

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

NORWAY

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Disclaimer: This report has been prepared by NTNU Social Research on behalf of the Norwegian EMN contact point, as a contribution to the above-titled EMN Focussed Study. The information provided has been collected from policy documents, relevant laws and regulations, circulars, anonymous case files, and statistics made available from governmental and non-governmental agencies. It is also based on interviews with professionals from involved agencies. As some of the information is from informants and it may not provide a complete description nor represent the entirety of the official policy of Norway. Nevertheless the information is, to the best of our knowledge, objective and reliable within the context and scope of this study.

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Identification of victims of trafficking in human beings in international protection and forced return procedures: NATIONAL CONTRIBUTION FROM NORWAY

List of Abbreviations

UDI	The Norwegian Directorate of Immigration
UNE	The Immigration Appeals Board
PU	The National Police Immigration Service
KOM	The Coordinating Unit for Victims of Human Trafficking
NOAS	The Norwegian Organisation for Asylum Seekers
IOM	The International Organization for Migration
GRETA	The Group of Experts on Action against Trafficking in Human Beings
ROSA	Re-establishment, Organising safe places to stay, Security, Assistance

Cited acts and regulations

Immigration Act: Act of 15 May 2008 on the Entry of Foreign Nationals into the Kingdom of Norway and their Stay in the Realm

Immigration Regulations: Immigration Regulations of 15 October 2009 on the Entry of Foreign Nationals into the Kingdom of Norway and Their Stay in the Realm

Criminal Code: The General Civil Penal Code, Act of 22 May 1902 No. 10

Public Administration Act: Act of 10 February 1967 Relating to Procedure in Cases Concerning the Public Administration

Child Welfare Act: Act of 17 July 1992 No. 100 Relating to Child Welfare Services.

EXECUTIVE SUMMARY

Norway has only to a limited extent formalised national systems for the identification and detection of potential victims of trafficking in human beings. Public authorities who find that there is a basis for concern that a person may be subject to trafficking, have a duty to identify this person as a potential victim. There exist a number of circulars and internal practice notes at the involved authorities and agencies, giving guidance on procedures for the identification of possible victims, information exchange and further action. There are different protocols for children and adults, and the duty to identify goes further if the potential victim is a minor. The protocols for men and women are the same, although agencies express special alertness concerning certain gender-specific risk groups.

Detection and identification of potential victims may happen at all stages of the asylum process. There is no proactive screening of all applicants for indications of trafficking, but applicants with a particular profile are screened. Assistance to potential victims of trafficking is given based on a low level of proof. A formal recognition of a victim is not required for s/he to be qualified for assistance. Potential victims are entitled to different forms of assistance while remaining in the international protection procedure, e.g. medical assistance, social assistance, safety measures, relief measures, and legal aid. There is no national referral mechanism. Public authorities shall ensure that the potential victim is informed of their rights and can be referred to the appropriate specialised agency for further assistance.

Three forms of residence permits are available specifically for victims of trafficking (both for third-country nationals and EEE-citizens); a reflection period of six months, a limited residence permit on the basis of a police complaint against the traffickers, and a residence permit for witnesses in cases concerning human trafficking. The two first-mentioned permits require withdrawal from the procedure for international protection, while the third-mentioned permit is assessed in the asylum procedure. The permits are to different degrees conditional on cooperation with the authorities. Individuals with a final negative decision on their asylum application may be granted access to a reflection period if the information about (possible) trafficking did not exist during the processing of the application, and the applicant cannot be blamed for this. Applicants in the Dublin procedure may, as other asylum seekers, withdraw the asylum application and be granted a reflection period. The asylum application can be resumed after a reflection period or a limited residence permit. In 2012, 29 persons were granted a reflection period while 22 were granted a limited residence permit on the basis of a police complaint against traffickers. Being the victim of trafficking may be seen as a basis for refugee status. Alternatively, the granting of a residence permit on humanitarian grounds is to be considered. In 2012, 11 applicants with claims of trafficking were granted protection status while 12 were granted a residence permit for humanitarian reasons, whereas 6 persons were granted such a permit on the ground of giving testimony to the court or to the police in a case concerning human trafficking.

From the mapping of procedures we conclude that there is a clear focus on trafficking by the authorities involved. At the same time and in spite of fairly clear, written regulations and guidelines, the procedures, routines, and perceived roles of frontline actors in detection and identification seem to vary. This indicates a need for a continued concern with procedures in the involved agencies, their collaboration and respective responsibilities. There is a clear need for a national uniform system for detection, identification and referral, lists of specific indicators fitting for the different agencies, reports and registration of victims, as well as continuous, systematic and formal training of all involved agencies.

SECTION 1

RESIDENCE PERMITS, PROTECTION STATUSES AND NATIONAL PROGRAMMES AVAILABLE TO VICTIMS OF TRAFFICKING

Residence permits specifically for victims of trafficking in human beings

The following residence permits are available specifically for victims of trafficking in human beings:

- (i) *Reflection period* of six months which cannot be renewed and does not form the basis for a permanent residence permit (Immigration Regulations, section 8-3)
- (ii) *Limited residence permit* for up to 12 months, with possible renewal if the specified requirements are still fulfilled, but which does not form the basis for a permanent residence permit (Immigration Regulations, section 8-3)
- (iii) *Residence permit for witnesses in cases concerning human trafficking* with a possibility for renewal, which does form the basis for a permanent residence permit (Immigration Regulations, section 8-4). This permit is being considered in the international protection procedure.

The residence permits were introduced in 2006 (alternative (i) and (ii) and 2008 (alternative (iii)).

Conditions for the residence permits

When granting a reflection period for six months (alternative (i) above), the responsible authority should take into consideration whether there exist facts pointing to trafficking, and whether the individual in question is prepared to accept help and follow up measures offered. The threshold is low to grant such a permit. As long as facts do not exist to indicate that the person is not a victim, The Norwegian Directorate of Immigration (UDI) usually grants a permit on the basis of facts provided by the foreign national, the lawyer, an assistance agency or a non-governmental organisation (NGO). There is no condition on cooperation with the police. In order to be granted a limited residence permit for up to 12 months (alternative (ii) above), the following cumulative criteria are utilised: whether the individual has broken all contacts with the trafficking environment, whether the individual has filed a police complaint against the traffickers, whether the police investigate the case, and whether the police or prosecution consider the individual's presence in the country necessary for the investigation or for criminal proceedings. The information given by the individual must be verified by the police. A temporary residence permit for witnesses (alternative (iii) above) is granted to individuals who have testified as an aggrieved party in a criminal case relating to human trafficking (Criminal Code, section 224). A residence permit may also be granted to a victim who has given testimony to the court or to the police, including a case of procurement (Criminal Code, section 202). The permit may form the basis for a permanent residence. To grant this permit, UDI needs a statement from the police. The assessment shall be done in

international protection procedure and the person must register him-/herself as an asylum seeker.

Statuses that are granted to third-country nationals for the reason of being a victim of trafficking in human beings in the international protection procedure

The following residence permits are available specifically for victims of trafficking in human beings:

- (i) *Protection*: If a person applies for protection (asylum), UDI considers the application in conformity with the criteria of the United Nations Refugee Convention and other conventions on human rights, and the Norwegian Immigration Act, section 28. A concrete assessment of the protection need is done. Risk of future persecution upon return, in the form of e.g. re-trafficking and/or assaults from exploiters may cause the individual to be recognised as a refugee. A former victim of trafficking in human beings can be considered as a member of a special social group in accordance with the Refugee Convention.
- (ii) *Residence permit on the grounds of strong humanitarian considerations*: Subsidiary to the protection assessment, UDI assesses if the person may be granted a residence permit on grounds of strong humanitarian considerations or a special affiliation to Norway (Immigration Act, section 38). This also applies to former victims of trafficking in human beings. *Residence permit for witnesses in cases concerning human trafficking* is considered in this procedure.

SECTION 2

DETECTION, IDENTIFICATION AND REFERRAL OF VICTIMS IN INTERNATIONAL PROTECTION PROCEDURES

2.1 Detection and identification of victims: Legislative framework

The process for detection and identification¹ of potential victims in the procedure for international protection is not outlined in the Norwegian legislation, e.g. the Immigration Act. However, the work is guided by Norway's ratification of a number of international agreements, the most relevant being the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime and the Council of Europe Convention on Action against Trafficking in Human Beings (hereafter the Convention). Norway is not bound by Directive 2004/81/EC and Directive 2011/36/EU, but has implemented potential victims' right to residence in the national legislation in accordance with international conventions. On

¹ It is necessary to point out that the term *identification* dominates in the Norwegian discourse. This term is therefor used for both *detection* and *identification*.

a more general level, the Public Administration Act, section 17 establishes a general duty for *all* administrative agencies to ensure that the case is clarified as thoroughly as possible before any administrative decision is reached. In principle, all public authorities (e.g. the police, the child welfare services, the immigration authorities, the Labour Inspection Authority) who find that there is a basis for concern that a person may be subject to human trafficking, have a duty to identify this person as a potential victim. This includes authorities involved in the procedures for granting international protection.

Processes for detection and identification of potential victims during the procedure for international protection are outlined in a number of circulars. The main document is UDI's Circular RS 2011-007 with guidance on the identification and referral of adult and child victims of trafficking, by authorities dealing with foreign nationals. The circular also includes instructions on information exchange between agencies. RS 2011-007 applies to the asylum division of UDI, the regional and reception division of UDI, the residence division of UDI, the National Police Immigration Service (PU), local police districts, and the Norwegian consular and foreign services. The Immigration Appeals Board (UNE) is not covered by these instructions. Further, UDI's Circular RS 2011-006 deals with procedures for identification by employees at reception centres, while Circular RS 2010-153 deals with routines on alerting and following-up when unaccompanied minors disappear² from reception centres. In addition, there exist a number of internal documents within the immigration administration which gives guidance on identification procedures, practices regarding certain countries, as well as instructions for exploring the possibility of human trafficking during interviews, and when applying for protection linked to trafficking in human beings. UNE, the responsible agency for appeal procedures, has developed internal guidelines on procedures to identify and assist potential victims of trafficking. These guidelines include definitions for the trafficking concept, identification of a potential victim, return of the case to UDI and potential follow-up. The guidelines are linked to the duties stated in the Convention, and the Public Administration Act. In addition, regulations are laid down in the Circular Q-06/2010, issued by the Ministry of Children, Equality and Social Inclusion, on the responsibility of the child welfare system for minor asylum seekers and other minors in reception centres, care centres and municipalities.

According to PU, the agency with responsibility for registering asylum seekers and executing forced returns, the mechanisms for detecting and identifying victims of trafficking are a part of their daily practice. At arrival, every asylum seeker is asked about how they got to Norway, the travel route, why they came, etc. They are also asked closely about certain aspects, for example payment to those who helped them during the journey. The issue of trafficking is part of this examination.

2 This includes situations where an unaccompanied minor disappears from the reception centre without notification, does not return on time, or his/her whereabouts are unknown.

The duty to identify and provide follow-up goes further if the potential victim of trafficking is a minor, taken into account that children do not have the same ability and opportunity as adults to present their case and understand their situation. Information to the child shall be provided in an age-sensitive manner. In cases concerning children (unaccompanied minors or accompanying children) the caseworker in the immigration administration has a duty to report a concern to the child welfare services. Upon receiving notification about a reasonable suspicion, the child welfare services have the responsibility to assess the child's risk situation and needs, and take appropriate action to safeguard the child's care and safety in the best possible way, possibly in collaboration with the police. If the child is an unaccompanied minor asylum seeker, the reception centre or/and the special care centre for unaccompanied minors where the applicant lives, has the daily care responsibilities. If the child's life, health or safety is considered to be at risk, the reception centre employees, in addition to establishing written contacts, should immediately notify child welfare services and guardian by telephone, to secure the child relevant and adequate care and prevent disappearance.

The official circulars do not outline different protocols for men and women. Several informants within the immigration administration do, however, express special alertness on certain gender-specific groups at risk.

2.2 Detection and identification of victims: Processes

Detection of a potential victim in the procedures for international protection may occur through information given by the person him-/herself, or when the caseworker in the immigration administration or other agencies, such as a reception centre, the child welfare services, the police, health workers, specialised agencies for assistance, etc. notice indications of trafficking. As mentioned, public authorities who find that there is a basis for concern that a person may be subject to human trafficking, have a duty to identify this person as a potential victim.

Detection/identification of potential victims of trafficking can happen at all stages of the process. Detection may occur during arrival registration, interviews, informal conversations, the consideration of applications, identity examinations, document control, the gathering of information from abroad, the execution of forced returns, etc.

There is no single authority that proactively screens all applicants for indications of trafficking in human beings.³ However, the competent authority proactively screens applicants

³ A strict definition of proactive screening could for example entail that agencies are looking for indicators of trafficking among *all* asylum seekers, regardless of any suspicion of human trafficking. If screening entails a standardised method which is practiced and conducted exactly the same way throughout by the immigration agencies, Norway has no system of proactive screening in the work against human trafficking. Nevertheless, the

with a particular profile for indications of trafficking in human beings. Among others, the following profiles are stated to give reason to suspect trafficking in human beings: (i) women (or men) in prostitution⁴, (ii) minors in criminal environments, and (iii) minors who have resided illegally in Europe for a long period without care persons. For example, there is co-operation between police and customs officials at airports, with a focus on Nigerian and other West African nationals, as many victims do arrive in Norway by plane.

Steps in the assessment procedure if the competent authority detects that an applicant may be a victim of trafficking in human beings

In first instance procedures, when caseworkers in the immigration administration receive information that a person may be victim of trafficking, the individual's situation should be mapped. The agency that first receives information about possible human trafficking shall take initiative to carry out a mapping. If information exists at arrival, the identification procedures should be carried out by PU or UDI's Arrival unit (with a task to map the applicants' asylum claims before the asylum interview). Beyond that, the identification procedure should be conducted in the asylum interview. If information on potential victimisation exists before the interview, the interview shall preferentially be carried out by a caseworker with competence on trafficking identification. If information emerges following the asylum interview, the caseworker should carry out an additional interview. According to UDI, if a mapping has been conducted by another agency, UDI has no duty to conduct a new mapping. In these cases, the caseworker in UDI should consider further follow-up. For UDI, the duty to identify potential victims of trafficking in human beings implies the following: (i) secure identification of asylum seekers who are potential victims, (ii) give information on rights to help and protection, and if necessary, assist in contacting relevant bodies or support schemes, and (iii) consider whether information should be given to the reception centre, child welfare services, police or other agencies, according to the Norwegian disclosure requirements.

In appeal procedures, if UNE receives first-time information indicating that a complainant is a victim of trafficking, UNE shall consider whether the case should be returned to the first instance (UDI) or followed up in UNE. If the case is not returned to UDI, UNE shall ensure that the individual receives necessary information and support. UNE reports that if information emerges during meetings assessing an appeal of a negative decision, one must decide how this should be followed up, including whether the meeting shall be stopped. The procedure is to examine the person carefully on the matter. UNE then decides on further investigation or sends the case back to UDI. If the information comes prior to a meeting, a

informants for our study described a recognisable practice where caseworkers are looking for potential victims of human trafficking among groups with special profiles.

⁴ Nigerian women working in prostitution is an important profile. UDI considers it likely that most of those in this group has or has had debt to exploiters.

letter is typically sent to the attorney representing the person, with a request for further information, or UNE will ask UDI to undertake an additional interview with a focus on trafficking. If there are reasonable indications that the complainant is a victim of trafficking, s/he shall not be obliged to leave the country until the identification procedure is completed. According to informants in UNE, this information can emerge after a final negative decision, and may change the decision. In an overview of cases within UNE from 2011 and 2012 concerning potential trafficking, there are examples of indications of trafficking emerging for the first time in the appeal procedure. However, information from interviews and available statistics indicate that this seldom happens.

Indicators used to assess whether the person is a (potential) victim

The Coordinating Unit for Victims of Human Trafficking (KOM) has developed lists of indicators that could provide reason to further identify whether an individual is exposed to exploitation. The lists include indicators for (i) victims who are exploited in prostitution, (ii) victims who are exploited in forced labour, and (iii) child victims of trafficking. The lists are not exhaustive and the indicators must be considered together – alone several of the indicators will not give rise to suspicion. The indicators are meant as a lowest common denominator relevant for all persons responsible for detection and identification. The indicators have been developed through collaboration between representatives from a great number of responsible departments and agencies. The development was organised and managed by KOM. Information and examples have been gathered from existing national and international research, international tools for identification, etc. Various agencies and organisations have adapted discipline-specific routines or profile standards to each profession's special responsibilities. However, interviews indicate differences between the agencies and staff members in the same agency whether and how often the indicator list is used – especially among caseworkers in the reception centres. Written routines or precisely described practices for the use of profiles and indicators are only found in some agencies. Some informants request continued training in the utilisation of indicators, especially because cases of trafficking might be complex.

There is no requirement that the immigration administration, the police, child welfare services, or other agencies should reach the same conclusion in their assessment of potential victimisation. Agencies may therefore assess the individual differently. As Norwegian regulations set the bar for assistance to victims of trafficking at a low level, one assessment that there are indications of trafficking should be sufficient for the person to receive assistance.

Some of the agencies interviewed report that practices and instructions are evaluated regularly in order to assess whether the current methods are adequate for the practical work in the agencies. In addition, The Group of Experts on Action against Trafficking in Human Beings (GRETA) published the document *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Being by Norway* in May 2013.

The report deals, among other issues, with identification and assistance in international protection procedures. In its report, GRETA urges Norwegian authorities to set up a formalised national referral system defining clear procedures and roles of all frontline actors who may come into contact with victims of trafficking, in order to improve clarity and legal certainty. This includes providing all frontline staff with operational indicators, guidance and toll kits, harmonising the indicators and criteria used by competent authorities, improving identification among irregular migrants and asylum seekers, and involving child specialists in the development of identification procedures.

Except for the GRETA report, no evaluations are available. There is therefore no evidence to suggest that potential victims are going undetected or unidentified. Our review of case files indicates that the available routines and indicators within UDI and UNE work well when assessing potential victimisation. However, the prevailing opinion and understanding among caseworkers within the immigration authorities is that some potential victims do go undetected or unidentified. Thus, there is a need for continuous development of procedures for identification.

2.3 Detection and identification of victims: Referral

There is no national referral mechanism. All public authorities have a duty to inform the potential victim on rights and possibilities, to refer the individual to the relevant authorities and assistance programmes, and if necessary, assist in contacting relevant bodies or support schemes.

Individuals identified as potential victims of trafficking are entitled to tailored follow-up care provided by immigration authorities, social welfare services, the police, and governmental and non-governmental specialised agencies for assistance. This includes social assistance, emergency treatment, safety measures (following a risk assessment) provided by the police, safe housing within the shelter structure, free legal assistance, activities to assist the recovery of victims, safe voluntary return and re-establishment in the home country provided through an agreement with the International Organization for Migration (IOM), and information on, amongst other things, support in other countries (relevant in Dublin or voluntary/forced return cases). Some informants question to what extent one has adequate assistance for different types of victims, i.e. if the available measures cover the needs of the diverse group formed by the potential victims of trafficking. If a caseworker is unsure about which assistance would be appropriate, this could harm the situation of the potential victim and complicate the casework.

Everyone who is identified as a potential victim shall be treated as a victim (with the corresponding rights and duties), until the contrary is proven. Formal identification of victims is not required to provide access to assistance.

The extent of caseworkers' responsibility to assist potential victims must be seen in context with the potential victim's individual circumstances and needs. If the potential victim does not want assistance to reach specialised agencies for assistance, the caseworker shall still consider exchanging information with other agencies (e.g. child welfare services, police, reception centre). Circulars and internal guidelines inform on referral and information exchange between agencies. This includes guidelines for caseworkers on disclosure requirements and professional secrecy. The need for consent from the potential victim prior to information exchange with other agencies outside the immigration administration shall be considered. Some informants for this report have questioned whether information on rights is sufficient, and whether the agencies' responsibility to secure referral should be strengthened. Today, some caseworkers in the immigration administration find it difficult to assess how far their responsibility to assist the potential victims in making contact with specialised agencies for assistance goes. Further, some informants wish for a tighter collaboration between agencies on information exchange in order to secure the rights of potential victims.

One obstacle mentioned is linked to the exchange of information with regard to adult potential victims. Agencies cannot, as a main rule, collect or pass on any information to other agencies without the consent of the person (in cases concerning minors, the obligation to report to child welfare authorities applies regardless of the caseworker's professional secrecy obligations). This is a fundamental rule and right, but a consequence can be that no referral is made, a delayed referral or a referral without quality assurance. There is a continued need for clear routines for information exchange and for identifying the limits of the need for professional secrecy within the immigration administration and between the immigration administration and other agencies.

Change of procedure

Asylum seekers without a decision (in first instance) must withdraw the application for protection in order to be granted a reflection period. This is valid also if the individual has handed in a complaint on a negative decision (in the appeal process). The asylum application can be resumed after a reflection period/limited residence permit. The guidelines state that reflection period should not be granted after a final negative decision has been given. This does not apply if the information about (possible) trafficking did not exist during the processing of the application, and the applicant cannot be blamed for this.

For applications still being considered by the first instance, i.e. without a decision, the individual may resume his or her application for protection later if s/he wishes to. In the appeal process, the complaint may be reopened as a reversal request. All individuals in the appeal process may ask for a reversal request if they believe that the case has been decided on the wrong basis. The reversal requests typically come from the attorney, other legal representatives or, in principle, from the complainant.

As mentioned, public authorities who find that there is a basis for concern that a person may be subject to human trafficking, have a duty to ensure that the possible victim is informed of their rights and can be referred to the appropriate specialised agency for further assistance. Referral is here to a large extent defined as forwarding any relevant information. For example, caseworkers in the immigration administration have a duty to give information on rights and possibilities of a potential victim of trafficking. This includes information on actors that can provide further help and assistance, and referral to other procedures. The individual must submit his or her application for a reflection period, in person, to the police district where s/he resides. An application for a limited residence permit must be submitted to the police district where the police complaint was filed or where criminal proceedings have been initiated. The individual must him-/herself present and sign the application, if necessary with assistance from a specialised agency for assistance or a legal representative/lawyer.

The applicant's dossier /evidence gathered in the procedure for international protection (e.g. personal interview) is transferred to and used in the procedure for a reflection period or limited residence permit.

In its aforementioned report, GRETA urges Norwegian authorities to ensure that all potential victims of trafficking are offered a reflection period. This requires that Norwegian authorities systematically inform all potential victims of the possibility of a reflection period and its implications. A Norwegian evaluation (Brunovskis, Skilbrei and Tveit 2010) of the reflection period concludes that the Norwegian scheme is generous compared with similar programs in many other countries. A long period of reflection can serve as an incentive for individuals to self-identify themselves as victims of trafficking. The Norwegian scheme can thus reach wider groups of victims than the shorter periods do. The evaluation indicates that there seems to be somewhat different policies on how agencies inform potential victims on the reflection period.

2.4 Detection, identification and referral in relation to Dublin procedures

If the competent authority decides that another Member State is responsible for examining the application for international protection (i.e. that the Dublin procedures apply) and the applicant is detected as a (potential) victim of trafficking in human beings, this can trigger that the Dublin transfer can be suspended (c.f. Article 3(2) and/or Article 15 of the Regulation).

The competent authority does not proactively screens all applicants subject to Dublin transfer for indications of trafficking in human beings. However, the competent authority proactively screens applicants subject to Dublin transfer with a particular profile.⁵ Among others, the

⁵ As mentioned earlier, the answer to this question depends on how one defines "proactive screening".

following profiles are stated to give reason to suspect trafficking in human beings: (i) women (or men) in prostitution, (ii) minors in criminal environments, and (iii) minors who have resided illegally in Europe for a long period without care persons. Other indications of trafficking should also be considered.

The victims can also self-report and other actors can draw attention to the potential victimisation. The individual may give information to PU, UNE or UDI. Staff in reception centres, health services, or specialised agencies for assistance, e.g. the ROSA project, may inform UDI if they observe indications that a person may be the victim of trafficking. In some cases, information on potential victimisation emerges during appeal procedures within UNE through legal representatives.

If there are reasonable grounds to suspect that an individual is a potential victim of trafficking, s/he shall not have to leave Norway until the identification process has been completed. This means that the identification requirement also exists in Dublin cases. UDI shall carry out a conversation, aimed at the identification of the applicant as a potential victim. In cases concerning minors, child welfare services should be contacted. The main purpose of the identification in Dublin cases is to facilitate follow-up in the responsible country. The immigration administration may in special cases grant exemptions from the Dublin procedure and process the application in Norway. The following prerequisites apply: (i) Criminal investigations in a trafficking case have been initiated, and the police need the individual's presence in Norway during the investigation or criminal proceedings, (ii) the individual has given testimony in a case concerning human trafficking, (iii) the individual has a special affiliation to Norway (e.g. to family members), or (iv) "strong human considerations" exist, such as an uncertain security situation for the victim, health situation, the situation of minors or the asylum-seeker's actual links to Norway. The best interest of the child shall be considered. If the person is to be transferred to another (Member) State, the immigration authorities have procedures to ensure that (i) information on human trafficking can be transferred to the other State, and (ii) information is given to the victim about specialised agencies for assistance in the State. Applicants in the Dublin procedure can, as other asylum seekers, withdraw the asylum application and be granted a reflection period. They can also apply for safe voluntary return and re-establishment in the home country provided through an agreement with IOM on vulnerable groups.

If an applicant does not meet the conditions for exemption from the Dublin procedure, the procedure shall continue as normal even if the applicant is identified as a potential victim of trafficking in human beings. PU shall assess which documents it is appropriate that the responsible country should receive to ensure that the individual is properly treated there. PU is granted access to documents by UDI or the potential victim.

If the applicant is identified as a potential victim of trafficking, s/he shall be provided with information about rights, including available assistance and residence possibilities. However,

some informants from UNE and PU state that they do not give any information about the possibilities offered, but request the individual to discuss these issues with his/her legal representative.

2.5 Future measures

KOM has prepared an information leaflet “To you who are identified as potential victim of trafficking” which is available in Norwegian and English. It is being considered to prepare leaflets in other relevant languages. In addition, several forms of training, profiling, indicators, etc. are continuously developed and implemented by the immigration administration and other agencies (e.g. by reception centres).

SECTION 3

DETECTION, IDENTIFICATION AND REFERRAL OF VICTIMS IN FORCED RETURN PROCEDURES

3.1 Legislative framework

The Public Administration Act establishes a general duty for all administrative agencies to ensure that the case is clarified as thoroughly as possible before any administrative decision is made. The police have a duty to identify potential victim of trafficking in all situations. This includes the work of PU during forced return procedures.

Processes for detection and identification of potential victims of trafficking in the procedure for international protection are outlined in a number of circulars. The main document is the Circular RS 2011-007 with guidance on the identification and referral of adults and children who are (potential) victims of trafficking by authorities dealing with foreign nationals. RS 2011-007 also applies to the aliens unit of the police (i.e. PU), and the foreign citizens units of the district police.

3.2 Detection of victims

According to PU, using mechanisms for detecting and identifying victims of trafficking is part of their daily work. Prior to forced returns, the procedures include a risk-assessment. This assessment studies all kinds of potential risks related to executing forced return of the individual. Trafficking in human beings can be one such aspect. There exists a standard set of indicators as described above. However, interviews within PU indicate that these indicators are not used by this agency. If indication of trafficking is detected, either from PU’s own assessment or from information from other agencies, a forced return might be deferred. However, according to PU, this seldom happens.

Detection/identification of potential victimisation within forced return procedures may be carried out by a number of authorities and actors, including reception centres, child welfare services, health workers, NGOs, specialised agencies for assistance, etc. Self-reports are also possible. In addition, detection/identification might occur “by chance”. One situation might be that the police encounter potential victims during executions of forced return (e.g. at the individual’s place of residence in Norway).

The duty to identify and provide follow-up goes further if the potential victim is a minor. PU states that the guardian must be present in cases concerning children. Further, PU must contact child welfare services when there are children involved.

The protocols do not specify different practices for men and women. However, PU does state that they are more alert when assessing women as potential victims of trafficking in human beings.

3.3 Referral

If the competent authority detects that a rejected applicant may be a victim of trafficking in human beings, the police shall offer the individual a conversation with a legal representative and specialised agencies for assistance competent to support victims of trafficking. Article 10 in the Convention specifies that if the competent authority has reasonable grounds to believe that a person has been a victim of human trafficking, the person does not have to leave the state territory until the identification procedure is completed. Upon execution of a negative decision, PU shall facilitate return in accordance with the Convention Article 16 (6). PU is responsible for the practical organisation of return and contact with the receiving country’s authorities. If the caseworker in PU has reasons to suspect that a person is trafficked, the caseworker shall facilitate contact information to agencies that can assist the individual after return to the receiving country, preferably a national service which the individual may contact for assistance or referral to the competent authority or support assistance. The relevant information shall be obtained in each case, possibly in cooperation with UDI and IOM.

If PU identifies a potential victim, they shall notify the decision-making authority, i.e. UDI and UNE. However, according to informants, the concept of referral does not receive a lot of attention in PU. We therefore question to which extent this type of contact takes place.

No evidence exists of the effectiveness of the referral mechanisms. However, as previously mentioned, the prevailing opinion and understanding among caseworkers within the immigration authorities is that some potential victims go undetected or unidentified. This is also the case within forced return procedures. Informants in PU state that there are challenges connected to gathering information on the individual due to agencies’ professional secrecy. This may hamper the referral of potential victims.

The rejected applicant, with the support of his/her legal representative, can decide whether or not s/he wishes to apply for a reflection period or a limited residence permit. A specialised agency for assistance, e.g. the ROSA project, often helps the victim.

However, individuals with a final negative decision on their application for protection that meet the specific criteria for a limited residence permit, have in principle no access to a reflection period as foreseen under Directive 2004/91/EC. This does not apply if the information about the (possible) trafficking did not exist during the processing of the application, and the applicant cannot be blamed for this.

SECTION 4

DETECTION, IDENTIFICATION AND REFERRAL OF VICTIMS BY OTHER RELATED ACTORS

4.1 Detection of victims in reception centres / detention facilities

Reception centre staff has a duty to facilitate the identification of potential victims; in other words to facilitate detection. This happens as a part of the daily work through looking for indicators. Circular RS 2011-006 provides identification procedures for employees at reception centres. Detention facilities for irregular migrants do not exist in Norway.

The health checks at arrival and the public health centres are aware of the possibility of victimisation. However, potential victimisation is only reported for minors and in cases of serious crime or severe danger of health or life. At arrival all asylum seekers talk to the Norwegian Organisation for Asylum Seekers⁶ and through conversation with them trafficking can be detected. Another important actor is the guardian appointed for a minor. In cases of trafficking guardians are to be involved from the very beginning. At some reception centres the police are also an actor. Often they spot asylum seekers outside the centres and then may detect potential victims. At many reception centres, especially at decentralised centres, police keep an eye on the different buildings belonging to the reception centre and is able to detect potential victims. At many places close cooperation with the police is crucial for detection.

If the potential victim is a minor or believed to be minor, the reception centre leader shall ensure that information is provided to municipal child welfare services. The obligation to report to child welfare authorities applies regardless of the staff's professional secrecy obligations.

⁶ The Norwegian Organisation for Asylum Seekers (NOAS) is an independent membership organisation working to protect the rights of asylum seekers in Norway. NOAS' main activities are to give information and legal aid to asylum seekers, and advocacy.

As with other agencies, reception centre staff, when encountering grounds for concern that a person may be subject to trafficking, has a duty to identify the person concerned as a potential victim and ensure that the potential victim is informed of their rights and can be referred to the appropriate specialised agency for further assistance, while complying with the privacy and confidentiality regulations for certain professionals. When a potential victim is detected, this is followed by an increased focus on further observation and collection of indicators. Along with this the employee that detects or receives information from other agencies or asylum seekers, reports to the manager or the employee responsible for human trafficking issues at the centre. A common procedure is that one of these conducts the first conversations with the potential victim. Identifying needs is an important part of the conversation. Along with collecting information and needs, providing information is a central task. As it is up to the potential victim to initiate further process – with assistance from the reception centre – thorough information must be given on what will happen and who else to contact or involve. The key offices or agencies outside the reception centre are guardians, UDI's regional offices, UDI, the ROSA project (see Section 4.3), child welfare authorities, the police, shelters, etc. KOM is often contacted to receive advice and to discuss cases. Furthermore, it is common to involve health personnel. If there is a critical need for relocation, UDI (and child welfare authorities) are responsible for this. Other actors are also relevant, but this differs nation-wide. The reception centres report that mainly in rural municipalities there is a lack of actors with sufficient competence and knowledge on trafficking.

The standard sets of indicators developed by KOM, are used by some reception centres, while others use their own procedures and lists of indicators based on their own experience and practice. These indicators are not standardised and there is no common list used by all reception centres. Signs of potential human trafficking are, among others, (expensive) cars coming to the reception centres, frequent absences and/or coming home late at night, expensive clothes, being tired or exhausted, being isolated, acting in a sexual manner, using taxi frequently, extra money and/or valuable gadgets, many cell phones, travel route, failing to attend appointments, and behaviour in general that differs from other asylum seekers. The list provides indicators of all kinds of trafficking. It may not be complete.

A range of mechanisms are used to assess whether a person can be identified as a potential victim of human trafficking: interviews or conversations, observation and mapping of general behaviour, registration of nights outside the reception centre and of all visitors to the reception centre, mapping of network, information from other asylum seekers, health checks at arrival and further contact with medical staff, police and others working with asylum seekers. This list may not be complete. It is worth mentioning that some reception centres state there are no other mechanisms. Stated reasons for this were the fact that the phenomenon is not well known, lack of resources and complicated procedures. This must be understood as a response to a general lack of attention and priority given to trafficking the last years in the department of UDI with responsibility of the reception centres. However, there are indications that these issues have been given greater attention in 2013.

4.2 Referral

Reception centre staff shall inform potential victims about their rights to assistance and protection and inform them on relevant bodies for specialised assistance and protection. Due to privacy and confidentiality provisions, reception centre staff shall as far as possible through conversation with the resident, encourage the individual to make contact with appropriate agencies for assistance and protection, and inform the resident that s/he has a responsibility to provide relevant information to the appropriate authorities. If the person does not him-/herself take an initiative, the reception centre staff shall offer to assist the resident to contact appropriate authorities when s/he so wishes and consents. How far reception centre staff's responsibility to assist in contacting support bodies goes, must be seen in connection with the potential victim's individual circumstances and needs. Age, sex, language and culture, knowledge of public administration, trauma history, etc. are essential to whether the person him-/herself will be able to contact the relevant bodies or the police. If the person does not want assistance to contact the relevant authorities, reception centre staff shall still consider whether they have a duty to notify according to the national law. Minors will be assisted irrespective of their own wishes and the child welfare services shall always be notified, in accordance with the Child Welfare Act. To what extent reception centres assist potential victims varies and is also a question of economic and personnel resources. The reception centres report that they – if needed – follow the potential victim to the police, to court, to other agencies and so forth.

When reception centre staff has reason to believe that a resident may be a victim of trafficking, the reception centre's contact person on issues of trafficking shall contact UDI's regional office or the Transit unit for guidance and clarification of further action. Reception centre staff shall comply with confidentiality regulations regarding personal information they become aware of through their employment. They do not have a statutory obligation to routinely disclose information to government agencies, non-governmental specialised agencies for assistance or others that a person may be a potential victim of trafficking. Disclosure of confidential information must either be based on an informed and active consent, or on exemption provisions of the Public Administration Act, the Criminal Procedure Act or the Child Welfare Act. Due to the difficult situation of potential victims and the fact that they might not always be able to speak for themselves and express their needs, some reception centres report that they under special circumstances act without the person's informed and active consent. Furthermore it is essential to stress that a case of (suspected) trafficking generally is unique and demanding. This calls for an approach where written guidelines not always fit or cover a specific case. KOM gives advice and acts like a discussion partner, but does not deal directly with individual cases. In addition, the ROSA project is used in the same way and does deal with individual cases.

4.3 Role of other actors

As already mentioned, detection/identification of potential victims may be carried out by a number of authorities and actors, including the local police, child welfare services, school personnel, health workers, governmental and non-governmental specialised agencies for assistance, e.g. the ROSA project, etc.

The authority/actor who detects a potential victim amongst foreign nationals in international protection and/or forced return procedures should inform the immigration administration on this matter. The caseworker in UDI can request information from other agencies or specialised agencies for assistance on reported indications of trafficking and their assessment. Information exchange does, as a main rule, require consent from the potential victim. Referral to specialised agencies for assistance happens as explained earlier in this Study.

SECTION 5 **TRAINING**

A significant amount of guidance and training is given to the staff at competent authorities and other actors through brochures, guidelines, counselling, seminars, etc. The content and type of training, and whether it is compulsory varies between the agencies. The content of the training may cover the following issues:

- Indicators for detecting / identifying victims
- Profiling techniques
- Gender-sensitive approaches for engaging with victims
- Building trust and engaging with (potential) victim

KOM is responsible for identifying gaps in the competence of the various authorities and organisations combating trafficking in human beings, and organises a number of seminars. KOM's seminars are joint training sessions for personnel involved in different stages of the procedure. There have been seminars offering training from a range of experts. A two-day seminar on identification and protection of victims of trafficking organised by KOM for all relevant actors who might come across potential victims of trafficking in their daily work is annual.

In addition, several authorities/organisations provide training, both for their own employees and for other agencies. The frequency of the training varies, both between agencies and within each agency. Whether the training is compulsory varies, both between agencies and within each agency.

Receiving such training are caseworkers in the immigration administration, e.g. UDI (central and regional offices), and PU, UNE, reception centre staff, caseworkers in child welfare services, local police officers, prosecutors, specialised agencies for assistance, etc. UDI informs that both new employees and experienced employees are offered training.

In what follows, we give examples of training within UDI and UNE: UDI provides training for staff and for those working in reception centres. Training on trafficking may include information on interview techniques, decision-making, identification, indicators, etc. In 2011, UDI published Circular RS 2011-007 with guidance on identification and referral of adult and child victims of trafficking. The same year, UDI also published a circular on identification procedures for employees at reception centres (RS 2011-006). Immigration officials and employees at reception centres shall have knowledge of and be loyal to the instructions provided in the above mentioned circulars. The new guidelines have been subject to several training modules; a one-day internal seminar including a workshop for 100 executive officers at UDI, a session at a two-day national training seminar organised by KOM, as well as several presentations/seminars for particular units at UDI related to their portfolio. UDI has a competence team cooperating in matters of human trafficking, consisting of persons from different departments/sections. The team gives advice on the daily handling of cases and general issues, and provides training when needed. UDI, through representatives from UDI's human trafficking group, have, when needed, given consecutive training of caseworkers in decision units in UDI in their handling of cases and general issues as well as caseworkers in UDI's regional offices with responsibilities connected to work against trafficking. The contacts at the regional offices give counselling to other employees at the offices when handling cases in reception centres. Further, the regional offices advise employees at reception centres. UDI pays special attention to questions concerning trafficking during inspections of reception centres. UDI staff with responsibilities related to work against trafficking, particularly the departments' coordinators, attended relevant conferences, seminars and meetings, often under the auspices of or participation by KOM.

In 2011, UNE published internal guidelines on procedures to identify and provide for assistance to potential victims of trafficking. In 2012, UNE organised an internal seminar concerning identification and follow-up of potential victim. The goal was to increase awareness and competence on the regulations concerning trafficking generally and UNE's obligations to identify and provide support. In addition to the seminar, several meetings within the staff have dealt with trafficking. UNE's officers have electronic access to relevant information concerning trafficking, including international and national regulations, action plans, instructions, circulars, information from KOM, specialised agencies for assistance, etc.

SECTION 6 STATISTICS

See Annex 1 for the statistics requested by EMN, which are available.

As with most other countries, it is difficult to determine the exact extent of human trafficking in Norway. Since 2007, KOM has produced annual reports on the identified extent and nature of trafficking in Norway. Since 2009, KOM has used a report form which, to some extent, makes it possible to group anonymous information and report on the extent of potential victims of trafficking in human beings. However, the resulting statistics may have several sources of error linked to over- and underreporting, partly because the reports are anonymous and partly because it is voluntary for agencies and organisations to report to KOM.

SECTION 7 CONCLUSIONS

This contribution from Norway has dealt with identification of victims of trafficking in human beings in international protection and forced return procedures. From the mapping of procedures we can conclude that there is a clear focus on trafficking at the authorities involved. This focus is illustrated by a great volume of action plans, circulars, and internal guidelines as well as training of professional on the subject. At the same time, Norway has to a little extent formalised national systems for detection, identification, and referral of potential victims of trafficking. In practice, all public authorities who find that there is a basis for concern that a person may be subject to human trafficking, have a duty to identify this person as a potential victim and ensure that the potential victim is informed of their rights and can be referred to the appropriate specialised agency for further assistance. There is, however, no national referral mechanism. KOM has been given a mandate to assist the central, regional and municipal authorities and other organisations to identify victims of trafficking and provide them with holistic support and protection, through building up capacity and improving cross-disciplinary co-operation at a structural level. However, KOM has no mandate to instruct other agencies, and there are no formal frameworks for institutional co-operation. As a result of the general duty to identify, detection and identification of potential victims of trafficking may occur at all stages within international protection and forced return procedures from a number of involved agencies.

Assistance to victims of trafficking is given based on a low degree of proof. Formal identification of victims is not required to provide assistance. Everyone who is identified as a potential victim shall be treated as a victim (with the corresponding rights and duties), until the contrary is proven. Individuals identified as potential victims are entitled to different types of assistance while remaining in the international protection procedure, e.g. medical

assistance, social assistance, safety measures, relief measures, and legal aid. Potential victims are further entitled to different forms of limited residence permits, as foreseen under Directive 2004/81/EC, including reflection period and limited residence permit. Residence permits may also be granted to witnesses in cases concerning human trafficking. These permits are to different degrees conditional on cooperation with the authorities. Trafficking may also form the basis of protection. Human trafficking does not in itself form a basis for protection, and an individual assessment on what the applicant risks on return must be made. Victims of human trafficking can also be entitled to a residence permit on humanitarian grounds. Witnesses in cases concerning human trafficking are encompassed by this assessment. Although the rights given to potential victims are generous, there are indications from involved parties that potential victims go unidentified and are not referred to available specialised agencies for assistance.

Although Norwegian authorities to a large extent have developed protocols and guidelines on the work on identification and referral of potential victims of trafficking, and there is an increased focus on the subject on a general level, there seem to be several challenges which need to be addressed. A first challenge is linked to routines of identification, including what identification entails. Although training on trafficking is provided both internally and externally, there is a need for a further investment in continuous, systematic and formal training of all involved agencies. There is a clear need of a national uniform system for identification, reporting and registration of victims. A second challenge is the use of profiles and indicators in identification procedures. Although KOM has developed a set of indicator lists, these are defined as a “lowest common denominator regardless of the position of the person responsible for detection and identification”. However, not all agencies use these guidelines and indicators in their work, and not all agencies have developed their own written profiles and indicators. In some cases, the tools used for identification is based on caseworkers’/agencies’ own experiences. This increases the risk of differential treatment of potential victims. A third challenge is information exchange between agencies, and each agency’s responsibility in securing potential victims with necessary assistance. In spite of relatively clear written regulations on responsibilities for identification and referral, the procedures, routines and perceived roles of frontline actors seem to vary. Caseworkers may be unsure when their responsibility ends, what information other agencies have collected, and what the following steps should be in terms of contact with specialised agencies for assistance/competent authorities. Some of these challenges are linked to the lack of a national referral system. One should consider whether there is need for a central agency, like KOM, which can take an active part in each case and secure referral and follow-up of potential victims of trafficking.

ANNEX 1: Statistics

The statistics reported below are based on information recorded anonymously in a separate file which has been accessed manually.

Table 1 – Statistics on third-country national victims of trafficking in human beings identified in procedures for international protection and forced return

	2008	2009	2010	2011	2012	Source / further information
<i>Third-country nationals identified as (potential) victims and who have <u>withdrawn</u> from or <u>stopped</u> procedures for international protection</i>						
Number of third-country nationals who have <u>withdrawn</u> from or <u>stopped</u> (EU harmonised) international protection procedures (or – where relevant – have stayed in international protection procedures) and who have (later) been granted a reflection period as a (potential) victim of trafficking in human beings (e.g. under procedures outlined in Directive 2004/81/EC, Directive 2011/36/EU or other national provisions).	Not Available	Not Available	30	35	43	UDI/ The statistics present the number of applicants who have withdrawn from the international protection procedure to <i>seek</i> reflection period.
Number of third-country nationals who have <u>withdrawn</u> from or <u>stopped</u> (EU harmonised) international protection procedures and who have (later) applied for a (temporary or permanent) residence permit as a victim of trafficking in human beings cooperating with the authorities (i.e. under procedures outlined in Directive 2004/81/EC or alternative procedures where your (Member) State does not implement this Directive).	Not Available	UDI				
Number of third-country nationals who have <u>withdrawn</u> from or <u>stopped</u> (EU harmonised) international protection procedures and who have (later) been granted a (temporary or permanent) residence permit as a victim of trafficking in human beings (i.e. under	Not Applicable					

procedures outlined in Directive 2004/81/EC or alternative procedures where your (Member) State does not implement this Directive).						
<i>Third-country nationals identified as (potential) victims and who have <u>been rejected</u> from procedures for international protection <u>following a (final) negative decision</u></i>						
Number of third-country nationals who have been <u>rejected</u> from (EU harmonised) international protection procedures <u>following a (final) negative decision</u> on their application and who have (later) been <u>granted a (non-EU harmonised) protection status or residence permit</u> (e.g. on humanitarian grounds) as a victim of trafficking in human beings (e.g. due to humanitarian reasons).	Not Applicable					
Number of third-country nationals who have <u>been rejected</u> from (EU harmonised) international protection procedures <u>following a negative decision</u> and who have – following official identification procedures - (later) been <u>granted a reflection period</u> as a (potential) victim of trafficking in human beings (e.g. under procedures outlined in Directive 2004/81/EC or Directive 2011/36/EU or other national provisions).	Not Applicable					
Number of third-country nationals who have <u>been</u> rejected from (EU harmonised) international protection procedures <u>following a negative decision</u> and who have – following official identification procedures - (later) been <u>granted a residence permit as a victim of trafficking in human beings</u> (i.e. under procedures outlined in Directive 2004/81/EC or alternative procedures where your (Member) State does not implement this Directive).	Not Applicable					
<i>Statistics on referrals to national referral mechanisms (where existing in (Member) States)</i>						
If an national referral mechanism (NRM) exists in your (Member)						

<p>State, please provide statistics on</p> <ul style="list-style-type: none"> - Number of third-country nationals referred by the authorities responsible for <u>examining and deciding upon applications</u> for international protection to the NRM - Number of third-country nationals referred by the authorities responsible for <u>enforcing forced returns</u> to the NRM - Number of third-country nationals referred by the authorities responsible for <u>managing reception centres</u> to the NRM - Number of third-country nationals referred by the authorities responsible for <u>managing detention facilities</u> to the NRM - Number of third-country nationals referred by <u>legal representatives</u> to the NRM - Number of third-country nationals referred by <u>civil society</u> to the NRM - Number of third-country nationals referred by <u>other actors</u> to the NRM <p>Where possible, please disaggregate for:</p> <ul style="list-style-type: none"> - Gender, age, nationality of the person identified 	<i>NRM does not exist</i>					
General statistics						
Number of third-country nationals who have been granted a (non-EU harmonised) protection status or residence permit as a victim of	Not Availa	10 (Protec	10 (Protect	14 (Protecti	23 (Protecti	UDI

trafficking in human beings (e.g. due to humanitarian reasons).	ble	tion status: 7. Reside nce permit due to humani tarian reasons : 3 (all (witnes ses):	ion status: 3. Residen ce permit due to humani tarian reasons : 7 (3 witness es)	on status: 6. Residenc e permit due to humanita rian reasons: 8 (4 witnesses)	on status: 11. Residenc e permit due to humanita rian reasons: 12 (6 witnesses)	
Number of third-country nationals who have been granted a reflection period as a victim of trafficking in human beings (e.g. under procedures outlined in Directive 2004/81/EC or Directive 2011/36/EU).	40	50	30	31	29	GRETA report
Number of third-country nationals who have been granted a residence permit as a victim of trafficking in human beings (i.e. under procedures outlined in Directive 2004/81/EC or alternative procedures where your (Member) State does not implement this Directive).	17	14	34	25	22	UDI
Number of third-country nationals referred to procedures for victims of trafficking in human beings through the NRM	<i>NRM does not exist</i>	<i>NRM does not exist</i>	<i>NRM does not exist</i>	<i>NRM does not exist</i>	<i>NRM does not exist</i>	

