, Ruhama (NGO), the Migrants Rights Centre for Ireland, the Immigrant Council, and the University of Limerick.

The contacts established through these measures is reported by both An Garda Síochána and Prosecution services to have resulted in improved communications, and better outcomes in terms of preparing prosecution files.

The legislation in place remains under constant review by the prosecution authorities.

### 3. Non-punishment provision (Article 26)

#### 7.1 Please indicate what measures are taken to ensure that victims of THB, including children, are not punished for their involvement in unlawful activities (criminal, civil, administrative offences), to the extent they were compelled to do so, providing any concrete examples of their implementation.

The Criminal Law (Human Trafficking) (Amendment) Act 2013 gave effect to the EU Directive on preventing and combatting trafficking in human beings and protecting its victims, specifically Article 8-Non prosecution or non-application of penalties to the victim.

However, the statutory independence of the public prosecutor in Ireland constrains the scope for the introduction of legal provisions against prosecutions of categories of persons: the Irish Office of the Director of Public Prosecutions (ODPP) is a fully independent office and it would not be possible to constrain their decision making in this regard.

The Prosecutorial Guidelines of the ODPP (4.7 and 4.8) explicitly cover the question of whether prosecutions should be considered in relation to crimes committed by a victim of human trafficking:

4.7 - In assessing whether the public interest lies in commencing or continuing with a prosecution, a prosecutor should exercise particular care where there is information to suggest that the suspect is a victim of crime. An example would be where it is suggested that the suspect is a victim of human trafficking. Such a person may be suspected of a range of offences from breaches of immigration law to offences related to prostitution. In a case in which there is credible information that a suspect is also a crime victim, the prosecutor should consider whether the public interest is served by a prosecution of the suspect.

4.8 - Factors which should be considered in assessing whether to commence or continue with such a prosecution include: (i) the nature of the offence allegedly committed by the suspect; (ii) whether there is any information that coercion or duress was exercised against the suspect in the context of the alleged offence; (iii) where there are allegations that the suspect was subjected to duress – whether it is alleged that this included violence or threats of violence or the use of force, deceit or fraud, or an abuse of authority or exploitation of a position of vulnerability; and (iv) whether the suspect has cooperated with the authorities in relation to any offences believed to have been committed against the suspect.

In practice, An Garda Síochána give effect to the non-punishment principle by considering potential victims of human trafficking as victims when this becomes apparent. Generally, where potential victims of human trafficking claim that they are victims, they are entered into the National Referral Mechanism on the balance of probabilities that they are. This remains the case until a full investigation is completed. This means these potential victims are protected within the Criminal Justice System while an investigation is undertaken.

Since the introduction of the Criminal Law (Sexual Offences) Act 2017, which decriminalised the sale of sex, potential victims of human trafficking in these cases are more easily identified and non-punishment for these victims is enshrined in law.

A legislative amendment which will provide for the expunging of convictions relating to the sale of sexual services that were acquired prior to a relevant legislative amendment of 2017 is currently being drafted within the Department of Justice. This initiative is being progressed arising from recognition that persons convicted relating to the sale of sexual services, may have been victims of human trafficking.

## **7.2 Can persons who have breached national laws in the course, or as a consequence, of being trafficked have access to remedies for victims of trafficking, including State compensation?**

Ireland's provision of compensation to victims is through the Scheme of Compensation for Personal Injuries Criminally inflicted, administered by the Criminal Injuries Compensation Tribunal, a non-statutory agency of the Department of Justice, established on an administrative basis to consider applications from people who suffer a personal injury or death as a result of a crime of violence. Following an application process, ex gratia compensation may be awarded on the basis of any vouched out of pocket expenses (such as medical expenses), including loss of earnings, experienced by the victim or, if the victim has died as a result of the incident, by the dependents of the victim. It doesn't compensate a victim for pain and suffering. When deciding the amount of the award, the Tribunal will consider any social welfare payments, salary or wages the victim received while on leave from work and will also take into account any compensation paid to the victim by or on behalf of the offender. It may also reduce the amount of compensation because of the victim's behaviour, character or way of life. If the victim has a criminal record, it can be taken into account. The amount of compensation depends on the type and circumstances of the case.

Victims may also choose to take a civil action. In civil actions, compensatory damages are assessed under two main categories: General Damages and Special Damages. Special Damages award the plaintiff for costs and expenses incurred by him/her as a result of the negligence or wrongdoing of the defendant for the financial costs and expenses, both past and future, incurred as a result of the incident.

## **Protection of victims and witnesses (Articles 28 and 30)**

### **8.1 How are victims of THB protected in practice against potential retaliation or intimidation before, during and after legal proceedings? How is the assessment of the needs for protection performed and who recommends the application of the protection measures? Who is responsible of the implementation of the protection measures?**

An Garda Síochána operates a witness protection programme to counter attempts by criminal gangs and other groups to prevent the normal functioning of the criminal justice system, including through the threat and the use of violence and the systematic intimidation of witnesses. The witness protection programme is supported by provisions in the Criminal Justice Acts which deal with the intimidation of witness or jurors, the trial of offences and the provision of evidence by video link. Individual Garda Síochána assessments completed by investigating personnel within the organisation highlight whether a victim or witness will require any special measures, either during the investigation or, if the report goes to court. This may

include protection measures where an interview is conducted or, the use of video conferencing in courtrooms.

The Witness Security Programme in Ireland is administered by the Attorney General of Ireland, and is operated by An Garda Síochána, (the national police force). Witness protection in Ireland is used in cases of serious, organised crime and terrorism.

The budget allocation to the Garda Witness Protection Programme for 2017, 2018 and 2019 was €1,198,000.

## **8.2 How do you ensure that victims are provided with realistic and practical information about the progress of the case and whether the perpetrator has been detained or released?**

As noted at reply to 6.1, above, the Legal Representative regularly corresponds with the Human Trafficking Investigation and Coordination Unit of the Garda National Protective Services to discuss the progression of the investigation and prosecution so that they can then ensure that the victim is provided with realistic and practical information on the progress of their case, whether the perpetrator has been detained / released etc. This information is also available directly to the victim, should they so request.

Further information about entitlements of the victim is set out in the Victim Act (Victims of Crime) Act 2017, which is detailed in answer to question 6.1 above.

## **8.3 How do you ensure respect for the victims' right to safety, privacy and confidentiality during court proceedings?**

Under Section 10 (1) of the Criminal Law (Human Trafficking) Act 2008 ("The 2008 Act") all persons are excluded from the court during the proceedings (Other than officers of the court, persons directly concerned in the proceedings and such other persons as the judge of the court may determine). In proceedings to which this section applies, the verdict / decision and the sentence (if any) is pronounced in public (section 10 (2) of the 2008 Act).

The anonymity of victims of trafficking is protected by Section 11 of the 2008 Act which makes it an offence for any person to publish or broadcast any information that is likely to enable the identification of the alleged victim of trafficking. Under section 11 (2) the judge of the court may, where he or she considers that the interests of justice so require, direct that such information may be published or broadcast in such manner and subject to such conditions as he or she may specify in the direction.

The court can provide a video link facility for victims aged under 17 who are giving evidence in serious sexual or violent crime cases, as well as for other vulnerable or intimidated witnesses.

One of the main functions of the legal representative of the victim of THB in criminal proceedings (Noting that, as outlined at reply to 6.1, above, the victim & their Legal Representative plays no role in the prosecution of the case, save in circumstances where the witness is being questioned in relation to their previous sexual history) is to ensure and protect the right to safety, privacy and confidentiality of the victim during the court proceedings

**8.4 In how many cases were witness protection measures used for the protection of victims and witnesses of THB, including children? If witness protection measures/programmes are not applied to victims of trafficking, what are the reasons?**

This information is not made publicly available in the interest of protecting those using the services.

**8.5 When victim protection is provided by NGOs, how are NGOs resourced and supported to perform this function and how do the police and the prosecution co-operate with NGOs?**

NGOs do not perform this function in Ireland.

**8.6 How do you ensure that child victims of THB are treated in a child-sensitive way and are provided with protection before, during and after judicial proceedings in accordance with the Council of Europe Guidelines on Child Friendly Justice? Are interviews with children conducted in specially designated and adapted spaces by professionals trained to interview children? What measures are taken in order to ensure a limited number of interviews?**

As detailed in the response to 1.1 above, [The Criminal Justice \(Victims of Crime\) Act 2017](#) transposes into Irish law Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime. While all the rights conferred to victims of crime under the Act also apply to children, provisions of particular relevance to children are:.

**Section 14** provides that an individual assessment be carried out for all victims to identify any protection needs a victim may have and to what extent, if any, they may benefit from protection measures intended to safeguard the safety and welfare of a victim or special measures in the course of the investigation or court proceedings. A child is presumed to have protection needs and any assessment carried out shall take into account the best interests of the child.

Protection measures may include the provision of advice regarding the personal safety of the victim or the protection of property, advice regarding safety orders or barring orders, and the making of an application to remand the alleged offender in custody or seeking to have conditions attached to bail.

Special measures during investigations may include interviews being conducted by a specially trained person, by the same person and in premises designed for the purpose of conducting interviews. Special measures in court proceedings may include making an application under Part III of the Criminal Evidence Act 1992 to enable a victim give evidence via live television link, through an intermediary or from behind a screen or other similar device.

The Court may also exclude members of the public from proceedings and restrict questioning regarding a victim's private life.

**Section 14A** provides that all victims, and in the case of relevant offences, witnesses under 18, may on application, give evidence from behind a screen or similar device.

**Section 14B** sets out the matters to which the court shall have regard when considering whether to permit a victim give evidence by live television link, via an intermediary or from behind a screen.

**Section 14C** prohibits the wearing of wigs or gowns in court when a witness under 18, in the case of relevant offences, or a victim under the age of 18, in the case of all other offences, is giving evidence. Paragraph (f) amends section 16 by providing that a video recording of any statement made during an interview with An Garda Síochána by a victim under 18 shall be admissible in evidence. Paragraph (i) amends the wording of section 19 to replace references to mental handicap with references to a mental disorder. The section also makes a number of minor and consequential amendments to Part III of the Act.

**Section 17** provides that in the absence of a parent, guardian or other authorised person, the relevant authority shall arrange for another appropriate person to accompany a child victim at any interview or at court proceedings at which the victim is required to be present.

**Section 18** requires a prosecutor to have regard to an assessment in considering whether a victim requires special measures during court proceedings.

**Section 19** provides that a Court may exclude members of the public from proceedings where there is a need to protect the victim from victimisation, intimidation or retaliation.

**Section 21** provides that communications with victims must be in simple and accessible language. Further, assistance by way of translation and / or interpretation should be provided to victims as appropriate.

**Section 25** amends section 4I(3) of the Criminal Procedure Act 1967, extends the saver in Section 4I(3) to provide that section 4I is without prejudice to the right of a parent, relative or friend of a victim, or of the accused, to remain in court in any case to which section 19 of the Act applies.

**Section 26** amends the Criminal Evidence Act 1992 by extending the application of Part III - Evidence in Certain Proceedings from the current list of specified offences to victims of all offences. It also introduces three new sections into Part III which provide for certain additional measures for victims and non-victim witnesses.

**Paragraph (a)** substitutes a new section for section 12. The change in wording enables amendments to be made to other sections of Part III, expanding the application of Part III to witnesses in any proceedings relating to an offence, where the witness is a victim.

**Paragraph (b)** amends section 13 by expanding the provisions of the section (giving of evidence through live television link) to all victims.

**Paragraph (c)** amends section 14 by expanding the provisions of the section (giving of evidence through an intermediary) to all victims under 18. Paragraph (d) inserts three new sections 14A, 14B and 14C, into the Act.

## **9. Specialised authorities and co-ordinating bodies (Article 29)**

### **9.1 What budget, staff and resources, including technical means, are put at the disposal of law enforcement bodies specialised in combating and investigating THB?**

- Funding for An Garda Síochána is provided by the Government, through the Department of Justice in the Annual and Multi-annual Estimates process. Under An Garda Síochána Acts, the role of Accounting Officer for the Garda Vote rests with the Garda Commissioner. The Garda Commissioner is responsible for management of An Garda Síochána and for the allocation and efficient use of Garda resources, including deployment of personnel. Garda management keeps the distribution of resources under continual review in the context of crime trends and policing priorities, to ensure their optimum use. The Department of Justice also maintains an overview of Garda expenditure, especially in relation to ensuring consistency with policy objectives.

An Garda Síochána have been allocated an unprecedented budget of €1.952 billion for 2021. Financing of GNPSB and the investigation of human trafficking related crime, is provided for within the aforementioned allocation of funding to An Garda Síochána. The significant level of funding provided over recent years is enabling sustained, ongoing recruitment of Garda members and staff.

Garda Síochána personnel operating throughout Ireland have the capacity, and are provided with necessary training, to undertake investigations relating to human-trafficking. The Human-Trafficking Investigation and Coordination Unit (HTICU) which has been in place since 2009 is assigned a national remit with regard to the investigation of human-trafficking. The HTICU is now housed within the Garda National Protection Services Bureau (GNPSB), which was established in 2015.

As of June 2021 the HTICU staffing levels are One (1) Detective Superintendent, one (1) Inspector, four (4) Sergeants, eighteen (18) Gardaí and three (3) Garda staff. When undertaking investigations relating to human-trafficking and organised prostitution, depending on the complexity of the investigation, the assistance of other bureaux within An Garda Síochána may be sought, for their expertise in particular areas of crime. As appropriate, referrals are sent to the Criminal Assets Bureau (CAB), which focuses on the assets of Organised Crime Gangs (OCGs), the Garda National Crime and Security intelligence Service (GNCSIS), the Garda National Drugs and Organised Crime Bureau (GNDOCB), the Garda National Bureau of Criminal Investigation (GNBCI), the Garda National Cyber Crime Bureau (GNCCB) and the Garda National Immigration Bureau (GNIB), amongst others.

- Aside from the Garda National Protection Services Bureau (GNPSB), other bureaux, under the remit of An Garda Síochána's Special Crime Operations (SCO), including the Garda National Drugs and Organised Crime Bureau (GNDOCB), the Garda National Bureau of Criminal Investigation (GNBCI) and the Garda National Immigration Bureau (GNIB), also contribute to the investigation of human-trafficking related crime. The Criminal Assets Bureau (CAB), which is headed by a person who is a Chief Superintendent within An Garda Síochána, also participates in tackling human-trafficking related crime, through identifying, targeting and seizing identified proceeds of crime.

The HTICU has developed particular expertise with regard to tackling trafficking of human beings. This Unit oversees all investigations undertaken by An Garda Síochána, which involve alleged human-trafficking. The unit also provides advice, guidance and operational support to those within An Garda Síochána who undertake relevant investigations, throughout Ireland.

In addition, An Garda Síochána has successfully met its target of establishing a Divisional Protective Services Unit (DPSU) within every Garda Síochána division over the course of 2020. These DPSUs will support the delivery of a consistent and professional approach to the investigation of sexual and domestic crime. Personnel assigned to DPSUs have been provided with a bespoke training course consisting of a number of modules addressing issues such as: investigation of sexual crime; child protection; investigation of domestic abuse; online child exploitation and sex offender management. This training course has been developed by the GNPSB, in conjunction with An Garda Síochána Training College. The GNPSB maintains oversight of the DPSUs.

**9.2 If your country has specialised units for financial investigations, financial intelligence units and asset and recovery units, please describe whether and how are they used in investigating and prosecuting THB cases. Which special investigation techniques do these units use? Which public and/or private bodies do these specialised financial investigation units co-operate with in relation to THB cases?**

When undertaking investigations relating to human-trafficking and organised prostitution, An Garda Síochána endeavours to 'follow the money trail' and uncover money-laundering. Depending on the complexity of the investigation, the assistance of other bureaux within An Garda Síochána may be sought, for their expertise in particular areas of crime. As appropriate, referrals are sent to the Criminal Assets Bureau (CAB), which focuses on the assets of Organised Crime Gangs (OCGs). The CAB which is headed by a person who is a Chief Superintendent within An Garda Síochána, also participates in tackling human-trafficking related crime, through identifying, targeting and seizing identified proceeds of crime.

The Garda National Economic Crime Bureau (GNECB) is the main Bureau of An Garda Síochána tasked with tackling economic crime. The Bureau operates on a national basis and provides specialist support and guidance to national fraud investigators. An Garda Síochána have been allocated an unprecedented budget of €1.952 billion for 2021. This level of funding is enabling sustained ongoing recruitment of Garda members and staff and recruitment is underway to assign additional resources to the GNECB.

Embedded within the (GNECB) is the Financial Intelligence Unit (FIU), which is a national reception point for Suspicious Transaction Reports (STR) submitted under Irish money laundering legislation by all the financial institutions and other designated bodies/persons, namely

accountants, solicitors, dealers in high-value goods, auctioneers, etc. The FIU is supported by the Money Laundering Investigation Unit (MLIU).

## **10. International co-operation (Article 32)**

### **10.1 How does your country co-operate with other countries to enable victims of THB to realise their right to redress and compensation, including recovery and transfer of unpaid wages after they leave the country in which the exploitation occurred?**

The EU Directive on Compensation to Crime Victims provides for cooperation between EU member states, so that victims can get compensation for crimes committed in another Member State. The Criminal Injuries Compensation Tribunal process claims from other Member States and also help people living in Ireland to send claims to other Member States.

### **10.2 Has your country co-operated with other countries in the investigation and prosecution of THB cases through financial investigations and/or Joint Investigation Teams? Please provide statistics on such cases and examples from practice.**

The Criminal Justice (Joint Investigation Teams) Act 2004 gives effect to the EU Council Decision of 13 June 2002 of the Council of the European Union on Joint Investigation Teams and provides for the terms under which Joint Investigation Teams can be established under the Act. Ireland is participated in its first JIT involving the transportation of migrants (UK case 2019). Ireland has since engaged in a number of JITs involving the UK and Lithuania.

It was anticipated that An Garda Síochána would participate in three (3) national Days of Action, in 2020, in the course of the Europol EMPACT Joint Action Days (JADs) targeting sexual and labour exploitation. Arising from COVID-19 related restrictions, two (2) of the planned three (3) Days of Action were undertaken.

The first of the two aforementioned joint Day of Action, in which both An Garda Síochána and the Police Service of Northern Ireland (PSNI) participated, was held on 25<sup>th</sup> February 2020 and was designed to target human trafficking involving labour exploitation. The Day of Action involved a particular focus on the car wash industry due to suspicion that labour exploitation is a feature of the industry.

The second of the two aforementioned joint Day of Action, held on 3 March 2020, was undertaken for the purpose of targeting human trafficking involving sexual exploitation and the associated demand for the purchase of sexual services and also involved participation by both An Garda Síochána and the PSNI.

Searches undertaken in the course of the Day of Action that was held on 3 March 2020, involved the utilisation of specialist interviewers to undertake safeguarding checks relating to persons suspected to be

involved in the sex trade. In the course of undertaking one such safeguarding check, it was established that potentially two (2) of the persons with whom An Garda Síochána interacted, are victims of human trafficking.

### **10.3 How many mutual legal assistance requests and/or European Investigation Order have you made in THB cases and what was their outcome?**

Since January 2018, Ireland has issued 17 outgoing mutual legal assistance requests where the primary offence was listed as human trafficking. 10 of those requests have been completed to date.

Ireland has not opted into the European Investigation Order.

### **10.4 What forms of international co-operation have proven to be particularly helpful in upholding the rights of victims of trafficking, including children, and prosecuting alleged traffickers?**

- For the purpose of addressing the international dimension of an investigation, An Garda Síochána utilise the mutual legal assistance process. In Ireland, the main legislative basis for the provision and receipt of such assistance is the Criminal Justice (Mutual Assistance) Act, 2008, as amended.
- The Criminal Justice (Joint Investigation Teams) Act 2004 gives effect to the EU Council Decision of 13 June 2002 of the Council of the European Union on Joint Investigation Teams and provides for the terms under which Joint Investigation Teams can be established under the Act. Ireland participated in its first JIT involving the transportation of migrants (UK case 2019).
- Ireland relies on the European Arrest Warrant to seek the return of a person, wanted in relation to a crime, (including HT offences). The European Arrest Warrant Act 2003 is the (as amended) implements the provisions of the Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (2002/584/JHA).
- Ireland can also make requests for extradition through diplomatic channels to seek the return of persons wanted from a country outside of the European Union. Ireland currently has bilateral extradition treaties with Australia, United States of America and Hong Kong.<sup>1</sup>

### **10.5 What international co-operation measures are in place to ensure protection and assistance to victims on return from your country to their countries of origin following their participation in criminal proceedings?**

The International Organization for Migration (IOM) Mission in Ireland (the UN Migration Agency), operates a voluntary assisted return and reintegration programme (AVRR) which is funded by the Department of Justice. The Programme is available to vulnerable migrants who wish to return to their country of origin or habitual residence. Under this programme, IOM provides comprehensive assistance to potential and suspected victims of trafficking who wish to return. The AVRR programme provides administrative, logistical and financial support, including reintegration assistance, to assist victims who decide to return to their country of origin, including unaccompanied minor children or separated

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<sup>1</sup> Ireland's bilateral extradition treaty with Hong Kong was suspended in October 2020.

children. The IOM has 174 Missions in over 100 countries and through this network of IOM offices, as well as partner organizations, IOM collaborates to ensure the safe and dignified return of victims. International communication is essential to ensure a constant and prompt flow of information, in a secure manner, between IOM Ireland and the receiving Mission/partner organization. This is done to coordinate the return process and to avoid security threats. IOM Missions in the country of return will often, if necessary and with the permission of the victim, liaise and coordinate with local police forces and national authorities. All returns through IOM's AVRR programme are voluntary and based on the victim's informed written consent. AVRR assistance will normally include:

- Pre-departure medical assistance and fitness to travel assessments including referrals for any stabilizing treatment or psycho-social support
- Victims will likely be placed in temporary accommodation (through IPAS or other shelter) while return assistance is being arranged
- IOM can facilitate the issuance of temporary travel documents
- Security and risk assessment will be completed
- When assisting children, the best interests of the child are considered at every step. Consent of the parent/legal guardian will be required, family assessment will be completed.
- Pre-departure reintegration planning
- Pre-departure preparation of the victim
- Operational and/or medical escorts provided
- Assistance in the airports at departure, in transit and on arrival
- Post-arrival reintegration planning which can include a full range of services, from shelter assistance or other accommodation, medical and psychological care, social and legal counselling, reintegration grant. IOM will work closely with state and non-state agencies to provide the assistance.

#### **10.6 What international co-operation measures are in place to protect and assist victims of THB for the purpose of sexual exploitation through online streaming where the perpetrator is a national or habitual resident of your country and elements of the crime have occurred in your country's jurisdiction?**

As mentioned in response to 10.4, Ireland engages in a number of International co-operation measures which assist to combat human trafficking related crime, including for sexual exploitation through online streaming.

Ireland has signed, but not yet ratified the Budapest Convention. The drafting of a general scheme of a Cybercrime Bill is planned to take place in Q4 this year, with a view to ratifying the Budapest Convention.

Ireland does not directly participate in negotiations but is briefed on the common negotiating position of the European Union at COPEN Working Group meetings. Ireland is aware that several of the draft articles that have been provisionally adopted for inclusion in the second additional protocol will provide much added value for law enforcement fighting cyber enabled crimes such as ICT-THB, these include Joint investigation teams and joint investigations; Expedited disclosure of stored computer data in an emergency; Emergency mutual assistance; and Direct disclosure of subscriber information. It is also believed that the provision contained in Article 35 of the mother Convention for the designation of 24/7

points of contact for the provision of immediate assistance for the investigation of cyber related criminal offences could be utilized for ICT-THB investigations.

## **11. Cross-cutting questions**

### **11.1 What steps are taken to ensure that victims of THB have equal access to justice and effective remedies, irrespective of their immigration status and the form of exploitation?**

*See answer to question 6.3 above.*

### **11.2 What steps are taken to ensure that criminal, civil, labour and administrative proceedings concerning victims of THB are gender-sensitive?**

Victims of human trafficking are interviewed by Gardaí with specialist training in engagement with vulnerable victims, human trafficking and sexual crime. In such areas of special sensitivity An Garda Síochána will provide a Garda, and where appropriate a doctor, of the same sex of the victim. However, there may be times when this is not possible. An Garda Síochána place protection of the victim as paramount.

### **11.3 What steps are taken to ensure that procedures for obtaining access to justice and remedies are child-sensitive, readily accessible to children and their representatives, and give weight to the child's views?**

The Human Trafficking Investigation and Coordination Unit of the Garda National Protective Services have specifically trained officers to investigate and assist victims of THB, including children, to ensure that access to justice is child-sensitive.

Children without a legal guardian (Or person who can act in a parental capacity) will be placed in the care of an appropriate state agency (or in the care of a foster family) with an assigned social worker who is specifically trained to assist and support child victims of THB.

Solicitors and legal clerks of the Legal Aid Board who deal with victims of trafficking receive specific training to assist in the delivery of legal services to children, minors and vulnerable individuals.

The Court has the power to appoint a Legal Guardian to act for the child in the proceedings (known as a Guardian ad Litem) who can establish the wishes and feelings of the child and represent these to the court. They can also advise the court on the child's best interests.

### **11.4 What steps are taken to ensure that private entities take steps to prevent and eradicate trafficking from their business or supply chains and to support the rehabilitation and recovery of victims? What options exist for victims of trafficking to access effective remedies from businesses implicated in human trafficking?**

Ireland's National Plan on Corporate Social Responsibility 2017-2020 is an action-orientated plan aimed at supporting businesses and organisations of all sizes and all sectors to adopt responsible business practices. The plan outlines the Four Core Dimensions of Corporate Social Responsibility and contains 17 actions which are intended to improve the competitiveness and the ability to attract talent of businesses operating in Ireland while fostering social cohesion and protecting the environment.

Responsible supply chain management, responsible procurement and increased transparency through financial reporting, contained in the National Plan on Corporate Social Responsibility are each seen as measures which can reduce the risk of human trafficking. Businesses with a supply chain that includes trafficked labour and consumers who purchase products made by exploited labour are considered as part of demand reduction strategies.

Ireland's National Plan on Business and Human Rights 2017-2020, launched by the Department of Foreign Affairs and Trade, aims to give effect to the UN Guiding Principles on Business and Human Rights. It includes in its initial priorities for the Implementation Group, the encouragement and facilitation of the sharing of best practice on human rights due diligence, including effective supply chain audits.

In addition, in 2019 Ireland ratified the 2014 protocol to the Forced Labour Convention. The protocol obligates parties to provide protection and appropriate remedies, including compensation, to victims of forced labour and to sanction the perpetrators of forced labour. It also obligates parties to develop "a national policy and plan of action for the effective and sustained suppression of forced or compulsory labour". Ireland was the 29th country to ratify the protocol placing Ireland among the group known as "50 for Freedom", which stems from an ILO initiative to encourage 50-member countries to ratify the Protocol by the end of 2019.

**11.5 What legal, policy and practical measures are taken in your country to prevent and detect situations where corruption facilitates human trafficking and infringes the right of victims of THB of access to justice and effective remedies? Please provide information on any known or proven cases of corruption or related misconduct of public officials in THB cases and any sanctions issued.**

There are no known or reported cases of misconduct of public officials in THB nor any sanctions issued.

## Part II – Country-specific follow-up questions

12. Please provide information on new developments in your country since GRETA's second evaluation report concerning:

- **emerging trends of trafficking in human beings (new forms of exploitation, new recruitment methods, vulnerable groups, gender-specific aspects of trafficking, child trafficking);**

While the demand for and access to sexual services involving 'person-to-person' contact may have decreased during the COVID-19 pandemic, there are indications of increased demand for online sexual services. Due to the methodology employed by particular online platforms and the level of encryption they utilise, it is extremely difficult to detect relevant victims of sexual exploitation. An Garda Síochána has adapted its policing strategies to address this trend by incorporating new safeguarding measures that take account of COVID-19 related restrictions placed on the movement of persons.

- **the legislation and regulations relevant to action against THB (e.g. criminalisation of THB, identification and assistance of victims of THB, recovery and reflection period, residence permit, supply chains, public procurement);**

### The Forced Labour Protocol

On 4 February 2019, Ireland deposited its instrument of ratification of the Protocol of 2014 to the Forced Labour Convention, 1930, thereby becoming the twenty-ninth country worldwide to ratify the Protocol. By ratifying the instrument, Ireland is demonstrating its firm commitment to combating forced labour, including trafficking for labour exploitation. The Forced Labour Protocol, a legally binding instrument of the ILO, reinforces the international legal framework for combating all forms of forced labour, including trafficking in persons, and calls on ratifying States to take measures to prevent forced labour, protect victims and ensure their access to remedies. That Protocol further strengthens the international legal framework against forced labour, including by supporting due diligence by public and private sectors to prevent and respond to risks of forced or compulsory labour. The ratification of this Protocol now ensures that Ireland is aligned with the most advanced international standards in this area and puts Ireland among the group known as "50 for Freedom", which stems from an ILO initiative to encourage 50-member countries to ratify the Protocol by the end of 2019.

### Amendments to HT legislation

The definition of "trafficking" in the Criminal Law (Human Trafficking) Act 2008 includes "procuring, recruiting, transporting or harbouring, causing another to enter, leave or travel within the State, take into custody or provide accommodation or employment" to a person. As can be seen, the definition is very wide and includes "internal" trafficking or trafficking within the State. The offence in Ireland is trafficking for the purpose of "exploitation" which is defined as meaning labour exploitation, sexual exploitation or human organ removal.

"Labour exploitation" requires proof of "forced labour, forcing him or her to render services to another or enslavement of the person or subjecting him or her to servitude or a similar condition or state." The definition of forced labour was amended in 2013 to include "forced begging" and to define "forced labour" as "a work or service which is extracted from a person under the menace of any penalty and for which the person has not offered himself or herself voluntarily" (with some limited exceptions including compulsory military service).

"Sexual exploitation" means the production of pornography, causing the person to engage in sexual activity for the purpose of the production of pornography, the prostitution of a person or otherwise causing the person to engage or participate in any sexual, indecent or obscene act.

*The definition of "exploitation" was amended in 2013 to include forcing a person to engage in (i) activity that constitutes an offence and that is engaged in for financial gain or (ii) activity conducted in a place other than the State that would, if done in the State, constitute an offence and which is engaged in for financial gain.*

There is also provision in section 7 of the legislation for prosecution of THB offences committed abroad where the suspect is an Irish citizen or ordinarily resident here. Legislation also provides for the possibility of witnesses giving evidence through a live TV link from Ireland or abroad, and for persons aged under 18 to give evidence by way of video recording, provided they are available for cross examination at the trial.

#### Improvements in the identification process

On 11 May 2021, the Irish Government approved a proposal for a revised National Referral Mechanism to make it easier for human trafficking victims to come forward and receive supports. Approval was also obtained to draft a general scheme of a Bill to put the new NRM on a statutory footing. The National Referral Mechanism (NRM), the national framework for victim identification, was examined, with the aim to create a more holistic framework with multiple channels of entry to the NRM granting access to specialised supports. Under the proposed revised model, a variety of State bodies and NGO's will also become competent authorities with authority to formally identify victims. These reforms will make it easier for victims of human trafficking to come forward and seek protection. It will also make it easier for the State to provide that support and protection in a collaborative way across the range of Departments and agencies, and working with key NGOs.

#### Revised arrangements for international protection applicants

Revised arrangements for international protection applicants to access work, including the reduction in the waiting period from 9 months to 6 months from the date of first application for international protection, were also announced in 2020.

#### Procurement

With respect to public procurement, various EU Directives which have been transposed into Irish law contain specific provisions excluding tenderers who are guilty of certain human rights infringements, including trafficking in human beings, from participating in public procurement.

In December 2018, the national Office of Government Procurement (OGP) published an Information note entitled *Incorporating Social Considerations into Public Procurement* for all public sector bodies in which the mandatory exclusion from public contracts of those convicted for human trafficking offences was highlighted. This also highlighted the need to consider supply chain risks.

In October 2019, the OGP issued a [Circular](#) promoting the use of Environmental and Social considerations in public procurement. In terms of wider public policy considerations the OGP has established a cross-departmental Social Considerations Advisory Group to promote and facilitate the incorporation of social considerations into public procurement projects. Its functions include:

- The identification of social policy objectives that could be advanced through public procurement;
- Matching some of those identified social objectives with suitable procurement opportunities, to be trialled on a pilot basis; and
- Advising on the appropriate method for incorporating social considerations into frameworks and contracts.

### **National Actions and Plans**

Ireland's [National Plan on Corporate Social Responsibility](#) 2017-2020 is an action-orientated plan aimed at supporting businesses and organisations of all sizes and all sectors to adopt responsible business practices. The plan outlines the Four Core Dimensions of Corporate Social Responsibility and contains 17 actions which are intended to improve the competitiveness and the ability to attract talent of businesses operating in Ireland while fostering social cohesion and protecting the environment.

The Department of Justice welcomed the complementarity between this Plan and the second National Action Plan to Prevent and Combat Human Trafficking in Ireland. Action No.19 of the Second National Action Plan to Prevent and Combat Human Trafficking in Ireland commits government to "Work with civil society, trade unions and business representatives to explore effective methodologies to reduce the demand for all forms of trafficking."

Responsible supply chain management, responsible procurement and increased transparency through financial reporting, contained in the National Plan on Corporate Social Responsibility are each seen as measures which can reduce the risk of human trafficking. Businesses with a supply chain that includes trafficked labour and consumers who purchase products made by exploited labour are considered as part of demand reduction strategies.

Ireland's National Plan on Business and Human Rights 2017-2020, launched by the Department of Foreign Affairs and Trade, aims to give effect to the UN Guiding Principles on Business and Human Rights. It includes in its initial priorities for the Implementation Group, the encouragement and facilitation of the sharing of best practice on human rights due diligence, including effective supply chain audits.

- **the institutional and policy framework for action against THB (bodies responsible for co-ordinating national action against THB, entities specialised in the fight against THB, national rapporteur or equivalent mechanism, involvement of civil society, public-private partnerships);**

#### National action against Trafficking in Human Beings

The Irish Government recognises that trafficking in persons undermines the principles of human rights and dignity of the person. High-level public engagement at official and political level reflects the State's commitment to combatting this crime. Coordination of national efforts in this area is the responsibility of the Department of Justice.

The Department of Justice, the Office of the Director of Public Prosecutions (ODPP) and An Garda Síochána established a High Level group (High Level Working Group on Human Trafficking) in November 2019 to keep all issues relevant to the legislative and operational framework for investigation and prosecution of cases that involve people trafficking under review, and to recommend any necessary improvements, including to the legislation, and the training of investigating personnel. The actions underway include;

- Workshops with ODPP and An Garda Síochána's National Protective Services Bureau (GNPSB) to deal with practical and policy advice on investigations
- Dedicated points of communication between ODPP specialists and GNPSB for ongoing, and discreet advice, as the need arises
- Participation in online training with the United Nations International Organization for Migration on trends in TIPS, combatting and responding to same
- Participation in online training with the Office for Security and Co-operation in Europe in relation to the investigation and prosecution of human trafficking offences
- The organisation of, and participation in online training with the US State Department and US Department of Justice in relation to trends, and the investigation and prosecution of human trafficking matters. This training, included representatives from the Department of Justice, An Garda Síochána, The Law Society, The Bar Council, the United Nations International Organisation for Migration, the Legal Aid Board, Ruhama (NGO), the Migrants Rights Centre for Ireland, the Immigrant Council, and the University of Limerick.

#### National Rapporteur

The Irish Human Rights and Equality Commission (IHREC) was designated as Ireland's independent National Rapporteur for Anti Human Trafficking under article 19 of the EU Human Trafficking Directive. The National Rapporteur's responsibilities include monitoring the implementation of anti-trafficking policy at the national level and playing a key role in data collection on trafficking in human beings at national level. The Minister for Justice signed secondary legislation in October 2020 (S.I. No. 432/2020 - European Union (Prevention and Combating of Human Trafficking) (National Rapporteur) Regulations 2020) to confirm this.

#### National Referral Mechanism

As previously mentioned above and at 1.1, the existing National Referral Mechanism (framework for identification of victims) was examined with the aim to create a more holistic framework with multiple channels of entry to the NRM granting access to specialised supports. The proposal was approved by Government on 7 May 2021. Under the proposed revised model, a variety of State bodies and NGO's will also become competent authorities with authority to formally identify victims. These reforms will make it easier for victims of human trafficking to come forward and seek protection.

In addition, an important feature of the new model is that NGOs who have been designated as 'trusted partners' will become authorised referral partners. They will provide an alternative and trusted pathway to recognition by a competent authority. The advantages are that victims will find it easier to approach an NGO, and that the NGO will apply the same due diligence process that a competent authority would apply in assessing an application for recognition as a victim of human trafficking.

An NRM Operational Committee with membership from Departments and agencies with functions in relation to identification of human trafficking victims will also be established. As each member organisation has an independent role in recognition of victims, the operational committee will act to ensure that each competent authority will have an appropriate internal inquiry/investigation process to satisfy itself that the application is on balance of probabilities genuine: this is separate to the criminal investigation process that An Garda Síochána will undertake in appropriate cases to establish if a prosecution against the perpetrator can be mounted.

The Committee will be the forum for sharing of information on victims that have been identified, ensuring that victims are referred between agencies as necessary for access to services that are needed and that any immigration offences processes are paused. The aim will be to maximise the number of victims identified and ensure their details are fully recorded.

A National Policy and Oversight Committee with Membership of all Departments and agencies in referral mechanism, plus Department of Justice Criminal Policy will also be established. Its role will be to keep the NRM and its operations under review, identification of policy or operational issues and agreement on solutions.

Recognition within the new NRM model will not require a victim to give evidence, but it is expected that provision of support over a period of time will build up enough trust and self-confidence to facilitate a greater number of victims than at present to give evidence. Ireland will continue to ensure that victims of trafficking have early access to legal practitioners, including by means of funding NGO groups that provide legal assistance.

Discussion on the new National Referral Mechanism has already taken place with the key agencies who will become competent authorities under the revised model.

#### Stakeholder Forum

The Department established a forum for victims and stakeholders in 2020 to examine avenues of improvement in relation to human trafficking. The forum consists of State, agency and civil society organization stakeholders working together to provide supports to victims of human trafficking. Two meetings were held in 2020. To complement the work of the forum, a number of sub-groups are being convened with expert members to examine subjects such as the National Referral mechanism (NRM)

specialised accommodation, enforced labour and other priority issues. A work plan framework has been agreed with immediate, medium and long term goals.

- **the current national strategy and/or action plan for combating trafficking in human beings (objectives and main activities, bodies responsible for its implementation, budget, monitoring and evaluation of results);**

The Second National Action Plan to Prevent and combat Human Trafficking in Ireland was launched in October 2016 by the Tánaiste and Minister for Justice and Equality, Frances Fitzgerald, T.D.

Core to the plan is a victim centred and human rights based approach with the ultimate aims of preventing human trafficking, ensuring an effective criminal justice response and delivery of supports to victims. The Second National Action Plan seeks to build on the work carried out to date and set out a strategy for the coming years. This plan leverages and builds on international and domestic experience and provides for new initiatives in order to address human trafficking in all its forms. Part 1 of Second National Action Plan outlines the structures and policies to be put in place to address human trafficking and support its victims. Part 2 of the Plan outlines the priorities identified to further address this issue and set out clear targets for delivery.

There is a list of 65 actions in the Second National Plan whose Goals and Priorities are to:

- Prevent trafficking in human beings
- Identify, assist and protect and support victims of trafficking in human beings
- Ensure an effective criminal justice response
- Ensure that Ireland's response to human trafficking complies with the requirements of a human rights based approach and is gender sensitive.
- Ensure effective co-ordination and co-operation between key actors, both nationally and internationally
- Increase the level of knowledge of emerging trends in the trafficking of human beings
- Continue to ensure an effective response to child trafficking.

Delivery on the commitments in this Plan is reliant on a range of bodies across Government and State Services. It is also important to recognise the role played by civil society in responding to this issue; they too have a crucial role to play. Partnership between the State and civil society will continue to be central to the States approach to tackling this heinous crime and supporting its victims.

A human trafficking stakeholder's forum was established in July 2020 with NGO and relevant statutory agencies to facilitate structured dialogue between all stakeholders on how Ireland's response to human trafficking can be further enhanced and coordinated. As part of this forum's work plan a review of the Second National Action Plan on Human Trafficking and development of a Third Plan of Action will take place focusing on whether there is need for a third plan of action, and if so, what are the most effective aspects of the current Action Plan that should be carried through.

➤ **recent case law concerning THB for different forms of exploitation.**

There have been no new developments in case law concerning THB for different forms of exploitation since 2017. However, on 27 July 2020, the Government approved the General Scheme of the Criminal Justice (Smuggling of Persons) Bill 2020 and its submission for pre-legislative scrutiny. The Scheme is now with the Office of the Parliamentary Counsel for drafting. This Bill is intended to implement three international legal instruments in the area of people smuggling:

1. EU Council Directive 2002/90/EC defining the facilitation of unauthorised entry, transit and residence;
2. EU Framework Decision 2002/946/JHA on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence; and
3. UN Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the UN Convention against Transnational Organized Crime (2000).

**13. Please provide information on measures taken in your country in respect to the following recommendations made in GRETA's second evaluation report:**

- **Review the victim identification procedure and decision-making process, including through the promotion of multi-agency involvement in the identification of victims of trafficking. Has the review of the procedure for identification of victims of trafficking foreseen in the Second National Action Plan been completed or has a timeline for completion been established?**

The National Referral Mechanism (NRM), the national framework for victim identification, was redeveloped with the aim to create a more holistic framework with multiple channels of entry to the NRM granting access to specialised supports. On 7 May 2021, the Irish Government approved a proposal for a revised National Referral Mechanism to make it easier for human trafficking victims to come forward and receive supports.

- **Make further efforts to prevent trafficking for the purpose of labour exploitation and pursue a proactive approach in the identification of victims by encouraging regular and co-ordinated multi-agency inspections in sectors considered most at risk. Are firewalls between labour and immigration authorities in place?**

All workers in Ireland, including migrant workers, are protected under the employment rights, employment equality and industrial relations legislation. The Department of Enterprise, Trade and Employment is responsible for regulating many aspects of the labour market and works to ensure that opportunities for labour exploitation are minimised, with many of the criteria associated with the employment permits system aimed at ensuring that migrant employees are protected and treated in line with Irish labour laws.

The Workplace Relations Commission's personnel act as authorised officers for the enforcement of the Employment Permits Acts and their investigation and enforcement powers work to discourage abuses of

the employment permits system by unscrupulous employers. Employers may be subject to fines or a prison term, where they are found to be in breach of the Employment Permits Acts.

In addition, non-compliance with employment permit terms and conditions as granted may affect the granting of subsequent applications for new/renewal employment or other permissions. All employments must also be in compliance with employment rights and industrial relations legislation and subject to inspections at place of employment by workplace relations inspectors with powers to impose penalties or fixed notices for breach of legislation.

While the WRC does not have an express statutory role under Irish Human Trafficking and Forced Labour legislation, WRC Inspectors are trained in the identification of the indicators of Trafficking of Human Beings. The WRC is represented on the National Structures established to combat Forced Labour and is also a member of the High-Level Group on Combatting Trafficking in Human Beings established by the Department of Justice. The Inspectorate of the WRC works closely with the Garda National Immigration Bureau (GNIB) and the Garda National Protective Services Unit in terms of the reporting of potential immigration and human trafficking issues encountered during inspections.

Investigations can be carried out by WRC following a request from Employment Permits Unit in advance of a permit issuing, following the granting of a permit or following information received as part of a permit application. The WRC can also conduct site visits and checks on places of employment through either random selection or information received.

The Irish Government was quick to act once it became aware of the issues arising with migrant fishers on some Irish fishing vessels in 2015. Following the Report of a Task Force set up by the Government, a sector specific scheme (the Atypical Worker Permission Scheme, or AWS) was established by the Department of Justice and Equality, designed to both regularise the situation of these migrant fishers and to ensure that they would have the full protections afforded to all workers under Irish law. The Workplace Relations Commission (WRC) Inspections Service, which carries out inspections at employers' workplaces to check compliance with employment law, also inspects fishing vessels.

In 2019, WRC conducted 400 inspections and issued 130 contravention notices in the fishing sector, resulting in 5 prosecutions, in 2019.

COVID-19 restrictions had a major impact on live operations in 2020. Nonetheless, in 2020 31 desktop inspections and two on-board inspections were completed, covering some 37 vessels coming within the scope of the Atypical Scheme. Some 36 contraventions of employment rights or employment permits legislation, relating to 19 vessel owners, were detected.

WRC Inspectors, with the assistance in certain cases of the Naval Service and/or based on owners' records, detected 5 instances in 2020 in which fishers did not have permission to work in the State.

During 2020, some 64 fisheries investigations/cases, covering 71 vessels coming within the scope of the Atypical Scheme, were closed. Contraventions were detected in 25 of those cases; in 22 of which compliance was achieved following engagement with the vessel owners while prosecutions were initiated in the other three cases.

Five referrals were made by the WRC to the Marine Survey Office in 2020 and one to date in 2021, bringing to 36 the total number of such referrals made since an agreement was reached between the WRC and the MSO in April 2019 regarding liaison on working time issues.

A person convicted of trafficking for labour exploitation (including forced labour) is liable to life imprisonment. Under the Employment Permits Acts, anyone convicted of employing an illegal immigrant can be fined up to €250,000 and sentenced to a maximum of ten years in jail (although most prosecutions are taken at District Court level, which has summary jurisdiction, and can result in fines of up to €3,000 or imprisonment for a term not exceeding 12 months, or both). Other offences under the Act's incur fines of up to €50,000, or imprisonment for five years, or both. The purpose of the Employment Permits Acts are to ensure that third country nationals, employed in Ireland with an Employment Permit, have their employment rights protected.

### **The Forced Labour Protocol**

On 4 February 2019, Ireland deposited its instrument of ratification of the Protocol of 2014 to the Forced Labour Convention, 1930, thereby becoming the twenty-ninth country worldwide to ratify the Protocol. By ratifying the instrument, Ireland is demonstrating its firm commitment to combating forced labour in all its forms.

The Forced Labour Protocol, a legally binding instrument of the ILO, reinforces the international legal framework for combating all forms of forced labour, including trafficking in persons, and calls on ratifying States to take measures to prevent forced labour, protect victims and ensure their access to remedies. That Protocol further strengthens the international legal framework against forced labour, including by supporting due diligence by public and private sectors to prevent and respond to risks of forced or compulsory labour.

The ratification of this Protocol will ensure that Ireland is aligned with the most advanced international standards in this area. Ireland is the 29th country to show its commitment to combatting more recent forms of forced labour, including trafficking for labour exploitation. This puts Ireland among the group known as "50 for Freedom", which stems from an ILO initiative to encourage 50-member countries to ratify the Protocol by the end of 2019.

- **Monitor the relationship between asylum and trafficking, with a view to ensuring that the right to seek and enjoy asylum does not impede identification as a victim of trafficking;**

Ireland continues to ensure that the right to seek and enjoy international protection does not impede identification as a victim of trafficking. The International Protection Office places a strong emphasis on watching for the signs of human trafficking in applicants for International Protection and has an ongoing training programme in place.

- **Review the policy of accommodating victims of trafficking in accommodation centres for asylum seekers. Has a pilot specialised shelter with dedicated, trained personnel been set up?**

At present, it is the practice that victims of trafficking are placed in full board accommodation and ancillary services delivered by the International Protection Accommodation Services. While this accommodation is flexible, secure, and works well with other state actors, it is recognised that best practice thinking is to place victims in specialist centres where they may receive specialist care and support each other.

Throughout 2020, the Department of Justice and the Department of Children, Equality, Disability, Integration and Youth have been engaging with NGOs to see if an NGO-led solution to the accommodation issue is practical, in particular for female victims of sexual exploitation, a particularly vulnerable group. The Department of Children, Equality, Disability, Integration and Youth is now taking this forward in the context of the wider review of Direct Provision and it is hoped a solution will be available in the near future.

- **Enact statutory rights to assistance for potential victims and victims of trafficking, including with respect to the provision of a reflection and recovery period;**

Victims of human trafficking come within the definition of a “victim of crime” and are entitled to such rights and protections as are available to victims of crime and their family members under the European Union Victims Directive 2012/29/EU and the Criminal Justice (Victims of Crime) Act 2017, as well as other measures for the rights, support and protection of victims of crime under existing law and prosecution policies. The Victims Directive came into effect on 16 November 2015. The legislation which transposed the Directive into Irish law is the Criminal Justice (Victims of Crime) Act 2017.

A person who is identified as a suspected victim of a human trafficking offence is entitled to free legal advice which is arranged by the Legal Aid Board in accordance with the provisions of section 26(3B) of the Civil Legal Aid Act 1995. The entitlement applies whether or not a prosecution for the human trafficking offence has been instituted. Determinations as to whether there are reasonable grounds for believing a person is a victim of a human trafficking offence are made by An Garda Síochána under administrative arrangements for the protection of such victims.

Under an Administrative Arrangement, potential victims of human trafficking may be granted a period of recovery and reflection in the State and may also, in certain circumstances, be granted one or more periods of temporary residence (via the Garda National Immigration Bureau ‘stamp 4’ process). People covered by such an arrangement should be regarded as satisfying habitual residency conditions for the period covered which entitles them to certain financial supports from the Department of Social Protection. Emphasis is placed on ensuring that potential Victims of Human Trafficking are treated with the utmost sympathy and overly intrusive questioning of their circumstances is avoided.

- **Ensure that victims of trafficking can fully benefit from the right to obtain a renewable residence permit, without prejudice for the right to seek and enjoy asylum, and provide for the possibility to grant renewable temporary residence permits to victims of trafficking where their stay is necessary owing to their personal situation;**

In circumstances in which persons have no legal basis to remain in the State, protection may be granted under the Administrative Immigration Arrangements for the Protection of Victims of Trafficking. 60 day recovery and reflection period and/or 6 month renewable temporary residence permissions may be granted. These permissions are intended for cases in which the trafficked person wishes to assist An Garda Síochána or other relevant authorities in any investigation or prosecution in relation to the alleged trafficking.

The administrative arrangements were established in June 2008 to coincide with the enactment of the Criminal Law (Human Trafficking) Act 2008.

These arrangements involve:

- a) a procedure to allow a person make an application to change to a longer term permission to remain in the State after 3 years of Temporary Residency Permissions or when the investigation/prosecution is complete (whichever is the shorter);
- b) arrangements to issue a recovery and reflection period for persons under 18 years for periods in excess of 60 days having regard to the arrangements in place for the care and welfare of the child;
- c) clarification that there is no right to family re-unification while on temporary residence permission. Each case will be considered on its merits;
- d) a provision for those victims of human trafficking who have been refused asylum, to allow them to have the fact that they have been identified as a suspected victim of human trafficking to be taken into account in any consideration as to whether they may remain in the country under various immigration permissions. In such cases temporary residence permission under the Administrative Immigration Arrangements will automatically issue, pending consideration of any other forms of immigration permission of which the person may wish to avail.

After six consecutive six month permissions (6 by 6), the victim gets a two year permission automatically by virtue of the fact that they have had little stability in their lives with the 6 month rolling permissions.

- **Improve the identification of child victims of trafficking and provide services adapted to the needs of child victims, including appropriate accommodation, education and vocational training.**

#### Identification of child victims

The Separated Children Seeking Asylum Team in TUSLA (the Child and Family Agency) are acutely aware of trafficking as a potential risk factor for all young separated people who arrive in Ireland and have developed skills in identifying this group of vulnerable young people. The Team provide a national service whereby they travel to collect children who arrive in various ports and airports around the country.

Separated children seeking asylum are defined as "children under eighteen years of age who are outside their country of origin, who have applied for asylum and are separated from their parents or their legal/customary care giver". Any of these children may have high levels of vulnerability and have experienced severe trauma. Many face problems and challenges on issues including separation and bereavement from family and friends, social isolation, language barriers, emotional and mental health problems, discrimination and racism. In addition they may experience some anxiety around the possibility of being removed from the country or have some uncertainty as to their future.

If a young person has been identified as, or declares themselves to be a victim of human trafficking they can be received into the care of the State (TUSLA) and placed in residential or foster care, as appropriate. There are clear procedures and guidelines in place and a legislative basis to offer care and protection to the child/young person under The Child Care Act.

### **Services provided**

On the day of referral, all children see a Social Worker and an initial assessment takes place. A statutory care plan is developed and if appropriate, an application for international protection will be made on behalf of the child. All newly arriving separated children under 12 years are placed in a foster care placement. Those over 12 years will be placed in one of the three residential intake units in Dublin that are registered children's homes. The children remain in these accommodations while a social work risk and needs assessment is carried out. The assessment is multidisciplinary in nature and in addition to the child protection social work component it also involves a medical examination and an educational assessment.

Once the assessment process has taken place the child can access the following services;

- Possibility of family reunification;
- Possibility of return to country of origin;
- Medical screening and follow up medical care if necessary;
- Trafficking assessment and abuse disclosure;
- Psychology assessment and intervention if indicated;
- Social Work assessment
- Social Care Worker assessment and care;
- Educational assessment;
- Obtain a PPSN number;
- Commence asylum application ;
- Translation services.
- Sign language interpreter if required.
- DNA testing for reunifications purposes if required.

The results of the assessment will help inform the child's placement; either with family or in care. Both foster placements and supported lodgings are available throughout the country and there is strong linkage between the dedicated social work team in Dublin and the local social work teams in order to ensure a seamless transition from intake units to local placements.

The social work service also operates a reunification service whereby immigration authorities refer families or adults presenting with children in cases where parentage or guardianship is not apparent. The social work team conduct an assessment, which may include DNA testing and based on this assessment children are either returned to the adults/families presenting or are taken into care where there are concerns around parentage/guardianship and/or their safety and welfare.

The Separated Children Seeking Asylum Service is widely recognized as an excellent service, providing best practice interventions for a highly vulnerable group of young people. High quality care placements premised on the 'equity of care' principle are provided for unaccompanied minors (UAMs) who are accommodated within the same child care placements as at-risk children in the general population. This

may be small residential care homes with a maximum of six placements, foster care placements and supported lodgings placements. There is no difference between the standard of placements used for foreign or domestic UAMs. In relation to children who may be victims of trafficking having been trafficked with their parents is an area that will need more consideration by Tusla.

## Part III - Statistics on THB

14. Please provide the following statistics, per year starting with 2017, where available disaggregated as indicated below:

- **Number of presumed victims and identified victims of THB in the sense of having been recognised by a state institution or mandated NGO as bearers of rights to services provided for by the Convention (with breakdown by sex, age, nationality, form of exploitation, internal or transnational trafficking, and body which identified them).**

	2017	2018	2019	2020
Total number of Adults	71	59	33	38
Male	30	29	2	5
Female	41	30	31	33
Children*	32	5	9	0
Male children	5	2	2	0
Female children	27	3	7	0
Total number of victims	<b>103</b>	<b>64</b>	<b>42</b>	<b>38</b>

\*Historically, the overwhelming majority of child victims of offences under trafficking legislation included in Irish statistics are Irish child victims of sexual exploitation, and often by someone known to the child. Since 2017 these crimes have been excluded from Ireland's reporting on human trafficking, since they fall outside the definition of trafficking.

- **Number of victims of THB identified as part of the asylum procedure (disaggregated by sex, age, nationality, form of exploitation).**
- An Garda Síochána is the sole competent authority for identifying victims of human trafficking in Ireland and therefore officials who work in the Immigration Service Delivery area of the Department of Justice, or the International Protection Office do not have the remit to identify victims.
- If officials are contacted by potential victims seeking an immigration permission on the basis of being a victim of THB, they refer them to An Garda Síochána for assessment / identification.

➤ **Number of victims of THB who received assistance (disaggregated by sex, age, nationality, form of exploitation, internal or transnational trafficking).**

The number of identified victims is detailed in answer to question 14 above. All identified THB victims are offered assistance. However, some may choose not to avail of accommodation, and other assistance as they may have accommodation.

➤ **Number of child victims of THB who were appointed legal guardians.**

All children (including child victims of human trafficking and unaccompanied minors) referred to the child and family agency- Tusla, are appointed a social worker who looks after their needs and requirements.

The Court also has the power to appoint a Legal Guardian to act for the child in the proceedings (known as a Guardian ad Litem) who can establish the wishes and feelings of the child and represent these to the court. They can also advise the court on the child's best interests.

➤ **Number of victims of THB granted a recovery and reflection period (disaggregated by sex, age, nationality, form of exploitation).**

According to the manually compiled stats kept since 2017, the Domestic Residence and Permissions Unit have processed 105 cases in which GNIB instructed us to grant permissions to victims of human trafficking. 41 of these involved males, and 64 females. 41 of the 105 tracked cases resulted in a granting of the longer two year permission after the 6x6 month rolling permissions.

➤ **Number of victims of THB granted a residence permit, with an indication of the type of the permit and its duration (disaggregated by sex, age, nationality, form of exploitation).**

The Immigration Service Delivery area of the Department of Justice, has in place arrangements for cases in which a foreign national is identified as a person suspected of being a victim of human trafficking.

In circumstances in which persons have no legal basis to remain in the State, protection may be granted under the Administrative Immigration Arrangements for the Protection of Victims of Trafficking. A 60 day recovery and reflection period and/or 6 month renewable temporary residence permissions may be granted.

As An Garda Síochána is the sole competent authority for identifying victims of human trafficking, they apply for the 60 day Recovery and Reflection period on behalf of victims immediately once the injured person has been recognised as a potential victim of human trafficking by the investigating HTICU member.

The table below is in respect of 'Stamp 4' permission which is issued for the period of rest and recovery and the 6 month renewable temporary residence permissions

However, sometimes victims may already have permission to be in the state and no application is made until the original permission expires. A victim may be in possession of a valid Stamp 2 (Student visa), Stamp 3 (Tourist visa) or perhaps has permission through the Asylum system and only will apply for immigration permissions once their original permits expire or their asylum requests are refused. It is important to bear this in mind when reviewing the attached table.

For example, there were five (5) instances of new permissions for Victims of Trafficking in 2020. This is not 5 out of the 38 victims identified in 2020, but rather victims who did not already have an immigration permission in place.

The form of exploitation is not known or recorded by Immigration Service Delivery when issuing permissions.

<b>YEAR</b>	<b>NATIONALITY</b>	<b>SEX</b>	<b>AGE</b>	<b>TOTAL NUMBER OF VICTIMS PER YEAR</b>
2017	Chinese	Female	51	
	S African	Female	24	
	Egyptian	Male	28	
	Nigerian	Female	51	
	Egyptian	Male	36	
	Filipino	Male	44	<b>6</b>
2018	Brazilian	Female	41	
	Egyptian	Male	36	
	Egyptian	Male	43	
	Filipino	Male	43	
	Filipino	Male	39	
	Ghanian	Male	35	
	Ghanian	Male	44	
	Ghanian	Male	45	
	Ghanian	Male	38	
	Ghanian	Male	44	
	Ghana	Male	38	
	Egyptian	Male	39	
	Egyptian	Male	28	
	Egyptian	Male	45	
	Egyptian	Male	33	
	Egyptian	Male	28	
	Egyptian	Male	28	
	Egyptian	Male	28	
	Egyptian	Male	36	
	Egyptian	Male	36	
	Ghanian	Male	38	
	Indian	Male	32	
	Congolese	Male	48	<b>23</b>
2019	Nigerian	Male	27	
	Nigerian	Male	38	
	Nigerian	Male	31	

	Nigerian	Female	27	4
2020	Egyptian	Male	29	
	Egyptian	Male	44	
	Nigerian	Female	46	
	Nigerian	Female	39	
	Nigerian	Female	42	5

The administrative arrangements were established in June 2008 to coincide with the enactment of the Criminal Law (Human Trafficking) Act 2008.

These arrangements involve:

- (a) a procedure to allow a person make an application to change to a longer term permission to remain in the State after 3 years of Temporary Residency Permissions or when the investigation/prosecution is complete (whichever is the shorter);
- (b) arrangements to issue a recovery and reflection period for persons under 18 years for periods in excess of 60 days having regard to the arrangements in place for the care and welfare of the child;
- (c) clarification that there is no automatic right to family re-unification while on temporary residence permission, and each case will be considered on its merits;
- (d) a provision for those victims of human trafficking who have been refused asylum, to allow them to have the fact that they have been identified as a suspected victim of human trafficking to be taken into account in any consideration as to whether they may remain in the country under various immigration permissions. In such cases temporary residence permission under the Administrative Immigration Arrangements will automatically issue, pending consideration of any other forms of immigration permission of which the person may wish to avail.

➤ **Number of persons given refugee status or subsidiary/complementary protection on the grounds of beings victims of THB (disaggregated by sex, age, nationality, form of exploitation).**

In Ireland, victims of Human Trafficking are not automatically granted refugee status. They must also fit the criteria outlined in the definition of a refugee, which is provided in section 2 of the International Protection Act, 2015. In this regard a person must;

- Be outside the country of origin.
- Have a well founded fear of persecution.
- Fear persecution on the basis of one of the five Refugee Convention grounds - race, religion, nationality, membership in a particular social group or political opinion.
- Establish that the state of origin is unwilling or unable to protect him or her

While THB is not a grounds for receiving refugee status under the International protection Act 2015, in circumstances where a person who is a victim of human trafficking has no legal basis to remain in the State, protection may be granted under the Administrative Immigration Arrangements for the Protection of Victims of Trafficking. A 60 day recovery and reflection period and/or 6 month renewable temporary residence permissions may be granted.

- **Number of victims of THB who claimed compensation, who were granted compensation and who effectively received compensation (disaggregated by sex, age, nationality, form of exploitation, with an indication of whether the compensation was provided by the perpetrator or the State, and the amount awarded).**

This information is not currently available.

- **Number of victims of THB who received another form of financial support from the State, with the indication of the amount received.**

Information in relation to the number of victims who receive another form of financial support from the State is not currently available, however victims of trafficking are entitled to social welfare benefits from the State. The amount is dependent on other state supports being received such as accommodation and other subsidies.

- **Number of victims of THB who received free legal aid.**

During 2020, 19 potential human trafficking victims registered with the LAB and their cases are on-going. Four are male, 15 are female; 18 were adults when referred and there is 1 unaccompanied minor; 3 relate to labour exploitation, 14 to sexual exploitation, 2 to criminal purposes.

During 2019, 9 potential victims of human trafficking referred to the Board by An Garda Síochána applied for legal services. One of these cases related to labour exploitation, eight to sexual exploitation, and one to criminal purposes

During 2018 21 potential victims of human trafficking referred to the Board by An Garda Síochána applied for legal services. Seven of these cases related to labour exploitation, 12 to sexual exploitation, and 2 to sexual & labour exploitation.

During 2017, 31 potential victims of human trafficking referred to the Board by An Garda Síochána applied for legal services, 15 of whom were referred in relation to sexual exploitation; 11 in relation to labour exploitation, and 5 unknown.

The Legal Aid Board provides free legal services to the potential victims of trafficking through the Human Trafficking Specialised Unit. Some victims may decline these services (if they are not ready yet to engage; and in some cases they may already have access to appropriate legal support through NGOs part of the National Referral Mechanism). The LAB waives fees for potential victims of trafficking and prioritises requests for assistance in order to ensure that potential victims of trafficking have access to legal services within a reasonable timeframe.

The Human Trafficking Unit of the LAB is in a position to provide legal advice in relation to civil law matters regarding the following:

- Status in the State and the measures set out in the Administrative Immigration Arrangements which provide for recovery and reflection and temporary residence, as well as applications for leave to remain in the State
  - Seeking international protection.
- Seeking redress through the employment protection legislation (legal advice only),
- Information on what is involved in a criminal trial for a victim/witness,
- Information on compensation,
- Information on voluntary return home.

➤ **Number of victims of THB who were returned or repatriated to/from your country (disaggregated by sex, age, country of destination, form of exploitation).**

In 2017, 5 victims of trafficking were assisted by the International Office of Migration (IOM) plus an additional 1 that had been entered into the NRM, but finally was not declared as being suspected as a victim of trafficking

Year of Return - 2017			
Gender	Country of Return	Age	Type of Exploitation
Male	Latvia	35	Labour exploitation - Agriculture
Female	Romania	23	Risk of sexual exploitation – no exploitation occurred
Female	Romania	47	Labour Exploitation – forced begging
Female	Romania	35	Labour Exploitation – Car wash
Male	Romania	37	Labour Exploitation - Agriculture
Female	Fiji	38	Labour exploitation – entered into NRM but not deemed victim of trafficking

In 2018 – IOM assisted 13 suspected victims of trafficking to return home plus an additional 2 individuals that IOM suspected to be victims of trafficking, but were not referred to NRM as per their choice

Year of Return – 2018			
Gender	Country of Return	Age	Type of Exploitation
Female	Nigeria	22	Sexual Exploitation
Female	Ukraine	47	Labour exploitation
Female	Ethiopia	24	Labour exploitation
Female	Lithuania	34	Sexual exploitation
Male	Romania	50	Labour Exploitation
Male	Romania	42	Labour Exploitation

Male	Romania	39	Labour Exploitation
Male	Romania	36	Labour Exploitation
Male	Romania	28	Labour Exploitation
Male	Romania	27	Labour Exploitation
Male	Romania	26	Labour Exploitation
Male	Romania	21	Labour Exploitation
Male	Romania	42	Labour Exploitation
Female	Bulgaria	34	Sexual Exploitation
Female	Taiwan	54	Sexual exploitation .

5 victims of trafficking were assisted by IOM in 2019

Year of Return – 2019			
Gender	Country of Return	Age	Type of Exploitation
Female	German	29	Criminal Activity
Female	Romania	38	Labour Exploitation
Female	Romania	26	Sexual Exploitation
Male	Romania	19	Sexual Exploitation
Female	Romania	20	Sexual Exploitation

Year of Return - 2020			
Gender	Country of Return	Type of Exploitation	Age at time of return
Female	Mexico	Sexual exploitation	34
Female (plus one child)	Romania	Sexual exploitation	21 (adult) 3 (child)
3 Males	Slovakia	Labour exploitation	25, 17 and 23

- **Number of investigations into THB cases (disaggregated by type of exploitation, with an indication of the number of victims concerned).**

Year	Total number of offences of Human Trafficking recorded
2017	115
2018	64
2019	42
2020	38

- **Number of prosecutions in THB cases (disaggregated by type of exploitation, with an indication of the number of victims and defendants concerned).**

	2017	2018	2019	2020
Total number of persons prosecuted	3	0	4	

- **Number of convicted perpetrators of THB (disaggregated by sex, age, nationality, form of exploitation).**

There have been no convictions for HT offences since 2013. However, there are a number of cases at trial stage at present.

- **Number of convictions for THB, with an indication of the form of exploitation, whether the victim was adult or child, the type and duration of the penalties, and whether they were effectively enforced or suspended.**

There have been no convictions for THB since 2013.

- **Number of judgments in THB cases resulting in the confiscation of assets.**

Not applicable as no convictions have been obtained.

- **Number of convictions of legal entities for THB.**

There have been no convictions of legal entities for THB.