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Protection and assistance of victims of labour exploitation

A comparative analysis



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1. Introduction

This technical note reviews the measures, governance structures and delivery mechanisms for the protection and assistance of victims of exploitation in European countries. It is based on the review of existing literature and the policy measures enacted at the national level to comply with international and European instruments on the protection of victims of forced labour, human trafficking and related practices.¹

Most of the support systems reviewed in the text were originally designed for the protection of victims of human trafficking, especially for sexual exploitation purposes. In the last few years, these protection mechanisms have been expanded to cater also to the needs of other victims of exploitation (labour exploitation, forced begging, domestic servitude). Most European countries have established National Referral Mechanisms (NRM) to identify, protect and assist victims. These mechanisms are cooperation frameworks through which government agencies fulfil their obligations to protect and promote the human rights of victims, coordinating their efforts in partnership with civil society organizations.²

Although the protection and assistance systems vary across countries, they share several common characteristics, namely:

- (i) an established method for the (formal) identification of victims, which is the first step for the protection system to engage and provide support based on individual needs;
- (ii) a wide range of support services that span from safe accommodation, to counselling, healthcare, legal aid and repatriation assistance; and
- (iii) governance structures that include multiple governmental and non-governmental agencies in the development and delivery of protection services.

2. Protection and assistance measures

The protection of victims of labour exploitation has multiple dimensions. Protection begins with the identification of potential victims and extends to measures for immediate assistance and long-term recovery, rehabilitation and support.³ Most of the victim protection systems developed in European countries were originally developed as part of policy frameworks to tackle trafficking of human beings, and foremost trafficking for the purpose of sexual exploitation. In the last few years, these protection and assistance mechanisms have gradually expanded their scope to cater to the needs of victims of different forms of exploitation (labour exploitation, forced begging, organ harvesting).⁴ In some countries

¹ See the United Nations Protocol to prevent, suppress and punish trafficking in persons (2000); the Council of Europe Convention on Action against Trafficking in Human Beings (2005); the European Union Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims; and the International Labour Organization Forced Labour Protocol and the Forced Labour (Supplementary Measures) Recommendation (No. 203) of 2014. A summary of international, European and national instruments to address trafficking, forced labour and related practices can be found in ILO, *Review of Policies and Programmes to Tackle Labour Exploitation, Illegal Recruitment and Forced Labour in Europe* (forthcoming).

² Definition in ODIHR, *National Referral Mechanism: Joining Efforts to Protect the Rights of Trafficked Persons*, 2004. In a similar fashion, the European Union defines a NRM as “Mechanism aimed at identifying, protecting and assisting victims of trafficking in human beings, through referral, and involving relevant public authorities and civil society” (definition derived from the Conclusions on the new EU Strategy towards the Eradication of Trafficking in Human Beings 2012-2016 of the 3,195th Justice and Home Affairs Council meeting, 25 October 2012).

³ For a review of longer-term social and labour market integration measures for victims of exploitation see ILO, *Decent Work and Social Inclusion of Victims of Labour Exploitation. A Comparative Analysis*, 2020.

⁴ Data collected by the European Commission shows that the most widespread form of trafficking is for the purpose of sexual exploitation (56 per cent of all victims recorded), while another quarter (26 per cent) was trafficking for labour exploitation. EC, *Second Report on the Progress Made in the Fight against Trafficking*.

(e.g. Germany, Italy, Spain and United Kingdom), the protection of victims of labour exploitation has become an explicit objective of national protection and assistance systems, while in other European countries (e.g. Austria, Denmark and Luxembourg) the focus remains primarily on human trafficking of human beings.⁵

2.1 Identification

At the heart of any strategy of protection and assistance of labour exploitation is the process of identifying potential victims.⁶ The main actors involved in the informal and formal identification process vary according to national circumstances.

The formal identification of potential victims is usually assigned to law enforcement officials and other government actors (e.g. police, labour inspectorate, immigration and border services, public prosecution office, health and social services), as trafficking for labour exploitation is a criminal offence. This process is carried out by staff trained in gathering evidence on offences related to trafficking for exploitation purposes — through interviews with the potential victim, fact-finding exercises, witness and whistle-blowers — and in taking action through victim protection systems (see Box 1).

Box 1: National practices for the identification of victims of labour exploitation

In several countries law enforcement agencies are enhancing their victim identification means through:

- (i) the establishment of specialized units in law enforcement agencies trained to identify victims of trafficking, labour exploitation and modern forms of slavery;
- (ii) the implementation of joint inspections among different enforcement agencies (labour inspectorate, police and immigration authorities);
- (iii) the sharing of information across enforcement agencies for the identification of workers, workplaces and economic sectors most at risk; and
- (iv) joint training activities for law enforcement officials based on a clear set of labour exploitation and forced labour indicators.⁷

Source: ILO, *Review of Policies and Programmes to Tackle Labour Exploitation, Illegal Recruitment and Forced Labour in Europe*, forthcoming.

⁵ Most of the protection and assistance mechanisms reviewed in this technical note were established to comply with the provisions of the Council of Europe Convention on Action against Trafficking in Human Beings of 2005. In the European Union, there are several Directives adopted in the field of migration policy and criminal justice that frame member States' action against forced labour and trafficking of human beings for labour exploitation purposes. For a review of the European Union legal framework see ILO, *Review of Policies and Programmes to Tackle Labour Exploitation, Illegal Recruitment and Forced Labour in Europe* (forthcoming).

⁶ Article 10 of the Council of Europe Convention on Action against Trafficking in Human Beings requires state parties to adopt measures to identify victims of trafficking. In order to do so, countries must provide their competent authorities with persons who are trained and qualified in preventing and combating trafficking, as well as in identifying and helping victims.

⁷ In countries where the identification of victims is a shared responsibility between law enforcement agencies and other actors, the share of victims typically identified by the former ranges from 25 per cent to 40 per cent of all victims of exploitation. See for instance United Kingdom, Home Office, *Review of the National Referral Mechanism for Victims of Human Trafficking*, 2014, where it is stated that the share of victims identified by the policy is approximately 25 per cent of the total.

In Austria, for example, where there is no national referral mechanism in place, the formal identification of victims is carried out by the police and its specialized investigation units in the federal provinces.⁸ Police officers are provided with law enforcement manuals to support them during the investigation process. These manuals include indicators for the identification of victims. In Luxembourg, the police (the organized crime unit of the criminal investigations police) is the sole authority competent to assign the status of victim of trafficking, based on the indicators developed in the “Procedures for interdisciplinary co-operation on victims of trafficking in human beings”.⁹ In Spain, the 2011 Framework Protocol for the Protection of Victims of Trafficking establishes the obligation of law enforcement authorities (police, employment and social security inspectorate, immigration services, and border control) to report any suspected case of trafficking to the Prosecution Service.¹⁰ The bodies competent for the identification of victims are law enforcement units with specific training in the prevention of trafficking and in the identification and assistance to victims. The identification of the victim relies on three elements: (i) evaluation of exploitation indicators, (ii) interview with the person concerned, and (iii) information from third parties.¹¹ In Germany, the operational procedures of the Financial Monitoring Unit to Combat Illicit Employment were amended in 2017 to guide labour inspectors in the identification of labour exploitation cases. According to these new procedures, the role of staff is to gather evidence of labour exploitation and transfer the investigation file to the police via the public prosecution office.¹²

In countries where there is a national referral mechanism, the formal identification process may also involve civil society organizations. In these instances, the identification can be done during the outreach activities of the organizations that are part of the referral system, as well as national hotlines and text message services set up to collect notifications/complaints of labour exploitation instances.

In some countries (e.g. Italy, the Netherlands and United Kingdom) the identification process is carried out in two phases. The first consists of the preliminary identification, aimed at the initial screening of the case of a presumed victim, responding to his/her first basic needs (i.e. accommodation, emergency medical treatment, access to information) and referring the presumed victim to the appropriate specialized services. The formal identification confers the person the status of victim as assigned by authorized personnel (i.e. law enforcement agencies, social services, but also non-governmental organizations), which varies according to national system in place. In United Kingdom, for example, the preliminary identification (initial screening) is carried out by frontline staff (i.e. the staff of the first responder organizations that are part of the national referral mechanism) based on several pre-established modern slavery indicators (Box 2).¹³ The formal identification

⁸ GRETA, *Report Concerning the Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Austria. Second Evaluation Round*, 2015.

⁹ These procedures are not publicly available, see GRETA, *Report Concerning the Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Luxembourg. Second Evaluation Round*, 2018.

¹⁰ Spain, Government, *Protocolo marco de protección de víctimas de trata de seres humanos*, 2011.

¹¹ GRETA, *Report Concerning the Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Spain. Second Evaluation Round*, 2018.

¹² GRETA, *Report Concerning the Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Germany. Second Evaluation Round*, 2019.

¹³ The UK referral mechanism has eighteen authorized first responders, which include governmental (Home Office, local authorities, Police, Health and Social Care Trust, Gangmaster and Labour Exploitation Authority, National Crime Agency) and non-governmental organizations (Poppy Project, Trafficking Awareness Raising Alliance, Migrant Help, Kalayaan, Medaille Trust, Salvation Army, Barnardo's, National Society for the Prevention of Cruelty to Children, Unseen UK, New Pathways, BAWSO and Refugee Council). See United Kingdom, Home Office, *Victims of Modern Slavery — Competent Authority Guidance*, 2016

is carried out by the National Competent Authority (the Home Office for third country nationals and the UK Human Trafficking Centre for citizens of the UK, the European Union and the European Economic Area) to which potential victims are referred to by first respondents.¹⁴

Box 2: Modern slavery indicators in the United Kingdom

The United Kingdom Home Office issued in 2020 an update of the Statutory Guidance on the implementation of the Modern Slavery Act (2015) where it provides general, physical, psychological, situational and environment indicators that first respondents should consider for the preliminary identification of victims.

The **general indicators** relate to personal freedom (the person is unable to leave the work or home environment, s/he work against his/her will, is subject to violence or threats, suffers injuries as a result of assault or surveillance methods); fear of authorities (distrust, fear of being deported, afraid of revealing their immigration status, lack of personal identity documents), language skills (no or little knowledge of the local language, leaving others to speak for them, not knowing home or work address); degrading living and working conditions (no salary, no day offs, long working hours, living in sub-standard accommodation, disciplined through punishment, no contact with other workers or with their family, no access to medical care).

The **physical indicators** include physical and work-related injuries (untreated or poorly treated) neurological symptoms (headaches, dizzy spells, poor memory), dental problems, chronic pain, degeneration of pre-existing medical conditions, disfigurement.

In addition, the **statutory guidance** draws on the operational indicators of trafficking for labour exploitation developed by the International Labour Organization and the European Commission through a Delphi methodology to identify victims in European Union countries (withheld identity documents, contracts, payslips and bank information; limited awareness about own rights; limited language skills; restriction on movements; withholding of wages; debt bondage; abusive working and/or living conditions; and excessive overtime).

Source: United Kingdom, Home Office, *Modern Slavery Act 2015 — Statutory Guidance for England and Wales*, 2020; ILO and EC, *Operational Indicators of Trafficking for Labour Exploitation*, 2009; United Kingdom *Modern Slavery Act*, 2015.

In Italy, the identification process of victims of trafficking is divided into preliminary and formal identification. The preliminary identification entails an initial screening for trafficking indicators and responding to the immediate needs of a potential victim of trafficking (e.g. accommodation, health care, access to information) and ensuring that the person is referred to appropriate specialized services. The formal identification is carried out by law enforcement authorities, social services, trade unions, the Public Prosecution Office, and non-governmental organizations that are part of the National Referral Mechanism by asking specific questions and through an evaluation of the information and facts available.¹⁵ The Guidelines for the definition of a mechanism for rapid identification of victims of traf-

¹⁴ Following the initial referral into the system by a first responder, a preliminary finding of ‘reasonable grounds’ that a person is likely to be a victim of modern slavery is made within 5 days. This is followed by a final ‘conclusive grounds decision’, which triggers victim support measures, and takes place within 45 days. See United Kingdom, Home Office: *Victims of Modern Slavery — Competent Authority Guidance*.

¹⁵ GRETA, *Report Concerning the Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Italy. Second Evaluation Round*, 2019.

ficking and serious exploitation provides guidance on how to interview presumed victims of trafficking, general indicators for identifying victims of trafficking as well as specific indicators related to different forms of exploitation (sexual exploitation, labour exploitation, domestic servitude, begging and petty crime).¹⁶

In the Netherlands, potential victims can be identified by a wide array of governmental and non-governmental organizations (e.g. local and border police, labour inspectorate, trade unions, shelters, social work centres, municipalities, health care centres, legal aid associations, the Chamber of Commerce), but also by concerned citizens. The National Referral Site for Human Trafficking may be used by anyone to refer potential victims to the Anti-trafficking Coordination Centre (CoMensha), the police or the Labour Inspectorate (for labour exploitation complaints).¹⁷ The formal identification of victims, however, can be done only by the police and the labour inspectorate for labour exploitation cases.¹⁸

In the Czech Republic, the identification of victims is carried out by law enforcement authorities in collaboration with specialized non-governmental organizations (La Strada and the Czech Catholic Charity Association). Potential victims are offered to enter the Victim Support Programme managed by the Crime Prevention Department of the Ministry of the Interior. If the potential victim is accepted into the Programme, s/he is legally considered as a victim of trafficking and therefore entitled to all the protection services available.¹⁹

In Denmark, the Centre against Human Trafficking, which is part of the National Board of Social Services, manages the national referral system that includes the police, the Danish Immigration Service and civil society organizations.²⁰ There are two pathways in place for the formal identification of a victim, depending on whether the person is regularly or irregularly present in the country. In the first pathway, the Centre grants the victim status based on an interview conducted by social workers, which focuses on trafficking indicators and the additional information provided by the police, social workers, hospital staff, hotline operators, and staff of drop-in centres. When potential victims are found to be in the country irregularly, or they are asylum seekers, their case is decided by the Danish Immigration Service, based on the same procedure used by the Centre.

Although there is no single model for the identification of victims, country practices clearly indicate the importance of having clear indicators to assess exploitation as well as awareness-raising and capacity building activities targeting frontline staff who may come into contact with victims of exploitation.

The ILO and European Commission jointly published in 2009 a list of indicators of trafficking for labour exploitation based on a Delphi experts' consultation. Although this list of indicators does not represent a binding instrument, it has been widely accepted as a benchmark for national enforcement practice. Labour exploitation refers to work situ-

¹⁶ See Italy, Department for Equal Opportunities. *Linee guida per la definizione di un meccanismo di rapida identificazione delle vittime di tratta e grave sfruttamento*, 2016.

¹⁷ Netherlands, "National Referral Site for Human Trafficking", s.d.. This website is a component of the National Referral Mechanism for victims of human trafficking, which was launched in 2013. The NRM itself is an interdepartmental initiative of the Ministry of Justice and Security, the Ministry of Health, Welfare and Sport, and the Ministry of Social Affairs and Employment.

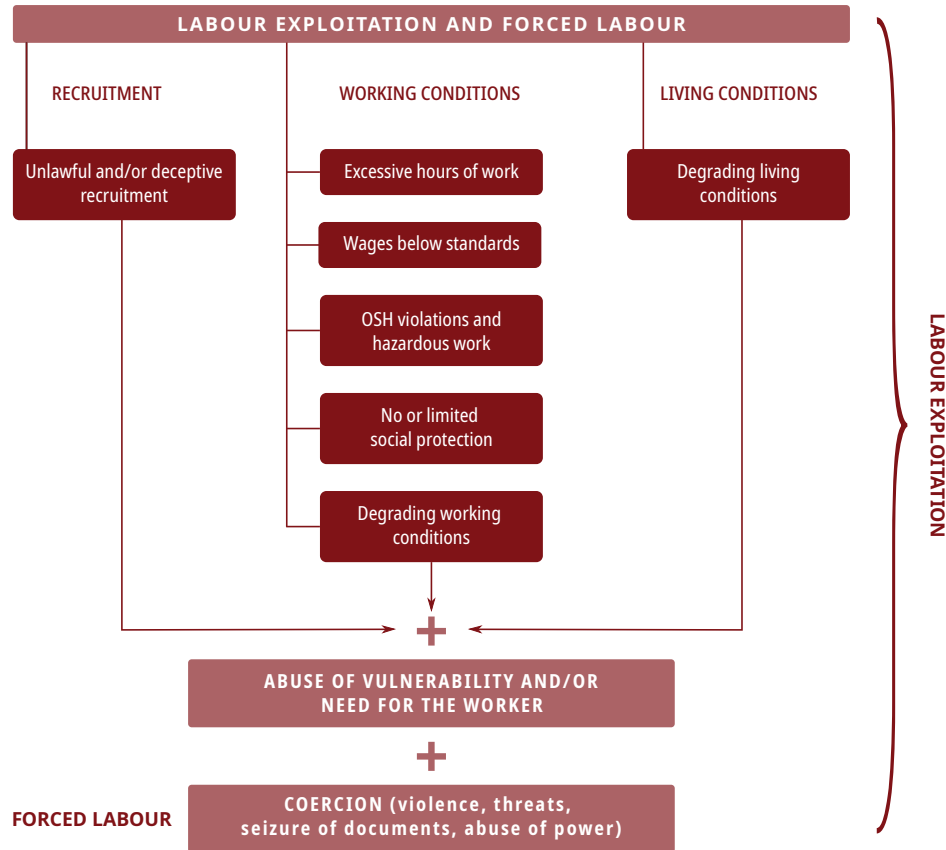
¹⁸ FLEX, Fairwork and ADPARE, *Identification and Support of Victims of Trafficking for Labour Exploitation in the Netherlands, the UK and Romania*, 2015; Netherlands, "National Referral Site".

¹⁹ GRETA, *Report Concerning the Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Czech Republic. First Evaluation Round*, 2020.

²⁰ GRETA, *Report Concerning the Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Denmark. Second Evaluation Round*, 2016.

ations that deviate significantly from standard working conditions, particularly in terms of workers' recruitment, wages, hours of work, leave entitlements, health and safety standards and decent treatment. Figure 1 presents in graphic form, the conditions under which labour exploitation occurs.²¹

Figure 1: Labour exploitation and forced labour



These conditions are grouped in three areas of potential violation, namely: (i) recruitment (unlawful or deceptive recruitment/intermediation); (ii) conditions of work (remuneration, hours of work, health and safety, supervision); and (iii) living conditions.

- **Unlawful and/or deceptive recruitment:** refers to the recruitment of workers to be assigned to third parties for work under conditions of exploitation. Exploitation also exists if the worker is deceived about the nature of the job, location and conditions of work (contract, time, rest periods, wages, identity of the employer), transport or accommodation.
- **Excessive hours of work:** this concerns the repeated violation of the maximum hours of work set by national legislation or collective bargaining agreement and non-compliance with rest periods (daily, weekly and annual holidays).

²¹ ILO, *Hard to See, Harder to Count: Survey Guidelines to Estimate Forced Labour of Adults and Children*, 2012; ILO and EC, *Operational Indicators of Trafficking for Labour Exploitation*, 2009; EU-FRA, *Severe Labour Exploitation: Workers Moving within or into the European Union: States' Obligations and Victims' Rights*, 2015.

- **No remuneration or remuneration lower than the minimum wages:** the withholding of wages or the payment of low wages (i.e. below the national minimum wage) constitute labour exploitation. It applies also to situations in which the salary is paid “in kind” or it is substantially reduced for the payment of board and lodging.
- **Occupational health and safety:** exploitation materializes in cases of hazardous work that endanger the life and health of the worker.
- **Social protection:** labour exploitation occurs when there is no contract, or when the contract is not respected, or the social security dues are not paid, abusing the vulnerability of state of need of the worker.
- **Degrading working conditions:** these occurs when: (i) transport place of work is carried out in unroadworthy or unsafe vehicles, which endanger the safety of workers; (ii) work takes place in adverse weather conditions, without adequate personal protective equipment; (iii) there is no possibility of communication between workers and with other persons; (iv) there are no adequate restroom facilities; or (v) the worker is subjected to pressing or degrading surveillance methods (constant physical presence of the employer; verbal abuse, threats).
- **Degrading living conditions:** These include the denial of freely choosing one’s place to live or being forced to live in unhealthy or overcrowded conditions. They include also being forced to live on the street or in accommodation close to the workplace (often provided by employers or labour intermediaries), or in facilities that does not meet minimum living standards (electricity, running water, toilet facilities).

Labour exploitation exists when at least one of the above mentioned violations occurs and it is combined with the abuse of the vulnerability or the state of need of the worker. When coercion is involved (violence, threats, seizure of documents, restriction of personal freedom) labour exploitation becomes forced labour (Box 3).

Box 3: Labour exploitation indicators in Italy

In Italy, Law no. 199 of 2016 introduced in the criminal code the offences of unlawful labour intermediation and labour exploitation (art. 603bis). The legal text provides four labour exploitation indicators, namely:

- (i) repeated violations of the rules related to hours of work and rest periods;
- (ii) repeated payment of wages lower than the minimum remuneration established by collective agreements or not proportionate to the work performed;
- (iii) violations of workplace health and safety regulations; and
- (iv) subjecting the worker to degrading working and living conditions.

The criminal offence of labour exploitation materializes when at least one of the above mentioned violations occurs and it is combined with the abuse of the vulnerability or the state of need of the worker. Based on the above mentioned indicators, the Labour Inspectorate issued a set of operational procedures to guide inspection activities.

Source: Italy, Ministry of Labour and Social Policies, *Piano triennale di contrasto allo sfruttamento lavorativo in agricoltura e al caporalato 2020–2022*, 2019; Italy, National Labour Inspectorate, *Linee guida intermediazione illecita e sfruttamento del lavoro — attività di vigilanza*, Circular No. 5, 2019.

2.2 Assistance to victims of labour exploitation

The assistance services available to victims of labour exploitations are similar across countries. The service portfolio includes food and shelter, first and specialist health care, legal assistance, psychological support, material and financial assistance (cash benefits) and repatriation services. Longer-term social and labour market integration measures specifically targeting victims of exploitation are less common, as countries rely mostly on existing services and programme targeting population groups at risk of exclusion.²²

In all European Union countries, except for Austria, Bulgaria, Ireland and Italy, victims are provided a period of reflection (ranging from 30 to 90 days from the date of identification) to allow them to recover, plan their future and decide whether to cooperate with criminal investigations. The immediate assistance services for a victim during the recovery period is determined through the preliminary assessment of individual needs carried out immediately after the identification of the potential victim. In countries where there is a national referral mechanism, the assessment of needs is done at intake. This preliminary assessment is then reviewed during the recovery period — and once the formal identification process has been concluded — by the caseworker and the victim with a view to supporting the latter in making the transition to longer-term socio-economic inclusion services (Box 4).

2.2.1 Accommodation

National protection systems have different types of accommodation in order to better respond the specific needs of victims. These include safe houses and temporary shelters for victims most at risk of re-victimization; local authority housing options; private rented accommodation; and housing with friends and family (this option is normally available to low-risk victims). Victims who claim international protection or asylum are usually hosted in dedicated accommodation facilities. In the Netherlands, for example, the Anti-trafficking Coordination Centre (CoMensha) is responsible for arranging accommodation, based on the specific needs of victims (minors, adults, migrants in an irregular situation, women victims of trafficking, and men victims of labour exploitation). Adult victims are usually referred to one of the eleven shelters located across the country, while adults without lawful residency status are supported by the Accommodation and Assistance for Victims of Trafficking in Human Beings. Four shelters are available specifically for male victims in the main cities.

In United Kingdom, assistance to victims of modern slavery is provided through the Home Office's Victim Care Contract. According to this programme, a nation-wide non-governmental organization is contracted to organize, coordinate and deliver the support services required by victims. Accommodation facilities include safe houses and temporary shelters (managed directly under the Victim Care Contract), as well as alternative housing options (local authorities, private housing, and temporary centres for asylum seekers).

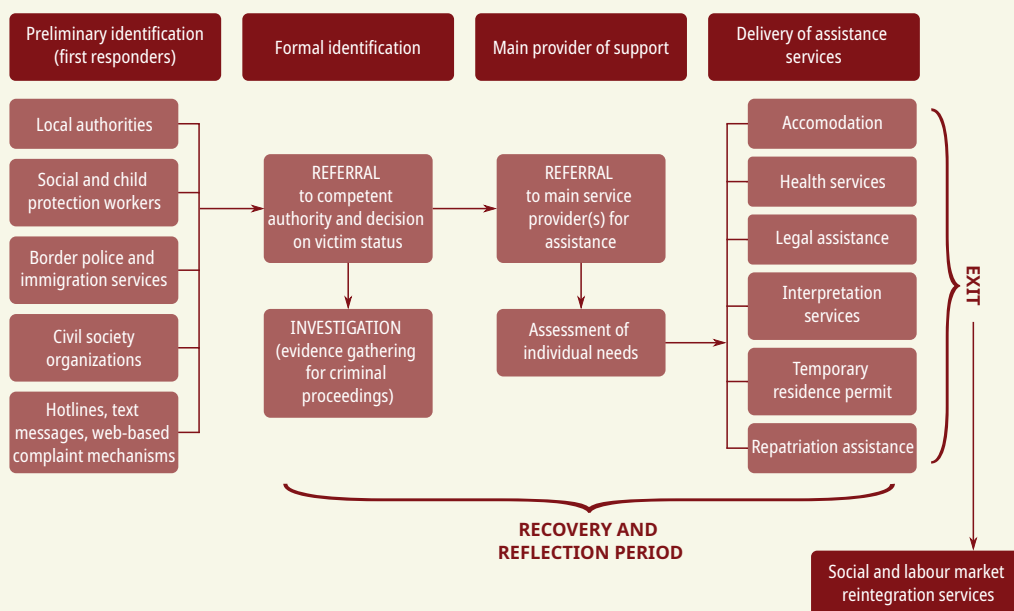
In the Czech Republic, the Programme for Support and Protection of Victims of Trafficking in Human Beings — funded by the Ministry of the Interior and delivered by the non-governmental organization La Strada under a public procurement contract — covers social assistance, psychological and social counselling, psychotherapeutic services, transla-

²² Longer-term labour market reintegration services targeting victims are examined in ILO, *Decent Work and Social Inclusion of Victims of Labour Exploitation*.

tion and interpretation services, emergency and basic health care, requalification courses, safe accommodation and legal representation (by lawyers who are contracted by La Strada). La Strada runs two shelters: one for women and another for men where victims can stay up to one year.²³

Box 4: Flowchart of protection and assistance measures

The flowchart below — adapted from the United Kingdom modern slavery protection system — shows how the identification process and the delivery of assistance services is typically managed in a National Referral Mechanism. The timeframe for service delivery varies across countries and often depends on the residence status of the victim. In England and Wales for instance, assistance services are provided for maximum 45 days (i.e. during the recovery and reflection period) and for 90 days in Scotland. In the Czech Republic, the recovery and reflection period for victims included in the Victim Protection Programme is of 60 days, during which the foreign victim may apply for a temporary residence permit to cooperate with the criminal investigation proceedings. In Italy, where the delivery of victim assistance services is contracted to providers at the regional level, the average duration of assistance is one year and include also services for the social and labour market integration of victims.



Source: United Kingdom, Home Office, *Review of the National Referral Mechanism for Victims of Human Trafficking*, 2014.

2.2.2 Medical treatment and healthcare services

In all European countries, the victims and potential victims of exploitation are entitled to free emergency medical treatment, regardless of their migration status. The caseworker is usually assigned to conduct the individual needs assessment whether the victim has physical (e.g. temporary conditions such as broken bones, or chronic conditions such as diabetes or heart problems) and/or mental health needs (e.g. depression; anxiety; personality disorders). Physical or mental health needs are normally addressed through existing

²³ GRETA, *Report Concerning the Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Czech Republic. First Evaluation Round*, 2020.

public health services. Victims housed in shelters or safe houses may be offered medical treatment in-house through partnerships with non-governmental health organizations. In the Netherlands, for instance, the Anti-trafficking Centre has established partnership agreements with three national non-governmental service providers, which are specialized in psychological and psychiatric support and mental health issues relating to trauma and abuses.

2.2.3 Legal assistance

Victims of exploitation may be facing several legal-related issues (testimony in criminal proceedings, claiming compensation, residence status, international protection and asylum claims) for which national protection systems provide free legal aid services. National referral mechanisms provide in-house legal information and basic assistance. For more complex needs provided through specialized services that are available from the referral network. In the Netherlands, for example, Co-Mensha and Fairwork offer basic legal advice to victims of exploitation and for specialized legal services they refer the victims to the Legal Aid Board or to service providers that are part of the referral mechanism (Legal Service Counter, Victim Support Desk and Victim Support Netherlands for minors).²⁴

2.2.4 Interpretation services

Where victims do not have sufficient proficiency in the national language, the protection system offers interpretation or translation services. Shelters and asylum seekers' centres usually have relationships with translation and interpretation services. Victims are also entitled to an interpreter during criminal proceedings. These are funded by the Public Prosecution Office. (e.g. United Kingdom,

2.2.5 Financial support

In some countries (e.g. Sweden, Germany and United Kingdom) victims of exploitation are entitled to financial support to meet essential living costs and recovery needs. This financial assistance is different from the compensation victims may claim through criminal or civil proceedings. In the United Kingdom, for example, the rate of financial support payable by the Home Office to victims of modern slavery depends on the accommodation they are in (£65 per week for those in self-catered accommodation and £35 per week for those in organized accommodation) and the number of children of the household (£20.50 for the first child dependant, and £13.55 for all each of the other child dependants). Victims who are asylum seekers receive £65 per week (partly funded by the Asylum Support system). In Sweden and Germany, victims of exploitation are entitled to claim for welfare benefits. This applies also for foreign victims regularly residing in the country.

2.2.6 Temporary residence and work permits

Foreigners who are victims of trafficking are entitled, according to Article 14(1) of the Council of Europe Convention against trafficking to renewable residence permits based on their personal situation and/or their cooperation with the competent authorities in the investigation or criminal proceedings. This provision, however, is not uniformly applied in European countries. In the Czech Republic, for example, a foreign citizen who is victim

²⁴ Fairwork directly supports victims of labour exploitation in the Netherlands. It originated from BlinN (Bonded Labour in the Netherlands), an initiative of Humanitas and Oxfam Novib.

of trafficking can apply for a long-term residence permit on the condition that s/he cooperates with the law enforcement authorities in the criminal proceedings for the suspected offence.²⁵ In United Kingdom, discretionary leave may be granted when the foreigner has been formally identified as victim of modern slavery and leave is necessary owing to personal circumstances, pursuing compensation or criminal proceedings.²⁶ In the Netherlands, victims of human trafficking without a residence permit may be granted a temporary residence permit for the duration of the criminal investigation and proceedings. This may be transformed into a permit of continued residence on humanitarian grounds. In Italy, the issuing of a temporary residence permit for victims of trafficking is conditional on the person's participation in an assistance and social integration programme ("social pathway") or on the person's collaboration with judicial authority ("judicial pathways"). In the first instance, the permit is requested by the public service or non-governmental organization that discovered the situation of exploitation. In the second instance, the public prosecution office makes the request for the issuance of a temporary residence permit when the victim cooperates in criminal proceedings. The residence permit is issued for six months, renewable for up to one year or for as long as the criminal proceedings lasts and can be converted into a residence permit for education or work, allowing the victim to remain in Italy.²⁷

2.2.7 Repatriation support

This service is provided to foreign victims of exploitation through referral to national voluntary return programmes or, less frequently, as a discrete service of the portfolio of protection measures of the national referral mechanism. In the Netherlands, for example, the Anti-Trafficking Centre (Co-Mensha), which is responsible for the package of protection services provided to victims of exploitation, works with different organizations to assist victims willing to return to their home countries. Where possible, a support organization is contacted in advance in the country of origin to assist with the individual's reintegration into society. An extensive international social map is available for this purpose.²⁸ In the United Kingdom, the Government-funded Voluntary Return Service is available anytime to victims who are nationals of countries not belonging to the European Economic Area (EEA), while for potential victims who are EEA nationals the service can be obtained once the claimants have received a positive decision relating to the status of victim of modern slavery. This service can assist with flights and/or travel documents. In addition, all formally-recognized victims of modern slavery, who do not have permission to remain in the country, can apply for financial help of up to £2,000 which can be used to find somewhere to live, find a job or start a business in their country of origin.²⁹

2.2.8 Compensation and legal remedies

Victims of labour exploitation have three main avenues to access compensation: (i) through criminal proceedings, when perpetrators are sentenced; (ii) through civil proceedings (for physical and moral damages); and (iii) through labour court proceedings (for the payment of wage arrears). In some countries, resources are also available through a dedicated Gov-

²⁵ GRETA, *Report Concerning the Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Czech Republic*.

²⁶ United Kingdom, Home Office, *Discretionary Leave Considerations for Victims of Modern Slavery*, 2018.

²⁷ GRETA, *Report Concerning the Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Italy. Second Evaluation Round*, 2019.

²⁸ See Netherlands, "National Referral Site for Human Trafficking", s.d.

²⁹ United Kingdom, Home Office, *Modern Slavery Act 2015 — Statutory Guidance for England and Wales*, 2020.

ernment fund for victims of violent crimes (e.g. Czech Republic the Netherlands and the United Kingdom). In the Czech Republic for example, victims may claim financial compensation (ranging from 400 to 7,800 Euros). The amount is calculated by the Ministry of Justice either as a statutory flat rate or corresponds to the amount of proven lost earnings and costs of treatment or, where appropriate, the costs of specialised therapy used to alleviate the non-pecuniary harm suffered.³⁰ In the Netherlands, victims may obtain compensation through criminal proceedings against the offender; through civil proceedings (damage claims against the offender) and through the Violent Offences Compensation Fund, which provides a one-off payment (between €1,000 and €35,000) as financial compensation for any damage sustained.³¹ In Italy, in cases where compensation cannot be obtained from the offender or where the perpetrator is unknown, victims of trafficking can request state compensation pursuant to Legislative Decree 24/2014, which transposed the EU Anti-trafficking Directive. Compensation, limited to € 1,500 per victim, may be paid from the Fund for anti-trafficking measures, which finances support and social integration programmes. The request for compensation must be submitted within five years of a judgment recognising the right to compensation, or one year of closing the relevant criminal procedure if the perpetrator is unknown.

Although the right to compensation is prescribed in all legal systems of European countries, the number of victims receiving any form of compensation is low. In the Netherlands, for example, only 4 per cent of all registered victims claim compensation in criminal courts and a fifth of these claims are inadmissible. Admissible claims are on average awarded only half of the claimed amount, due to the difficulty of estimating damages accurately (lack of records, insufficient financial investigation, incomplete testimonies).³²

3. Governance structure and delivery mechanism

Governance structures for the protection and assistance of victims of exploitation vary across countries. Although not all countries in Europe (e.g. Austria, Poland, Germany and Denmark) have an established national referral mechanism, it is common that either a government agency or an inter-ministerial institution is given responsibility to coordinate action against exploitation, as well as some form of referral system for the delivery of assistance to victims.³³ Compared to less structured forms of cooperation, a national referral mechanism has the advantage to:

- (i) establish clear roles and responsibilities of partner organizations;
- (ii) set common procedures for the identification of victims and their referral process; and
- (iii) structure the protection and assistance services that victims will receive, together with minimum quality standards for service delivery.

³⁰ GRETA, *Report Concerning the Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Czech Republic*.

³¹ See Netherlands, "National Referral Site".

³² J. Cusveller and E. Kleemans, "Fair Compensation for Victims of Human Trafficking? A Case Study of the Dutch Injured Party Claim", *International Review of Victimology*, 24(3): 297–311.

³³ As already mentioned, most national referral mechanisms were established to assist victims of trafficking for sexual exploitation. It is only recently that these protection systems have been expanded to encompass also labour exploitation, and, in some instances, also not trafficked individuals.

In some countries (e.g. the Czech Republic and United Kingdom), the national referral mechanism is under the overall coordination, financing and monitoring of the Ministry of Interior, due to this institution's responsibility for initial investigation of criminal activities. In these countries, it is worth noting that most of referral activities are related to exploitation connected to trafficking. In other countries, the responsibility to coordinate and finance the protection and assistance system is shared among different Ministries. In the Netherlands, for example, the referral mechanism was established through a joint initiative of the Ministry of Justice and Security, the Ministry of Health, Welfare and Sport, and the Ministry of Social Affairs and Employment. Each of these ministries coordinates and funds the activities related to their respective mandate (crime prosecution, health and safety, welfare and employment).

In Spain, the national referral mechanism was established by the Framework Protocol for the Protection of Victims of Trafficking that was adopted in 2011 by the Ministers of Justice, Interior, Employment and Social Security, Health, Social Services and Equality, the Prosecution Service and the General Council of the Judiciary.³⁴ This framework was further strengthened in 2013 with the adoption of the Collaboration Agreement between the Ministry of Employment and Social Security and the Ministry of the Interior on the coordination between Labour Inspection, Social Security and the State Security Forces having the fight against trafficking for labour exploitation as a specific objective.

In Germany, there is no national referral mechanism that defines the roles and responsibilities of the actors involved in victims' identification and protection.³⁵ The procedures for the identification and referral of victims are established at the federal level, based on cooperation agreements concluded between public and civil society actors. According to federal-level agreements, when enforcement authorities suspect that a person is a victim of trafficking, s/he be informed about the support that is available and be referred to independent counselling services. If the first contact is done by a counselling centre, law enforcement agencies are contacted when the potential victim decides to collaborate in the investigation. Some of the federal agreements were reviewed in recent years to include new partners and expand the protection to victims of labour exploitation, forced begging, forced criminality and organ removal. Support to victims of exploitation is financed by the Federal States and is assigned to specialized counselling centres, which provide counselling to victims and organize financial and material assistance, medical care and accommodation. The specialized counselling centres for victims of human trafficking have adopted joint standards and principles for the provision of support to victims. These were also developed in training packages and programmes that are administered to staff in order to ensure the quality of services. In some cases, the standards applied to supporting victims are also an integral component of federal-level cooperation agreements. The support provided to victims by the specialized counselling centres is given irrespective of the victim's residence status or the availability to collaborate with law enforcement authorities.

In all European countries, civil society organizations play a key role in the delivery of protection and assistance services. Often, a single civil society organization has the responsibility to ensure that victims and potential victims of trafficking and exploitation have access to all protection services they need. The selection procedure of such an organization

³⁴ The *Framework Protocol* defines the procedure for the identification and referral to assistance of victims of trafficking, from initial detection through repatriation, and the co-ordination between relevant authorities and institutions. GRETA *Report Concerning the Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Spain. Second Evaluation Round*, 2018.

³⁵ GRETA, *Report Concerning the Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Germany. Second Evaluation Round*, 2019.

is managed by the responsible Ministry (or governmental agencies) through a public procurement process, which includes several criteria (e.g. territorial coverage, capacity to offer most of the required services in-house or through contracting with partner organizations, quality assurance procedures).

In United Kingdom, for example, the national referral mechanism is fairly structured and comprises a defined number of first respondent organizations, which have the duty to notify potential cases of modern slavery to the national competent authority, a victim care contractor that manages the delivery of protection and assistance services, and a single authority (i.e. the Home Office), tasked to decide — on reasonable and conclusive grounds — whether an individual is a victim of modern slavery and is, therefore, entitled to the protection provided under the Modern Slavery Act of 2005.³⁶ The complaints recorded by civil society organizations that are not first respondent and by other parties (e.g. family and friends of the victims, complaints made by the general public through hot line and web services) are channelled to first respondent organizations for a preliminary screening. If the information collected about the case points to a possible modern slavery situation, the first respondent is required to notify the competent authority that, within five days, takes a reasonable ground decision. If the decision is positive, the potential victim is referred to the victim care contractor (currently the Salvation Army), which conducts a needs assessment and delivers the protection and assistance services, either in-house or through sub-contracts with other service providers. If the decision of the competent authority is negative (i.e. there are insufficient grounds to determine that the person is a victim of modern slavery), the service provider will help the individual to exit the support programme.

In the Netherlands, the government assigned to the civil society organization CoMensha (the anti-trafficking centre) the responsibility to: (i) collect data on potential victims of trafficking; (ii) provide basic protection services to potential victims (i.e. accommodation and counselling); and (iii) organize the delivery of specialized services (legal aid, specialized health care and repatriation) through a network of partner governmental and non-governmental organizations (e.g. social services, children and youth organizations, municipal authorities). Given that the police and the labour inspectorate are the only entities that can formally identify victims of trafficking and of labour exploitation, in practice there is a two-way referral mechanism, with potential victims who come to the attention of CoMensha and then referred to the police or the labour inspectorate, and victims formally identified by the police and the labour inspectorate referred to CoMensha (or other partners in the network that offer specialized services) for the delivery of protection services.

In the Czech Republic, assistance to potential victims of exploitation is provided within the Victim Support Programme funded by the Ministry of the Interior and delivered by a non-governmental organization (La Strada) under a public procurement contract. This organization is the main service provider, while other civil society organizations provide services as subcontractors. Entry into the Programme is offered to individuals who have been formally identified as victims by the police or by the prosecution authorities. This means that the officials of other public authorities (e.g. social workers, labour inspectors, healthcare staff), civil society organizations and other partners (e.g. trade unions) need to inform the investigating and prosecuting authorities about potential victims of exploitation for the victim protection system to be engaged.

³⁶ The Modern Slavery Act of United Kingdom (2015) defines modern slavery as including the offences of slavery, servitude and forced or compulsory labour and human trafficking. This Act consolidates existing slavery and trafficking offences, establishes an independent Anti-Slavery Commissioner to encourage good practice on the prevention of modern slavery offences and the identification of victims and establishes a new protection and assistance mechanism for victims.

In Italy, the national referral mechanism is coordinated and financed by the Department for Equal Opportunity of the Presidency of the Council of Ministers.³⁷ Assistance to victims of trafficking is provided through the Single programme for the emergence, assistance and social integration of victims of trafficking and exploitation. The funding of the Single Programme is entirely guaranteed with the resources allocated to the annual budget of the Department (€24 million in 2019). The latter publishes a call for project proposals for the implementation of the Single Programme. The call details the required protection and assistance services (e.g. outreach, accommodation, healthcare, legal aid and support in applying for a temporary residence permit, language courses, vocational guidance and vocational training, support in job search). The proposals can be submitted by the Regions, Autonomous Provinces, municipalities, civil society organizations, including those working with migrants. In 2019, twenty-three projects were funded to provide accommodation, health and social integration services for a maximum period of 15 months.

In Luxembourg, the assistance provided to victims of trafficking is coordinated by two entities contracted by the Ministry of Equal Opportunities, namely SAVTEH (part of the organization Femmes en détresse) and COTEH (part of the Foundation Maison de la Porte Ouverte).³⁸ These organizations oversee both drop-in and live-in assistance for victims and serve as points of contact for police authorities and other civil society organizations. When establishing initial contact with the victim, these entities inform the victims of their rights, the judicial and administrative procedures that will follow and the services that are available (e.g. accommodation, material and financial assistance, physical and psychological health support, legal aid and translation services).

In Denmark, the Centre against Human Trafficking, which is part of the National Board of Social Services, coordinates the delivery of support services to victims (i.e. accommodation, access to medical care, psychological assistance, counselling and information) through a network of contracted civil society organizations that are funded by the budget of the National Action Plan against trafficking.³⁹ The Centre and the Ministry for Children, Education and Gender Equality are in charge of the national action plan against trafficking. They also monitor the service delivery to victims in order to ensure that the same assistance standards are applied throughout the country.

In Norway, there is neither a national referral mechanism in place nor a single government agency or designated non-State actor with responsibility for the identification of victims. In principle, all agencies, organizations or individuals — including social workers, police officers, medical staff, labour inspectors, child welfare officials, staff of asylum reception centres, civil society organizations — which suspect that a person may be a victim of human trafficking have the obligation to identify the potential victim and refer him/her to the relevant authorities and assistance programmes.⁴⁰ The victims of trafficking are entitled to a range of assistance measures, including a recovery and reflection period which gives the right to six-month residence and work permit, legal assistance and free legal aid in advance

³⁷ The description of the Italian national referral mechanism is provided in Italy, Department for Equal Opportunities, “Piano d’azione nazionale contro la tratta e il grave sfruttamento degli esseri umani 2016–2018”, 2016, Annex I.

³⁸ GRETA, *Report Concerning the Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Luxembourg. Second Evaluation Round*, 2018.

³⁹ See Denmark, Ministry of Foreign Affairs, *Action Plan to Combat Trafficking in Human Beings 2019–2021*, 2019.

⁴⁰ GRETA, *Report Concerning the Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Norway. Second Evaluation Round*, 2017.

of any criminal charges. The Norwegian Labour and Welfare Administration provides accommodation, financial support to victims during the recovery and reflection period, follow-up care through the social services or immigration authorities, medical assistance, financial support, safe voluntary return and re-establishment in the home country.

4. Conclusions and key learning

In the last two decades new legal instruments have been adopted at European and national level to tackle labour exploitation, human trafficking and modern slavery practices and protect victims. Although the protection systems established at national level were originally designed for victims of human trafficking, and especially for sexual exploitation purposes, these mechanism have been gradually expanded in the last few years to cater to the needs of victims of other forms of exploitation (labour exploitation, forced begging, domestic servitude).

The national practices analysed in this technical note show that there no single model for the identification of victims of labour exploitation. Systems where there are many actors involved in the identification of potential victims have the advantage that they may capture more individuals exposed to exploitation. The involvement of a wide array of partners, however, may hamper the coherent and consistent application of identification procedures and make coordination of protection measures more difficult. Systems that apply a preliminary and formal identification process, with a limited number of key partners involved and a decision-making process entrusted solely to government authorities or law enforcement agencies, are more likely to achieve uniform identification throughout the country, but they may fail to identify a substantial share of potential victims. What emerges as key in both identification models is the importance of having clear indicators and procedures for the identification of victims of different forms of exploitation and continuous capacity building of the staff of responsible to carry out the formal identification process.

Although victims protection services are fairly similar across countries and cover all the areas identified by the European legal instruments (accommodation, health care, counselling, legal aid, temporary residence permits for foreigners, financial compensation), there are still differences in relation to coverage, responsiveness of protection services to individual needs and quality of service delivery.

The coverage of protection services at national level depends crucially on the method applied for the identification of potential victims and the human and financial resources that are put at disposition for their protection and recovery. In countries where the identification process is solely assigned to criminal law enforcement agencies, victims have lower chances to be identified and put in contact with specialized support providers. In countries where there are multiple governmental and non-governmental actors involved in the identification process, victims have more probabilities to be detected and receive support. The involvement of several actors in the identification process, in turn, requires capacity building of frontline staff to ensure the uniform application of indicators of exploitation. Another issue that may undermine the coverage of victims of exploitation is the financial envelope put at disposition of protection services. This affects the number of places that can be made available in safe accommodation facilities, or the provision of dedicated accommodation facilities for male victims. Government-funded assistance services are often

timebound and based on the legal provisions for recovery and reflection (from 30 to 90 days), or available only for certain groups of victims (for example only foreigners regularly in the country) or for certain types of exploitation (i.e. women victims of trafficking for sexual exploitation).⁴¹

Another issue relates to the responsiveness of protection services to the needs of victims. Most national protection systems were established to respond to the commitments taken under regional instruments against trafficking. When other forms of exploitation (labour exploitation, domestic servitude, forced begging) started to become evident, most countries decided to expand the available support system, with little consideration to the very diverse needs of victims (for example, foreign victims irregularly in the country, men and women victims of labour exploitation, forced labour and related practices).⁴²

Finally, there is scant information on how countries monitor the quality of the assistance services delivered to victims. In several European countries (e.g. Czech Republic, the Netherlands, Luxembourg, United Kingdom) the delivery of protection services is contracted to a civil society organization, which in turn sub-contracts services that are not available in-house (e.g. legal aid) to other providers. In such delivery system, the quality of services may be included as an item in the contractual relation between the contractor and the principal, but it is the contractor that has the responsibility to ensure that all sub-contractors deliver at the standard required. In practice, the monitoring carried out by government agencies on service delivery may be limited to financial and administrative surveillance (how many victims were serviced, for how long, how much was disbursed, etc.). In United Kingdom, for example, the Audit Office in 2017 pointed out to the Home Office that in the absence of care standards and a robust inspection regime, it was impossible to evaluate the quality of care and assess the effectiveness of support provided to victims of modern slavery.⁴³ In this regard, the government committed to adopt the Human Trafficking Foundation's Care Standards as a minimum standard of victim support.⁴⁴

Country practices highlight the value of having a national referral mechanism to enhance victim identification and provide protection services aligned to individual needs.⁴⁵ Equally important is that those who take part in such mechanism participate in the identification process together with criminal investigation authorities. This includes the actors who may come into contact with victims such as labour inspectors, immigration and asylum officials, social workers, health-care staff and personnel of civil society organizations. A well-functioning identification and protection system also requires the definition of clear exploitation indicators. This is particularly useful to train and guide frontline and support staff with the objective of ensuring consistency of the application of quality standards

⁴¹ For a summary of the main challenges affecting victim assistance measures see GRETA, *9th General Report on GRETA Activities*, 2020.

⁴² GRETA, *9th General Report*.

⁴³ United Kingdom, National Audit Office, *Report by the Comptroller and Auditor General on Reducing Modern Slavery*, 2017.

⁴⁴ Human Trafficking Foundation, *The Slavery and Trafficking Survivor Care Standards*, 2018.

⁴⁵ Out of the 42 countries that are part of the Council of Europe 31 have a formal National Referral Mechanism in place. Among EU countries, for example, Austria and Poland do not have yet a formalized National Referral Mechanism. GRETA, *9th General Report*.

from the identification until the end of the referral process. Since no organization alone can provide the full range of individualized assistance required for the victims of different forms of exploitations, several countries rely on the contracting of one or more key service providers, which in turn sub-contract those services they cannot provide in-house.⁴⁶

Finally, the development of a set of quality standards for service delivery and of a sound monitoring and evaluation system are essential to ensure the effectiveness of protection systems for victims of labour exploitation. These are also critical for the socio-economic inclusion process that should follow the referral workflow that has been described in this note.

⁴⁶ In countries where the public administration system is decentralized (e.g. Italy, Germany and Spain), the delivery of protection services is organized at the regional/federal level through regional/federal public procurement call, or referral to regional/local welfare services (which in turn have their own service provider network) or through calls for project proposals. In these instances, the availability of clear indicators of exploitation, guidelines for the identification and protection of victims, quality standards for service delivery and robust monitoring system are key to ensure uniform support throughout the country.

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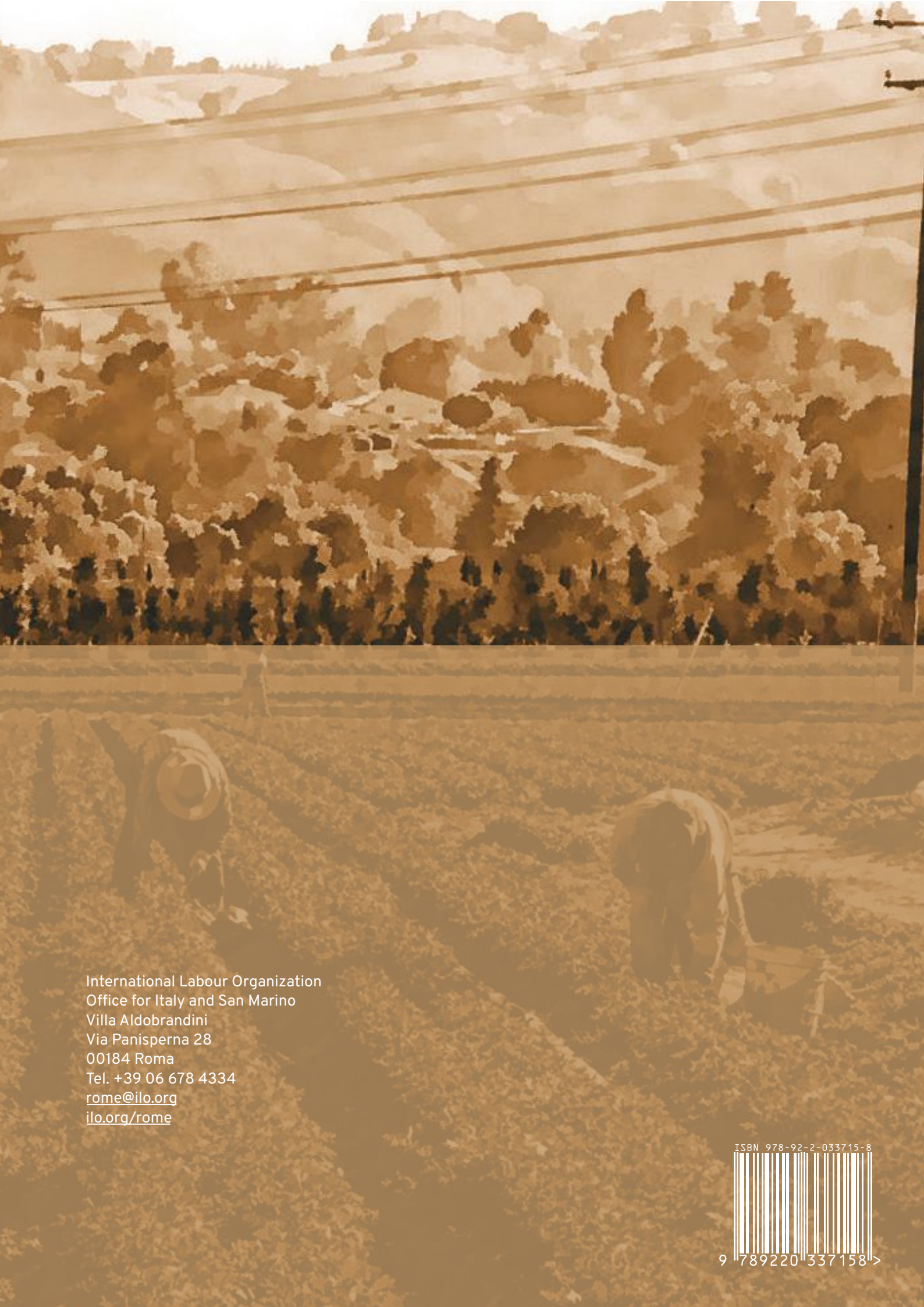
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