Committee of the Parties
to the Council of Europe Convention
on Action against Trafficking in Human Beings

COUNCIL OF EUROPE
1949 - 2024
CONSEIL DE L'EUROPE

CP(2024)08

Report submitted by the authorities of Norway on measures taken to comply with Committee of the Parties Recommendation CP/Rec(2022)05 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings

Third evaluation round

Received on 17 June 2024

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ROYAL NORWEGIAN
MINISTRY OF JUSTICE AND PUBLIC SECURITY

Council of Europe
Executive Secretary of the Council of Europe
Convention on Action against Trafficking in Human Beings

Your ref.	Our ref.	Date
PN/jrs	20/1649 -	17.06.2024

Report to the Committee of the Parties

Reference is made to Your letter of 21 June 2022.

We submit the following information on measures taken to implement the proposals of GRETA:

Right to information

GRETA considers that the Norwegian authorities should strengthen the systematic provision of information to victims of trafficking regarding their rights, the services available and how to access them, as well as the implications of being identified as a victim of trafficking. Information in oral and written form should be provided in a language the victim understands. Law enforcement officers should continue being trained and instructed on how to properly explain to victims their rights and systematically refer them to specialised NGOs which enable victims to exercise their rights (paragraph 42);

GRETA welcomes the recent adoption of the law on interpretation in public services and considers that the Norwegian authorities should ensure its effective application in practice. GRETA further considers that access to qualified and independent interpreters should be guaranteed to victims of trafficking when they interact with NGOs and at the time of their initial meeting with the lawyer, and that the costs of interpretation should be covered by the authorities (paragraph 43).

As reported previously in GRETAs third evaluation round, an obligation to ensure that victims have access to information on relevant rights rests with the competent authority or organization that meets the person. The duty to identify a potential victim and provide information about their rights lies with e.g., a caseworker in the immigration administration or in a reception centre for asylum seekers, the Child Welfare Services, the police, health workers, labour inspectorates, specialized agencies for assistance, NGOs etc.

In 2024, KOM developed and published a new national information leaflet to potential victims: informasjon-til-deg-som-kan-vare-utsatt-for-menneskehandel.pdf (politiet.no)

The leaflet is to be translated into English. Other languages are being considered.

KOM developed in 2023 a national guide for identification of possible victims of human trafficking: veileder-for-identifisering-av-mulige-ofre-for-menneskehandel.pdf (politiet.no). The guide provides national procedures for identification (incl. indicators and victims' rights), victim referral to protection services, procedures and services available for victim care. The guide is to be translated into English.

NGOs working in the field have recruited personnel with broad language skills. Several NGOs have produced information material in different languages.

The police national competence group provides trainings on how to provide information to potential victims about their rights and how to systematically refer them to specialized NGOs. As an example, the national police competence group carried out an action week to identify possible victims in the Thai massage parlour industry in March 2024, whereby the police gave ROSA (NGO) cards in the Thai language to those that seemed vulnerable. Preparations were also made for interpreters, if needed during the action days.

Overall, it is still a challenge that much information from government actors is only in Norwegian and to a certain extent English. Several information materials developed in light of the Ukrainian refugee situation in order to prevent trafficking are available in Norwegian, English, Russian and Ukrainian:

https://www.udi.no/en/information-ukraine-and-russia/situation-in-ukraine/stay-in-norway/frequently-asked-questions-and-answers/do-you-experience-violence-force-or-pressure/

Police information video about rights in Norway:
https://www.youtube.com/watch?v=mH1bbiEu7u8
https://www.youtube.com/watch?v=3vSa4fb6suI

The Labour Inspectorate has information in 15 languages on their web site that offers information to foreign workers about their rights.
Working in Norway: Your rights and obligations (arbeidstilsynet.no)

Some of the challenges regarding qualified and independent interpreters are still valid since last reporting period. The Ministry of Justice and Public Security has on occasion provided additional funding to NGOs due to an increased need for interpretation.

Legal assistance and free legal aid

GRETA considers that the Norwegian authorities should take further steps to ensure trafficking victims' access to legal assistance and free legal aid, in particular:

- a lawyer should be appointed as soon as there are reasonable grounds for believing that a person is a victim of human trafficking, including in the case of asylum seekers and persons placed in detention prior to deportation, before the persons concerned have to decide whether to file a criminal report;

- initial legal assistance should be provided to a sufficient extent and by a lawyer with experience in THB cases;

- the Bar Association should be encouraged to offer training and specialisation of lawyers to provide legal aid to trafficking victims; - trafficking victims should be systematically appointed a specialised lawyer (paragraph 53).

Pursuant to the Legal Aid Act, victims of crime, including victims of trafficking, are entitled to three hours of free legal advice, irrespective of their economic situation and immigration status. The legal assistance is to help decide whether they wish to file a criminal report with the police. However, it is not a condition for receiving legal aid that a criminal report is actually filed. To receive this initial legal aid, the person in need of assistance is free to choose which lawyer he or she wishes to contact.

There are no national requirements regarding specialization of lawyers who provide legal aid to trafficking victims. However, the new Advocates Act, which has not yet entered into force, provides that lawyers must act with professional skill and must have sufficient knowledge on the area of law on which they give advice. The Ministry cannot instruct the Bar Association to offer specialization of lawyers to provide legal aid to trafficking victims, but when the new Advocates Act enters into force, there will be introduced a general requirement for post-qualifying education for all lawyers.

Possible victims are regularly provided assistance from NGOs in the field, who will make sure that the person is appointed a specialised lawyer.

Psychological assistance

GRETA considers that the Norwegian authorities should guarantee timely access of victims of trafficking to psychological assistance and ensure that it is provided for as long as their individual situation requires, in order to help them overcome their trauma and achieve a sustained recovery and social inclusion (paragraph 58).

Municipalities shall ensure necessary and adequate health and care services (Health and Care Services Act § 3-1, cf. § 4-1 and § 1-1). They shall provide equitable and tailored services to all, regardless of the cause of their need for assistance. This includes help for mental health problems. The municipality's statutory responsibility also covers psychosocial follow-up. If an individual requires more specialized assistance than what the municipal health and care services can offer, their general practitioner can refer them to specialized health services. There is no need for a referral in acute situations requiring immediate help.

Help for mental health problems remains a concern. An increasing number of possible victims are reported to be vulnerable persons with a variety of needs. We have received reports that mention that some mentally ill victims are indeed admitted to the mental health care services. However, there are also victims not ill enough for admission to the specialist health service. At the same time, their condition can be too unstable for staying in the existing safe houses for victims of human trafficking.

ROSA reports that they have entered into a private agreement to secure mental health care for victims.

In 2024, the Ministry of Health and Care Services granted 175.4 million Norwegian kroner to Regional Resource Centres for Violence, Traumatic Stress, and Suicide Prevention (RVTS). These centres work on competence and quality development in services on a number of subjects, including human trafficking.

Access to work, vocational training and education

While welcoming the fact that victims of trafficking who have been granted the reflection period have the right to work, GRETA considers that the Norwegian authorities should ensure that victims can benefit from this right in practice, and should further strengthen effective access to, and/or reintegration of, the labour market for victims of THB and their economic and social inclusion through the provision of vocational training and job placement, raising awareness amongst employers, and

the promotion of micro-businesses, social enterprises and public private partnerships, including through state supported employment programmes, with a view to creating appropriate work opportunities for victims of trafficking (paragraph 63).

ROSA continues to implement and develop the Adora Project, in cooperation with the *Beauty and Health Academy.* Several women attending the courses are now Spanish-speakers. There are attempts at providing job placements to those who have completed the courses. Language remains a challenge.

Grants are provided for various new projects to strengthen access to the labour market for victims. The Church City Mission in Oslo created a specially designed training project for women working in Thai massage parlours, as well as for other groups. This was done in cooperation with social services and private partners.

Compensation

GRETA urges the Norwegian authorities to facilitate access to state compensation in cases in which no criminal proceedings were instituted against the alleged perpetrator, even when the perpetrator does not give his/her consent to have the compensation claim decided by the Compensation Authority (paragraph 75);

According to the new *Act on Compensation for Violent Crimes*, the consent of the alleged perpetrator is not a requirement, in order to have the compensation claim decided by the Compensation Authority. This part of the proposition was removed during Parliaments' adoption of the new Act.

Further, it is not a condition for receiving compensation that the perpetrator has been convicted in a criminal case. However, it is required that a criminal case has been reported to the police.

GRETA considers that the Norwegian authorities should make additional efforts to guarantee effective access to compensation for victims of THB, in particular by:

- ensuring that the collection of evidence about the harm the victim has suffered, including the financial gain from the exploitation of the victim, is part of the criminal investigations with a view to supporting compensation claims in court;

In the annual award letter to the prosecuting authority, the ministry has emphasized the importance of having as many of the violence compensation claims as possible processed in the criminal case. Also, the annual award letter to the Courts Administration underlines that compensation claims must be dealt with by the courts in the criminal case, in order to be able to pursue recourse claims for the state, and make the new *Act on Compensation for Violent Crimes* work according to its intentions.

- prosecutors systematically requesting compensation and judges using all the possibilities the law offers them to uphold compensation claims;

- making full use of the legislation on the freezing and forfeiture of assets to secure compensation to victims of THB;

- providing training to prosecutors and judges on the issue of compensation (paragraph 76).

An important part of the Norwegian national strategy on crime is to ensure that crime does not pay and that proceeds of crime are confiscated. It is clearly stated by the legislature and the Attorney General, see as an example the Attorney General's directive on investigative quality (directive no. 3/2018). All investigations of profit-motivated crimes, including human trafficking, should seek to clarify whether the crime has had any financial gain and if any proceeds can be seized for the benefit of the state or compensation to victims. In the Attorney General's annual directive on priorities for criminal investigations and proceedings, the need for a high level of awareness of money trail investigations and the securing of assets with a view to confiscation and compensation in relevant case types is regularly pointed out. The directive for 2024 says:

«The Attorney-General emphasizes the criminal policy objective that criminal offenses should not pay. Confiscation of proceeds from criminal offenses must be central to the fight against all forms of profit-based crime, see quality circular section 4.4.10. The police and state prosecutors must have a high awareness of money trail investigations and safeguarding of values already at the initial phase of the case with a view to confiscation/replacement in relevant case types. »

It follows that the prosecuting authority *must* demand confiscation if the grounds for confiscation are fulfilled. It also follows from Section 67 of the Criminal Code that confiscation of dividends is mandatory. If the conditions are fulfilled, the courts are thus not free to make their own assessments.

The court can decide that proceeds that have been confiscated be used to cover compensation claims from the injured party, cf. Criminal Code section 75.

The purpose of the investigation is, in addition to decide on the question of whether there is enough evidence of human trafficking, to serve as a preparation for the court's handling of the case and to carry out punishment and other reactions, cf. Criminal Procedure Act § 226. That includes to investigate and obtain evidence of the harms and loss of victims of human trafficking. It also follows from Section 236 of the Criminal Procedure Act that the first time the victim is questioned, he or she must be asked whether he or she has a claim for compensation that the prosecuting authority or the assistance lawyer should bring forward. Victims of human trafficking are entitled to legal assistance throughout the prosecution. The victim's lawyer can request investigative steps to shed light on damage and loss, and bring forward claims for compensation without the consent or involvement of the prosecuting authority.

During the investigation, confiscation claims can be seized in accordance with Chapters 16 and 17 of the Criminal Procedure Act. However, the challenge in many cases is that the proceeds are difficult to trace and may be located abroad.

The Attorney General has recently, in 2023, examined national efforts in the confiscation field. The findings are that the Norwegian police are good at identifying and confiscating assets in the initial phase of the investigation, but that the efforts throughout the investigation phase as to i.e., identify and confiscate proceeds could be better. The findings apply to all types of cases and are not limited to cases of human trafficking. Based on the findings, several police districts have been asked to prioritize their efforts in line with the Attorney General's instructions.

According to information given to the Attorney General, in 2024 there have been two convictions in human trafficking cases. None of them are yet legally binding. In one if the cases, which concerned aggravated human trafficking for forced drug crimes, the defendant was sentenced to suffer confiscation of profits of NOK 786,000 and to pay compensation to the victim of NOK 480,000, as well as to pay reparation compensation to the victim of NOK 100,000.

Judges are not part of the police national competence group seminar and capacity building initiatives, but prosecutors are. The matter of compensation has been part of presentations provided in several of the competence group seminars but there has not been a dedicated training regarding this topic only.

Judges in Norway do not specialise in specific areas of law, such as THB. Judges receive initial training upon recruitment, which consists of five modules covering, inter alia, criminal law, procedure and ethics. They are also obliged to follow two days of continuous training annually and can attend other training courses.

Investigations, prosecutions, sanctions and measures

GRETA urges the Norwegian authorities to strengthen the criminal justice response to human trafficking, and in particular to:

- ensure that human trafficking offences are promptly investigated, regardless of whether a report has been filed or not, making use of all possible evidence gathered through special investigation techniques and financial investigations, and not having to rely mainly on the testimony of victims or witnesses;

- provide adequate financial and human resources to the specialised police THB units and ensure that they are utilised accordingly;

- ensure that trafficking offences are classified as such every time the circumstances of a case allow this, including cases of trafficking for the purpose of labour exploitation, and that they lead to effective, proportionate and dissuasive sanctions for those convicted. If a case is (re)qualified as a lesser offence, the authorities should ensure that THB victims are not deprived of access to a reflection period, legal aid, and compensation as a result, as well as those special investigative measures remain available to law enforcement;

- ensure that property used to commit THB, or which can reasonably be considered to constitute proceeds of this crime, is seized to the greatest extent possible (paragraph 98).

In the police districts the chief of police is responsible for fighting all crimes in the district. That implies that priorities must be set. The funding earmarked for human trafficking investigations can be redirected to other areas for a period as a result of prioritising the investigation of other offences.

Where a case is either dismissed or (re)qualified as a lesser offence, such as pimping or labour-related offences, this deprives the access to many of the rights of victims of THB. In the last GRETA report is it stated that "*this could be due to insufficient knowledge among some police prosecutors and judges of the elements of THB, especially with regard to labour exploitation. There is reportedly a reluctance on the part of police prosecutors to proceed with cases in which the evidence consists only of the testimony of the victim*."

In our opinion this is not an accurate description of the situation. In many cases the police do not manage to prove the elements of THB - for various reasons – sometimes because trafficking has not taken place. This is similar to other crimes, where the police initially will take a broad approach. As a consequence, a case can, be dismissed or requalified as a lesser offence.

Investigations in human trafficking cases are initiated when a report or other circumstances give reasonable grounds for it. As to classification of cases, a victim's pretention is always the most important factor. If a person reports a crime and claims to be victim of human trafficking, the crime is classified as such as a main rule. If it turns out that the case does not concern human trafficking or there is no criminal evidence for it, one cannot prosecute the case as human trafficking. If the police or the prosecutor finds that instead a lesser offence have been committed, the case is requalified to the lesser offence. When a case is reclassified from human trafficking to a lesser offence or the investigation in a human trafficking case is laid down, the victim must be informed and has the right to complain. When the police initiate reports or initiate their own investigations, knowledge is key when it comes to identify victims and classify an offence as human trafficking.

As of writing this, the Norwegian police are investigating several trafficking cases, i.e., on prostitution and forced labour. A number of the said investigations are initiated by the police themselves. Collection of evidence regarding the financial gain from the exploitation of the victims are all part of the investigations. The police make use of a variety of investigation methods when investigating the cases.

Non-punishment provision

While welcoming the adoption of amendments to the Criminal Procedure Act, GRETA is concerned the non-punishment provision is not sufficiently and consistently applied by the prosecution and the courts, and considers that the Norwegian authorities should take further measures to ensure compliance with this provision in practice, including by:

- bringing the guidelines issued by the Director of Public Prosecutions fully in line with Article 26 of the Convention by clarifying that the non-punishment provision is capable of being applied to all offences that victims of trafficking were compelled to commit;

- ensuring that victims of THB are promptly identified as such, in any event before being convicted of offences they were compelled to commit (see also paragraph 170);

- encouraging prosecutors to be proactive in establishing whether an accused person is a potential victim of trafficking, and to consider that, having been trafficked, the culpability of the victim may be diminished, or even removed entirely;

- ensuring that all negative consequences faced by victims of THB, such as any form of detention, entry bans or delays in seeking legal residence in Norway, are lifted for presumed victims of THB, including in cases where their victimhood has only been recognised after they were deported (paragraph 104).

The Attorney General has not drawn up general guidelines for the assessment pursuant to Article 26.

However, since 2021, the Attorney General has issued the following annual guidelines to the police and public prosecutors:

«It is recalled that the Norwegian authorities are obliged to identify victims of human trafficking, and that suspects in cases of labour crime may, depending on the circumstances, themselves be victims of human trafficking or forced into other crimes. Article 26 of the Council of Europe Convention on Trafficking in Human Beings obliges the states to ensure that victims of human trafficking are not themselves subjected to prosecution to an unreasonable extent.

The prosecuting authority must therefore assess whether, and consider, that persons who are being investigated for criminal offenses may have committed the acts as victims of human trafficking. It follows from Section 226 of the Criminal Procedure Act that the police have a duty to investigate whether there are mitigating circumstances. If, as part of the exploitation, a victim of human trafficking commits criminal offenses of moderate seriousness, the criminal case may be dropped, settled with no prosecution or the sentence reduced, according to various general provisions in the Criminal Procedure Act. The penalty may also be reduced for serious crimes. »

The non-punishment principle was applied by the prosecution service, based on the general provisions in the Criminal Procedure Act, in the above-mentioned case and conviction for aggravated human trafficking. The charges against the victim who had been forced to commit a number of drug crimes were dropped.

Protection of victims and witnesses

GRETA considers that the Norwegian authorities should make full use of all available measures to protect victims and witnesses of THB and to prevent intimidation and secondary victimisation during the investigation, as well as during and after court proceedings (paragraph 110).

The police's *support centres for people at risk of crime* were established in 2018 as an offer for people exposed to integrity-violating crime. They can provide information and guidance on reporting, support victims all the way from report to settled case, offer witness support in any court case and provide information on compensation for violence.

As for all victims of serious crimes, it may be challenging – if not impossible - to protect the victims to a full extent during the investigation and court proceedings. However, there are a number of measures that can be applied. A violence risk assessment can be carried out, the suspect may be subject to a reverse violence alarm and the victim may be given a secret address. Legal assistance can be present during interviews, and for minors and other particularly vulnerable victims, witness interviews with special arrangements can be made. During court proceedings, special measures can be decided by the court at the request of the prosecuting authority or the legal counsel, for example that the accused and the victim are not present in the same room at the same time or that the victim giving testimony in advance. It also applies restrictions on the defendant's lawyers right to provide evidence about the victim's character and sexual behaviour. Unlawful influence of a victim in a criminal case is also subject to strict criminal liability. In certain cases, if specific conditions are fulfilled, a victim can give testimony anonymous.

We are aware that some possible victims decline to accept assistance measures or to report their cases to the police, since they fear that the authorities will not be able to provide them with necessary long-term protection against traffickers in their home countries. This remains a serious challenge for us.

Specialised authorities and co-ordinating bodies

GRETA considers that the Norwegian authorities should take further steps to ensure that effective co-ordination and information exchange exists among the different actors (paragraph 122);

GRETA considers that the Norwegian authorities should continue to promote the development of specialisation to work on THB cases among prosecutors and judges, and ensure all relevant professionals are trained regularly and systematically on preventing and combating THB, identifying victims and referring them to assistance. The training should be integrated in the regular training curricula of different professional groups, including law enforcement officials, prosecutors, judges, staff at immigration detention centres, labour inspectors, social workers, child welfare staff, health-care staff, as well as diplomatic and consular staff (paragraph 123).

The Ministry of Justice and Public Security has taken steps in 2024 to improve coordination at the central level. The two persons in our Coordinating Unit against Trafficking (KOM) are temporarily placed in the Ministry, and tasked with contributing to the development of a national strategy against trafficking. An assessment and further improvement of training to professionals in the field is a vital component of the strategy.

International co-operation

GRETA welcomes the Norwegian authorities' participation in multilateral and bilateral international co-operation, and Norway's contribution to international co-operation through funding projects in countries of origin. GRETA invites the Norwegian authorities to further develop bilateral co-operation, including with the authorities of the Philippines, with regard to preventing THB and ensuring a successful prosecution of traffickers (paragraph 131).

As mentioned in the GRETA report, Norwegian authorities posted a police officer from Norway to serve as a liaison officer in Manila, with the aim of uncovering and preventing cases of child sexual abuse.

It has now been decided that the secondment will be extended. The police officer will be replaced by a new police officer in July 2024. The new secondment is for 3-4 years.

Child-sensitive procedures for obtaining access to justice and remedies

GRETA stresses that the principle of the best interests of the child should be fully respected at all times and considers that the Norwegian authorities should keep under review the application of section 4-29 of the Child Welfare Act (paragraph 136);

Further, GRETA welcomes the existence of children's houses (Barnehus) across Norway, enabling the adoption of a child-sensitive approach and procedures for obtaining access to justice and remedies. GRETA considers that the Norwegian authorities should make full use of these specialised facilities in cases of THB. In this context, GRETA also refers to the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice (paragraph 137).

The responsibility for unaccompanied minor asylum seekers is still divided between two authorities. This does not represent age discrimination, as the Norwegian government considers it to be appropriate to have an age differentiated approach in the care facilities. Furthermore, the section in the Child Welfare Act that may provide security and care for potential victims of trafficking, should not be considered detention as such. Although the children cannot move freely, it is a provision meant to protect minors from traffickers, it is strictly regulated, short in term and in the best interest of the child. In the new *Child Welfare Act* the correct sections regulating these placements would be §§ 4-5 and 6-6 (previously 4-29).

While the use of children's houses for interviewing children is not obligatory, this is done in practice.

Follow-up topics specific to Norway

Data collection

GRETA considers that the Norwegian authorities should take further steps to develop a comprehensive system for the collection and analysis of data on measures to protect and promote the rights of victims of THB, which should ensure the participation of all relevant actors that can contribute to the provision of data, including NGOs and other service providers, law enforcement, immigration officials, labour inspectorates, health-care providers, prosecution services and others involved in the identification of victims of trafficking, and the investigation and prosecution of human trafficking and related offences. This should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection, including when NGOs working with victims of trafficking are asked to provide information for the national database (paragraph 145).

It is important to bear in mind that the annual KOM reports continues to give extensive information about relevant data on the trafficking situation in Norway.

As mentioned in the GRETA report, KOM initiated a joint project with UNODC and Fafo on estimating the prevalence of trafficking. We attach the English summary of Fafos report.

We will continue to improve our data collection system as part of the development of a national strategy against trafficking.

Measures to prevent and combat trafficking for the purpose of labour exploitation

While commending the steps taken since the second evaluation to prevent and combat trafficking for the purpose of labour exploitation, in particular the establishment of A-Krim centres and the adoption of a number of legislative and policy documents, GRETA considers that the Norwegian authorities should:

- encourage law enforcement officials, labour inspectors, NGOs and other relevant actors to increase their outreach work to identify victims of human trafficking for the purpose of labour exploitation, paying particular attention to at-risk sectors, such as construction, hospitality and fishing;

- provide training for labour inspectors throughout the country, as well as law enforcement officers, prosecutors and judges, including through joint training, on THB for the purpose of labour exploitation and the rights of victims;

- ensure that cases of THB for labour exploitation are not treated as the so-called “social dumping” cases, depriving victims of THB of access to assistance measures and free legal aid;

- continue to raise awareness among the general public as well as, in a targeted manner, among migrant workers, about the risks of THB for the purpose of labour exploitation (paragraph 156).

The labour inspectorate has singled out nine regional contacts as being responsible for matters concerning human trafficking, for the purpose of labour exploitation. A majority of those contacts are located in “a-krim centres”. The regional contacts are responsible for training and raising awareness in the labour inspectorate, in addition to outreach through investigations and inspections, dialogue with other authorities, social partners and NGOs. Formal dialogue has also been established with the police and the prosecuting authority.

Migrant workers, both those staying in Norway for shorter and longer term, are more prone to be exploited in labour relations. Thus, in the action plan to combat social dumping and work-related crime from October 2022 (see the link), the government has focused on measures to strengthen employees’ rights, improve information for migrant workers and businesses that use migrant workers and strengthen the assistance for workers who are being exploited.

action-plan-to-combat-social-dumping-and-work-related-crime-2022.pdf (regjeringen.no)

Identification of victims of trafficking

GRETA urges the Norwegian authorities to strengthen the identification of victims of trafficking and their referral to assistance by:

-setting up a formalised National Referral Mechanism which defines the procedures and roles of all frontline actors who may come into contact with victims of trafficking, in order to improve clarity and legal certainty, and applying the procedures to all victims of trafficking, regardless of the setting in which the victims are detected;

The government has recently decided to create a national strategy against trafficking. As mentioned above, The Ministry of Justice and Public Security has taken steps in 2024 to improve coordination at the central level. The two persons in our Coordinating Unit against Trafficking (KOM) are temporarily placed in the Ministry, and will be tasked with contributing to the development of the strategy. Defining the procedures and roles of all stakeholders will form part of the strategy.

- ensuring that there is a separation between immigration enforcement functions and labour inspectorate roles, and that labour inspectors prioritise the detection of persons working in irregular situations who are vulnerable to THB;

- improving the identification of victims of trafficking among asylum seekers, migrants and persons placed in detention centres;

The Norwegian authorities follow procedures for identifying suspected victims of trafficking among asylum seekers. According to the routines, reception centres shall notify the policy if human trafficking is suspected.

- reviewing the legislation limiting the time period for appealing negative asylum decisions with a view to leaving sufficient time for identifying victims of trafficking and ensuring the effective exercise of the right to judicial review (paragraph 169).

All rejected asylum seekers have the right to free legal aid when appealing a negative asylum decision. Supplementary information may also be added after the deadline. According to the Public

Administration Act, Norwegian immigration authorities are obligated to ensure that the case is well elucidated before a decision is made, and to give guidance to the complainant. It is our opinion that the timeframe and the support given the complainant, is sufficient to ensure the effective exercise of the right to judicial review.

Assistance to victims

GRETA considers that the Norwegian authorities should further develop and strengthen the assistance measures offered to victims of THB, and in particular:

- provide longer-term, sustainable funding for NGOs that provide assistance to victims, in order to ensure the continuity of victims' assistance;

There are no changes in the funding for NGOs that assist victims. The grant scheme has for a long number of years provided long-term sustainable funding to the specialised safe houses and other projects. In theory, funding is only be given for one year at the time. In practice, there has been no sudden changes in the way funds are awarded. The relevant NGOs have been informed that for ongoing projects, short and precise applications are sufficient for handling the application process.

- taking into account the increasing number of cases of THB for labour exploitation and male victims, guarantee a sufficient number of accommodation places for victims of trafficking, including outside Oslo;

According to information received by the Ministry of Justice, the available number of short and medium accommodation places are close to sufficient.

- guarantee access to public health care for victims of trafficking;

- ensure that victims of trafficking are provided with adequate support and assistance, according to their individual needs, for as long as required (paragraph 181).

While healthcare is provided to many victims, there still exists a number of challenges linked to securing healthcare services for all possible victims, in particular mental health care. We have not reached a stage where we can guarantee them access to all forms of public health care. This is due, among other things, to missing or limited health rights for different groups of victims. There is also a need for adapted accommodation for victims with substance abuse problems and serious mental health problems.

Possible victims who are asylum seekers, will have access to a range of specialised services.

Identification of, and assistance to, child victims of trafficking

GRETA welcomes the setting up of the central guidance unit for child victims of trafficking and the work undertaken by it since 2019, and considers that the Norwegian authorities should take further steps to improve child victims' identification and assistance, and in particular:

- ensure that the process of setting up an NRM is in line with trafficked children's specific needs, and provide for information sharing and adequate co-ordination between different actors involved;

In 2023 the National guidance unit for trafficking in children has been involved in various competence-building initiatives, including organizing seminars aimed at enhancing the skills of employees in the child welfare services. Additionally, a one-day seminar was organized for various stakeholders working on tasks related to children and human trafficking. Furthermore, the National guidance unit has contributed to enhancing the competence of numerous stakeholders in the field of children and human trafficking.

As mentioned above, the government has recently decided to create a national strategy against trafficking. Defining the procedures and roles of all stakeholders, also related to possible child victims, will form part of the strategy.

-continue to take actions for reducing the risk of children going missing from state care;

The Norwegian authorities have procedures for dealing with the disappearance of unaccompanied minors from reception centres. This includes reporting the matter to the child welfare services, the child's representative (guardian) and lawyer, and the police. In many cases, there are grounds for believing that children leave reception centres by choice. However, the possibility that some may be victims of human trafficking, exploitation or other crimes cannot be excluded. In the past year, a thorough process has been carried out to improve the relevant routines for interaction between the police, the immigration authorities and the child protection services.

- provide training to all professionals working with child victims of trafficking (paragraph 187).

Recovery and reflection period

GRETA urges the Norwegian authorities, in compliance with the obligations under Article 13 of the Convention, to ensure that all possible victims of trafficking are offered a recovery and reflection period, without having to apply for it themselves, and all forms of assistance and protection that go with it regardless of whether a temporary residence permit and access to assistance can be secured on other grounds (paragraph 193).

We have some difficulty in understanding the requirements from GRETA concerning our reflection period. We are not sure how a reflection period could be secured without an application from the possible victim. As mentioned in the government comments to the GRETA report, the fairly low threshold for granting a reflection period is the same for all forms of exploitation.

Repatriation and return of Victims

GRETA considers that the Norwegian authorities should step up their efforts to:

- screen irregular migrants about to be returned for indicators of THB, especially among groups who may be considered at risk, such as persons engaged in prostitution and unaccompanied children.

The National Police Immigration Service (NPIS) has the national responsibility for return of irregular migrants. Among these there may be people at risk for THB, not only in groups that are usually considered vulnerable and particularly at risk, but also among other migrants, depending on the profile and the circumstances of each particular case.

There is a need to be on constant alert for the risk of THB, to stay updated on the indicators and to report when this is considered necessary. In asylum cases, the question of possible THB will at the outset be considered through the case handling process, if there are relevant indicators. However, this is not guaranteed. At the point of return, migrants also may have lived in a vulnerable situation for a longer period of time, and they may have been highly exposed to THB exploitation. Therefore, NPIS staff need to be aware and on the lookout for indicators also in the return process.

Unaccompanied minors are hardly ever returned by the police. Still, returnees who have just turned 18 are also considered as vulnerable in a forced return setting. Migrants known to have been involved in prostitution and about to be deported, are especially being considered towards THB, given the strong link between prostitution and THB.

The NPIS has had THB high on the agenda over the last year. One important measure has been to develop a comprehensive training programme in cooperation with an external THB specialist from the competence centre RVTS East Region. The new training programme will raise special attention towards other categories of THB than prostitution, such as work exploitation, crime, child marriages and child soldiers. This is to increase the awareness of the variations of THB, and in what settings it may appear.

The local guidelines for THB have also been revised and updated.

- ensure that repatriation programmes are conducted with due regard for the rights, safety and dignity of victims of trafficking, are preferably voluntary and comply with the obligation of non-refoulement. This includes informing victims about existing support programmes, protecting them from re-victimisation and re-trafficking. Full consideration should be given to the UNHCR's Guidelines on the application of the Refugees Convention to trafficked people and GRETA's Guidance note on the entitlement of victims of trafficking, and persons at risk of being trafficked, to international protection (paragraph 196).

The Norwegian Directorate of Immigration (UDI) is responsible for processing applications from foreigners for residence in Norway. Migrants whose asylum application has been rejected can apply for assisted return. Also, migrants who are particularly vulnerable, such as victims of human trafficking, can apply for assisted return support, and be given a supplementary reintegration grant in addition to the travel grant and the ordinary reintegration grant.

The International Organization for Migration (IOM) is one of UDIs main partners on assisted returns in the area of information, but also in facilitating the assisted returns. In the case of vulnerable migrants, IOM is also responsible for administering the reintegration in collaboration with local partners in the migrants' countries of origin. IOM provides regular information about the Voluntary Assisted Return Program at asylum reception centres, including information about support for vulnerable people, such as victims of human trafficking. Vulnerable migrants receive reintegration support, which is administered by IOM in the migrant's home country. The financial support covers basic needs in the first period after the return. There is also an in-kind support meant to cover expenses in the first 12 months for housing, medicines, education, vocational training or other kinds of follow-ups. IOM in the country of origin collaborates with local NGOs and refers the returnee to local health institutions etc. according to the needs of the returnee. The migrants plan his or her own reintegration plan in collaboration with IOM, before the return. Sustainability of the migrants' reintegration is at the core of the assisted voluntary return approach. IOM considers reintegration as sustainable when returnees have reached certain levels of economic self-sufficiency, social stability within their communities and psychosocial well-being, which allows them to cope with (re)migration drivers. Having achieved sustainable reintegration, returnees are able to make further migration decisions a matter of choice, rather than a necessity.

Information related to human trafficking (in the form of leaflets, posters and digital screens) is strengthened in the reception centres as a consequence of the mass influx of displaced persons from Ukraine, and additional funding were given for competency building of persons working in reception centres, to prevent and to help identify victims of trafficking. UDI also has a collaboration with NGOs and government bodies on informing migrants and their networks about human trafficking and where to find support.

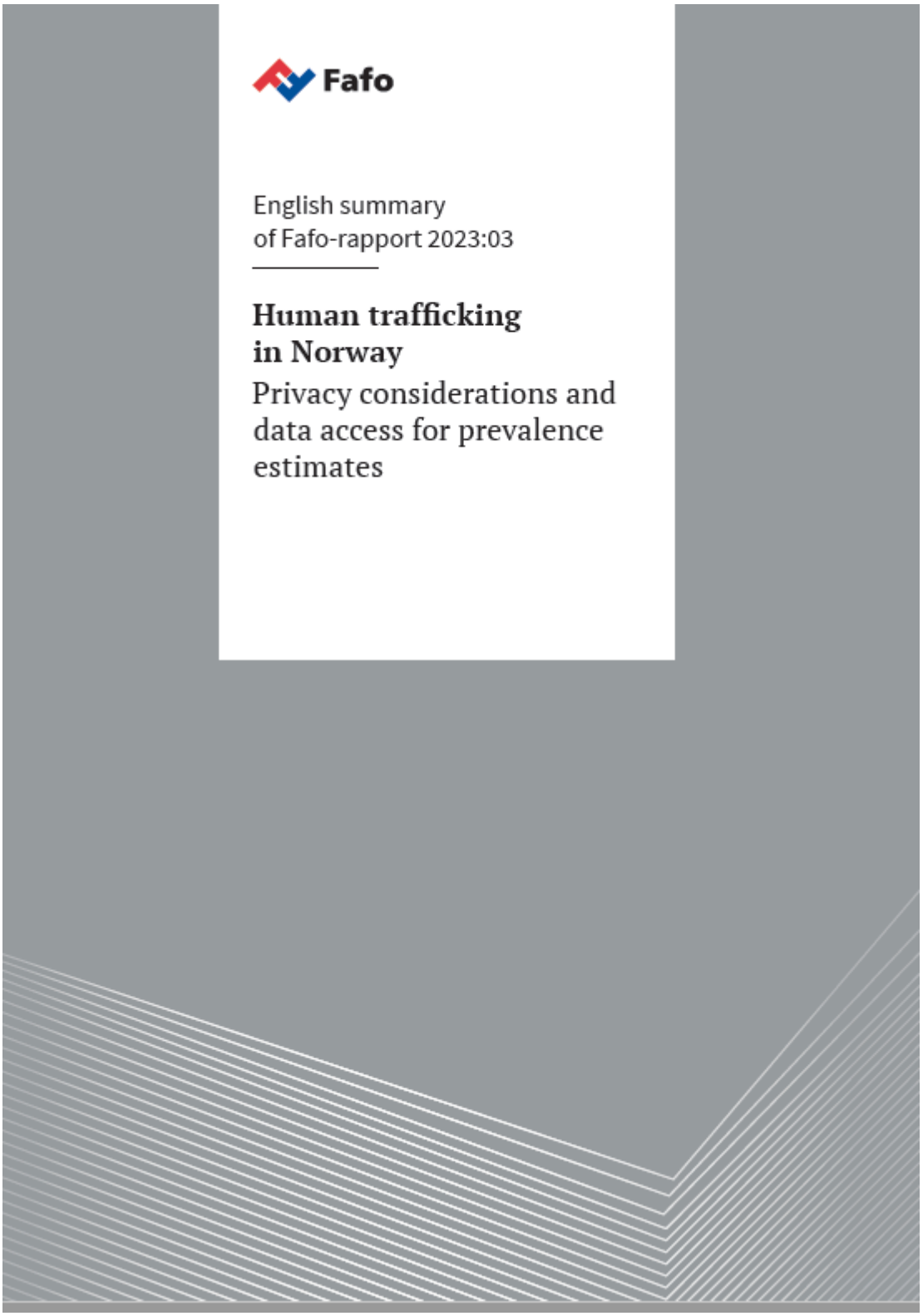
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Yours sincerely

Anders Schiøtz Worren
Deputy Director General

Jan Austad
Specialist Director

The document is approved electronically, as such no handwritten signatures are required.


Fafo
English summary
of Fafo-rapport 2023:03
Human trafficking
in Norway
Privacy considerations and
data access for prevalence
estimates

Human trafficking in Norway

This report presents the findings from a project on estimating the prevalence of possible victims of human trafficking in Norway. A main part of the report deals with issues related to privacy legislation and research into human trafficking. The method that forms the basis of the discussions in the project is called the Multiple Systems Estimation technique (MSE) and has been used in studies in selected European countries in recent years. The aim has been to calculate the prevalence of human trafficking, including how many people are trafficked but never come into contact with the authorities or assistance organisations. The United Nations Office on Drugs and Crime (UNODC) has played a central role in these studies and offered Norwegian authorities assistance in carrying out an MSE study in Norway. Fafo was commissioned by the Norwegian Police Directorate and its Coordination Unit for Victims of Human Trafficking (KOM) to be a Norwegian research partner in this project.

Several challenges prevented the implementation of the prevalence estimate project, and the report provides an analysis of the obstacles and recommendations to remedy these. The report has been written with the intention of being a useful summary of methodological and privacy issues related to this type of prevalence estimation. At an overarching level, the discussions in the report will also be useful in the authorities' further work to improve the reporting and statistical systems for the work against human trafficking in Norway. Most of the questions we address in this report also have a wider relevance.

Privacy and ethical considerations

An important part of Fafo's role in the first phase was to map privacy and ethical considerations in a complex legal landscape, as well as to obtain an overview of the potential access to data and whether these are suitable for the type of estimates made with MSE. The project highlighted that there were many seemingly unsettled issues pertaining to privacy legislation that made access to data difficult. The project goal of estimating prevalence was therefore set aside until further notice. The report provides an overview of legislation that regulates the use of personal data for research purposes, an analysis of obstacles to the implementation of the project and recommendations to remedy these.

The MSE technique is based on mapping the overlap between different organizations' and authorities' registrations, that is, how many possible victims of human trafficking are registered on several lists. This requires the processing of personal data about victims of human trafficking. In many cases, it will not be

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Anette Brunovskis

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possible to obtain consent from the data subjects for the processing of their personal data in an MSE project, for example because one does not know where they are or for other reasons cannot contact them safely.

A considerable share of assistance to persons who are or may be exposed to human trafficking is provided by non-governmental organisations (NGOs). There are some challenges linked to the fact that it is not entirely clear how the sharing of personal data for research is regulated and works in practice for NGO actors whose confidentiality is not legally regulated. This is in contrast to public actors, where confidentiality, exceptions to confidentiality and duty to keep records, documentation and archives are clearly regulated in various parts of the legislation and where there are established practices and routines for sharing data for research purposes.

Privacy legislation includes provisions that regulate the processing of personal data for research, and these are not necessarily well known outside research circles or among actors without particular expertise in privacy and research. This report provides an overview of the current legislation and shows that there is a legal basis for processing personal data for research purposes even without the consent of the data subjects, based on the General Data Protection Regulation (GDPR) Article 6.1.e, 6.3 and the Personal Data Act paragraph 8 and 9. In addition to research purposes, these paragraphs also apply to archival purposes in public interest and statistical purposes. Paragraph 9 deals with the processing without consent of special categories of personal data (or what is often called sensitive data in everyday language).

In order for the processing to be legal, society's interest in the processing taking place must exceed the disadvantages for the individual. The processing must also take place in accordance with the guarantees in GDPR article 89.1, and the data subjects' rights in articles 12-22. These include, among other things, information to the data subject that the processing is taking place. Here, too, there are exceptions for purposes linked to scientific or historical research or for statistical purposes (GDPR article 89.2, Personal Data Act paragraphs 16 and 17). Exceptions must, however, be strictly enforced, and the main rule is that data subjects must receive information about the processing and can make use of their other rights (for example rectification or erasure).

The project highlighted that there is some doubt among several actors about the legal foundation for NGOs to share personal data in their registers for research purposes, and this therefore became a central topic for discussion about whether an MSE project can be carried out in Norway. For actors covered by the Public Administration Act, it is clear which paragraphs and procedures apply. The Public Administration Act regulates both confidentiality in general, exemption from confidentiality for research purposes and the researcher's duty of confidentiality in such cases, in Article 13. For information covered by the Public Admi-

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nistration Act, an application for access can be directed to the individual agency or body. As a general rule, the matter must be submitted to the Council for confidentiality and research (Rådet for taushetsplikt og forskning), particularly if the information to which access is sought is considered sensitive. Furthermore, there are separate rules relating to the use of police registers in the Police Databases Act (paragraph 33). Access can be granted on application to the Police Directorate.

The main privacy issue in this project has been whether organisations that are not covered by the Public Administration or Police Databases Act can legally share personal data for research without the data subject's consent. In cases where the information is not covered by a legally regulated duty of confidentiality, it follows that no exemption from the duty of confidentiality can be granted. After consultation with Fafo's data protection officer in NSD (now SIKT), the conclusion is that there is a legal basis for sharing personal data for research purposes based on GDPR article 5.1.b. This section states that the processing of personal data for scientific research "shall [...] not be considered to be incompatible with the initial purposes". This provides a legal basis for the organisations to share personal data for research. This conclusion is also in line with a legal assessment of the basis for sharing personal data for research, carried out for the Directorate of Immigration by the law firm Simonsen Vogt Wiig.

The legal aspects are only one side of the matter, and independent ethical assessments must also be made of possible negative consequences for building trust with vulnerable groups if their personal data are shared for research. It is, however, important to make a realistic assessment, where the importance of research with vulnerable groups is also considered. From a research point of view, it is particularly problematic when it becomes systematically more difficult to develop solid research-based knowledge precisely about vulnerable and marginalized groups that are the subject of measures, and whether these measures are appropriate - this in itself constitutes an ethical question. There should therefore be very weighty and real reasons for placing limitations on the possibilities for research.

Data and registration practices

Another important question with regard to whether MSE can function in Norway is whether there are sufficient data. The project approached eight central actors with an invitation to participate and we made a preliminary mapping of the scope of their registrations. It turned out that the number of registered identified victims of human trafficking is very low. For the MSE method to work, according to experts in the field, it is an advantage if there are at least 50 unique registrations (that is, individuals) per year in the lists combined. In Norway, the various actors appear to have registrations that are close to this critical limit, which will make

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the analyses more vulnerable. There is little consistency between the various actors in registration practice and which criteria are used as a basis for registration. There is particularly little access to records on minor victims of human trafficking. One of the biggest challenges is that there is no common definition or joint inclusion criteria for registering what are (possible) cases of human trafficking. For example, if a starting point is taken in registered victims in a criminal case and mapping the overlap with people who have spent a night in a shelter as a possible victim of trafficking, it is an open question as to what group the final estimate actually refers to. This does not mean that the MSE method cannot work in Norway in the future, but it will be necessary to establish more consistent registration practices among relevant actors.

Organisation of the anti-trafficking field

The MSE project shows how the challenges associated with documentation and research in the field of human trafficking ultimately also concern how the efforts against human trafficking are organised. There is a lack of a central mechanism or function with an overall responsibility for ongoing documentation. As it stands today, there are no records of how many are identified as possible victims of human trafficking in Norway, how many people receive assistance, or what kind of assistance they receive. The lack of documentation of the field is serious. This is related both to the ability to monitor Norway's efforts against human trafficking at an overarching level, and to keep track of whether vulnerable persons with convention-based rights receive the assistance they are entitled to and need. Finally, there is a question of whether it would have been appropriate and possible to have some form of reporting scheme, for example based on the grant scheme for work against human trafficking, or whether other organizational measures could have provided better monitoring and the necessary knowledge and documentation. As it stands today, it appears that there is little overview of results and adaptations in the authorities' work against human trafficking, beyond the situational picture provided in KOM's annual status reports.

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