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Categorical Accommodation and Assistance for Victims of Trafficking in Human Beings

A study of four European countries

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Cahier

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Foreword

In 2010 the Dutch government started a pilot project on the categorical accommodation and assistance (CAA) of victims of trafficking in human beings (THB). The present report regards the experiences of a number of European countries (Belgium, the Czech Republic, Italy and Spain) with this type of protection and assistance. It presents, for the first time, a description of the organisation and implementation of CAA in different European countries, the bottlenecks they experience, possible solutions they employ, and perceived advantages and disadvantages of CAA.

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My special thanks go to the members of the Supervisory Board under chairmanship of prof. Klara Boonstra, University of Amsterdam, and the members of the internal Review Board (see Appendices 1 and 2 respectively for their names), who provided valuable input to the researchers. Last but not the least, thanks to Roberto Aidala who was responsible for the layout of this report.

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Summary

Background and aim of the research

The shortage of adequate and suitable shelter facilities for victims of trafficking in human beings (THB) has been on the agenda now for several years in the Netherlands. Until recently, female victims of THB were usually accommodated in women's shelters; male victims mostly in shelters for the homeless, or public shelters. There have been signals that these types of shelters do not meet the specific needs of this particular group of victims (e.g. lack of specialised assistance and sufficient security measures) (Ministerie van VWS, 2010; NRM 2009, 2010). In June 2010, the Dutch government started a pilot project on categorical accommodation and assistance (CAA) for adult victims of THB (for national or non-national victims of exploitation in all sectors), which will continue until the end of 2014.

The aim of this research is to look at the experiences that other European countries have had with CAA for adult victims of THB, and present an overview of the organisation and implementation of CAA in these countries. This includes descriptions of the bottlenecks these countries have experienced, any possible solutions they have employed, and the perceived advantages and disadvantages of CAA. The study may provide input for the possible further implementation of CAA in the Netherlands. Four countries were selected: Belgium, the Czech Republic, Italy and Spain. These countries were chosen with an eye on the diversity of the organisation and implementation of CAA, and their similarity with the Netherlands (all countries are transit and destination countries for victims of THB) and with the Dutch pilot on CAA (a broad target group).

Research questions and method

The three central research questions in this study are:

- 1 What are the objectives of CAA for victims of THB in the selected EU countries and what is the target group?
- 2 How is CAA for victims of THB organised and implemented in the selected countries? Are there any bottlenecks?
- 3 What are the perceived advantages and disadvantages of CAA for victims of THB?

To answer the above research questions the following methods were used:

- a literature survey,
- interviews with 22 representatives of ministries, specialised NGOs providing CAA, and other relevant institutions in the selected countries; additionally, another five representatives of these organisations provided exclusively written information. In Belgium and the Czech Republic, representatives of all the specialised NGOs providing CAA to victims of THB were interviewed (three NGOs and three shelters and two NGOs and three shelters respectively). In Italy representatives from two Italian NGOs (operating two and six shelters respectively), and in Spain from one NGO (operating three shelters) were interviewed. Considering the large number of NGOs in these two countries, the results of this study do not cover all variations in the implementation of CAA in Italy and Spain.

Results

In all four countries it is government policy to protect and assist victims of THB and the governments of all four countries left the implementation of CAA to specialised NGOs. The main findings are summarised below on a country by country basis. Table S1 presents the main characteristics of the organisation and implementation of CAA in these countries.

Belgium

Background information

Belgium is a transit and destination country for women and men who are subjected to THB mainly for purposes of sexual and labour exploitation. The national legal framework for the protection and assistance of victims of THB originates from the 1990s; the implementation of a multi-disciplinary collaboration approach on the protection and assistance of victims is regulated by the Circular Letter of 26 September 2008 (which is related to the Law of August 10, 2005). Three specialised NGOs provide CAA to victims of THB: Pag-Asa (Brussels), Payoke (Flanders), and Sürya (Wallonia). These NGOs have an autonomous position in several regards (e.g. requesting a reflection period for the victims or judging whether the victims have broken their ties with their traffickers).

Reflection period and conditionality of assistance and temporary residence permit

In Belgium victims of THB are offered a reflection period of 45 days to decide whether to file a complaint against their traffickers; an extension is not possible. Identification by the police is not a prerequisite for acquiring a reflection period; the specialised NGOs providing CAA can request a reflection period without contacting authorities. This is a unique feature of the Belgian system. During this period victims are entitled to social protection and can stay in the shelters of one of the three specialised NGOs. Victims who are willing to collaborate with the law enforcement authorities and agree to receiving assistance (but not necessarily shelter) from one of the three specialised NGOs, obtain the special status of 'victim of THB'. They are granted a temporary residence permit initially for three months, which can be extended for another three months (in this respect no distinction is made between EU and third country nationals). Their stay can be extended for another six months according to the progress of the investigation; this extension can be – repeatedly – renewed for six months at a time, until the criminal procedure has ended. The temporary residence permit can be withdrawn in certain cases (e.g. if victims stop cooperating with the law-enforcement authorities). Victims of THB can acquire a permanent residence permit under special conditions.

Objectives and the target group of CAA

By providing CAA for victims of THB the Belgian government aims to provide a 'safe haven' for the victims and encourage them to co-operate with law enforcement authorities. Yet, the formulation of any further goals is left to the NGOs; the three specialised NGOs have similar objectives: 'empowering the victims', 'supporting them to overcome their exploitative past', and 'assisting them in making a choice about their future' (e.g. regarding pressing charges against their traffickers or returning to the country of origin).

CAA is meant for adult victims of THB regardless of their nationality, gender, and type of exploitation. Victims with children and Belgian victims are usually referred to

non-categorical shelters for accommodation, but receive ambulatory assistance from the NGOs providing CAA.

Organisation and implementation of CAA

—Categorical shelters

Pag-Asa and Sürya each run a categorical shelter (single buildings) where women and men are accommodated together, but in separate rooms; the respective shelters offer room for 16 victims. These two NGOs also have a few apartments in which victims, who have had to leave the shelter but who are not yet totally ready to live independently, can be accommodated. Until 2011, Payoke ran a categorical shelter for women only, with a capacity of ten places. Then the organisation started a new categorical shelter for both sexes, where women and men are accommodated in different wings. The NGOs consider a 'mixed' shelter 'healthy' as it resembles reality in society, and a good option for the accommodation of families. In addition, having separate shelters for both sexes is deemed impractical because of the unpredictable female-male ratio of the victims to be accommodated. The duration of stay in the shelters is generally between three to six months. All the shelters are located at secret addresses; they are 'open' shelters with a curfew during the night. A range of other measures are taken to ensure the security of the victims as well as the personnel (e.g. victims are not allowed to leave the shelter during the first few days of their stay).

—Types of assistance

All three NGOs provide individually tailored psycho-social, medical, administrative and legal support (including support during criminal proceedings and compensation claims) to victims of THB. In addition, assistance is provided to encourage the victims' integration, for example, by offering language/training courses, helping them to access work and independent housing. In Flanders victims of THB from third countries are obliged to follow a civic integration course. Depending on the criminal proceedings, ambulatory assistance continues after the victims leave the shelter. Victims who wish to return to the country of origin are generally referred to the International Organisation for Migration (IOM).

—Bottlenecks

According to the respondents, problems related to the cooperation with third parties, the autonomous position of the three NGOs, and the accommodation of victims from different nationalities and religions in the same shelter lead to bottlenecks in the implementation of CAA¹. The latter problem is however also considered to be an advantage of CAA by some respondents (see below).

Perceived advantages and disadvantages of CAA

Specialised assistance, a safe environment for the victims (though different views exist on this topic; see below), similarity of problems and feelings of solidarity among the victims (which can lead to increased motivation to press charges), familial ambiance in the shelters, and the fact that placement of victims from different nationalities and exploitative backgrounds resembles reality are seen as advantages of CAA for victims of THB by the Belgian respondents. Conversely, the tendency of victims to stay in the same circle, the possibility of tensions developing among the

¹ These bottlenecks are not necessarily typical to CAA; this is also the case for the bottlenecks named by the respondents from other countries.

victims because of their different exploitative backgrounds, the necessity of employing interpreters relatively more often because of the specialised assistance provided and consequently the lack of trust that can exist between the victims and supervisors, and the potential security risks created by placing all the victims of THB together, are named as disadvantages of CAA.

The Czech Republic

Background information

The Czech Republic is a source, transit and destination country for women and men who are subjected to THB mainly for purposes of sexual and labour exploitation. Since 2003, the Ministry of Interior has been running the Programme on Support and Protection of Victims of THB (the Programme) which is intended for national and non-national victims of THB who are identified as – presumed – victims by the police. The Programme provides shelter and assistance to victims of THB through three specialised NGOs; two of these (La Strada CR and Diaconia CNPS) provide CAA.

Reflection period and conditionality of assistance and temporary residence permit

Victims who initially agree to participate in the Programme are offered a reflection period of 60 days which can be extended under strict conditions. Czech citizens who are trafficked abroad and want to return to the Czech Republic and Czech citizens who are trafficked within the Czech Republic can also make use of the reflection period to decide whether they want to co-operate with the law enforcement authorities and join the Programme. During the reflection period, victims of THB can stay in the shelters of specialised NGOs, and are provided with basic crisis assistance (medical, psychological and social assistance). Participants of the Programme from third countries who agree to co-operate with law enforcement authorities receive a temporary residence permit (initially up to six months, with an extension dependent on the duration of the co-operation with authorities/criminal proceedings). All participants of the Programme must agree to receive at least ambulatory assistance from the specialised NGOs during and after the reflection period. The residence permit is terminated, among others, if the person decides to end the co-operation with law enforcement authorities. Victims may be granted permanent residence under strict conditions.

Objectives and the target group of CAA

The Programme (which provides both CAA and non CAA for victims of THB) aims to provide support and assistance to adult victims of THB, motivate them to co-operate with law enforcement authorities and mediate for a voluntary return to their home country. The general goals of the specialised NGOs are to emancipate and empower victims of THB and reintegrate them into society, amongst other things, through independent living, and work without exploitative conditions.

Victims of THB, regardless of their nationality, gender or the type of exploitation, belong to the target group. The two NGOs also provide CAA to victims who do not – want to – participate in the Programme and to potential victims (those who are under – serious – risk of trafficking). Adults with children are either accommodated in non-categorical shelters by the third specialised NGO or in other forms of accommodation

Organisation and implementation of CAA

— Categorical shelters

La Strada operates two 'single-sex' shelters for adult victims; with five beds for women and two for men. Diaconia operates a shelter for men only (with five beds), but provides ambulatory assistance to female victims too. All three shelters are privately rented apartments. The first stage of the stay in the shelters is focused on crisis help, initially for one week; at the second stage, accommodation is provided for six months. In both stages the duration of stay can be prolonged because of individual needs; the maximum duration of stay is one year. All shelters are at a secret location. They are 'open' without a curfew, but various security measures are implemented by the NGOs (e.g. individual security training).

— Types of assistance

Both NGOs provide financial and alimentary aid and individually tailored social and legal assistance to victims of THB. Amongst other things, they provide vocational training/language courses, and assist victims in finding jobs and follow-up accommodation. Legal assistance is miscellaneous, ranging from help to sorting out legal documents to claiming compensation. In addition assistance is provided if victims want to return to their country of origin. The assistance provided within the context of the Programme continues until the end of the criminal proceedings or until receiving permanent residence in the Czech Republic. Victims who participate in the Programme can make use of the Programme of Voluntary Returns. Both NGOs sometimes assist their clients also after the criminal proceedings. These organisations also provide ambulatory assistance to victims who have already left the shelter or who do not wish to use the shelter services at all. Where necessary, the two NGOs co-operate with each other and other organisations for assisting victims of THB.

— Bottlenecks

According to the Czech respondents, the following bottlenecks are faced in the organisation and implementation of CAA: lack of capacity to provide accommodation for large groups of victims, victims with children or minors, contradictory goals of the NGOs and the government regarding long-term residence of victims in the country, problems related to accommodation of victims with different nationalities or ethnicities in the same shelter (e.g. language barriers or cultural differences), problems in the co-operation with third parties, necessity of moving shelters to other locations at regular intervals, unfamiliarity of some victims with big cities, financial problems, and at times a low-resident to staff member ratio.

Perceived advantages and disadvantages of CAA

The Czech respondents consider specialised assistance, better security, similarity of problems and feelings of solidarity among the victims as advantages of CAA. In addition, it is stated that small-scale Czech categorical shelters offer more possibilities for changing the location when there are security risks in comparison to big-scale non-CAA shelters. On the other hand, it is reported that CAA is more expensive than non-CAA and it is difficult to find financing for CAA. In addition categorical shelters might sometimes be vacant as they serve a specific target group.

Italy

Background information

Italy is a destination and a transit country for women and men who are subjected to THB for the purposes of sexual and labour exploitation. Protection and assistance to victims of THB is provided within the context of the so-called Article 13 and Article 18 Programmes – respectively since 2003 and 1998 – through which integration

projects run by the NGOs for assisting victims of THB are funded. Both Programmes are planned and supervised by the Department of Equal Opportunities. The Article 13 Programme is intended for the short term protection of victims while the Article 18 Programme provides long term assistance. In the present study implementation of CAA provided by two Italian NGOs, namely Associazione On the Road (OTR) and Cooperativa Lotta, are described.

Reflection period and conditionality of assistance and temporary residence permit

In Italy, there is no formal reflection period; in practice Article 13 projects are used for this purpose. These projects provide protection and assistance to victims of THB for three months (with no formal residence permit), with the possibility of an extension of another three months. Victims receive accommodation, social assistance, and health care services. When this programme has ended, victims who are formally identified by the police can receive help under the Article 18 Programme. Foreign victims are provided with a special temporary residence permit on humanitarian grounds (initially valid for six months with a possibility of extending it for a year, or a longer period for judicial purposes). Provision of such a permit is however, not directly conditional on pressing charges against the traffickers; the victims can choose between one of the two possible options: the 'judicial path' where victims have to press charges against the traffickers, or the 'social path' where victims are not obliged to press charges against the traffickers, but are expected to give extensive information to the police. According to different sources the social path is not applied consistently throughout the country because of different interpretations of the law. In addition, the respondents from both interviewed NGOs report that victims who follow the social path may also be obliged to testify during the criminal proceedings. Victims with an 'Article 18 permit' are obliged to participate in an integration project provided within the context of this Programme. They may be granted a permanent residence permit under the same rules that apply to all migrants.

Objectives and the target group of CAA

The Article 13 Programme is meant to provide immediate and short term protection to victims of THB. The goal of the Article 18 Programme is the social inclusion of the victims, including labour market participation, and can be centred on Italy or the country of origin depending on their wishes. Within this context, projects run by the OTR and Coop Lotta aim to stimulate the autonomy of victims and help them overcome their trafficking past. These Programmes target minor and adult victims of THB, regardless of their nationality and sector of exploitation. The target group of OTR and Coop Lotta consists of adult male and female victims of THB. Although nationals belong to the target group, no Italian victims were assisted within the context of the Article 13 Programme until the time this research was conducted.

Organisation and implementation of CAA

— Categorical shelters

In Italy different types of categorical shelters are provided depending on the phase of the assistance being offered, ranging from emergency shelters to shelters where victims can live autonomously. Coop Lotta runs six shelters specifically for victims of THB in the north of Italy (Lombardia); three flats for women and three for men; the organisation has in total eleven places for females and fourteen for males. These are so-called 'secondary care shelters' that are normally used for victims who are considered to be at an advanced stage of their integration project; however, when necessary, short-term emergency care may also be provided in these shelters. OTR

runs two shelters (one for women, and one for men) which are a combination of 'first care' (for victims at the initial stages of their integration projects) and 'secondary care' shelters. The women's shelter is a house which can accommodate nine women. The men's shelter is an apartment that accommodates five to six people. Victims with children are referred to non-categorical shelters. The duration of stay in the shelters is based on the individual needs of the victims; at the shelters of Coop Lotta it ranges from a couple of months to one year while at the OTR-shelters victims accommodation up to 18 months is possible. There are no strict security measures in the shelters.

— Types of assistance

Both NGOs provide individually tailored medical, psychological, social, administrative and legal assistance (including compensation claims). Victims of THB in Italy have access to a uniform level of medical care through the National Health Care System. As the Article 18 Programme is focused on integration projects for victims of THB, both organisations provide activities to achieve this goal such as language classes, vocational training which can be sometimes on the job, information about how Italian society works, support in building social networks and labour-force participation. Assistance in finding independent accommodation is provided through a variety of means (e.g. financing of the rent for the first few months). Even though there is no official follow-up procedure after the completion of an integration project, victims may continue to receive assistance from the NGOs, if necessary. Victims who wish to return to the country of origin are usually referred to the IOM that has been running a special programme in the country since 2001.

— Bottlenecks

During the interviews, the following bottlenecks were stated in the implementation of CAA: lack of adequate government funding to identify and support victims of THB, lack of resources by NGOs to run social projects especially for younger victims, difficulty in finding jobs for victims since the economic crisis, lack of capacity in the shelters.

Perceived advantages and disadvantages of CAA

According to the Italian respondents, in categorical shelters there is less possibility of the victims of THB being stigmatised in comparison with non-categorical shelters (views on this point differ however, see below, Spain). Possible tensions as a result of language and cultural differences when different nationalities are accommodated in the same shelter are considered to be a disadvantage, although this problem is not restricted to categorical shelters.

Spain

Background information

Spain is a destination and transit country for women and men who are subjected to THB mainly for the purposes of sexual and labour exploitation. A large majority of the identified victims are women. Since 2009, the protection and assistance of victims of THB has been regulated according to the Organic Law 2/2009 that brought important changes to the Organic Law 4/2000. The guidelines for the implementation were recently set out in the Royal Decree 557/2011 and in the Framework Protocol for Protection of Human Trafficking Victims (enacted on October 28, 2011). As a result of these recent changes, there seems to be uncertainty amongst the concerned parties, such as the police, ministries and NGOs, regarding the enforcement and implementation of the related measures. About 20 NGOs provide CAA in

the country, predominantly for female victims who have been subjected to sexual exploitation. Projecto Esperanza (PE) was included in this study as it is the only specialised project providing CAA to adult female victims of THB who have been subjected to sexual exploitation, but also to those who have been subjected to labour exploitation.

Reflection period and conditionality of assistance and temporary residence permit

Victims of THB in Spain are offered a reflection period of a minimum of 30 days; however, before that they need to be formally identified as presumed victims by the police. The possibility of an extension is decided on a case-by-case basis. According to various respondents implementation of the reflection period is not optimal. Co-operation with law-enforcement is a pre-condition for receiving a temporary residence permit, but not for utilising CAA provided by the NGOs. According to Spanish law, victims can also be granted a temporary residence based on personal circumstances (e.g. safety concerns, health status or family situation), however, this is rarely applied in practice. The temporary residence permit is initially valid for one year and is renewable yearly until a long-term permit for five years is granted. Victims, who have resided (continuously) legally in Spain for five years, can apply for a permanent residence permit.

Objectives and the target group of CAA

In Spain, the government finances the NGOs that provide CAA; the formulation of objectives regarding CAA is left to the NGOs. PE works on stimulating the autonomy of victims and their social inclusion in society. To do this it offers comprehensive support services and aims to support the integration or voluntary return processes of those who respectively wish to remain in the country or go back to their country of origin. CAA is provided mostly for female victims exploited in the sex industry; however, recently a pilot project started for men. PE provides CAA for female victims of THB in all sectors of exploitation, regardless of their nationality; however national victims are rarely assisted as they are only identified and referred to PE occasionally.

Organisation and implementation of CAA

— Categorical shelters

PE provides accommodation to victims of THB in three shelters depending on the phase of the assistance being provided: an emergency shelter, a long-term shelter and the so-called transit apartments (intended for women who are either working or studying). In total, PE has 19 places; in both the emergency shelter and the long-term shelter there is room for seven women. The two transit apartments have two and three available beds for victims respectively. The shelters are in principle for single women. Those with children are generally accommodated for a maximum of two weeks in the emergency shelter; later on they are referred to an organisation that offers specialised support for mothers and their children. The duration of stay in the shelters varies according to the type of the shelter (between 15 days and two months in the emergency shelter, between six months and a year in the long-term shelter, and between nine and twelve months in the transit apartments). The shelters are at secret locations. There are relatively strict security measures in the emergency shelter (e.g. locked doors, no keys for the victims, security cameras, 24-hours assistance) while in the other shelters women have gradually more independence.

— Types of assistance

PE provides individually tailored administrative and legal support (including compensation claims), psychological and medical care, and assistance related to integration (e.g. language courses, training, support to access to education and labour market, including assistance on job-searching skills). Under the Spanish law, regardless of their residence status, victims of THB have the right to free legal aid and an interpreter; however, in practice the provision of legal assistance is not considered to be optimal. Assistance is provided to those who want to return to the country of origin (e.g. by acquiring the necessary documentation or mediating between the victims and the IOM).

— Bottlenecks

Bottlenecks that were named in the implementation of CAA were: lack of capacity in the shelters in cases when large numbers of victims are identified at the same time and possible barriers on the integration of victims (e.g. finding a job) because of the current economic crisis.

Perceived advantages and disadvantages of CAA

Specialised assistance tailored to the needs of the victims is considered to be the advantage of CAA by the Spanish respondents. Possible postponement of the recovery process of the 'old-tenants' who might re-live their past traumas when new victims come into the shelter, and the possibility of care-providers falling into stereotypes and concentrating on the aspect of being a 'victim' instead of victim's capabilities and strengths are identified as disadvantages of CAA.

Concluding remarks

The present study provides 'ingredients' for the organisation and implementation of CAA for victims of THB based on the experiences of four EU countries. Because of the lack of independent evaluation studies, it is not possible to conclude which has the most successful 'recipe'. There is a need for future research to explore the form – CAA or non-CAA – in which the assistance to victims of THB should be organised and implemented in order to reach its goals, and whether this form is context dependent.

Table S1 Organisation and implementation of Categorical Accommodation and Assistance (CAA) for victims of THB in Belgium, the Czech Republic, Italy and Spain

	Governmental Policy Instruments for the Protection & Assistance of Victims of THB	CAA Provided by	Reflection Period	Conditionality of Temporary Residence Permit & Assistance for Victims of THB	General Objectives of CAA	Target Group of CAA	Number, Type & Capacity of the Categorical Shelters	Duration of CAA	Types of Assistance	Security Aspects
Belgium	Law of August 10, 2005; Circular Letter 2008 CAA as standard	3 specialised NGOs: Payoke, Pag-Asa & Sürya	45 days No extension	<i>Residence Permit</i> Co-operation with the law enforcement authorities & Accepting at least ambulatory assistance from one of the 3 specialised NGOs <i>Assistance by the government & the NGOs</i> Conditionality of assistance is the same as that of temporary residence permit	<i>The government</i> To provide a 'safe haven' for victims of THB To encourage co-operation of victims with law-enforcement authorities <i>The NGOs</i> To stimulate the empowerment of victims Assistance to overcome the exploitative past & to make choices regarding pressing charges and residence status	<i>The government</i> Adult women and men All nationalities All sectors of exploitation <i>The NGOs</i> The same target group as the government; Belgian victims & victims with children are generally placed in non-categorical shelters but receive ambulatory care from the NGOs.	3 'mixed' shelters: 2 shelters with 16 places, one shelter with 10 places Mainly single buildings; a few apartments	Duration of stay in the shelters differs per NGO (between three to six months); extension is possible in individual cases Ambulatory assistance until the end of criminal proceedings	Individually tailored assistance Psycho-social and medical care Legal-administrative support Assistance related to integration Assistance related to voluntary return	Open shelters with curfew

	Governmental Policy Instruments for the Protection & Assistance of Victims of THB	CAA Provided by	Reflection Period	Conditionality of Temporary Residence Permit & Assistance for Victims of THB	General Objectives of CAA	Target Group of CAA	Number, Type & Capacity of the Categorical Shelters	Duration of CAA	Types of Assistance	Security Aspects
The Czech Republic	The Programme on Support and Protection of Victims of THB CAA and non-CAA	2 specialised NGOs: La Strada CR & Diaconia CNPS	Max. 60 days May be extended by a max. of 30 days under strict conditions Only for victims who initially accept to participate in the Programme	<i>Residence permit</i> To participate in the Programme (those who are identified by the police as a – presumed – victim & accept co-operation with the law-enforcement authorities after the reflection period & receive at least ambulatory assistance from the specialised NGOs) <i>Assistance by the government</i> (also for non-CAA) To participate in the Programme <i>Assistance by the NGOs</i> Identification by the police as a presumed victim and co-operation with the law-enforcement authorities are not necessary	<i>The government</i> (also for non-CAA) To support and assist victims of the criminal act of THB To encourage the co-operation of victims with law-enforcement authorities Mediate for voluntary return <i>The NGOs</i> To stimulate the empowerment and social inclusion of victims	<i>The government</i> (the Programme; also for non-CAA): Adult women & men All nationalities All sectors of exploitation <i>The NGOs</i> Participants and non-participants (those who are under risk of trafficking & those who do not wish to co-operate with law enforcement authorities) of the Programme Adult women & men All nationalities All sectors of exploitation Victims with children are referred to non-CAA	3 'single-sex' shelters: 2 men's shelters, with two and five places; 1 women's shelter with 5 places Apartments	Shelter facilities initially for 6 months; extension is possible; maximum duration of stay is one year Assistance by the Programme continues until the end of criminal proceedings or until receiving permanent residence. Assistance by the NGOs can continue after criminal proceedings.	Individually tailored assistance Social, medical & psychological assistance Legal assistance Assistance related to integration Assistance related to voluntary return	Open shelters no curfew

	Governmental Policy Instruments for the Protection & Assistance of Victims of THB	CAA Provided by	Reflection Period	Conditionality of Temporary Residence Permit & Assistance for Victims of THB	General Objectives of CAA	Target Group of CAA	Number, Type & Capacity of the Categorical Shelters	Duration of CAA	Types of Assistance	Security Aspects
Italy	Article 13 and Article 18 Programmes CAA as standard	Numerous specialised NGOs; in this study: Associazion on The Road (OTR) & Cooperativa Lotta Contro l'Emarginazioe (Coop Lotta)	No official reflection period Article 13 Programme (3 months) functions in practice as reflection period	<i>Residence permit</i> Identification by the police as a victim of THB & participation in Article 18 Programme (victims do not have to press charges against their traffickers) <i>Assistance by the government & NGOs</i> Conditionality of assistance is the same as that of temporary residence permit	<i>The government</i> (Article 18 Programme) Social inclusion of victims <i>OTR & Coop Lotta</i> Autonomy and social inclusion of victims	<i>The government</i> Participants of Article 13 and 18 Programmes Adults and minors Women and men All nationalities All sectors of exploitation <i>OTR & Coop Lotta</i> Same as the target group of the government, but only adults and victims without children	<i>OTR & Coop Lotta</i> 8 'single-sex' shelters: 4 shelters for women and 4 for men (in total 20 places for females and 19 to 20 places for males) Apartments & houses	<i>OTR & Coop Lotta</i> Duration of stay in the shelters differs per NGO (between 2 to 18 months) Ambulatory assistance for the duration of the individual 'integration project' within the context of the Article 18 Programme	<i>OTR & Coop Lotta</i> Individually tailored assistance Social, medical, and psychological assistance Administrative & legal support Assistance related to integration Assistance related to voluntary return	<i>OTR & Coop Lotta</i> Open shelters, no curfew

	Governmental Policy Instruments for the Protection & Assistance of Victims of THB	CAA Provided by	Reflection Period	Conditionality of Temporary Residence Permit & Assistance for Victims of THB	General Objectives of CAA	Target Group of CAA	Number, Type & Capacity of the Categorical Shelters	Duration of CAA	Types of Assistance	Security Aspects
Spain	Organic Law 2/2009 which involved various amendments to the Organic Law 4/2000; the Royal Decree 557/2011; the Framework Protocol for Protection of Human Trafficking Victims CAA and non-CAA	Numerous specialised NGOs/centres/projects; in this study: Projecto Esperanza (PE)	Minimum 30 days Possible extension is decided on case-by-case Only for victims who are officially identified as – presumed – victims	<i>Residence permit</i> Co-operation with law-enforcement authorities or personal circumstances <i>Assistance by the government</i> No specific conditions <i>Assistance by NGOs</i> Co-operation with law enforcement is not necessary	<i>The government</i> Formulation of the goals is left to the NGOs <i>PE</i> Autonomy of victims Integration in Spain or assistance in voluntary return	<i>The government & NGOs</i> Especially adult women; recently a pilot project for adult men All nationalities In principle all sectors of exploitation, but mostly victims of sexual exploitation <i>PE</i> Adult women All nationalities All sectors of exploitation Victims with children are referred to non-CAA	<i>PE</i> An emergency shelter, a long term shelter (each with 7 beds), and 2 apartments for independent living respectively with 2 and 3 beds	<i>PE</i> Emergency shelter: 15 days to 2 months; long term shelter: 6 to 12 months; apartments: 9 to 12 months Ambulatory assistance may continue until the victims gain 'sufficient independence'	<i>PE</i> Psychological and medical care Legal aid Assistance related to integration Assistance related to voluntary return	<i>PE</i> Emergency shelters during the first days with curfew, long term shelters and private apartments no curfew

1 Introduction

Trafficking in human beings (THB) is the use of force, fraud, or coercion to exploit people in situations that are in many cases, illegal and dangerous (GAO, 2007). Victims of THB, both women and men, may be exploited in the sex industry, sweatshops, factories, agriculture, service industries and private homes. As these victims generally have reasons not to come forward with what has happened to them, they are difficult to identify. Victims may not consider themselves to be victims, but rather as migrants whose journeys have gone wrong. They may refrain from reporting to the police for many reasons, including being embarrassed, emotional attachment to, or dependency on the perpetrator and fear of negative repercussions, either from their perpetrator or – in the case of victims with a weak legal status – from the authorities (Kleemans & Smit, in press). In most countries THB has been recognised as a problem, and there is widespread agreement for the need to both prevent and combat this crime and protect and assist the victims, some of whom are severely traumatised by their experiences (Clawson et al., 2008). If victims of THB succeed in escaping their exploitative situation and are identified as such, they can find refuge in shelters that either accommodate different kinds of populations, or offer 'Categorical Accommodation and Assistance' (CAA)² solely for victims of THB. This report contains the results of the first study of the experiences with CAA in different European countries. Below, the background of the study will be described in closer detail, explaining the reasons for the Dutch interest in CAA.

1.1 Background of the research

The Netherlands is one of the countries that has to deal with THB. In 2010, CoMensha, the Dutch Anti-trafficking Coordination Centre, registered 993 victims of THB, of whom 216 were in need of shelter (CoMensha, 2011). For a considerable time there has been a shortage of suitable shelter facilities for these victims in the Netherlands (NRM, 2009; 2010). Until recently, female victims of THB were usually accommodated in women's shelters and most of the male victims were placed in shelters for the homeless or public shelters. Most minor victims of THB end up in regular youth shelters.³ There were, however, signals that these types of shelters were not meeting the specific needs of this particular group of victims. In June 2010, the Minister of Security and Justice launched a pilot project to house victims of THB in three specialized shelters offering CAA located in different parts of the country.

1.1.1 Background of sheltering victims of THB

Not only in the Netherlands but also in other European countries, sheltering victims of THB finds its roots in women's shelters that were set up for victims of domestic violence. The first shelters were founded for women as they were recognised as victims of domestic violence at an earlier stage than men, while men were more

² In this report the term 'Categorical Accommodation and Assistance' (CAA) is used instead of the more common term 'categorical shelter'. CAA is defined in Section 1.2.1.

³ With the exception of unaccompanied minor asylum seekers: on January 1, 2008 a two year pilot project started on the accommodation and assistance of unaccompanied minor asylum seekers who were trafficked or at risk of being trafficked. After the evaluation of the pilot by the Research and Documentation Centre (WODC) (Kromhout et al. 2010), in June 2011 the minister for Immigration and Asylum decided to continue the project for another three years (TK 2010-2011, 27 062, no. 70).

often associated with homelessness (cf. Novac et al., 1996). The earliest women's shelters trace their origins back to the first wave of the women's rights movement in the 1960s and 1970s, which called for equality and non-discrimination in all aspects of life (Appelt et al., 2004). The very first women's shelter was established in 1972 in London. With the gradual spread of the movement within Europe, women's shelters were set up in different regions, and most recently in ex-communist countries in Europe, after the fall of the iron-curtain. Around 2004 there were about 1,500 women's shelters in Europe which were for the most part run by non-governmental organisations (NGOs), sometimes in co-operation with the government (Appelt et al., 2004). Women's shelters were originally founded as 'safe houses' to provide immediate protection and emergency care for women and their children escaping domestic violence (Ekal 2011; UN, 2006). However over the course of time they have evolved to be more than 'safe houses' offering 'a roof over the head', to often providing a wide range of services (Appelt et al., 2004; UN, 2006). The early goals of women's shelters (immediate protection of women from abusive situations) have been complemented by help and assistance directed toward the empowerment of women, strengthening their self-esteem and self-determination). Within this context the importance of providing individualised, need-oriented professional assistance regarding counselling, legal help, health-related services, educational opportunities, employment programmes, and financial assistance is emphasised (Appelt et al., 2004).

In the Netherlands, the first women's shelter was set up in 1974 for victims of violence in relationships of dependency, specifically victims of domestic violence (Commissie De Jong, 2011). In parallel to the international developments, women's shelters in the Netherlands now offer a mixture of services ranging from strictly undisclosed, emergency shelters to ambulatory services for a broad target group (Lünneman et al., 2010). In December 2007, the Dutch government announced that a wider interpretation would be given to sheltering and assisting victims of violence in dependency relations (policy letter of the State Secretary of Health, Welfare and Sport to The Dutch House of Representatives (*Beschermde en Weerbaar (Protected and Resilient)*, 2007-2008, 28 345 and 22 894, no. 51); since then the target group has expanded to include, not only victims of domestic violence but also victims of different forms of violence where the victims, for any reason, are dependent on offenders and have limited opportunity to break the uneven power relationship. This definition includes, amongst others, victims of THB.

However, at the same time it is pointed out that the current system of women's shelters is not sufficient to assist and help victims of different forms of violence (e.g. THB, honour related violence, genital mutilation) and the groups of victims that are gradually becoming heterogeneous, including migrant women or girls, seriously traumatised victims and male victims (Commissie De Jong, 2011). Recent studies indicate that the assistance provided in women's shelters does not meet the needs of these victims. For example, while migrant women receive less help than they themselves consider necessary, women born in the Netherlands receive more assistance than they desire (Wolf et al., 2006). In the policy letter 'Protected and Resilient', the Dutch State Secretary of Health emphasised the need for more individualised professional assistance, where help should be tailored to meet individual needs. Moreover, it is pointed out that women's shelters are not intended for assisting male⁴ or minor victims (Commissie De Jong, 2011).

⁴ In 2008 a pilot project for men's shelters was started in four big Dutch cities (Amsterdam, The Hague, Rotterdam and Utrecht). A total of forty places were made available (ten in each city) for men who are – seriously under threat of being – victims of domestic or honour related violence or human trafficking (NRM, 2009; TK 2010-2011, 30 388, no. 40). The pilot was extended until the end of December 2011 (TK 2010-2011, 30 388, no. 40).

1.1.2 *Reasons for shortage of suitable shelters for victims of THB in the Netherlands*

In addition to the above mentioned bottlenecks, there are specific reasons why women's shelters and shelters for the homeless, or public shelters where male victims of THB are accommodated are considered unsuitable for accommodating victims of THB:

- Lack of adequate safety measures: different international studies state that one of the most important aspects of a shelter is the provision of a safe and secure living environment (e.g. Appelt et al., 2004; IOM, 2007). However, it is reported that shelters where victims of THB are accommodated in the Netherlands do not provide adequate security for this group (Ministerie van VWS, 2010; NRM, 2009).
- Lack of professional assistance: according to an IOM handbook on assisting victims of THB, shelters for this group should ensure appropriate care and intervention for their residents, and all shelter staff should have a good understanding of trafficking phenomena, the effects on victims, and the implications for service delivery. Shelter staff should be familiar with the characteristics of trafficking and the trafficking process (IOM, 2007). However, according to a variety of sources, general shelters where victims of THB are accommodated in the Netherlands often lack professional assistance for this specific group, for example, regarding psychosocial problems and expertise in administrative and legal procedures (Ministerie van VWS, 2010; NRM, 2009).
- Unwillingness of service providers: not all general shelters are willing to admit victims of THB, as they are considered to be a difficult target group, because of, for example, language difficulties, administrative problems related to a lack of papers, unsuitability of the shelters' assistance approach – which is often group and future oriented –, high security risks because of possible criminal networks behind the victims, and possible addiction problems (NRM, 2004; 2009).⁵

In addition to the above, the increase in the registered number of victims of THB plays a role in the shortage of – suitable – shelters for victims of THB. Due to this increase, the shortage of appropriate shelters for this group has grown over the years. Figures from CoMensha show that the number of registered victims increased from 716 in 2007 to 909 in 2009. At the same time there was an increase in the number of registered victims who were in need of shelter (from 133 in 2007 to 201 in 2009) (CoMensha, 2010; Ministerie van VWS, 2010). In 2009, only 166 of the 201 victims who requested shelter could be accommodated, of whom 16 were referred to temporary emergency places. Moreover, CoMensha has a waiting list (*doorplaatslijst*) of those who are housed in a shelter, but need to be transferred to more suitable accommodation. According to the 2009 annual report, 29 victims were on this list (CoMensha, 2010; Ministerie van VWS, 2010). As a result of the waiting period – which can vary from a couple of hours to several days (CoMensha, 2010) – victims sometimes have to stay with friends, in a police cell or elsewhere (TK 2008-2009, 28 638, no. 39; TK 2008-2009, 28 638, no. 44; Ministerie van VWS, 2010), a situation which is considered unsuitable for victims (Ministerie van VWS, 2010). Firstly, in accordance with human rights laws, states must provide 'effective remedies' (among others, access to legal, medical, psychological, social, administrative and other assistance) to victims of THB, as trafficked persons are not only victims of

⁵ This is not unique to the Netherlands: according to the Anti-Human Trafficking Task Force Strategy and Operations e-guide of the United States (US) Bureau of Justice Assistance and the Office for Victims of Crime (www.ovcttac.gov, consulted March 2012), some domestic violence shelters are unwilling to extend their services to victims of THB for exactly the reasons mentioned above. Therefore: 'if it has been determined that the individual is a victim of human trafficking, it is best to find housing for them in a specialized setting' (p. 75 of this guide).

a crime but of human rights abuses too (Ezeilo, 2011). Secondly, it is argued that in these situations victims cannot find the peace they need which negatively impacts on their willingness to report their abuse or co-operate in other ways with the authorities, regarding the tracking and prosecution of offenders. Although THB is not an offence which is only prosecuted when a complaint is made, for the successful tracking and prosecution of offenders, it is desirable that victims report the crime, or co-operate with the authorities (Ministerie van VWS, 2010).

1.1.3 Policy context

Recent Dutch governments (Balkenende IV and Rutte I coalitions) have taken several measures to deal with the crime of THB and to improve the situation regarding the shelters for victims of THB. In the policy letter 'Protected and Resilient' the then State Secretary of Health, Welfare and Sport announced, together with the State Secretary of the – then – Ministry of Justice, that a plan concerning the shelters for victims of THB would be presented. At the beginning of 2008, the Human Trafficking Task Force was set up, to spot bottlenecks in tackling THB and come up with solutions (Openbaar Ministerie, 2009). The Task Force advocated measures, one being to optimise the situation regarding shelters for victims of THB.

In the Netherlands different ministries are responsible for the organisation and financing of the accommodation and assistance of victims of THB. During consecutive phases of their stay in the Netherlands, foreign victims of THB fall under different regulations, financed by different ministries. This distribution of responsibility leads to discussions between these ministries and is considered to be a problem for the organisation of relevant services (Ministerie van VWS, 2010).⁶

Considering the above mentioned reasons for the shortage of suitable shelters, social services, policy makers, and police have agreed for some time that setting up categorical shelters for victims of THB would be desirable (NRM, 2009). Similarly the Dutch National Rapporteur of Trafficking in Human Beings (NRM) has pleaded for this type of shelter which is already available in a number of European countries. In response to questions from the Dutch House of Representatives, discussed in a plenary discussion in December 2008 (TK 2008-2009, 28 638, no. 39), the then State Secretary of Justice stated that she, and the then State Secretary of Health, Welfare and Sport would start a pilot concerning the provision of categorical shelters specifically for victims of THB (TK 2008-2009, 28 638, no.44). In the build-up to the start of the pilot, in December 2009, 17 emergency places for female victims of THB were realised as a temporary solution for those in urgent need (TK 2009-2010, 28 638, no. 47, p.3; TK 2009-2010, Aanhangsel van de Handelingen, no. 2349, p.1).

1.1.4 Pilot categorical shelter

During the set-up, the goals of the pilot were defined as follows (Ministerie van Justitie, 2009):

- to gain better insight into the nature and size of the need for shelters for victims of THB;
- to place victims of THB quickly in a safe surrounding by providing individual help and assistance;

⁶ In a recent letter to the Dutch House of Representatives, the Minister of Security and Justice states that because of the differentiated responsibility for the organisation of shelters for victims of THB, arranging proper shelter for large numbers of victims who are discovered all at the same time as a result of raids is problematic (TK 2011-2012, 28 638, no.72).

- to map out the individual needs of the victims together with them: return to the country of origin, or moving to a follow-up shelter or some type of autonomous housing;
- to develop an assistance plan/methodology for the target group;
- to improve the willingness of the victims to co-operate with the authorities to trace and prosecute the offenders.

The pilot officially started on June 15, 2010 for the duration of two years. Categorical shelter is provided at three locations that, together, can accommodate up to 50 victims of THB; 40 females and 10 males. At the beginning of 2012, the Dutch government decided to extend the duration of the pilot for another two and a half years (starting from mid-2012) and to increase the number of places to 70 (TK 2011-2012, 28 638, no. 72). The target group involves national and foreign adult victims of THB, both in the sex industry as well as in other sectors. The duration of stay in the shelter depends on the needs of the victims, but is in principal three months (Ministerie van Binnenlandse Zaken en Koninkrijksrelaties, 2012; Ministerie van VWS, 2010).

In this report little attention is paid to the Dutch situation, as the pilot is still being evaluated by the Research and Documentation Centre of the Dutch Ministry of Security and Justice (WODC) separately (TK 2008-2009, 28 368, no. 44; TK 2009-2010, Aanhangsel van de Handelingen no. 2349, p.1).

1.1.5 International context

The national context of the research, described above, explains how the difficulties in sheltering victims of THB, and the CAA pilot for victims of THB, nourished the interest of the Dutch government in the approaches of, and experiences with, CAA in other countries. Obviously these countries, as well as the Netherlands, operate in an international context, a context which is determined by international and European legal instruments, and the discourse taking place on certain aspects of the THB issue. The regulations and discourse regarding CAA are touched upon below.

THB is increasingly seen not only as a problem of migration, public order or (organised) crime, but also as a violation of human rights. In the fight against THB a more victim-orientated human rights approach has become increasingly important. The distinguishing feature of the human rights approach is that the victim takes on a central position. This approach, which the NGOs had already been demanding (NRM, 2002; 2003) was promoted by the UN Office of the High Commissioner for Human Rights in 2002, when it published 'Recommended Principles and Guidelines on Human Rights and Human Trafficking' (UN, 2010). In the European context, a human rights approach is visible in recent European law instruments, and also in the important decision taken by the European Court of Human Rights, when it determined that THB is a violation of human rights (UN, 2010).⁷

International and European legal instruments

In a European context, the four most relevant legal instruments containing the rules and regulations regarding the approach of THB and assistance and protection of its victims are:

⁷ In this case (*Rantsev v. Cyprus and Russia*) the Court brought THB, as defined in the Palermo protocol and the Warsaw Convention, within the ambit of Article 4 of the European Convention of Human Rights, wherein 'slavery', 'servitude' and 'forced and compulsory labour' are prohibited. It concluded that there can be no doubt that trafficking threatens human dignity and the fundamental freedoms of its victims and cannot be considered compatible with a democratic society and the values expounded in the Convention. Whether or not Russia signed or ratified the Warsaw Convention was apparently not decisive in this (Boot-Matthijssen, 2010).

- the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime, the so-called Palermo protocol,⁸ and the three European law instruments that are based on the Palermo Protocol:
- the Council of Europe Convention on Action against Trafficking in Human Beings – the so-called Warsaw Convention (into force on May 5, 2006);
- Directive 2004/81/EC on the Residence Permit issued to Third-country Nationals who are Victims of Trafficking in Human Beings or who have been the Subject of an Action to Facilitate Illegal Immigration, who Co-operate with the Competent Authorities (into force on August 6, 2004);
- Directive 2011/36/EU on Preventing and Combating Trafficking in Human Beings and Protecting its Victims and Replacing Council Framework Decision on Combating Trafficking in Human Beings 2002/629/HA (into force on April 15, 2011).

European Union (EU) Directives are automatically legally binding for the member states, whereas states can choose whether or not to be party to United Nations (UN) or Council of Europe instruments.

Definition of THB

The aforementioned legal instruments each contain a definition of THB. These definitions all comprise three core elements: action, means, and purpose (exploitation); these elements must be present to constitute the crime of THB (OSCE, 2011; UN, 2004, 2010). Box 1.1 contains these three key elements:

Box 1.1 Key elements of the international legal definition of THB

Action	Recruitment, transport, transfer, harbouring or receipt of persons.
Means	Threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power or position of vulnerability, giving or receiving payments or benefits to achieve consent of a person having control over another.
Purpose*	Exploitation (including, at a minimum, the exploitation of the prostitution of others, or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs).

* A person does not have to be actually exploited to constitute the offence of THB; the purpose of exploitation suffices.

Source: UN, 2010

The definitions of THB in the international instruments are intended to contribute to a standardisation of this concept. According to the obligation in the instruments, countries have criminalised THB in their own national legislations. They did not have to follow the language of the definition precisely. As the definition contains undefined elements and terms that can be interpreted differently (Coster van Voorhout, 2007), the definitions of THB in national laws, and thus what actions are liable to punishment as THB, vary per country (NRM, 2010).

The Palermo definition gives – next to exploitation in the sex industry and the removal of organs – a non-exhaustive list of labour exploitation purposes, ‘including at a minimum’ forced labour or services, slavery or practices similar to slavery and servitude as the purposes of exploitation. Neither the Palermo protocol nor the above mentioned European instruments contain a description of these terms, and

⁸ The EU has signed this protocol which came into force on 25 December 2003 (<http://treaties.un.org>).

only some of them have been defined in older treaties.⁹ However, as on the grounds of the 'legality principle' crimes should be explicitly included and clearly defined, it is stated, that the other forms of exploitation should be explicitly included in national legislations (UNODC, 2009) and that the list of purposes should be extended, for example, to include debt bondage and forced marriage (UN, 2010). In Directive 2011/36 more exploitative acts are explicitly nominated: forced begging (as a form of forced labour or services) and the exploitation of criminal activities. After the introduction of these new international instruments, many countries that adjusted their laws to include THB for purposes of labour exploitation, did not strictly define this concept, and passed the burden of interpretation to the judiciary (ILO, 2005).

Another problem of definition is created by the combination of the key elements: what actions and means are needed, at what exact point in time does exploitation become THB? It is unclear, for example, what the turning point is between being a poorly paid illegal employee and being a victim of THB. In practice, because the separate elements of the crime are difficult to prove, it may be easier to investigate and prosecute more established offences such as debt bondage, sexual assault or forced labour, instead of the complicated crime of THB. Related offences, such as rape, and sexual or physical assault can be used to prosecute and convict traffickers, but then the victims do not get the opportunity to receive all the provisions available to victims of THB (UN, 2010).

A final problem of definition that must be mentioned concerns the confusion that exists between THB and the smuggling of human beings. Both phenomena can be difficult to distinguish, and may be intertwined, which implies risks of misidentification (UN, 2010), with negative consequences for the victims of THB. However, smuggling may, but does not necessarily, include an exploitative purpose or the elements of force, deception, abuse of power or position of vulnerability, or fraud. And to constitute the crime of trafficking, no (illegal) movement is required; trafficking can take place when borders have been crossed legally, or even within the borders of a country: internal trafficking (Council of Europe, 2005; UN, 2010).

Target group and victim identification

In the following, we will focus on the European instruments, which are more recent and have been based on the Palermo Protocol. These do not target the same groups of THB victims. The Warsaw Convention contains provisions regarding *all* victims, as well as provisions specifically aimed at victims who are illegally present in a country, for example, those who have not yet been formally identified, but regarding whom there are reasonable grounds for believing them to be victims. Directive 2011/36/EU relates to all victims of THB. Directive 2004/81/EC concerns victims who are third country nationals who can be granted a temporary residence permit if they co-operate with the criminal justice authorities.¹⁰ The possibility of applying for this kind of residence permit does not interfere with the rights of the victim to ask for asylum, or for a residence permit on other (humanitarian) grounds.

The Warsaw Convention and Directive 2011/36/EC contain provisions regarding victim identification. These instruments do not state *how* the identification should take place, only that there should be appropriate mechanisms aimed at the early

⁹ Slavery is defined in, or dealt with, by many international instruments; for example in the Geneva Convention on Slavery of 25 September 1926, as amended by the New York Protocol of 7 December 1953. Forced labour is defined in the ILO Convention concerning forced or compulsory labour, nr. 29, 1930.

¹⁰ According to the preliminary considerations, this directive was issued within the scope of immigration policy, to combat illegal immigration.

identification of victims of THB, and that authorities and relevant support organisations (NGOs) should co-operate in this respect. Identification is very important, because without proper identification, victims risk being treated primarily as illegal immigrants, prostitutes or illegal workers. They also risk being punished or deported to their countries without any further assistance,¹¹ without accessing the rights that THB victims have (UN, 2010). Furthermore, without victim identification, the crime of THB will not be documented or the perpetrators prosecuted (OSCE, 2011).

In practice various actors – state authorities and NGOs – with different agenda's and sometimes different interpretations of the definition of THB are involved in victim identification (OSCE, 2011). This may lead to different judgements, for example, in the two phases that are often distinguished in the identification process: preliminary identification and – subsequently – formal identification (Orfano, 2010). In many countries 'formal' identification is made by law enforcement authorities (mostly the police). In the international context it is stressed that other organisations should also be involved (for example multidisciplinary teams). In this respect the development of National Referral Mechanisms is worth mentioning. Their basic aim is to ensure that the human rights of trafficked persons are respected, and to provide an effective way of referring victims of THB to services. According to an OSCE/ODIHR handbook on National Referral Mechanisms, they should be designed to formalize the co-operation between governmental and NGO-agencies (OSCE/ODIHR, 2004). By now many countries have – at least formally – installed a National Referral Mechanism, and guidelines for the development of a Transnational Referral Mechanism, linking national efforts, are being developed (Orfano, 2010).

Recently, in the *Rantsev v. Cyprus and Russia* case, the European Court on Human Rights took an important decision regarding victim identification: state authorities must be aware of the circumstances which have given rise to a credible suspicion that an individual has been at real and immediate risk of being trafficked or exploited within the meaning of the Palermo protocol, or the Warsaw Convention. The Court refers to the requirement in the Palermo protocol for states to ensure adequate training of those working in relevant fields to enable them to identify potential trafficking victims (also a requirement in the Warsaw Convention).

Reflection period and residence permits

According to the Warsaw Convention and Directive 2004/81/EC,¹² persons who are staying illegally have to be granted a reflection period if there are reasonable grounds for believing them to be victims of THB. This allows presumed victims some time to recover and escape the influence of their traffickers. In this way they can make an informed decision about whether or not to co-operate with law enforcement agencies in the investigation and prosecution of the traffickers.¹³ During the reflection period, victims of THB are not to be removed from the country and are entitled to accommodation and assistance.

The Warsaw Convention and Directive 2004/81/EC contain provisions regarding the granting of a temporary residence permit for victims of THB who are illegally staying in a country. To be granted such a permit, the person has to co-operate with the criminal justice authorities.

In a report to the European Parliament and the European Council on the application of Directive 2004/81 (COM, 2010), it is concluded that the impact of the Directive

¹¹ Explanatory report to the Warsaw Convention, nr. 127 and 128.

¹² In the Palermo protocol there is no provision for a reflection period.

¹³ The reflection period can be refused or terminated on grounds of public order or if it is found that victim status has been claimed improperly (Warsaw Convention) or the victim has, on his/her own initiative, renewed contact with the traffickers (Directive 2004/81/EC).

appears to be inadequate, as far more victims are being identified than residence permits issued. According to the report, thought will be given to the need for amendments to the Directive, including the possibility of issuing a temporary residence permit based on the situation of the victim, not necessarily in exchange for co-operation with competent authorities.

Accommodation and assistance

Summarised, according to the European instruments, the following assistance should be given to victims: accommodation, psychological assistance, material assistance, (emergency or necessary) medical treatment, translation and interpretation services when appropriate, counselling and information in particular regarding legal rights, and safety and protection. The instruments also contain provisions on special care for victims with special needs, for example, because of their young age, pregnancy, health, disability, mental or psychological disorder, or because of a serious form of psychological, physical or sexual violence that they have suffered. The provisions are described in general, not in terms of exact requirements (see Appendix 3 for the verbatim text of the assistance measures in the international instruments). Provisions with respect to integration (in the country of destination or in the country of origin), legal assistance and compensation are also included. The assistance measures prescribed in the international instruments are the minimum required.

For victims with a residence permit, conditions have to be defined which determine access to the labour market, vocational training and education. Provisions in other national or international legal instruments regarding persons who are staying illegally in a country, for example, or who are victims of crime in general, can also apply to victims of THB.

Both the Warsaw Convention and Directive 2011/36/EU state that assistance to victims of THB should be given unconditionally. However, after the reflection period, an illegally staying third country national needs a residence permit to stay in the country and to receive assistance. To be granted such a special residence permit, the victim has to co-operate with the criminal justice authorities (Directive 2004/81/EC).

It is often advocated that assistance should be unconditional, amongst other things, substantiated by the fact that it is questionable as to whether someone who is compelled to give a testimony can ever be a strong witness or not (UN, 2010).

Even if assistance is given unconditionally, the investigation into the trafficking case may continue, obliging the victim concerned to give evidence, because the law in a lot of countries stipulates that it is compulsory to give evidence if requested.¹⁴

Male victims of THB

Most anti-trafficking activity is directed against exploitation in the sex industry, and as a result of the misconception that THB usually involves women trafficked for sex, victims trafficked for the purpose of labour exploitation are not always recognised or treated as victims. Victims (male and female) of labour exploitation are often considered first and foremost to be illegally staying migrants and punished and deported without any consideration of their victim status (Heemskerk & Rijken, 2011; Rosenberg, 2010). There also seems to be a lack of services available for male victims of THB as most services are designed and tailored to the needs of female victims, in particular to those who have been trafficked for the purposes of sexual exploitation (Smit, 2011; Rosenberg, 2010). Temporary accommodation, especially in the country of destination, is generally lacking for male victims of THB, and there is little ambulatory care. Many shelters for trafficked persons only accom-

¹⁴ Pointed out in explanation 170 of the Explanatory report to the Warsaw Convention.

moderate women or children, and most of the assistance provided is linked to staying in a shelter (Rosenberg, 2008; 2010). An additional problem might be that some studies indicate that men may reject offers of assistance – if available – as they do not see themselves as victims (Rosenberg, 2010; Surtees 2008).

1.2 Objectives of the research, terminology, research questions and method

1.2.1 Objectives of the research and terminology

The present research is explorative and descriptive in nature. It aims to describe the experiences and knowledge in four European countries regarding the CAA for adult victims of THB. It also explores the perceived advantages and disadvantages of the CAA in these countries, and the experienced bottlenecks and possible solutions employed by these countries to solve these problems. The intention of this current report is to provide input for the possible further implementation and design of CAA for victims of THB in the Netherlands. It should be noted that this study does not aim to *evaluate* CAA in the selected European countries; however, existing evaluation studies were sought.

In this report the term CAA is preferred to the term 'categorical shelter' as it explicitly includes both accommodation and assistance; CAA is defined as follows:

- CAA is solely for victims of THB.
- It can be provided to various target groups, in different accommodation types and can contain different forms of assistance:
 - CAA can be meant for different 'types' of victims of THB (e.g. women, men, adults, minors, victims who are exploited in the sex-industry or in other sectors).
 - CAA can be meant for emergency or short-term care, but also for long term assistance.
 - Specialized-assistance can be provided in or outside the shelter.
 - Categorical accommodation can have different forms. For example, 1) victims can be accommodated in separate buildings that are dedicated exclusively to victims of human trafficking, but 2) they can also be accommodated in a separate space such as a separate floor in an existing (general) shelter, or 3) in private apartments.
- CAA can be provided by governmental, semi- or non- governmental organisations.

Following the example of Busch-Armendariz et al. (2011), for narrative efficiency and, in recognition of their criminal victimisation, in this report people who have been subjected to THB are referred to as 'victims of THB'. Furthermore, 'from a human rights framework, the term 'victim' is important as it designates the violation experienced and the responsibility to redress' (Surtees, 2007, p. 34). Surtees distinguishes potential victims, presumed victims, and identified victims. These terms are used and defined differently in the various countries. This report sticks to the terminologies used in these countries, complemented with the term 'client' as and where this expresses the (potential, presumed or identified) victim's relationship to service providers.

For narrative efficiency purposes, the terms 'trafficking for sexual exploitation' and 'trafficking for labour exploitation' are used instead of 'trafficking for the purpose of sexual exploitation' and 'trafficking for the purpose of labour exploitation'.

1.2.2 Research questions

The overarching question in this study is: What are the experiences with CAA in other European countries? The corresponding research questions are:

- 1 What are the objectives of CAA for victims of THB in the selected EU countries and what is the target group?
- 2 How is CAA for victims of THB organised and implemented in the selected countries? What are their experiences with CAA?
 - a What is the working method regarding enrolment, placement and registration?
 - b How are the shelters set up with respect to the composition of the target group, capacity and the duration of stay?
 - c What kinds of judicial, medical, social and psychological care/assistance are provided?
 - d Are the victims assisted during the criminal proceedings? If yes, how?
 - e What kind of security measures are taken in the shelter?
 - f How are the victims assisted in the continuation of their residence or return to their country of origin?
 - g Are there indications that the objectives of CAA are realised?
 - h Are there any unexpected results?
 - i Are there any bottlenecks in the organisation and implementation of CAA?
- 3 What are the perceived advantages and disadvantages of CAA?

1.2.3 Research method

Two phases of data collection are distinguished. Firstly, a quick-scan was done to find out which countries within the EU provide CAA to victims of THB. Secondly, four countries were selected. Then information related to the organisation and implementation of CAA in these countries, and the legislation and policy framework in which the CAA functions, was gathered. In this paragraph, the methods that were used during both phases are described.

Phase One: Inventory of EU countries for CAA

During the inventory, triangulation of sources and methods was applied to increase the reliability of the results:

1a Collecting and analysing literature

- Literature was found by:
- Making use of 'Google'. The following keywords were used in the search: 'victims (of) (human) trafficking' combined with: 'men/women'; 'protection/ assistance'; '(specific) shelter(s)'; 'reintegration centre(s)'; 'sexual exploitation'; 'rehabilitation centre(s)'; 'reception centre(s)'; 'residential rehabilitative shelters'; 'post-trafficking'; 'safe houses'; 'specialized NGOs'. Furthermore: 'trafficking in persons'; 'trafficking in human beings' were used as well as numerous geographical keywords related to relevant countries.
- Consulting websites of different European institutions, (specialised) European organisations and specialised NGOs.
- Follow-up of organisations that were mentioned on consulted websites.
- Follow-up of references in relevant literature.

1b Conducting a questionnaire amongst countries which are members of the EMN network

In co-operation with the research department of the Immigration and Naturalisation Service Information and Analysis Centre (INDIAC) – the contact point for the

Netherlands within the European Migration Network (EMN)¹⁵ - a short questionnaire was distributed amongst the 27 EMN contact points (excluding the Netherlands), in order to find out which European countries provide – a form of – CAA for victims of THB. This resulted in a response from 17 EU member states.

1c Contacting relevant key figures of NGOs, ministries or other organisations in the EU countries

To further determine which countries had – a form of – CAA for victims of THB, contact was sought with relevant key figures working at either ministries, NGOs, or other organisations specialised in combating THB and/or the provision of shelter to victims. They were traced in numerous ways:

- Some contact details were provided by responding EMN contacts.
- Written contact was sought with the authors of the country profiles in a report compiled by different international NGOs (Associazione On the Road, Italy; ACCEM, Spain; ALC (France); and La Strada International, the Netherlands) within the framework of the project 'European NGOs Observatory on Trafficking, Exploitation and Slavery' (Dottridge, 2010).
- Country profiles were also found on the website www.ec.europa.eu and relevant organisations mentioned in these country reports were contacted.

At the end of phase one, it was concluded that 15 EU member states provided CAA for victims of THB. In nine countries this was not the case and for two countries, the situation regarding CAA remained unclear.

Phase Two: Selection of EU countries

After the inventory was completed, in consultation with the Supervision Committee of this study, four countries were selected, namely: Belgium, the Czech Republic, Italy, and Spain. In general, the following criteria played a role in the selection of these countries:

- The diversity in approaches regarding CAA between the countries.
- Comparability with the Netherlands regarding the situation with respect to THB and CAA: the Netherlands is mainly a destination and a transit country, and the Dutch CAA targets a broad group. All four countries have these characteristics in common with the Netherlands.

Hereafter, the underlying reasons for this selection are briefly discussed.

Belgium

Belgium, a neighbouring country of the Netherlands, has a long history of experience with providing CAA, both to female and male victims of THB.

Czech Republic

The Czech Republic is a country in transition; in the past it was considered a 'source country', whilst now it is also becoming a 'destination country'.¹⁶ It provides CAA to both female and male victims. There is a special governmental programme for the protection and assistance of victims of THB.

¹⁵ The EMN is a European network consisting of 28 contact points. It includes the 27 EU member states and Norway. Its goal is to meet the information needs of EU institutions and the Member States' authorities and institutions by providing up-to-date, objective, reliable and comparable information on migration and asylum, with a view to supporting policymaking in the EU (see: <http://emn.intrasoft-intl.com/html/index.html>).

¹⁶ A 'source country' is a country where victims of THB originate from. A country where victims end-up and the exploitation takes place is a 'destination country'.

Italy

Italy provides CAA to female, male and minor victims of THB.¹⁷ This country distinguishes two different routes whereby victims of THB can be admitted to a long-term protection programme: the social route and the judicial route. In the social route CAA is not dependent on the willingness of the victim to co-operate in criminal proceedings.

Spain

Spain provides CAA to both female and male victims of THB.¹⁸ Victims are accommodated in different shelters (emergency shelters, long-term shelters and private apartments), depending on their needs. The use of these different shelter options makes this country a particularly interesting case.

Additional information was collected for each selected country and processed via triangulation of sources and methods. This was done by:

2a Literature study

In this second phase, a search was made for additional literature on the four selected countries. This was found, amongst other places, on the websites of different ministries, NGOs and other relevant organisations. The variety of literature consulted ranged from research reports, policy documents, legal provisions, published and unpublished documents by NGOs or governments, and newspaper articles (so-called 'grey literature'). Furthermore, interesting references in publications were also followed up. Finally, respondents (see below) sometimes provided country-specific information. For each country – depending on the situation – different 'search terms' were used.

To systemise the information gathered from the literature, a general topic list was developed based on the research questions. Depending on the individual circumstances in a country, additional topics were added, or less relevant items were omitted.

2b Interviews with key figures

Key figures from relevant ministries, NGOs and others with expertise in providing CAA to victims of THB or its policy framework were interviewed. The respondents of the four different countries were recruited via different channels. Firstly, one of the members of the Supervision Committee of this research offered the possibility of interviewing various experts from the selected countries,¹⁹ during an international meeting. These interviews were, in most cases, exploratory in nature and intended as a method of collecting general information on the situation in the country regarding CAA for victims of THB. During these interviews, the snowball method²⁰ was used; via these respondents the researchers were put into contact with other experts in the field. Information was also provided on other relevant organisations that deal with (assisting victims of) THB. In most cases, a new appointment was made for a second interview, these were done either face-to-face, via Skype or by phone. Face-to-face interviews were conducted when multiple respondents could be interviewed at once. If respondents did not speak Dutch or English, employees from the

¹⁷ CAA for minor victims was excluded from this study as the focus lies solely on adult victims of THB.

¹⁸ CAA for men was excluded from this study as this was only recently implemented in the form of a pilot.

¹⁹ With the exception of Belgium which was not represented at the meeting.

²⁰ Snowball sampling is a form of sampling in which persons initially chosen for the sample, are used as informants to locate other persons who have the necessary characteristics which make them eligible for the sample (Penrod et al., 2003, p. 101-102).

relevant organisations functioned as interpreters. One interview was conducted in Italian.

Secondly, respondents were found and contacted via websites of relevant organisations that provide or are involved in CAA for victims of THB. This was particularly the case for Belgium, since no Belgian NGOs were present at the above-mentioned meeting. Again, the snowball method was used to find other experts.

To increase the reliability of the findings from the literature study, in most cases before the interview took place, the respondents received a draft of the preliminary country report that was based on the literature survey.²¹ The research questions and the topic list that was developed for the literature survey served as a framework for the semi-structured questionnaires that were used during the interviews. As the situation concerning THB and CAA varied per country, different questionnaires per country and per organisation were developed to clarify and complete the information that was gathered from the literature study.

The duration of the interviews varied from one to three hours, depending on the focus of the interview, the presence of an interpreter, and the number of respondents attending the interview. All interviews were recorded with the permission of the respondents; most were literally transcribed. To secure the privacy of the respondents, the names of the respondents are not stated in the report, only the names of the organisations they represent.

Respondents

To get a better insight into the policy context and the organisation and implementation of CAA in the different countries, experts from various fields were interviewed; in a few cases respondents provided information in other ways (written information and comments on draft texts). These included 1) key-figures from specialised NGOs or projects providing CAA to victims of THB (e.g. executives, shelter coordinators, care providers and lawyers), 2) representatives of relevant ministries who were involved in policy making in the field of THB, and 3) representatives of specialised institutions closely associated with policy making or law enforcement.

In the four countries, a total of 27 respondents participated in the study (eight in Belgium, five in the Czech Republic, and seven respectively in Italy and Spain). The number of respondents differed per country depending on the number of specialised NGOs providing CAA and the expertise of the respondents; in some cases the researchers were referred to other key figures by the respondents for additional information on certain topics. In Belgium and the Czech Republic, representatives of all specialised NGOs providing CAA were interviewed (respectively three NGOs operating three shelters and two NGOs operating three shelters). In Spain and Italy a selection was made from a large number of organisations (ranging respectively from 19 to about 50): representatives from two Italian NGOs (respectively operating two and six shelters), and one Spanish NGO (operating four shelters) were interviewed. Consequently, results for these two countries do not reflect all the possible variations in the implementation of CAA in these countries. Appendix 4 presents an overview of the respondents on a country by country basis.

As an extra check the respective respondents were requested to comment on drafts of the country chapters, which most of the key-figures did.

²¹ The interview questions were sent when these were requested by the respondents. In other cases, respondents received an email with more general information about the research, research questions and the topics that would be discussed during the interview. In case of Italy, due to language difficulties, in some cases the questions were emailed with the request to first answer them on paper. When necessary, additional interviews were held. This method was also used in Spain in two cases, due to language difficulties.

1.2.4 Remarks

The following remarks need to be made about the research method. Different authors draw attention to the scarcity of reliable and comparable data in the field of THB at both national and international levels (e.g. Bilger et al., 2010; GAO, 2006; Laczko, 2005; Lehti & Aromaa, 2006; Savona & Stefanizzi, 2007). Similar problems were encountered during the implementation of the current study. During the literature search on the selected countries, various sources presented different, sometimes conflicting figures, for example, related to forms of THB, numbers and/or nationalities of victims. In some cases it was difficult to find nation-wide figures because of, for example, the lack of national registration systems. To ensure at least some consistency within and across the 'country chapters', information from the Trafficking in Persons (TIP) reports by the United States (US) Department of State was used. However, it should be noted that these reports have their own limitations as the US Department of State is dependent on the information delivered by organisations in the countries, which may be 'coloured'. Subsequently, the information from the TIP report was complemented by other literature. Possible conflicting information between the sources was checked during the interviews (see individual country chapters for more information). Results about the organisation of CAA provided to the victims of THB in individual countries are, to a large extent, based on interviews with the representatives of the NGOs and governments as little information was found in the literature on this aspect.

Furthermore, as mentioned above, the results in the country chapters are based on literature study and interviews with key figures from ministries, NGOs and other interest groups involved in the field of CAA for victims of THB. Interviews with victims or (participant) observation in the shelters did not take place.

1.3 Content of the report

The present report contains six chapters. Chapters 2 through 5 aim to answer the three research questions consecutively for Belgium, the Czech Republic, Italy and Spain. These 'country chapters' each present some general information on the countries and specific background information related to CAA for victims of THB, for example, information concerning the forms of THB encountered, related criminal networks, and the policy context of THB. Next, the target group, the objectives and the organisation and implementation of CAA are covered (e.g. identification, types of shelters, types of assistance, and bottlenecks of CAA), after which the perceived advantages and disadvantages of CAA for victims of THB are presented. Because of the specific situations related to the organisation and implementation of CAA and the number of NGOs or projects providing CAA in the respective countries, the country chapters are not completely similar in their structure and volume. Finally, Chapter 6 draws general conclusions regarding the organisation and implementation of CAA based on the information from the four countries that were studied.

2 Belgium



Source: CIA The World Factbook

2.1 Introduction

Belgium is located in Western Europe, bordering four different countries (The Netherlands, Germany, Luxembourg and France) and the North Sea.²² Belgium is a federal state, characterised by segregated power at different levels. It consists of three different language communities: the Flemish, the French, and the German. The country is also divided into three regions: Flanders, Wallonia, and the Brussels Capital.²³

Trafficking in human beings (THB) became acknowledged as a serious problem in Belgium after the publishing of the book in 1992 'Mister, they are so sweet' [*Ze zijn zo lief meneer*]²⁴ by Chris de Stoop, which focused on trafficking in women and forced prostitution²⁵ in the country (Vermeulen et al., 2006; various respondents). From then onwards, THB has been high on the political agenda. In that context a Parliamentary Investigation Committee 'Human Trafficking' was formed in the House of Representatives, charged with the examination of proposals for a structural policy on combating the international trade in women. Also, different specific laws and measures have been adopted to fight THB (Jaspert & de Pauw, 2010; various respondents), such as the introduction of an inter-agency directive (in 2008) to – amongst other things – improve the identification and referral of traf-

²² Belgium has nearly 11 million inhabitants (<http://appsso.eurostat.ec.europa.eu>, consulted: May 26, 2011).

²³ See www.belgium.be, consulted: April 26, 2011.

²⁴ C. De Stoop (1992) *Ze zijn zo lief, meneer*. Leuven: Kritik.

²⁵ Forced prostitution, also known as involuntary prostitution, is the act of performing sexual activity in exchange for money on a non-voluntary basis.

ficked victims. Furthermore, the government and the King Baudouin Foundation²⁶ has funded several NGOs which conducted prevention campaigns (US Department of State, 2009, 2010). NGOs and shelters for victims were also financed to provide comprehensive victim assistance and the full spectrum of services and protection measures to this group (US Department of State, 2009, 2010). Currently, Belgium has three specialised NGOs (hereafter 'NGOs') solely for victims of THB (Payoke, Pag-Asa and Sürya). In 2008, Belgium developed its first National Action Plan to combat THB (Koninkrijk België, 2008).

The Belgian government has not yet officially appointed a National Rapporteur on THB. However, since 1996 this role has de facto been fulfilled by the Centre for Equal Opportunities and Opposition to Racism (CEOOR; in Flemish: *Centrum voor Gelijkheid van Kansen en Racismebestrijding*, CGKR) (US Department of State, 2011) which publishes independent annual reports on human trafficking and smuggling (EMN, 2011).

In this chapter the focus lies on the Categorical Accommodation and Assistance (CAA) that is available to victims of THB in Belgium. First, the general situation of THB in Belgium is discussed examining its forms, victims and networks, followed by a description of the policy context. Second, attention is given to the objectives and organisation of CAA in this country.

2.1.1 Background

Forms of THB

In the most recent 'Trafficking in Persons' (TIP) report, the US Department of State (2011) indicated that Belgium could be viewed as a destination and a transit country²⁷ for men, women, and children²⁸ subjected to THB, predominantly for the purpose of (commercial) sexual and labour exploitation (see also: CGKR, 2009).

The US Department of State (2010) notes that women, and girls, are generally trafficked to Belgium for sexual exploitation (for example, street prostitution, window prostitution and prostitution in massage parlours); to a lesser extent, some young boys have also been observed to be exploited in the prostitution business in the major cities in Belgium. Male victims who are identified seem to be subjected mostly to labour exploitation in restaurants, bars, horticulture sites, sweatshops, retail shops and construction sites. Domestic servitude, involving domestic workers (both male and female) employed and exploited by a family – which may sometimes involve members of the international diplomatic community posted in Belgium – can also be considered a form of trafficking for labour exploitation (Jaspart & de Pauw, 2010; US Department of State, 2009, 2010). However, cases that involve domestic exploitation – amongst others by diplomats – are very complicated in nature since the exploitation takes place literally within four walls. Also, diplomats cannot be prosecuted as a result of their status and the police is not allowed to search a diplomat's house or collect material evidence in the residency, without the diplomat's approval (respondents Pag-Asa and CGKR). To protect diplomatic domestic workers, the government requires them to appear in person once a year to renew their identification cards (respondents Pag-Asa and CGKR). Also, if exploitation has taken place at a diplomat's house, the Service Protocol, responsible for the provision of identity cards for domestic workers, frequently refuses to hand out another card for

²⁶ The King Baudouin Foundation (or 'Royal Foundation') was founded in 1976, when Baudouin I (1930-1993) celebrated his 25th anniversary as King of Belgium (www.kbs-frb.be, consulted: May 25, 2011).

²⁷ Some victims are destined for other European countries, such as the United Kingdom and are smuggled through Belgium (US Department of State, 2009, 2010). In this context, Belgium can thus be considered a transit country.

²⁸ Many children who are identified as trafficking victims in Belgium are unaccompanied, vulnerable asylum seekers and refugees (US Department of State, 2010).

future domestic workers (respondents Pag-Asa). Further, the government has recently decided to expel foreign diplomats who are found to be engaged in exploitation of their employees (US Department of State, 2011). Marriages of convenience are also regarded as *modus operandi* for traffickers. People who enter into such a marriage may be obliged to work in order to repay their debts (CGKR, 2010).

Different respondents (of CGKR and Pag-Asa; see also CGKR, 2009; 2010) note that today many victims receive part of their prostitution proceeds. Also, the traffickers seem to use less violence against their victims than they did in the past (see Section 2.2, Gender, age and forms of exploitation). However, the victims very often end up with less income than they were promised. In the case of labour exploitation, victims are often placed in a similar employment situation but earn more than they did in their country of origin. However, to Western standards they work for extremely low wages (CGKR, 2010). As a result, victims find it difficult to acknowledge that they are indeed victims. Also it makes it more difficult to sentence the traffickers, since the exploitative situation of the victims is less visible (representatives CGKR). The Belgian government and NGOs reported two new trends in 2008 (CGKR, 2009) that still seem to be present in 2011 (various respondents). First, businesses such as massage parlours and escort services are increasingly involved in trafficking for sexual exploitation. This, and the use of the internet, makes this form of THB less visible. Recently, according to a Payoke-respondent, there are also a growing number of identified victims of sexual exploitation who are exploited in private residences and live a highly isolated life. However, because of a lack of evidence or clues which might lead police to the traffickers (the exploited women in question most often know very little about their trafficking situation and/or the traffickers), an investigation cannot be started. Second, there seems to be an increase in the number of identified cases of labour trafficking (CGKR, 2009); since 2006, more victims of labour exploitation than sexual exploitation, have received the victim status. This might be the result of a change in the 2005 law, which included a broader definition of labour exploitation; it may have also been influenced by the fact that inspection services are now better trained in detecting and identifying victims of labour exploitation (representatives CGKR).

Nationalities of victims

The majority of the identified victims come from Eastern Europe, Africa, East Asia, as well as Brazil and India (US Department of State, 2010). Victims who are exploited in the sex industry mainly originate from Bulgaria, Albania, Nigeria, Vietnam and Thailand (the latter in massage parlours) (Jaspart & de Pauw, 2010; representatives CGKR). Roma victims (amongst others minors) are mostly identified in situations involving forced prostitution (and begging). Additionally, (mostly Belgian, Bulgarian, Romanian and, in the past, also Albanian) minors often become the victim of 'lover boys'²⁹ (CGKR, 2010). The Polish, Romanians, Bulgarian-Turks and Indians are generally exploited in the agricultural sector (mostly fruit picking, poultry farm). North Africans (such as Moroccans) are found in sweatshops, Indo-Pakistani in night shops and phone shops and at petrol stations, Bulgarian-Turks in bakeries, and the Chinese mostly in Chinese restaurants. Brazilians, Polish and Turkish victims are often found on construction sites and renovation projects. Over the last few years Belgium has also been confronted with illegal victims from Morocco who are forced to sell drugs. However, specifically in Antwerp, the police have identified a number of Chinese people with large gambling debts who are forced into repaying these by smuggling XTC and/or assisting with human smuggling (CGKR, 2009; 2010). On top

²⁹ 'Loverboys' are pimps who bind (young) women by starting a preconceived (love) relationship, with the intention of recruiting and then exploiting them in prostitution (Bovenkerk & Pronk, 2007, p. 83).

of this, victims from all nationalities are found in the hospitality industry [*'horeca'*] and working as domestic workers (Jaspart & de Pauw, 2010).

Trafficking networks

In Belgium, different trafficking networks have been identified that are involved in sexual exploitation. The 2008 annual report of the CGKR notes that the most visible active trafficking networks for this purpose are currently those of the Bulgarians working with Bulgarian girls (they became especially active as a result of the rescission of the visa obligation in 2001). So-called 'ladies in waiting' [*gezelschapsdames*] are Bulgarian (ex) prostitutes who play an important role in the prostitution system as they control their colleagues, guard bars and arrange contacts. Also, since 1990, Nigerian networks have been very active. Their victims are of African descent and are placed in a dependent bonded liabilities position [*schuldbindingssituatie*], obliged to pay off their travelling costs by prostitution.³⁰ Voodoo-rituals and threats towards victims and their families are used as pressure methods to ensure their cooperation; often, so called 'madams', women (frequently ex-prostitutes) who know the prostitution business, are involved (CGKR, 2010). Romanian networks also seem to be emerging, while the Albanian networks that have been active in the prostitution business since 1995, are currently focusing on drug trafficking instead, as a result of different successful legal investigations. Some networks are hard to detect and control as they are hidden and strongly culturally orientated; the Chinese networks form a good example as they are closed and active mostly in massage parlours and restaurants which serve customers from the same cultural background (CGKR, 2009).

2.1.2 Policy context

The national legal framework on THB originated from a 1994 ministerial circular that established an administrative procedure and status for victims of THB (Maes et al., 2009).³¹ Since the adoption of the Law of April 13, 1995 – containing provisions on the elimination of THB and child pornography – human trafficking and certain forms of human smuggling may be prosecuted as a criminal offence under Belgian law.³² In 2005, Belgium modified its legislation with regard to THB, in order to meet the international (Palermo Protocol, 2000) and European Union obligations (Framework Decision, 2002; see Appendix 5). The Law of August 10, 2005 'amending various provisions to strengthen the fight against trafficking and smuggling of human beings and against the practices of exploitative landlords' (enacted September 12, 2005), included several changes:

- THB was distinguished from human smuggling. It therefore became an autonomous infraction in the penal code and is henceforth defined (Article 433, sections 5-9).
- The incrimination of THB was broadened to include both national and transnational trafficking (regarding Belgian victims and foreign victims respectively).

³⁰ Cases of bonded liability are also identified amongst Asian victims, who have to repay their debt by prostitution or domestic service (CGKR, 2010).

³¹ Circular Letter of 7 July 1994 regarding the issuance of residence and work permits to foreign nationals, victims of human trafficking.

³² The trafficking and smuggling in human beings is punishable with a prison sentence of 1 to 5 years and a fine of 500 to 50,000 Euros. The height of this sanction is dependent on the aggravating circumstances regarding human trafficking and human smuggling. See: Circular Letter of 26 September 2008 on the implementation of a multidisciplinary collaboration approach to the victims of THB and/or some aggravated forms of smuggling of human beings.

- The provision, which formerly covered trafficking in foreign nationals and smuggling of migrants, has been modified (Article 77b of the Law of December 15, 1980), in order to exclusively target the latter offence.

The legislation was complemented by a ministerial circular of 1997,³³ which was modified by ministerial guidelines in 2003,³⁴ which included instructions for several relevant parties such as the Public Prosecutor offices, the police and the social inspection services (Maes et al., 2009). A circular letter [*Omzendbrief*] dated 26 September 2008 on the implementation of a multidisciplinary collaboration approach to the victims of THB and/or some aggravated forms of smuggling of human beings, replaced all former circulars.³⁵ It emphasised the level of co-operation required between the various actors involved (such as the police and inspection services) (CGKR, 2009; Maes et al., 2009).

Definition of THB in the Belgian legislation

According to the Article 433 *quinquies*, Section 5 of the Criminal Code, THB is defined as follows in Belgium:

Any form of recruitment, transportation, transfer, harbouring, subsequent reception of a person, including exchange or transfer of control over that person for the purpose of:

- 1 exploitation of the person through prostitution and child pornography;
- 2 exploitation through begging;
- 3 putting the person to work or to allowing that person to be put to work under circumstances that are contrary to human dignity;
- 4 removing from that person, or allowing the removal, of organs;
- 5 forcing the person to commit a crime or an offence against his/her will.

According to the Belgian definition of THB, with the exception of the case referred to under point 5, the consent of the person to the intended or actual exploitation is irrelevant.

Belgium has not adopted the THB definition from the Framework Decision and the Palermo Protocol. In comparison to these two international instruments, the new provision does not differentiate between adults and child victims and, the operating methods (violence, menace, constraint etc.) that are noted in the two key instruments are not enclosed in the Belgium definition as constructive elements of the crime. Instead, trafficking a minor and the operating methods are included among the aggravating circumstances. This choice was made with the intention of facilitating proof of an infraction (CGKR, 2008; Jaspert & de Pauw, 2001).³⁶ Furthermore, Article 433, Section 5, targets two types of exploitation that have only recently been envisioned by the international instruments: exploitation through

³³ Ministerial guidelines of 13 January 1997 to the ID, the Public Prosecutors' Office, the police and the social inspection services, B.S. 21 February 1997.

³⁴ Modification of the Ministerial guidelines of 13 January 1997 to the ID, the Public prosecutors' office, the police and the social inspection services, B.S. 27 May 2003.

³⁵ *M.B.* [Moniteur Belge – the Belgian Official Journal], 31 October 2008.

³⁶ One respondent of the CGKR notes that the decision to class the operating methods under aggravating circumstances was, amongst other things, the result of a case involving a Ghanaian woman who had been working as a domestic servant for three months, earning nothing, and whose passport was kept in a safe; in this case, constraint and abuse were difficult to prove. As a result, both the Higher Appeal Court and the Court of Cassation did not consider this to be human trafficking, as it was said that earning nothing is not a clear indication of human trafficking and it could not be proved that if she had asked for her passport, that she would not have been given access to it. The Belgian definition was thus adapted, to avoid the occurrence of such situations in the future.

(forced) organised begging and the enforcement to commit crimes or offences against one's will.

In the new Belgian law, sexual exploitation is limited to the field of prostitution and child pornography whereas the international instruments define this form of exploitation in a broader sense, for example, also including adult pornography (Vermeulen et al., 2006). Different organisations, such as the CGKR (2008; representatives CGKR) and Human Rights without Frontiers Internationals (2009), have pointed out that there are various cases that should actually be punished as THB, but are now excluded from prosecution because of this narrow Belgium definition. In the latest annual report, the CGKR (2011) advocates that 'forced marriages' and 'illegal adoption' should also be included in the Belgian definition of THB.

Another point of discussion concerning the Belgian definition of THB is the fact that labour exploitation has to take place in 'conditions contrary to human dignity'. Article 433 does not give any indication what is meant by these specific conditions. To determine whether the labour conditions contravene human dignity, the explanatory memorandum of the new Law specifies different elements that should be considered, such as salary, work environment and labour conditions. An income that is manifestly disproportionate to the number of working hours, to the services provided or that is less than the minimum wage envisaged by the collective employment convention, may be considered as a condition contrary to human dignity. This is also the case when a working environment does not comply with the standards prescribed by the Law of August 4, 1996, concerning the well-being of employees in the workplace (CGRK, 2008; Vermeulen et al., 2006). Despite these specifications, the Belgian definition of THB regarding labour exploitation remains vague (Vermeulen et al., 2006; respondents Payoke). The CGKR respondents state that the current definition of labour exploitation might be too broad and cite the example of cases which were brought to court, after the Law of August 10, 2005 had just been implemented, and that were deemed to involve illegal employment, and not THB.

Policy on anti-trafficking and assistance of victims of THB

The Belgian regulation for the 'procedure human trafficking' as described in the Circular Letter of 2008, can generally be divided into four phases (CGKR, 2008)³⁷, which will be discussed below. The system has been developed in such a way so that every (potential) victim of THB would have the opportunity of working with the police and justice system, in exchange for accommodation and assistance and, if necessary, legal residency (various respondents). Victims and potential victims are detected by the statements they make and/or the presence of indications of THB (Maes et al., 2009) (see further Section 2.4.1, Identification).

Reflection period (1st phase)

In order to find peace of mind and to make a free and informed decision about whether or not to make a statement or file a complaint against their perpetrators, a 45-day reflection period is available for victims (non-extendable) (CGKR, 2008). Non-national victims from third countries and EU member states must report to the police or public prosecutor to obtain an 'order to leave' [*Bevel om het grondgebied te verlaten*], giving them 45 days to leave the country. The 45-day period thus equates with the reflection period. During this period, the victim is entitled to social protection. The 'order to leave', is provided when the following two criteria are met:

- the absence of a residence status;
- commitment to receiving the counselling services of one of the three official NGOs.

³⁷ See also the Law of September 15, 2006 amending the Law of December 15, 1980 concerning the Access to the Territory, the Stay, the Settlement and the Removal of Foreigners.

What makes Belgium unique is that the three NGOs are in the position to request the reflection period, without having to inform any other service (such as the police) (representatives NGOs and CGKR). The idea behind this is that the victim has time to reflect, without any outside interference. During this period, the victims are informed about the following issues: 1) the criminal procedure they might start is conditional in nature, and 2) they have 45 days to reflect and decide what to do, either file a complaint and start a procedure or refuse to make a statement and return to their country of origin (respondents Pag-Asa). A third possibility that is discussed is illegal residency. If trafficked victims choose to remain in Belgium illegally, they are informed about organisations that can provide them with assistance (i.e. shelter, bath and food) (representatives Pag-Asa). The decision regarding whether or not to file a complaint against their perpetrators is not an easy one, according to a representative of Pag-Asa:

'If one chooses to start a procedure, one also chooses for a legal footpath. This is not evident for all people. It is no secret that in Belgium many people are 'moonlighting', if one chooses to enter the procedure this [moonlighting] is no longer possible. One needs to live from a very limited income.'

If victims want to immediately lodge a complaint or make a statement, the first phase is by-passed and NGOs can directly request a 3-month temporary residence permit for them at the Aliens Office of the Ministry of the Interior (MoI).³⁸

Issue of the 3-month registration certificate (2nd phase)

The system of granting registration certificates (hereafter: 3-month temporary residence permits; in Flemish: *Attest van Immatriculatie*) to victims of THB was incorporated into the Law of December 15th, 1980 (Articles 61/2-61/5).³⁹ Victim protection and assistance is linked to co-operation with the law enforcement authorities. Only victims who are willing to collaborate receive the special status 'victim of THB'. They have the right to various forms of aid (such as the right to accommodation, but also to residence, psychological support and legal aid) (CGKR, 2008; Craggs & Martens, 2010).

Under Belgian law, victims are compelled to accept counselling services from one of the three NGOs, as only these organisations are authorised to request a residence permit for victims of THB (and apply for extension).⁴⁰ The Aliens Office of the MoI [*Cel Mensenhandel van de Dienst Vreemdelingenzaken*] is responsible for issuing 3-month residence permits (Craggs & Martens, 2010).

Victims may only benefit from their special status and such a permit if they meet the following four criteria (CGKR, 2009, p. 13; Craggs & Martens, 2010, p. 60):

- they are considered a victim of THB;
- they must break off all contact with their traffickers;
- they are accompanied by or accept the counselling of one of the NGOs;
- they agree to co-operate with the competent authorities and make a declaration to the police or file a complaint against the perpetrators.

In this context, 'co-operation' means providing the competent authorities with information. Sometimes, victims are questioned several times or a confrontation with the perpetrators (for example identifying pictures) is demanded (representatives

³⁸ See: Circular Letter of 26 September 2008 on the implementation of a multidisciplinary collaboration approach to the victims of THB and/or some aggravated forms of smuggling of human beings.

³⁹ According to the 2011 annual TIP report by the US Department of State, the Belgian government reported that it had issued 52 unlimited residence permits and 108 temporary permits to trafficking victims in 2010.

⁴⁰ www.steunpunt.be, consulted: May 26, 2011.

Pag-Asa). Victims whose statements only concern situations outside Belgian territory are excluded from the victim status (CGKR, 2008). Victims may apply for a 3-month temporary residence permit both during and after the reflection period. When a statement or complaint has been made, a 3-month temporary residence permit is issued (Craggs & Martens, 2010), which can be extended once for an additional three months. During this period the public prosecutor has time to decide whether the person in question is truly a victim of THB (representative Pag-Asa). The 3-month temporary residence permit does not differentiate between EU-nationals and citizens from third countries.⁴¹ The permit is extended when this is considered necessary for the investigation or prosecution. Victims, who receive a 3-month temporary residence permit, have access to training, employment opportunities⁴² and social support from the OCMW⁴³ (CGKR, 2008; Craggs & Martens, 2010).⁴⁴ However, while victims have the right to work, they rarely find a job for a number of reasons. Firstly, the period of validity of the work permit corresponds to the limited period of the residence permit and is often provided only after a few weeks – because of administrative circumstances – when the 3-month registration residence permit has nearly ended. Secondly, most employers are not very keen on hiring an employee with a temporary legal residency for such a short period of time (representatives Pag-Asa and Payoke).

In Belgium, unaccompanied minor victims have to meet the same criteria as adult victims, including co-operation with law-enforcement authorities (Craggs & Martens, 2010). Nonetheless, if a presumed victim is an unaccompanied minor, the above stated conditions should be looked at with flexibility, as the child is highly vulnerable (Kingdom of Belgium, 2010). The main difference between this group and adult victims of THB is that unaccompanied minors have a direct right to the 3-month temporary residence permit (without a reflection period).

Issue of a proof of registration in the Alien's Register (6 months) (BIVR) (3rd phase)

As stated before, in Belgium a (renewable) temporary residence permit is issued for a three months period. The stay of the victims can be extended further according to the progress of the investigation. If necessary, a victim will be allowed to obtain a proof of registration in the Alien's Register for the duration of six months (hereafter: 6-month temporary residence permit). This can be renewed (repeatedly) for 6 months at a time, until the criminal procedure has ended (CGKR, 2008).

This 6-month temporary residence permit can only be issued if (GKR, 2009, p. 16; Kingdom of Belgium, 2010):

- the investigation or the procedure is ongoing;
- the person involved can still be considered a victim of THB or of certain more serious kinds of smuggling in human beings;
- the person involved is willing to co-operate within the framework of a legal action;

⁴¹ See: Circular Letter of 26 September 2008 on the implementation of a multidisciplinary collaboration approach to the victims of THB and/or some aggravated forms of smuggling of human beings.

⁴² Victims have employment opportunities when they possess a Work Permit C. Such a permit is valid for all salaried professionals and all employers, for a limited period (and must be renewed each year).

⁴³ The OCMW (in Dutch: *Openbaar Centrum voor Maatschappelijk Welzijn*; in French: *Centre Public d'Action Sociale* (CPAS)) is a Public Social Welfare Centre which ensures a number of social services and watches over the well-being of every inhabitant in Belgium. Each municipality or city has its own OCMW. It offers services, such as social welfare, to the needy and the elderly. When the means of existence are insufficient, people have the right to a 'life loan' [*leefloon*] (for more information see: www.belgium.be, consulted: May 11, 2011).

⁴⁴ See: Circular Letter of 26 September 2008 on the implementation of a multidisciplinary collaboration approach to the victims of THB and/or some aggravated forms of smuggling of human beings.

- the person involved has cut off all ties with the (possible) perpetrators;
- the person involved is not considered a possible threat to public order or national security.

Victims with a 6-month residence permit have a right to social benefits and are authorised to work (equivalent to the former phase, when they possess a Work Permit C). The work permit is valid for one year and can be extended until the criminal procedure against the perpetrators is closed (respondents Pag-Asa and Payoke). According to a Payoke-representative, a work permit is most frequently requested during this stage of the procedure, as this permit is valid for a relatively long period and thus is more attractive to employers.

Conclusion of the procedure with regard to human trafficking (4th phase)

The 'procedure human trafficking' can be ended according to one of the following three scenarios:

- Issuing a permanent residence permit: under certain conditions, the competent minister, or his deputy, may grant a permanent residence permit to the victims by issuing a proof of registration in the Alien's Register (see Section 2.4.4, Support focused on future residence or voluntary return).
- Return to the country of origin: if victims want to return to the country of origin (during or after the criminal proceedings), the NGOs assist them with their return and contact the International Organisation for Migration (IOM) (see Section 2.4.4, Support focused on future residence or voluntary return).
- The Magistrate of the Public Prosecutor's Office can decide at any given time that a person is no longer to be considered a victim of THB (this is discussed with the police/social inspection services, the NGOs and the Aliens Office of the MoI)⁴⁵; this ends the procedure.

If a person holds a 3-month temporary residence permit, it can be withdrawn if:⁴⁶

- it has been established that the holder has actively, and voluntarily, on his/her own volition, renewed contact with the (presumed) perpetrators;
- the victim ceases to co-operate with the Magistrate of the Public Prosecutor's office;
- the victim is considered a possible threat to public order and/or national security.

A person can lose her/his 6-month temporary residence permit, if:

- the legal authorities decide to stop the criminal proceedings;
- the victim's co-operation is fraudulent or his/her complaint is fraudulent or wrongful.

In that case, the Immigration Service will consult the referring Magistrate and inform the NGOs.

It is important to note here that some victims, even though they co-operate with the law enforcement authorities and are clearly identified as 'victims', do not receive the victim status (CGKR, 2008). For example, victims who are not interested in being supported by one of the NGOs will lose their victim status (and the corresponding basic rights). Victims who co-operated with the justice system may also lose their status, if their file is closed because of a lack of evidence. They can only receive a residence permit through official alternatives or the 'STOP' procedure;⁴⁷ for

⁴⁵ See: Circular Letter of 26 September 2008 on the implementation of a multidisciplinary collaboration approach to the victims of THB and/or some aggravated forms of smuggling of human beings.

⁴⁶ Ibid.

⁴⁷ The STOP procedure serves as an alternative for individuals whose case has been dropped and/or whose perpetrators have not been found, but who have been in a human trafficking procedure for at least two years. In that case a victim can receive residence status based on their level of integration (for example, level of mastery of the language) (Vermeulen et al., 2007).

which they should have been assisted by a specialised NGO for a minimum of two years. Victims, who lose their status during the course of the criminal proceedings, do not have any further access to basic rights such as legal support from a court appointed lawyer (CGKR, 2008).

2.1.3 History of categorical accommodation and assistance

With the introduction of the Parliamentary Research Commission that led to the Law of April 13, 1995, three specialised NGOs became acknowledged and financed by the Belgian government: Payoke in Flanders, Pag-Asa in Brussels and Sürya in the Wallonia region (US Department of State, 2011), their tasks being to protect and assist all victims of THB (who are in the reflection period or who have received the victim status).⁴⁸

Payoke was founded on December 28, 1987 as one of the first specialised NGOs with CAA for prostitutes (residing in Antwerp). The available services were, for example, medical aid and practical courses (in cooking and sewing). The first location of Payoke was the house of its founder Patsy Sörensen. Soon after it was founded, Payoke broadened its scope and THB – particularly for sexual exploitation – became part of its focus as it became clear that many of the prostitutes were, in fact, being exploited (respondent Payoke). For some years its existence remained unsure, but finally, it was officially acknowledged as a specialised NGO when the Law of April 13, 1995 came into force. Payoke then shifted its focus from assisting all prostitutes to only those who were victims of THB. The available services for prostitutes who were not being exploited were taken over by other organisations (respondent Payoke). Around this time, two additional specialised NGOs for victims of THB were founded: Pag-Asa and Sürya (respondents Pag-Asa and Sürya).

Payoke accommodates victims in the categorical shelter 'Asmodee' which officially falls under, and is financed by, the CAW (*Centrum Algemeen Welzijnswerk*) de Terp, a pluralistic and independent care organisation.⁴⁹ When residential assistance in Flanders was separated from other forms of assistance (legal/administrative/psycho-social), the minister of Social Affairs stated that it had to fall under the CAW's remit. Payoke (the NGO) remained 'independent', but in order to receive financial support to be able to offer 'a bed', Asmodee (the shelter) had to fall under a CAW. In practice however, Payoke and Asmodee are 'one' as all the educators working at 'Asmodee' are part of Payoke and only Payoke can refer victims to this categorical shelter (respondent Payoke).

Because of a lack of capacity, male victims are placed in a non-categorical shelter for men. In this shelter a number of beds are reserved for 'Payoke' (i.e. victims of THB), and these male victims are assisted solely by Payoke. This is considered important, as there are many regulations that victims of trafficking need to comply with. Also the assistance is specialised in nature as attention is paid, amongst other things, to the criminal procedure and security issues (respondent Payoke).⁵⁰

Trafficked females and their children are generally accommodated in non-categorical shelters that are specialised in accommodating women and their children (respondents Payoke and Pag-Asa; Payoke, 2006). These centres provide refuge to homeless women (with or without children) who are in an emergency situation.

⁴⁸ Apart from victims of THB, a small number of victims of human smuggling (under aggravating circumstances) receive assistance from the NGOs (amongst other things, shelter) (respondents NGOs). However, because of this small number and because the smuggling and trafficking act seem to overlap for most victims, in this chapter no distinction will be made between the two groups. All victims who are accommodated and assisted by the NGOs are therefore referred to as 'victims of THB'.

⁴⁹ See also www.cawdeterp.be, consulted: May 11, 2011.

⁵⁰ In October 2011, however, Payoke started using a new shelter in which females and males are accommodated together (respondents Payoke).

Unaccompanied minor victims of THB are not housed by the three NGOs, because the available assistance there is not tailored to this group. They are provided with short term (two weeks) shelter in an observation and orientation centre.⁵¹ The centre takes all the necessary measures to refer these minors to an adequate shelter. In Belgium different shelters for this specific group of victims of THB exist, the best known being Esperanto in Wallonia, Minor N'Dako in Brussels and Juna in Aalst. These shelters are however, not categorical in nature as assistance is provided to minors with a variety of problems (Hollevoet, 2010; respondents CGKR and Payoke).

2.2 Target group

2.2.1 Nationality, gender, age and forms of exploitation

As the 2008 annual report of Pag-Asa shows, the target group that received assistance by the NGOs is very diverse, consisting of people from different sexes, ages and nationalities.

It should be pointed out that the figures from the three NGOs and their shelters do not cover the total number of victims of THB in Belgium as 'filtering' takes place: individuals first have to be detected, then be identified as (potential) victims, then be willing to start a criminal procedure against the perpetrators, and finally accept assistance from one of the three NGOs (representatives NGOs and CGKR). For example, in Flanders where Payoke is located, two years ago the public prosecutor started to investigate (exploitative acts in) massage parlours, which led to an increase in the number of Thai women who received the victim status and were provided with CAA. In the past, in the Pag-Asa shelter, many Brazilians were housed after systematic inspections – with the intention of finding victims of THB – were conducted on construction sites where many Brazilians work (representatives Payoke and Pag-Asa).

Nationality of the victims

The NGOs provide services to identified national and non-national victims, regardless of how long they have resided in Belgium before they were identified (respondents Payoke and Sürya). Vermeulen et. al. (2007) note that the victims are almost exclusively of foreign descent, firstly because the system of shelter and assistance focuses mainly on persons without legal residence. According to various respondents, Belgian victims do receive assistance from the NGOs, but are rarely placed in the categorical shelters for a variety of reasons (see Section 2.4.2, Type of shelters and placement). According to Payoke and Sürya respondents, victims from the Roma community seldom accept assistance; for them it is very difficult to comply with the rules of the NGOs and the shelters. Payoke for example assists these victims from time to time but most of the time they return to their community at an early stage in the intervention.

Over the years, the number of Eastern-European victims who receive assistance has dropped (respondents CGKR). This seems to be related to the Law of 2005 and the Circular Letter of 2008 which stipulate that victims can only receive assistance (amongst other things, shelter, protection and the victim status) in exchange for cooperating with the legal authorities. However, since the entry of various Eastern-European countries into the EU, victims from these countries can stay legally in

⁵¹ CGKR respondents note that relatively few unaccompanied minors receive this status as this requires them to cooperate with the investigation. Some un-accompanied minors disappear from the orientation centres, which are 'open'.

Belgium, which makes co-operation less necessary and thus less appealing to them (CGKR, 2011; respondents CGKR).

In 2008, the three NGOs assisted THB victims with 50 different nationalities (Jaspart & de Pauw, 2010) and every year, victims with different nationalities enter these categorical shelters. In 2008 Pag-Asa provided shelter to mainly Chinese, Romanian, Moroccan and Indian victims (Pag-Asa, 2009). In 2009 many victims were also Indian and Sierra Leonean (Pag-Asa, 2010). Currently, Pag-Asa provides shelter mainly to victims from (Northern) Africa, the majority being men from Morocco, and Eastern-Europe (respondents Pag-Asa). In 2008, Asmodee housed mainly Chinese, Nigerian and Moroccan victims (Payoke, 2009). At the time of the interview, many African victims found refuge in this categorical shelter (respondent Payoke). Sürya provides refuge to people with similar nationalities as those mentioned above (coming from Maghreb, Romany, Bulgaria, China and Nigeria) (respondent Sürya). According to respondents of Payoke and Pag-Asa, the female victims who are provided with CAA are mainly Romanian and Bulgarian. When it concerns (forced) begging (only a few cases), this predominantly involves women from the Roma community.

Gender, age and forms of exploitation

Victims of both trafficking for sexual exploitation (mainly women) and for labour exploitation (mostly men) receive specialised assistance in Belgium (see Table 2.1).

Table 2.1 Number of people who received specialised assistance by the three NGOs in 2010, according to sex and age*

	Male<18	Female<18	Male 18+	Female 18+	Total
Sexual exploitation	0	2	0	40	42
Labour exploitation	0	0	63	17	80
Exploitation: begging	0	0	0	1	1
Exploitation: crime	0	0	3	0	3
Organ trafficking	1	0	3	0	4
Smuggling	0	0	10	1	11
Total	1	2	79	59	141

* The persons under 18 are the children of adult victims of THB who received assistance.

Source: CGKR, 2011

The majority of victims who are accommodated by Pag-Asa and Sürya are male victims of labour exploitation (representatives Pag-Asa and Sürya; Pag-Asa 2009, 2010). Until recently, Payoke only had a categorical shelter for women (see footnote 50). For example, Pag-Asa accommodated mostly male victims who were working on construction sites, in the hospitality business and in small shops such as bakeries, and butchers. Additionally, (but to a lesser extent) victims of sexual exploitation are assisted. According to Pag-Asa and Sürya representatives, this does not mean that there are fewer victims of sexual exploitation. They believe – and this has also been documented – that this is related to the switch from visible prostitution to less visible forms of sexual exploitation. Visible prostitution still exists, but the women who are involved generally come from EU-countries and are not always exploited. A second cause named by various NGO-respondents is that fewer victims enter the criminal procedure since their profile has slightly changed throughout the years.

'When we started, a lot of violence was used. One spoke of 'snow white' who was naively lured into a trap and was brutally forced into prostitution by the use of severe violence. Today's reality is different. Most women know they are coming to Belgium to work in the sex industry. After arrival they are directed to work on

the streets or behind a window. While deceit is linked to this, initially they agreed with the journey to Belgium. They have an income and receive around 50% of their earnings from their pimp. They have a lot of costs, but they still earn money. This makes it hard for them to leave the prostitution business. As a result of this, the women feel less like a victim, and have the feeling that they are partially an accessory to their prostitution. Even though their situation is hard and difficult and the circumstances clearly point to exploitation, they choose to earn money, instead of leaving the prostitution business. Also, the level of violence has lessened. A black eye attracts the attention of police men, social workers and concerned customers. It still exists, but in most cases the traffickers put their victims under pressure in a more subtle way, for example: they tell their victims that they know where their child is. Even though this is not a clear threat, victims tend not to take any risks. Yet, they still are victims of human trafficking. The circumstances under which they have to work; shifts of twelve hours, not being allowed to refuse customers, giving up a large part of their earnings, these are clear indicators of exploitation.' (respondent Pag-Asa)

Until recently, the majority of assisted victims of THB by Payoke were females who had been sexually exploited. However, last year for the first time, more victims of labour exploitation were assisted (see also Payoke, 2011).

In principle, only adults, and in some exceptional cases adults with children, are housed in the categorical shelters of all three NGOs. Adults with children generally only find refuge at one of the categorical shelters for a short period of time (see Section 2.4.2, Type of shelters and placement). The victims that are currently housed in the shelters of NGOs are generally between 20 and 30 years old. However, this differs over time (respondents NGOs).

2.3 Objectives of Categorical Accommodation and Assistance

All three NGOs have more or less the same objectives; empowering the victims and supporting them in overcoming their exploitative past (respondents NGOs).

A Payoke respondent notes that the organisation provides victims with shelter so that they can rest and have time to think about their past experiences. This is also mentioned by representatives of the other two NGOs. Furthermore, victims do not have to worry about practical matters.

Additionally, respondents of Pag-Asa mention that another important objective is to assist victims in making a valuable choice regarding their future (i.e. making a statement and starting a criminal investigation, returning to the country of origin or staying illegally in Belgium).

The government has also formulated certain goals regarding the provision of CAA. IV of the Circular Letter of September 26, 2008 states the following: 'It is important that a victim calms down. In a specialised shelter an ambiance of trust can be created, which will help the victim to formulate a more detailed vision of his or her situation, independent of the fact whether a statement is made against the perpetrators. While assisting victims, the specialised organisations encourage them to provide the police and the Magistrate of the Public Prosecutor with every element that is useful for the continuation of the [criminal] procedure.'

2.4 Organisation and implementation of Categorical Accommodation and Assistance

2.4.1 Working method

Identification

According to the Belgian government, during the first half of 2011, 141 new trafficking victims were identified and referred to service providers (US Department of State, 2011). Belgium makes use of a national referral system (Jaspart & de Pauw, 2010). Specifically, the 1997 directive and the 1994 circular describe the practical organisation of contact between different actors and the NGOs; one of the main objectives is that victims who are living in the country must be put in contact with one of the three NGOs (CGKR, 2008). According to CGKR respondents, this does not always seem to happen in practice; this relates to the lack of knowledge among certain police units (mostly in the smaller villages/cities) about the specialised NGOs and on the actions that should be taken when identifying a victim of THB. In this context CGKR respondents recommend that all police academies provide their tutors with information about the process of identifying victims. However, even though not all police units seem to know how to act when identifying a victim of THB, the fact that three central highly specialised NGOs exist where victims of THB can be referred to, is seen as a great advantage by the CGKR respondents. According to CGKR respondents, the lines between the parties involved are short; they generally know each other and the activities of the three NGOs are solely focused on a specific group of victims, which results in a smooth identification and procedural process and, related to this, the elimination of a loss of time:

'Sometimes you only have contact with a victim once. In that case you know where to go, you can bring the victim to a specialised institution, where experts talk to the victim and explain the situation. This might be the only moment in which the victim will be in contact with any institution.'
(respondents CGKR)

More recently, in February 2007, the Circular Letter [*Omzendbrief*] Col 01/2007 regarding the investigation- and prosecution policy of THB provided a list of indicators to identify victims of THB more efficiently. An informative brochure concerning this matter is available in 21 languages (respondents CGKR). Potential victims are detected on the basis of their statements and/or the determination of indicators that point to a situation of exploitation. The identified person does not have to make an immediate statement to be considered a victim. The determination of leads can also be sufficient.⁵²

Victims of THB who are referred to the NGOs are identified in different sectors and by different actors. Frontline officers (police officer or labour inspector),⁵³ most frequently spot – presumed – victims of human trafficking, for example, during raids (various respondents). Furthermore, any social – inspection – service, a citizen, victims themselves (Jaspart & de Pauw, 2010; Vermeulen et al., 2007; representatives Payoke and Pag-Asa), or grassroots organisations (respondent Payoke) can contact one of the NGOs.

⁵² See: Circular Letter of 26 September 2008 on the implementation of a multidisciplinary collaboration approach to the victims of THB and/or some aggravated forms of smuggling of human beings.

⁵³ Within the federal police one can distinguish between specialised police cells for 'human trafficking' and a referring Magistrate within every office of the public prosecutor. If a local police detects a victim they are responsible for conducting the first assessment, the specialised police cells then take over the investigation. Every region has one specialised police cell (respondent Payoke).

The CGRK (2009) noted that the social inspection services detect only a small number of victims (mostly of labour exploitation) during raids. In this context, CGKR respondents also mention that this might be related to the broad definition of labour exploitation. In general, this makes it more difficult for police to detect victims of labour exploitation. According to them, additional training is needed on how to interpret a complex concept such as 'working under circumstances that are contrary to human dignity'. The current situation leads to differences in practice between various police units and/or inspection services; some employ a pro-active policy, are well trained and are able to identify victims of labour exploitation, while others are not. Lately, however, the CGKR sees that an increasing number of inspection services are improving their identification skills and are spotting more victims, in more complex cases too.

In some cases, victims of THB – especially those in labour exploitation – are faced with a deportation order, or end up in a deportation centre which is intended for illegal migrants who are awaiting repatriation. The underlying reasons for this are that they are not recognised as victims and are seen solely as 'illegal workers', or that they did not immediately declare themselves as being victims. In these cases, they might end up at one of the three NGOs when workers in the deportation centres identify them as victims of THB (CGRK, 2008; 2009; respondents CGKR). Yet, what sometimes happens is that the person is first identified as a victim of THB and then, during the investigation, the magistrate considers the person to be an illegal employee. Also, victims of labour exploitation who earn more than in their country of origin are in general not considered to be victims of exploitation (representatives CGKR).

Recently more attention is being paid to identifying victims at hospitals and medical clinics (respondents CGKR; US Department of State, 2011). According to the latest TIP report (US Department of State, 2011), in 2010 the Belgian Ministry of Justice has finalised a co-operation project with hospitals to improve the detection of (potential) victims of human trafficking who seek medical care. Also, Sürya has adopted a pilot project – using medical staff – to improve the identification of these victims at the Liege University Hospital (respondents CGKR and Sürya). Preliminary findings from the pilot project show that trafficking victims are more willing to talk to medical staff than to police.

However, a remarkably large number of potential victims who are referred to the NGOs do not receive assistance (see Table 2.2). It is important to note that assistance in this context does not necessarily mean that categorical shelter is always provided; it can also be ambulatory in nature. There are different reasons for the gap between the number of people registered and those actually receiving assistance, the most prominent being that there are no indications for THB (for example, people were refused assistance since they were in fact homeless, looking for a place to stay). A representative of Pag-Asa states:

'If we would apply the law exactly (...), namely that every potential victim must be referred to one of the specialised NGOs, we would need a shelter with 200 places. In that case an orientation centre should be founded in which presumed victims are housed and only those who are really willing to file a complaint and are true victims of human trafficking should be referred to a specialised centre.'

Regarding labour exploitation, the 'circumstances in which one works' (for example a lack of protection, clothing, sleeping on the property) are the deciding factor when considering whether a person is a victim of THB or not; a low income is not sufficient. Sexual exploitation is almost always considered THB, since prostitution is firstly not a legal activity and secondly the working circumstances are often very

poor (for example, the obligation to accept every consumer, and poor hygienic conditions); identification papers are also often withheld (representative Pag-Asa). Another reason for this gap is that many victims are afraid to file a report against their perpetrators, either because they do not have sufficient knowledge of Belgian society or they are scared of the authorities (Hollevoet, 2010; Vermeulen, et al., 2007). Victims sometimes do not receive assistance because contact is lost after a phone conversation or intake interview (Pag-Asa, 2010). Apart from these reasons, one must keep in mind that when victims refuse to make a statement, they also do not receive assistance, since this refusal is seen as a sign that the situation does not involve trafficking in human beings (Vermeulen, et al., 2007).

Table 2.2 Number of victims who received assistance and who were registered but did not receive any assistance by one of the three NGOs 2006-2010)

	2006	2007	2008	2009	1st 6 months 2010
<i>Pag-Asa (Brussels)</i>					
Assistance	68	74	65	50	45
Registration without assistance	-	-	304	312	281
<i>Payoke (Antwerp)</i>					
Assistance	60	52	85	63	53
Registration without assistance	-	-	128	143	64
<i>Sūrya (Luik)</i>					
Assistance	44	53	46	45	43
Registration without assistance	-	-	146	129	154
<i>Total 3 centres</i>					
Assistance	172	179	196	158	141
Registration without assistance	-	-	578	584	499

Source: CGKR, 2011

Intake

When victims are referred to an NGO by one of the above mentioned actors, the procedure is as follows (respondents NGOs): first an appointment is made with the legal cell (also referred to as 'the gateway') of the NGO and – when necessary – an interpreter is employed.⁵⁴ Next, the legal cell listens to the victim's story, and then decides whether the person is a victim of THB.⁵⁵ If this is the case, the criminal procedure is explained, and victims then have the option of asking for a reflection period or of filing a complaint straight away.⁵⁶ In most cases, a reflection period is not applied as victims are most frequently referred to the centres by the police who have already questioned them. At that moment, victims have already given a statement, and a temporary residence permit can be requested immediately.⁵⁷ If victims, for example, refer themselves to the centre, and they are then identified as (poten-

⁵⁴ An-over-the-phone interpreter is used only in emergency situations when a victim is found on the streets and brought directly to a specialised NGO. In this case, only the first necessities (bed, bath and bread) are offered immediately (respondents Pag-Asa).

⁵⁵ If this is not the case (for example when it involves a victim of domestic violence) the person is referred to other relevant organisations (respondents Pag-Asa).

⁵⁶ When victims are referred to the specialised NGOs by actors other than the police or inspection services, a reflection period is provided relatively more often (respondent Payoke).

⁵⁷ In that case, after the victims has been interrogated by the police (sometimes for numerous hours), the legal cell sometimes does not ask the victims about their trafficking story during the first few days. In this way they can find peace of mind, and tell their story when they are ready (respondent Payoke).

tial) victims and want to file a complaint, the legal cell contacts the (specialised) police unit and prepares the victim for the interrogation (respondent Payoke). If, however, there are no clear indicators of THB, people in some cases only receive advice (over the phone), after which they are referred to another institution (for example where specific support for certain groups is provided) (Pag-Asa, 2009). Victims who are identified during the night receive a short explanation of the situation, after which they are placed in the shelter to rest. The intake takes place the following day (respondent Payoke).

As part of the intake, the legal cell also discusses the housing situation of the victims. If the person has housing and this can be considered safe (representatives NGOs), the victim can stay at her/his own residence and ambulatory assistance will be provided. However, when the person is a victim of THB in need of shelter (see further section 2.4.2, Type of shelters and placement) the rules and regulations of the shelter are explained (respondents NGOs). Entrance into the shelter is on a voluntary basis; *'if victims do not want to be housed in the shelter, we cannot force them'* (respondent Sürya). Furthermore, the victim is informed about the safety measures of the shelter; according to the respondents, one is and can feel safe there (respondents Payoke and Sürya).

Registration

One of the most important problems related to THB in Belgium is the absence of national data collection (respondents CGKR). In the 2011 annual report the CGKR (2011) notes that as a result, there exists only superficial and segmented knowledge of the phenomenon 'THB' and there are insufficient instruments for strategic analysis and policy evaluation. The founding of an Information and Analysis Centre for Human Trafficking and Human Smuggling (*Informatie- en Analysecentrum Mensenhandel en Mensensmokkel*)(IAMM) – as announced in the Royal Decree in May 16, 2004⁵⁸ – has not yet been implemented in practice (CGKR, 2011; respondents CGKR). In their annual reports, the three NGOs each note the number of victims that they have assisted throughout a particular year. However, it is not always specified which victims were placed in a shelter and which received solely ambulatory assistance.

2.4.2 Organisation of the categorical shelters

Type of shelters and placement

The three NGOs each offer residential housing facilities to victims of human trafficking in one categorical shelter at a secret location. Additionally both Pag-Asa and Sürya have a few apartments in which victims of trafficking can be housed. A respondent of Payoke describes the categorical shelter:

'This is a safe place, where victims can find rest. They have a bed and receive food. Apart from the residential accommodation, to prepare the people to take part in the Belgian society, activities are done to provide them with the values and norms of our society with the idea that if they leave the shelter, there are certain things they need to know.'

The way in which the victims are housed differs slightly per shelter. The Pag-Asa shelter has 16 individual rooms with private showers divided between two hallways. There is also one living room and one shared kitchen; both sexes from all forms of exploitation live together, mixed over both hallways (but no mixed rooms exist).

⁵⁸ Koninklijk Besluit van 16 mei 2004 betreffende de bestrijding van mensensmokkel en mensenhandel, *B.S.*, 28 mei 2004.

This is considered to be 'healthy', and resembles society in which men and women also live side by side:

'This is also how society looks outside of the shelter; this also exists in people with different cultural backgrounds and both sexes. (...). We sometimes house the world in our shelter; there are people from different backgrounds, with different religions. (...) We also choose to provide accommodation to both men and women as some women are very scared of men. After a little while (about a week) there is a change; the women start to value their presence as they protect the women inside the house. By contrast, some women start to take on a mother's role which the men look up to.' (representatives Pag-Asa)

This same argument is given by a respondent of Sürya. The interviewee adds that two separate shelters for both sexes would be impractical as the men-women ratio differs from one time to the next. As a result one shelter might be completely full, while the other is almost empty.

The Sürya shelter also provides in total room for 16 male and female victims of human trafficking (divided between five single-sex rooms). Every room has a private kitchen; there is one communal living area.

Pag-Asa and Sürya representatives state that adults with children are preferably placed in non-categorical shelters that are specialised in this target group where the (small) children can receive special attention. Yet, under exceptional circumstances, families are provided with shelter for (in general) a short period of time. Pregnant women can find temporary refuge at a categorical shelter of one of the NGOs, according to the respondents of the different NGOs these women blend in well with the other victims, but specialised, non-categorical accommodation for (young) mothers with children is sought as follow-up housing (respondents Pag-Asa).

A representative of Payoke also notes that Belgian victims are preferably accommodated in other shelters; non-Belgian victims still have to learn the Belgian norms and values and can be encouraged to integrate and to comply to the rules so that they can acquire a residence permit, however, with Belgian victims this stimulus does not exist. They also state that Belgian victims often have difficulties being housed with almost exclusively foreign women.

In Asmodee there are two single rooms, three double rooms (under exceptional circumstances, in two of these rooms there is the option of placing an additional bed), and one room for a mother and child (CAW de Terp, 2009). Men are housed in different shelters that are not categorical in nature. Here they are surrounded by homeless people, addicts and ex-prisoners. However, in October 2011, a new categorical shelter was opened in which both sexes can be accommodated (respondents Payoke). This shelter consists of two wings, one for men and the other for women, with a communal living room. The reason for the historical separation of sexes in different shelters lies in the fact that in the past Asmodee provided assistance to only a small number of men; it was almost exclusively the victims of trafficking for sexual exploitation (prostitution) who were housed in the shelter. However, over the years, the target group seems to have evolved. For example, last year Asmodee provided shelter to more men than women. As Asmodee was strictly for women, the categorical shelter was nearly empty, while the other (non-categorical) shelters were full of male victims. Therefore, some respondents of Payoke consider this development (mixed shelter) to be positive. Also it is noted that it serves as a good solution for sheltering families. This has been a problem for Payoke; in the past families sometimes had to be 'torn apart'. A solution was sought by placing them in a (non-categorical) shelter for a very short period until an apartment could be found (respondent Payoke). Other representatives of Payoke however, have mixed feelings

about placing men and women together since some women might manipulate the men, as this has been their survival technique during the years they worked as prostitutes. Furthermore women who were forced into prostitution might be scared of the opposite sex. In this context, the respondent questions whether these women will really feel secure in the shelter when male victims are around.

In the following phase – when victims leave the categorical shelter- victims receive ambulatory assistance.⁵⁹ The team of specialised supervisors in the centres decides when the shelter provisions are stopped (Vermeulen, et al., 2007). Victims can also receive this type of support – immediately – when they are being housed in a different type of accommodation because of their specific needs (for example, mother and child) or when victims live alone.⁶⁰

With regard to ambulatory assistance, victims can receive more intensive assistance on a temporary basis while they are living in so-called transit apartments (owned by Pag-Asa and Sürya); this assistance includes information about how to live on their own (for example, on managing a budget, and tips/insights into rental agreements).⁶¹

Capacity of the shelters

The categorical shelters of Pag-Asa, Payoke (Asmodee) and Sürya have a capacity of respectively 16, 10 and 16 places.⁶² In Asmodee two extra beds can be placed when necessary (respondent Payoke). At the time of the interview, the three shelters had respectively three, one and six unoccupied places. For each shelter, the occupancy rate differs over time (representatives NGOs).

According to respondents of Pag-Asa there is no shortage of places. By chance, it appears that the three shelters are mostly 'full' or 'relatively empty' at the same time. *'Sometimes there are periods when not a single new victim enters the shelter, whilst at other times, suddenly twenty new victims are referred to us'* (respondent Payoke). Only when a group of victims is identified at once a capacity problem is a logical result (respondents Pag-Asa). In such a situation the police unit calls the three NGOs to verify how many places are available. Victims are housed in one of the three NGO shelters and, if necessary, other organisations are contacted where victims can reside temporarily. As soon as there is room in one of the categorical shelters, the victims are transferred there (representatives three specialised NGOs).⁶³ Sürya also sometimes places victims in hotels when there is a shortage of beds in the categorical shelter (respondent Sürya).

Payoke generally does not have a capacity problem. This is, according to a representative of Payoke, related to the relatively fast and smooth movement up the housing ladder amongst victims who leave the categorical shelter (see further Section 2.4.4, Assistance in finding independent accommodation).

Duration of stay

The categorical shelters generally provide housing facilities for three to six months (representatives NGOs; Talens & Landman, 2003). When assisted by Payoke, victims are usually accommodated for three months (Payoke, 2009; 2010; representatives Payoke). However, in 2009, the general length of stay at Asmodee was significantly less, on average 47 days, compared to 60 days in 2008 (CAW de Terp

⁵⁹ This can be provided for up to several years, depending on the legal procedure (respondent Payoke).

⁶⁰ A representative of Payoke states that in Antwerp this involves mainly Belgian victims.

⁶¹ www.pagasa.be, consulted: April 18, 2011.

⁶² www.pagasa.be, consulted: April 18, 2011 and www.cawdeterp.be, consulted: May 12, 2011 (also mentioned by representatives NGOs).

⁶³ Such a situation appeared in the past after a raid in a hotel. Seventeen victims were identified, who were finally all housed in a shelter of one of the specialised NGOs (representative Pag-Asa).

(2008, 2009) and 70 days in 2007 (Payoke, 2008). Exceptions exist however; if after this period it seems that the victim is still too dependent, naïve, weak and vulnerable to re-victimisation, this period can be extended. In one case, a victim stayed in the shelter for well over nine months (respondent Payoke). The minimum duration of stay in 2008 was one day, the maximum period 301 days (Payoke, 2009).

In the case of Pag-Asa, in theory, most victims reside in the categorical shelter for three to six months, until they can move to private accommodation. However, according to the representatives of Pag-Asa, as a result of housing shortages in Brussels, most victims stay at the categorical shelter for up to eight months. At the Sürya shelter victims generally stay for six months. Following CAA, refuge in one of the (seven) transit apartments is possible. Victims can stay there for six months, with the option of extending by another six months. This is also the case for victims who are assisted by Sürya, which has five apartments (4 with one room, 1 with two rooms) for families and victims who have severe psychological problems. Families usually move to one of these apartments after staying in the shelter for one month (respondent Sürya).

For long-term alternatives after the categorical shelter, the NGOs provide victims with information and put them in contact with public services and landlords to access social housing (Talens & Landman, 2003) (see Section 2.4.5, Assistance in finding independent accommodation).

2.4.3 Working method in providing assistance

Victims who arrive at the shelter first have some time to calm down and are taught how to live a slightly more structured life before a counselling scheme is set out. Most often, during the start of the criminal proceedings, victims are interrogated by the police on several occasions, when this has all settled down victims can start receiving assistance (respondent Payoke).

Individual and group approach

Victims are assisted with the intention of providing them with peace of mind and security, and to encourage their 'empowerment' (representatives Pag-Asa and Payoke). After staying in the shelter for up to three weeks, victims are encouraged to go outside and visit, for example, a city hall or a gym, and, in this way, learning how to do things on their own. In this context, Payoke has implemented certain 'projects', in which victims learn how to recycle their household rubbish, how to cook and how to budget.⁶⁴

Also, through personalised support, in the form of weekly talks with an individual supervisor (if necessary with the help of an interpreter), victims are encouraged to think about and work on their future. In these talks, their home situation, their exploitation experiences, the legal context, integration issues, physical problems and other subjects are discussed, while the supervisor listens, encourages, gives information, and provides additional assistance if necessary (Pag-Asa, 2009, 2010). In this context, Pag-Asa speaks of the formation of an individual (care) path or plan that is drawn together with the victim.⁶⁵

'It is important to realise that when assisting victims of human trafficking, you will have to deal with a very diverse group; we have people in their fifties, people

⁶⁴ Trafficking victims who do not have an income, have the right to a 'life allowance' (leefloon) provided by OCMW (respondents Sürya and Payoke).

⁶⁵ www.cawdeterp.be. Consulted: May 11, 2011 and representative Pag-Asa.

who have worked all their lives as domestic workers and are very amenable but, as a result of this, they are also very vulnerable to returning to a similar situation. [Yet] we also have people who are eighteen and who have wandered around Europe for two, three years, they are in need of different assistance (...).'
(respondent Pag-Asa)

Additionally, support is offered by focusing on 'life in a group' and 'the family group dynamic' in the categorical shelter (Pag-Asa, 2010; respondents Pag-Asa).⁶⁶ Victims receive 'group support' meaning there is attention for the group in general, its ambience, and additional support is provided for individuals who feel less at ease in the group. Respondents of both Pag-Asa and Sürya mention that (outdoor or sport) activities are organised, such as going to the beach, birthday celebrations (culture related) and holidays (respondents Pag-Asa and Sürya; Pag-Asa, 2009). To encourage the group process even more, in 2009 relaxation sessions started and creative workshops were organised, to inform victims on how to deal with stress-related problems and how to use 'art' as a way of expressing their emotions (Pag-Asa, 2010; respondent Sürya). Payoke offers similar group activities; clients are, for example, encouraged to make a collage to express their feelings and future perspective (in the group) (respondent Payoke). As a result, victims learn about each others cultural practices and religions. Specifically, Pag-Asa (2009, 2010) applies the 'community-based' approach to dealing with groups. This involves knowing the context of the victims, broadening it and helping victims make use of it. Respondents of Pag-Asa further elaborated on this. Sometimes people within the group clash, which is seen as something positive as this reflects reality. In such a case, the situation is discussed with the concerned individuals both individually and together. Victims can be offered time-out and a temporary placement in another (non-categorical) shelter, after which it is discussed what can be done to prevent further escalations. Since Pag-Asa has 24/7 permanent cover, tensions are flagged up at an early stage (respondents Pag-Asa). There is a (log) book in which all the issues of the day and night are written. Within this context, the use of volunteers is considered enriching as some victims seem to find it easier to discuss certain issues with volunteers than with the professional employees, as they think this might have certain legal or psycho-social consequences (representatives Pag-Asa). To enhance the 'group feeling' the three shelters apply a variety of rules. For example, in all categorical shelters, group meetings are organised once a week which all clients have to attend (respondents NGOs). Also, representatives of Pag-Asa note that all clients are expected to eat together at 7 pm, they are expected to wait for one another to finish their meal, and to take part in house cleaning following a cleaning timetable. The idea behind this is to provide the residents with some structure and a sense of responsibility:

'We also find it very important that everyone keeps to these rules. The thought behind this is that (...) they know that they are a part of a group. We do not want the shelter to have the ambience of a hotel (...). They have to realise that they have certain responsibilities and that they should empathise with the others, this is reality in daily life. People who have lived alone most of their life and who have had to work for a boss, usually do not have experience with these matters. This is why we find it important that everyone at least sees each other at 7 pm for dinner.' (respondents Pag-Asa)

Interestingly the rules of the categorical shelters differ for divergent reasons; for example, while Pag-Asa wants to encourage a group feeling by eating collectively, at Asmodee and Sürya the clients cook for themselves so they learn how to spend

⁶⁶ See also: www.cawdeterp.be, consulted: May 11, 2011.

their pocket money and become able to do things independently. Sürya choose for this rule out of practical reasons; everyone can decide for himself what to eat (respondent Sürya). Another rule that a Payoke representative mentions is that taking drugs or alcohol consumption is not allowed inside the shelter.

As all respondents of the NGOs mention, at first it can be difficult for victims to comply to these rules, since many of them have lived a relatively unstructured life. However, if one repeatedly ignores the rules, warnings can follow, which can eventually lead to a transfer to one of the other categorical shelters.⁶⁷

Counselling services outside the shelters

Victims who reside in one of the categorical shelters of the three NGOs are assisted by a variety of people. Apart from 'educators'⁶⁸ who work in the shelter and who are responsible for providing the victims with 'a bed, a bath and bread' (essential needs), there are supervisors who provide specialised assistance outside the shelter, at the office of the NGOs. Both types of counsellors (men and women) are available in all three shelters, assisting both male and female victims. It appears that victims do not have any problems being assisted by either one of the sexes. In Pag-Asa there are five educators (who also provide psycho-social support) who work in the shelter and there are three and four supervisors providing legal-administrative and psycho-social assistance respectively at the office. At Payoke there are four educators working at the shelter (two of whom are part-time) who are responsible for the provision of 'bed, bath and bread' and arranging activities (responsible for practical arrangements). Furthermore there is one legal supervisor, four psycho-social assistants (responsible for professional talks) and one person who is solely responsible for finding follow-up housing. Sürya has three educators working at the shelter and six persons who provide both psycho-social and legal administrative support at the office of the organisation (respondent Sürya).

All the NGOs use interpreters who are present during conversations with supervisors. As mentioned before, these consultations generally take place outside the shelter, at the office of the NGOs. Every NGO has its own reason for this. The main reason for Pag-Asa is that the presence of interpreters is considered to be important. If a meeting takes place at the office, the interpreters can be present, as they are not allowed to know where the categorical shelter is located (for security matters). When urgent matters need to be discussed and someone is in need of an interpreter, a phone interpreter can be arranged. In the shelter itself staff members use simple language, signs and drawings to express themselves, which seems to work well. Sometimes other clients can also interpret something, as long as it is explicitly stated that they cannot function as real interpreters, as this would provide them with a certain 'position' in the shelter (respondents Pag-Asa).

Payoke also usually provides victims with assistance at the office. This is predominantly for practical reasons as the shelter is located far from the office (it takes at least an hour to get there). It is thus impossible for the supervisors to travel to the shelter regularly, and at the same time, also provide ambulatory assistance to other victims (respondent Payoke). Under exceptional circumstances, assistance can be given inside the shelter, for example, if the victim is too frightened to go outside (respondents Payoke). The main reason why Sürya offers specialised support outside the shelter is for security reasons; less attention is drawn to the shelter (respondent Sürya).

⁶⁷ This only happens after fifteen verbal warnings (which is the equivalent of 3 written warnings).

⁶⁸ In the transit apartments of Pag-Asa and Sürya educators such as these are no longer present (respondents Sürya).

The duration of the assistance is normally linked to the duration of the criminal proceedings; when this has finished (i.e. victims either receive a permanent residence status or not) the specialised assistance is also ended. However, at a certain moment, this assistance becomes ambulatory in nature, and is no longer linked to residing in a categorical shelter.⁶⁹ A representative of Payoke states that whilst some victims are assisted (in this context also including ambulatory assistance) for just eight months, others can be assisted for up to seven/eight years (these are exceptional cases however), depending on the progress of the criminal proceedings.

2.4.4 Types of assistance

The three NGOs make use of multidisciplinary teams comprised amongst others of social assistants, tutors and criminologists. They work with a clear plan and offer the victims a counselling scheme consisting of three components (CGKR, 2005, p. 42-43; Vermeulen et al., 2007, p. 12):⁷⁰

- psycho-social and medical care;
- administrative support;
- legal aid.

In practice however, administrative and legal support are seen as one form of assistance, which is taken on by the legal cell (interviews various respondents). As a result, in this report no distinction is made between both types of support.

Within psycho-social care three central aspects can be distinguished:⁷¹

- helping victims to overcome (exploitation-related) traumas;
- supporting victims to build up their lives (special attention for social contacts and the cultural background of the victims);
- developing a realistic future perspective together with the victims (by motivating them to follow courses and actively search for a job).

A representative of Pag-Asa describes the psycho-social support:

'(...) we look at how the person feels and how life is inside the shelter. There is also attention given to ones history; how to deal with this, the future and what we can offer. We want to show them that other situations exist than the ones they have always known.'

Respondents of Payoke add that psycho-social support actually involves helping the victim with 'anything she/he needs', and this can differ from one individual to the next. For example, supporting them in their search for work or a house, arranging a doctor's appointment or advising them on financial issues (what can one do with a particular sum of money). Frequent meetings between the victim and the psycho-social workers take place. In general this is one or two times a week, depending on the needs and the health of the victim, the issues that need to be discussed, the questions that the victim has and the duration of the assistance. After a certain length of time the frequency of the meetings usually becomes less. The con-

⁶⁹ According to a respondent of Payoke the ambulatory assistance does not differ much from the assistance that victims receive while staying in the categorical shelter. The only distinction is that when victims stay at the shelter the assistance is more intensive and frequent, because the needs of the victims have to be detected and a relationship of trust is yet to be established.

⁷⁰ See also: Circular Letter of 26 September 2008 on the implementation of a multidisciplinary collaboration approach to the victims of THB and/or some aggravated forms of smuggling of human beings.

⁷¹ Ibid.

sultations normally take place at the office, since an interpreter, if needed, can be present.

Psycho-social and medical care

Some victims need specialised psychological support. For this purpose, all three NGOs use external services (respondents three specialised NGOs) However, Vermeulen et al. (2007) and the NGO representatives note that, in general, very few victims receive specific psychological support because, for some victims, this type of aid may be unfamiliar, or they relate it to insanity or it is considered a taboo to some of them. Also, victims often suppress psychological problems; these usually arise at a later stage, when pressing problems have been solved and the assistance has most often stopped (respondents NGOs).

In general, access to psychological support is limited as only a small number of psychologists are willing to work with interpreters. As a result, waiting lists exist for victims who want psychological help (representatives NGOs). A Payoke respondent states that this is problematic because some victims need immediate psychological support. Also, assistance (both residential and ambulatory) is usually stopped when the victim has established a relationship based on mutual trust. In that case it is very difficult for victims to undergo therapy with another, unknown psychologist (representatives Pag-Asa).

When staying at the categorical shelter victims also have access to basic health services, including doctors, opticians and dentists. Payoke, for example, works with a local doctors' office. When victims need specialised medical care, they are brought to a hospital or a relevant specialist (there are numerous relevant institutions that can be contacted).

Legal-administrative support⁷²

Legal support includes ensuring the rights and interests of the victims are protected during the criminal procedure (for example, information and assistance from a lawyer) (representatives NGOs) and requesting documents. Firstly, this comprises of providing victims with information about their rights and duties, the structure and operation of the Belgian legal system or on how to proceed in the pursuit of damages.⁷³ Every victim who arrives at one of the three NGOs is informed about the entire criminal procedure and the laws and regulations. This is important, because victims do not always know the consequences when testifying or filing a complaint against the perpetrators (respondents NGOs). As victims do not always tell their complete story at the first hearing, it is important that they are well prepared for any possible further hearings (respondents Pag-Asa). If necessary, victims can also be appointed a lawyer by one of the NGOs, for example, when they want to submit a claim or start a civil procedure (respondents Payoke). When victim and lawyer meet, or when there is a court order, someone from the legal cell will accompany the victim, as she/he has a good insight into the case (respondent Payoke). This also happens (sporadically) when a victim has to appear in court (respondent Payoke). Also, the NGOs have the competence to act in court [*in rechte optreden*] in their own name or the name of the victim, in human trafficking cases (respondents Pag-Asa and CGKR) (see the following section on Compensation for victims). The legal cell meets frequently with newly-arrived victims, as numerous legal aspects need to be explained. Later on, this happens only when there are legal developments in a victim's case (representatives NGOs).

⁷² As noted before, unaccompanied minors are housed in different (non-categorical) shelters. It is worth mentioning that the legal and administrative support for these children is provided by the three NGOs. Payoke also provides the psycho-social aid, but only in co-operation with the social assistance of the shelter in which the minors are housed (Payoke, 2008; representatives NGOs).

⁷³ See CGKR, 2008, p. 17; see also representatives of the three specialised NGOs.

Compensation for victims

Regardless of whether victims are assisted by an NGO, they can claim compensation – both material and moral in nature⁷⁴ – for certain damages (respondent Payoke). Victims who are assisted by one of the NGOs can be appointed a lawyer by these organisations (respondents NGOs). Those who do not work have the right to legal assistance free of charge (respondent Pag-Asa).

Belgian law courts usually approve the victim's request for compensation, but it is very difficult for victims to actually receive this compensation (respondents NGOs and CGKR). The traffickers are obliged to pay up, but usually do not have any assets or belongings in Belgium; these are generally transferred to the country of origin. Also, over recent years, the traffickers have changed their tactics to avoid having to repay the victim:

'In the past the victims had to deposit their earnings into the account of the traffickers (via Western Union) (...) nowadays the money (mostly cash) is transferred via vans, in bags, a car is bought from this money which is then sold in the country of origin, or the girls are obliged to give their money to a family member in the country of origin, who is accompanied by a member of the criminal network and who claims the money. In that case a judge will say that the victim has transferred money to a family member, while she has been exploited. This is difficult to prove. (...) What happens is that when the traffickers are detained, they sometimes start to reimburse the victim (20 to 25 Euros a month), because this will promote an early release. This illustrates their good intention to pay the victim for the damages. But, when they leave prison, the compensation usually stops (...).' (respondent Pag-Asa)

Another difficulty with receiving compensation lies in proving the exploitation:

'We try to obtain material compensation, but this is very difficult. Especially with regards to prostitution, since this is not a legal profession in Belgium. Regarding labour exploitation it is also difficult to claim compensation, because victims – if they leave their place of work and file a complaint – are often not able to prove where they have worked and their perpetrators usually deny everything. However, if the police raid a working place and establish that victims are actually working there, it is slightly easier to ask for compensation.' (respondent Payoke)

Apart from the victims, both the NGOs and the CGKR have the opportunity to claim compensation within civil proceedings. This is usually done, for example, if a victim refuses to start such a procedure (respondent Pag-Asa). In this context, there seems to be a difference between victims of trafficking for sexual and labour exploitation. Whilst victims of sexual exploitation most frequently do not want 'dirty money' from their traffickers, victims of labour exploitation by contrast want to recuperate all the overdue income (representative Pag-Asa). According to Payoke and Pag-Asa respondents, they only take a matter to civil court under special circumstances, for example, when it involves a poignant case. When property has been confiscated the NGOs try to retrieve a factual amount, otherwise a symbolic amount is claimed.

In Belgium, victims have access to the commission for help to victims of intentional acts of violence [*opzettelijke gewelddaden*]. Under certain conditions, if the perpe-

⁷⁴ In the case of moral compensation, the victim is medically examined (both mentally and physically) by a doctor; subsequently a certain sum of money is linked to the outcome of this examination. Based on this amount the damage that the victim has suffered is determined. For some victims this process can be hard, because the event has to be recalled. Moral compensation is therefore not requested for all victims (respondent Payoke).

trator does not have the means to pay, victims of human trafficking can turn to this commission which is available to everyone in Belgium who has suffered loss and who is able to prove this. Victims of sexual exploitation can usually make use of this commission; when violence is used, the damage is usually physically noticeable (for example: bruises). Amongst victims of labour exploitation, their exploitation is more difficult to prove as the use of force and control is more subtle (representatives CGKR and Payoke). However, in case of labour exploitation the employer is obliged to reimburse expenses, independent of the legal status of the victim. This is related to the (labour) Law of '78 which stipulates that every employee has the right to a certain level of income and to holidays. Also, employers can receive a fine up to 15,000 euro for employing a person without a labour permit, and a maximum of 30,000 euro if this person was also residing illegally in the country (respondents CGKR).

Assistance related to integration

Whoever decides to stay in Belgium is expected to integrate. But, for victims of THB, the road to integration is quite long; on average, a foreigner needs almost two years before she/he has a level of knowledge of the native language that is considered satisfactory by employers (Payoke, 2009). Respondents of Pag-Asa explain why they consider it important to encourage the victims' integration:

'(...) People tend to cocoon themselves and stay within the nest [i.e. the categorical shelter]. We encourage them to go outside and to network. For example, by following language courses (...). In one way or another they are obliged to do so (...), this is considered very important for their integration. At the end of the road, they should be able to demonstrate that they have made efforts to integrate. (...) If one does not speak the language, one will not find a job. (...) Different activities are organised, so that people are encouraged to build up a network.'

Actions by the three NGOs to encourage the victims' integration involve providing victims with language knowledge and literacy skills that will facilitate their integration into society and help them to access training and work possibilities (respondents NGOs). In Flanders all newcomers, including victims of trafficking (but excluding EU-citizens), are *obliged* to follow a civic integration course [*inburgeringscursus*]. This includes learning the language (either French or Flemish) and attending a course on social orientation⁷⁵ (Payoke, 2008).⁷⁶ Victims normally start such a course during the time covered by their 3-month residence permit. If victims do not wish to comply with this commitment, an administrative fine may follow. In Brussels and the Wallonia area, no such obligation exists.

Victims who are staying at Asmodee are all registered at 'the house of the Dutch language' [*Het huis van het Nederlands*], where they have to take a language test. Based on the outcome of this test they are referred to a certain school (respondents Payoke). In addition to this, some victims receive private Flemish language classes at the office of the organisation. This concerns people who are illiterate or who have mental problems, and thus have difficulties in attending language classes. In the shelter the social counsellors also assist the victims, for example, when homework needs to be done (representative Payoke). Victims who stay at the Sürya shelter receive language classes at school and at the office of the organisation. Victims who wish to broaden their education (this usually involves only a few people) are informed about courses and training opportunities at colleges and universities. They

⁷⁵ Orientation courses also provide information about the host society such as its culture, history, geography, labour market, and its political and economic make-up, thus immediately giving migrants an idea of the country in which they live and providing them with essential information on access to services.

⁷⁶ See also: www.steunpunt.be, consulted: May 26, 2011.

can have access to the adult education system on the same terms as nationals, if their language level is good enough (Respondent Payoke; Talens & Landman, 2003).

Additionally, victims can receive specific vocational training. Apart from the course on social orientation, victims of Payoke also receive a one week course on career orientation ('*Kiezen*'), so they get a better insight into the jobs that are available to them (respondent Payoke).

Victims are also provided with information about job vacancies at national employment agencies. The NGOs work with clients to enhance their job search skills, provide help with writing CVs and refining interview techniques (representatives NGOs). However, because of administrative difficulties in obtaining work permits, because of the short-term nature of residence permits and language barriers, victims are often put in a precarious situation which discourages potential employers from hiring them (Talens & Landman, 2003; see also respondents Pag-Asa; Payoke). Victims are encouraged to go to school, as this helps them in finding a job. Frequently, victims who have a reasonable knowledge of Flemish/French first acquire a job through the OCMW which offers so called 'Article-60 jobs'. This means that the OCMW offers people (in general, not solely victims of human trafficking) a job for one year at an organisation, but also pays the wages. Throughout this year, people have the chance to enhance their linguistic skills, by continuously following language courses (representative Payoke).

Some victims find an internship and receive a contract from the same organisation when their internship has ended (respondent Payoke).

According to a representative of Payoke, although it is not easy to find a job for victims of human trafficking, they do have a strong will to work, mostly because of their wish to send remittances to family members in their countries of origin.

Assistance in finding independent accommodation

The NGOs undertake a range of different activities to help victims to find long-term housing alternatives after their stay in the categorical shelter such as (respondents NGOs; Talens & Landman, 2003):

- identifying independent accommodation for clients;
- providing information on housing facilities;
- mainstreaming clients into existing public services to access social housing, and
- assisting victims through mediation if they have language difficulties and/or need to explain their situation to landlords.

Victims themselves are also expected to search for follow-up housing; in newspapers, on the internet and by calling landlords. Initially, the NGOs provide assistance,⁷⁷ but at a later stage victims have to do this themselves (respondents NGOs). If no adequate housing is found, Pag-Asa provides the opportunity for the housing situation to be discussed once a week with a member of staff. Additional efforts are also being made to strengthen the networks with landlords to acquire relatively cheap housing (respondents Pag-Asa).

For Payoke, the *Woonunie vzw*, (a social organisation) distributes a weekly list of vacant housing units (studios and apartments), Payoke checks websites that offer housing and over the years has built up contacts with landlords, resulting in a mutual collaboration (Payoke, 2006; respondent Payoke). Sürya also has a list of landlords, who are called when a victim is in search of housing (respondent Sürya). Pag-Asa and Sürya run a project with respectively seven and five so called 'transit apartments' that are sublet to victims at a reduced price. These apartments are available to people who had to leave the categorical shelter but who are not yet ready to live on their own, because they are in need of slightly more intensive assis-

⁷⁷ For example, Payoke contacts the landlord and discusses the rental costs, and other essential issues (Payoke, 2008).

tance, due to language difficulties, or because they have never lived alone before (respondents Pag-Asa). These apartments enable victims to become autonomous and save for a deposit for their future accommodation (Talens & Landman, 2003). Victims are allowed to stay in the Pag-Asa apartments for a period of six months, with the option of extending this period for an additional six months.⁷⁸ There must, however, be good reason for this extension; victims must be able to show that they have really made an effort in finding follow-up housing (representative Pag-Asa). At the apartments of Sürya, the total duration of stay is six months (in first instance two months, with the possibility of two extensions of two months each) (respondent Sürya).

The difficulties in finding follow-up housing are linked to a shortage of housing in the big cities (where most victims want to reside) and to the financial situation of the victims. In the categorical shelter they receive financial aid from the OCMW and if they leave the shelter and have still not found a job, the support from the organisation continues (they receive approximately 740 euro a month). If a house is found, the landlord will ask for salary documents, which the victims do not have. As a result they often cannot move into the house. Some landlords do not want to rent their house to foreigners (Payoke, 2009). 'Asmodee' clients who need follow-up housing, experience less difficulty moving up the housing ladder as close contacts with landlords have been established (respondents Payoke). But, with rental prices increasing, one respondent questions whether the provision of follow-up housing for victims of human trafficking will continue to be equally successful in the future.

Support focused on future residence or voluntary return

As mentioned before, the 'procedure human trafficking' can have different endings for victims. One of the options is that they receive a permanent residence permit and (if they wish) are guided towards living and integrating in Belgium. Another possibility is that victims can return to their country of origin, for which the necessary measures are taken (mostly by the IOM). In the following section, attention is given to the role of the NGOs in this process.

Possibility of obtaining permanent residence

The competent minister or his deputy may grant a permanent residence permit to a victim by issuing a proof of registration in the Alien's Register if:

- the complaint or the statement leads to a conviction of the perpetrators of THB;
- it involves a THB case and the magistrate of the Public Prosecutor's Office has withheld the charge of THB under aggravating circumstances in his prosecution (in this case no conviction is necessary).

In this context, domestic servants of diplomats who are the victim of trafficking form a special group. If the embassy files a complaint against a diplomat, while the victim is being assisted by one of the NGOs, and there are clear indicators of human trafficking, the magistrate can decide, in consultation with the concerned NGO and the police, that the victim receives a permanent residence status (respondents CGKR). As previously stated, diplomats cannot be prosecuted as a result of their status (respondents CGKR).

Throughout the procedure, victims are encouraged to provide documentation to demonstrate their identity. However, during this final stage, victims must submit proof of their identity to obtain a permanent residence permit. If this is (still) impossible for victims, they must state what steps they have taken concerning the

⁷⁸ There are more housing opportunities outside of Brussels, but since victims know this city well they prefer to live there. Sometimes victims do decide to live outside of Brussels, mostly because family or friends live there (respondents Pag-Asa).

matter. Next, the Belgian government will take the necessary measures to determine the identity of the victim.⁷⁹

A positive aspect of the Belgium procedure that is commented upon by many respondents is that victims of THB can acquire a permanent residence status. *'Or else you would be encouraging a victim to file a complaint which endangers their own life, without offering any long term prospect of a achieving a regular status'* (respondent CGKR). The number of victims who were finally able to acquire a permanent residence permit via the victim statute is unknown because of a lack of data collection. However, the representatives of the CGKR believe that quite a number of people were able to do so.

Organisation of voluntary return to the country of origin

Most victims do not want to return to their country of origin. Victims mostly indicate this when they are residing in the shelter (respondent Payoke). If a victim has indicated that she/he wants to return, the NGOs will initially interview them to evaluate her/his needs and provide information on the services available on returning to their country of origin (respondent Sürya; Talens & Landman, 2003). Then most victims are referred to IOM. Sometimes the NGO arranges a bus ride or a cheap flight ticket home and accompanies the victim to the airport (respondents Payoke and Sürya). In addition to this, there is the possibility of putting victims in touch with local organisations (through IOM) that can provide assistance in the country of origin. Of course this is dependent on the available facilities in each country (respondent Payoke and Sürya). In the period 2009 – (mid) 2011, three adult victims and four unaccompanied minor victims returned to their country of origin with the help of IOM.⁸⁰

2.4.5 Security measures

The general idea is that it is important that the safety of the victims, for which the categorical shelters are responsible (CGKR, 2009, p. 82), is guaranteed. The three NGOs have each taken more or less the same security measures regarding their categorical shelters (representatives NGOs). Victims enter the location voluntarily and have the possibility of leaving whenever they want. So it happens that victims suddenly leave the shelter. However, usually this can be sensed in advance as the victim increasingly expresses her/his dissatisfaction with the shelter and stays there only sporadically (respondent Payoke).⁸¹ When they leave the shelter to reside elsewhere, victims are not allowed to return to any of the three shelters at a later stage, because the NGOs want to limit the knowledge amongst victims (and traffickers) about who is staying at the shelter (respondents three specialised NGOs). Furthermore, this is also related to a certain principle:

'Once people have travelled a certain road, it is considered a regression to return to the shelter. The shelter is meant to prepare them for an independent life and to make sure that, at a certain moment, they are able to move on by themselves in Belgian society.' (respondent Pag-Asa)

To secure its clients, all shelters are at secret locations, they are 'open' in nature but there is a curfew; the residents must be inside at a certain hour. For example, in the

See: Circular Letter of 26 September 2008 on the implementation of a multidisciplinary collaboration approach to the victims of THB and/or some aggravated forms of smuggling of human beings.

⁸⁰ <http://avrr.belgium.iom.int/en/about-reab/statistics/chart/list.html?chart=vulnerability&doChart=Display>, consulted: May 22, 2011.

⁸¹ According to a representative of Sürya after victims enter the shelter they generally stay there and only leave when they return to their country of origin.

Pag-Asa shelter, people need to be home for dinner, after which they are allowed to go out again.⁸² However, at midnight the door is locked, which means that people cannot come back in until 7 am when the door is unlocked. This is a security measure since:

'We know that the person is home after a certain hour, (...) Knowing that someone is waiting for them, and who worries if they do not come home, is very important for them.' (respondent Pag-Asa)

Only Pag-Asa has security cameras at the shelter. Additionally, victims have badges to open the doors. Sürya's shelter can only be opened by using a code. 'Asmodee' is secure because its location does not attract attention and it is surrounded by organisations which keep an eye on it. Also, the police pass the shelter every now and then, to check for irregularities (for example, strangers hanging around) (respondent Payoke). Sürya has drawn up an agreement with the police that when such irregularities occur, they are called to size up the situation (respondent Sürya). All victims are also registered at the address of the NGO which provides them with shelter. As a result, the addresses of the categorical shelters do not appear in any police reports (respondents NGOs). Mobile phones and internet are allowed. There are differences regarding permanent cover. In the Pag-Asa and Sürya shelter there is always someone present in the shelter (24 hours). For this, the organisation partially relies on volunteers. Twice a month supervisors from the organisation spend the night, to get a feeling of the situation at the house and to establish a bond with the clients (respondents Pag-Asa). In the Sürya shelter, the night guard is a paid psycho-social supervisor (respondent Sürya). Because of financial constraints, at Asmodee the clients are alone during the night; educators are present from 8 am till 8 pm. However, if a victim is detected during the night, a 24 hour phone number is available that can be called and someone from Payoke who is on duty at that moment will come and meet the victim and guide him or her, if necessary to the shelter. The next day, during the intake process this same person will be present so that the victim sees a familiar face (representatives Payoke). Also, every night, a shelter occupant is identified as the person responsible for 'covering the door'; if someone rings the bell the person concerned has to see who is at the door and, if it is secure, to open it. A Payoke respondent states that she prefers to have an expert present at the shelter during the night, primarily because of the need to maintain control:

'The current situation makes it very difficult to enforce rules, if you are not present and [victims at the shelter] do something wrong, we are not there to point out this error. As a result, [the victims] think they can do anything they want.'

If victims have appointments or leave the shelter during the first period after their arrival, they are usually accompanied by assistants. When they are more independent and feel secure, they leave the shelter by themselves (respondent Payoke). In Pag-Asa the victims are not allowed to leave the shelter for the first three days. This security measure is in place because firstly it is good for the newcomers to get to know the shelter and their fellow residents and secondly, especially during the first few days it is possible for newcomers to go to places that they know well, but where they are not very secure and thirdly, from past experiences it seems that the traf-

⁸² At Asmodee, clients must be home before 11 pm, during the weekend before 12:30 am. This is only checked sporadically, for example when a victim is admitted during the night. At the Sürya shelter victims need to be present from 11 pm until 9 am.

ficking network usually searches for the victims for the first few days after their disappearance (respondents Pag-Asa).

In addition, non-residents are not allowed inside any of the three shelters.⁸³ If a victim brings a non-resident into the shelter, she/he is warned, first verbally, then by letter and, if this does not help, the person is referred to one of the other two NGOs as this behaviour is considered negative for the group interest (respondents NGOs). Receiving assistance from one of the three centres is crucial for the victim because this is related to their victim status and the criminal procedure (respondent Payoke). A Payoke-interviewee says about this: *'I do not consider it to be fair to take away the residence permit from victims when they do not keep to an agreement'*. The assistance is only stopped completely if a victim resumes contact with the perpetrators (see Section 2.1.2, Conclusion of the procedure with regard to human trafficking, 4th phase). In this case, alternative accommodation is sought (respondent Pag-Asa).

Other security measures mentioned include residents not being allowed to lean out of the window or play loud music with the windows open as this can attract too much attention (respondent Pag-Asa).

No security measures exist when a victim goes to court. However, the organisation builds in precautionary measures, for example, by going to court before the perpetrator arrives, by waiting until the perpetrator has left before exiting the building and by making sure no one is following the victim when leaving (respondent Payoke).

2.4.6 Realisation of objectives

All three NGOs have more or less the same objectives (Section 2.3); empowering the victims and helping them to overcome their exploitative past. The respondents of all three NGOs indicate that their objectives are generally realised:

- In most cases a relationship of trust is established with the victims and a procedure can be started (respondent Payoke).
- A respondent of Payoke states that one can be content when a victim who was once very vulnerable and afraid develops into a strong and independent woman, who can speak some Dutch. According to this respondent, many victims want to grab this chance with both hands. But for some, the language barrier or psychological problems hinder their ability to live independently.
- Having the perpetrators sentenced, and the victim being able to reside in Belgium permanently while having a job and a family is the most ideal situation. But, if victims either leave for the country of origin or decide to stay in Belgium illegally – and no criminal investigation is started – this is not considered a failure by the NGOs. *'We can be content if we can prevent someone from ending up in a bad situation again'* (respondent Pag-Asa).

However, more evidence as to whether or not the objectives are being reached is not available.

2.4.7 Bottlenecks

This section describes the bottlenecks which are specific to CAA and applicable to all types of accommodation, as mentioned by various respondents.

- While the three NGOs are highly specialised in human trafficking, the organisations with which one needs to co-operate, such as the OCWM, do not have the

⁸³ External parties, except for police units who come for specific victims, are rarely admitted to the shelter, as people should live here in peace. Also, it can be quite frightening for a woman if she suddenly has a stranger standing in front of her. When official visitors come, the clients are, therefore, always informed in advance (respondent Pag-Asa).

same level of knowledge about this matter which can lead to misunderstandings. Such organisations usually see the victim as 'the alien' or 'the newcomer' and provide them (subconsciously) with the wrong information. For example:

'Victims of human trafficking can only work if they have a work permit C. However sometimes – before the provision of such a permit – an employee of the OCMW will state that a victim needs to start applying for jobs and that the life allowance will be stopped.' (respondent Payoke)

- The autonomous position of the three NGOs in Belgium:⁸⁴ one of the reasons that may cause the criminal procedure to stop is if victims resume contact with their traffickers. Only the NGOs judge whether this is the case. The way in which the centres decide whether someone has 'resumed contact with the trafficker' is sometimes open to question.

'This sometimes lies in very small facts; it can be their word against the victim's. For example the victim might have returned to the house of the trafficker to get his Koran and other belongings, while the centre considers this as resuming contact with the environment. In such a situation the victim often does not have a say.' (respondents CGKR)

According to respondents of Payoke, the assistance is only stopped when police or social inspection services have become involved and they conclude that the victim has (indeed) been in contact with the trafficker(s).

- Different nationalities (and religions) can cause tensions, since victims sometimes do not understand each other and have different characteristics. For example, Nigerians are generally very outgoing and expressive, which might be overwhelming to others (for example Chinese victims) and may lead to feelings of insecurity.

2.5 Perceived advantages and disadvantages of Categorical Accommodation and Assistance

CAA is a specific form of shelter because it only provides refuge to victims of THB. Different perceived advantages and disadvantages of this specific type of accommodation were mentioned by the respondents, some of these also apply to non-CAA.

2.5.1 Perceived advantages of Categorical Accommodation and Assistance

- Specialised assistance:

'These people generally stay in Belgium to live here. It is thus of importance that they receive adequate education, that they find work and are able to stand on their own feet. In the categorical shelter a lot of attention is paid to these matters.' (respondents Payoke and Sürya)

- Safe environment for victims of THB (respondent Sürya).
- Victims who reside in a categorical shelter will realise that they are not alone; they are able to get in touch with people who have experienced the same difficulties, who might even be from their own culture and who can provide them with information (respondents Pag-Asa and Payoke).

⁸⁴ See also: Van der Sijp & Herbots (2008), and Van der Herrewegen et al. (2006).

- Victims can provide each other with psychological support. For example, when new victims enter the shelter and they have adapted the reflection period, but are not yet sure whether to file a complaint against their perpetrators, they will see that others have already come a long way which might be just the push they need to start a criminal procedure (respondents Pag-Asa).
- Stigmatisation of the victims is limited as the length of stay is restricted, the assistance is specific to the needs of each individual and many efforts are made to make sure that the 'victim status' is not registered on official documents.⁸⁵
- Familial ambiance: this creates the feeling of a truly 'safe haven' and makes it easier for the victims to live on their own when they leave the shelter, as they have made friends in the shelter who can be visited and seen when they are living independently (respondent Payoke).
- The placement of victims from various nationalities and with different exploitative backgrounds in the same shelter resembles reality (respondents Pag-Asa).

2.5.2 Perceived disadvantages of Categorical Accommodation and Assistance

- Postponing the social interaction with non-victims:

'Victims have the tendency to stay within their 'own circle and in the same environment (...). The step they have to take to get in touch with people is greater than when victims of human trafficking are housed together with non-victims. (...) The step to get into the external world is thus postponed.'
(respondent Payoke)

- Differences in exploitative backgrounds can create tensions; for example victims of labour exploitation might feel superior to victims of sexual exploitation since they had a 'real job' and consider prostitution to be a 'dirty' profession. Discrimination between different victims can also occur with regards to religion.
- For the provision of specialised assistance, interpreters generally need to be used. The involvement of an interpreter can hinder the establishment of a trust relationship between the specialised supervisor and the victim, which might complicate the provision of assistance to this group (respondents CGKR).
- One is dealing with people who have been involved in (international) criminal networks and who are all placed together in one shelter. As a result, the security measures and organisational aspects should be carefully considered (respondent CGKR).

⁸⁵ For example, this is no longer written on the residence permit.

3 Czech Republic



Source: CIA The World Factbook

3.1 Introduction

The Czech Republic lies in Central Europe and is bordered by Germany, Poland, Slovakia and Austria. It has a population of 10.35 million.⁸⁶ Between 1948 and 1989 then Czechoslovakia, was a communist-ruled state. Following the collapse of the communist system in 1989, in 1993 the country was divided into two states: the Czech Republic and Slovakia. Since 2003 the Czech Ministry of Interior (MoI) has been running the Programme on Support and Protection of the Victims of Trafficking in Human Beings (the so-called 'Programme') for national and non-national presumed victims of THB. The Programme provides shelter and assistance to the victims through three specialised NGOs; two of these organisations (La Strada CR and Diaconia CNPS) provide Categorical Accommodation and Assistance (CAA) while the other NGO (The Archdiocese of the Charity in Prague) accommodates both victims of THB and domestic violence. In addition, the two former NGOs also provide CAA to potential victims (those who are under – serious – risk of trafficking)⁸⁷ and to victims who do not participate in the Programme. They also provide ambulatory assistance to victims who have already left the shelter or do not wish to make use of the shelter services at all. The Czech Republic has been a member of the European Union (EU) since 2004. By mid-2010, it was one of the few EU countries with a National Rapporteur on Trafficking in Human Beings (Dottridge, 2010). This role was assigned to the MoI which has the following tasks: data collection, analysis and

⁸⁶ www.czech.cz, consulted on May 27, 2011.

⁸⁷ Those who are – severely – exploited but not identified as presumed victims of THB by the police (see Section 3.4.1, Identification).

monitoring, coordination of anti-trafficking policy and preparation of policy papers and reports.⁸⁸

3.1.1 Background

Forms of THB

According to the recent 'Trafficking in Persons' (TIP) reports of the United States (US) Department of State (2010, 2011) the Czech Republic is a source, transit⁸⁹ and destination country for women who are subjected to THB for the purposes of sexual exploitation and forced labour; and for men who are subjected to forced labour (US Department of State, 2010; 2011).

Women are mostly exploited in the sex industry as prostitutes, which is also the most common form of THB in the country⁹⁰ (MoI, 2008). This type of exploitation takes place in erotic night clubs, sauna's or health clubs but also occurs in other forms, such as street prostitution, prostitution carried out on highways and in guest houses (mostly in border areas) or by providing services in private flats. Recently, there has been a downward trend in street prostitution and a shift towards the provision of services in private flats. It is pointed out however that it is difficult to map out the prostitution taking place in private flats and its related criminal activities (MoI, 2011). Women are also subjected to exploitation in the services sector and agriculture (usually in physically less demanding jobs, such as harvesting crops) (MoI, 2008).

The exploitation of men occurs predominantly in the construction, forestry, agriculture, manufacturing and services sectors (US Department of State, 2010, 2011). This usually includes physically demanding activities, fifteen or more hours a day, seven days a week, with minimal or no pay (Svec, 2010). During 2009-2010 cases were reported where independent contractors operating under a weak regulatory structure recruited foreign workers for labour in state forests and seasonal employment in manufacturing (US Department of State, 2011). The contractors had often confiscated workers' passports, forced them to live in substandard conditions and withheld pay. Foreign workers, especially those from Vietnam, are believed to be heavily indebted to labour agencies in their home countries which leaves them vulnerable to trafficking. It is reported that these workers and their families back home are also threatened by these agencies if the workers attempt to leave the job or complain about the conditions in the Czech Republic (US Department of State, 2011). According to a representative of La Strada CR, these contractors are mostly Czech employment agencies, subcontracted by big companies. It is stated that such big companies reject any responsibility for the exploitation, arguing that it is the responsibility of the local employment agencies. Male clients, who were sheltered by La Strada in 2010, reported similar forms of oppression, but also commented upon the violence and death threats which were directed towards fellow labourers, the threats of visa cancellation and expulsion from the country, and the restriction of free movement, the demonstrative punishment of fellow labourers and the disappearance of several co-workers. In addition, clients were forced to work without protective clothing or tools in poor working conditions (e.g. in severe frost or snow) (MoI, 2011).

Svec (2010) reports that the Czech Republic is a source, transit and destination country for children who are trafficked for sexual and labour exploitation; minor victims are subjected to child prostitution and pornography, illegal adoption and

⁸⁸ <http://ec.europa.eu/anti-trafficking>, consulted on May 17, 2011.

⁸⁹ Trafficked women and men are mainly transited to other EU-countries such as Austria, Denmark, Germany, Switzerland, the Netherlands, Serbia, and the United Kingdom (Svec, 2010; US Department of State, 2009, 2010).

⁹⁰ <http://ec.europa.eu/anti-trafficking>, consulted on May 17, 2011.

petty crime (pickpocketing, car burglary, begging or drug distribution). According to Svec (2010) child trafficking takes place via the family, either interfamilial or extra-familial. In the former case the trafficking is committed by parents, guardians or people close to children and is the result of disadvantageous socio-economic conditions and social exclusion. In the latter case children are sold or handed over by their parents or guardians to another person with the goal of securing them better living conditions through education or work (Svec, 2010). According to the MoI (2010a) child trafficking rarely occurs in the Czech Republic.⁹¹

The MoI states, in the most recent Status Report on THB, that in recent years the number of people trafficked for the purpose of sexual exploitation looks stable and that this number even saw a downward trend in 2010. On the other hand an increase was reported in the registered number of people trafficked for the purpose of labour exploitation. The economic crisis probably plays a role in these trends (MoI, 2011).

Nationalities of victims

Women who are sexually exploited originate from several Eastern European (EU) countries (Bulgaria, Hungary, Romania, Russia, Slovakia, and the Ukraine), but also from Asian (Mongolia, Vietnam), Latin American (Brazil, Honduras, Ecuador) and African countries (Nigeria). Czech women are also trafficked in the sex industry (US Department of State, 2011). The MoI (2011) also mentions women from Belarus. According to Svéc (2010) there has been a continuous increase in the number of girls and women arriving from the Eastern European countries since 2000. Women, as well as men, who are subjected to forced labour, originate mainly from Belarus, Bulgaria, Romania, Russia, the Ukraine, Mongolia, Vietnam, but also from Georgia, Kazakhstan, Kyrgyzstan, Uzbekistan, China, India and Thailand (US Department of State, 2011). In addition Svec (2010) reports that Czech women and men are also trafficked for labour exploitation.

Recently, there has been evidence of EU citizens being exploited in the Czech labour market. The MoI (2011) reports that after the introduction of stricter rules for the issuance of labour permits and restrictions in the number of long-term visas in the main source countries, job brokers and organisers of labour migration started to recruit clients from EU member states.

Trafficking networks

There is not enough evidence to map the trafficking networks operating in the country (respondent MoI). The MoI (2008) reports that links between international organised crime groups and Czech nationals have existed for a long time. In the vast majority of cases, to transport labourers into the country, tourist visas and official means of transportation are used. There are indications that Vietnamese organised crime groups are involved in organising the trafficking of their co-nationals, usually for labour exploitation (respondent MoI). Previously, activities of the same groups were also reported in the area of organised prostitution (MoI, 2008). Regarding Ukrainian victims of THB there are similar indications that their fellow country men are involved in trafficking networks, especially in the falsification of documents, visas etc. According to the MoI-respondent it is typical for cases of THB that groups of two to three persons, usually of Czech origin, or from the country of origin of the victims, recruit and then refer people to Czech nationals, or in some cases to people of the same nationality, who later exploit them. The same respondent states that recruitment frequently occurs in eastern European countries and in Vietnam and

⁹¹ Between 2005 and 2010 a total of six presumed child victims were identified by the law enforcement authorities (in 2005 and 2006 respectively two victims, in 2007 none, in 2008 one, in 2009 none, and in 2010 three victims) (respondent MoI). In spite of the low numbers, the Czech government is implementing specific national plans for combating the trafficking of children (MoI, 2011).

Mongolia. Furthermore some of the activities of model agencies are monitored as these sometimes deal with organised escort services both in the Czech Republic and abroad (e.g. France, the United Kingdom, the Unified Arab Emirates) (MoI, 2008). Concerning street prostitution by minors, the existence of organised Bulgarian networks is reported (MoI, 2008).

According to the MoI (2011), the modus operandi of organised groups of traffickers has been changing. In 2009 cases were reported where a variety of physical violence against the victims was used (ranging from hitting to rape or holding the person without water or food) (MoI, 2010a). More recently physical violence rarely occurs. It is argued, for example, that the chance of being identified as a presumed victim by the police is higher in cases where violence is used⁹² (see Section 3.4.1, Identification). With regard to exploitation in the sex industry, for example, the economic crisis has led to decreased demand and increased competition which makes the use of violence less necessary (MoI, 2011) and, with regard to labour exploitation, traffickers provide victims with below standard, but 'reasonable' working conditions, which means that victims are less likely to approach the police.⁹³ Victims are allowed to leave their workplace as well as their place of accommodation and they even, in some cases, receive advance payments. However, subtle forms of coercion prevail to manipulate the victims, such as psychological pressure and threats and practices on the edge of legality (such as delaying payments but still paying them within the legal time limits, demanding working overtime, non-payment of wages while pretending that the enforcement of repayment schedules is necessary because of non-existent debts, unsuitable hygienic conditions, punishment for fabricated violations of rules) (MoI, 2011).

Another trend has recently been observed concerning the exploitation of Czech victims in foreign labour markets. Individuals with a vulnerable position, such as the homeless, the disabled or those from socially excluded communities were recruited to work in the United Kingdom (UK) mostly by Roma family gangs from the Czech Republic and Slovakia. The documents which were required were arranged by the offenders, victims were mostly transported by car, and accommodation was secured. As soon as the people started work, their wages were seized; if they attempted to leave their jobs, they were threatened, even physically assaulted (MoI, 2011).

3.1.2 Policy context

Definition of THB in the Czech legislation

The Czech national legislation does not include any special 'anti-trafficking' law (Svec, 2010). THB is a criminal offence under the criminal law of the Czech Republic. The definition of this offence has gradually been shaped by international commitments and the accession of the country to the EU (Kutálková, 2010, p. 29). Before 1989, the provisions in the Czech Criminal Code regarding THB were limited to the commercial sexual exploitation of women and to the crossing of a State frontier: only who 'has lured, hired or transported a woman abroad with the intent of her being used for the purposes of sexual intercourse with someone else' (Section 246 of Act 140/1961 Coll., the Criminal Code) was liable for punishment (Kutálková, 2010, p. 29). During the first half of the 2000s two amendments were made; the amendment of 2002 introduced a gender-neutral wording for victims. In addition, the scope of the offence was expanded to cover specific aspects of the luring, hiring

⁹² www.praguepost.com; interview with Petra Kutálková, deputy director, La Strada Czech Republic; posted on May 4, 2011.

⁹³ Idem.

or transporting of another person not only abroad but also from abroad with the intent of him or her being used for sexual intercourse (Kutálková, 2010, p. 29). In 2004, the year that the Czech Republic joined the EU, an amendment to the Criminal Code was made to include trafficking for forced labour as well as other forced services⁹⁴ (sections 232a and 204 of the Criminal Code, Kutálková, 2010, p. 29; US Department of State, 2010). In addition, the definition of THB was no longer limited to the crossing of a State frontier. The related provisions which were introduced were in line with the Palermo definition⁹⁵ and allowed punitive measures to be taken against someone 'using or threatening violence, employing deception or abusing the error, duress or dependence of another person in order to tempt, arrange for, hire, lure, transport, hide, detain or surrender [the] alleged person for the purposes of sexual intercourse or any other forms of sexual harassment or abuse, or for the purposes of slavery, servitude, forced labour or other exploitation' (Kutálková, 2010, p. 30).

The new Criminal Code (Act No. 40/2009 Coll.) that became effective on January 1, 2010 extended the definition of THB to include trafficking for the removal of organs, forcing somebody into producing pornography, and forced military service⁹⁶ (Kutálková, 2010; US Department of State, 2010) (see Box 3.1). As such, the definition of THB in Czech criminal law meets the requirements of the Palermo Protocol (Kutálková, 2010; Svec, 2010), although the Czech Republic is one of the few European countries which did not ratify the Protocol (Kutálková, 2010). Furthermore, the Czech Republic is the only EU-member state that neither ratified nor signed the Council of Europe Convention.⁹⁷ Kutálková, 2010 and Svec (2010) state however that the Czech definition of THB meets the requirements of the Palermo Protocol, Council of Europe Convention, and the – former – EU Framework Decision (see Appendix 5) and covers all forms of exploitation. In addition, through various documents the Czech Republic formally complies with the Recommended Principles and Guidelines on Human Rights and Human Trafficking issued by the UN High Commissioner for Human Rights (Kutálková, 2010).

⁹⁴ <http://ec.europa.eu/anti-trafficking>; consulted on May 17 2011.

⁹⁵ See Chapter 1, Section 1.1.5 for the Palermo definition.

⁹⁶ <http://ec.europa.eu/anti-trafficking>; consulted on May 17 2011.

⁹⁷ The main obstacle in the Czech legislation against signing the Convention and the Protocol is the fact that legal entities (e.g. companies) cannot be made liable for an offence (Kutálková (2010)). According to the legislation, only natural persons are liable for committed crimes. The Council of Europe Convention on THB, as well as many others and EU Directives expect such provisions to be embodied in the legal system of the member states. The draft of the Act on the liability of legal persons was not yet approved in the Czech parliament when this report was written. When this is the case, for example it will be possible to prosecute a company for employing foreign persons illegally, if it can be proved that this is the official policy of the company. Consequently, the Czech Republic will sign the Palermo Protocol and other EU-directives (respondent MoI).

Box 3.1 The definition of the criminal offence of THB in the Czech Criminal Code (Act No. 40/2009 Coll.; Section 168)

- 1 Whoever tempts, arranges for, hires, lures, seduces, transports, hides, detains or surrenders a child for the purposes of use by another for:
 - a sexual intercourse or other forms of sexual abuse, harassment or the production of pornographic materials;
 - b procurement of tissues, cells or organs from the child's body;
 - c military service;
 - d slavery or servitude; or
 - e forced labour or other forms of exploitation, or whoever profits from such acts, shall be sentenced to imprisonment for two to ten years.
- 2 The same penalty shall be applicable to whoever uses violence, the threat of violence or of grievous injury, or employs deception or abuses the error, duress or dependence of a person not falling within Subsection 1, to tempt, arrange for, hire, lure, seduce, transport, hide, detain or surrender said person for the purposes of use by another for:
 - a sexual intercourse or other forms of sexual abuse, harassment or the production of pornographic materials;
 - b procurement of tissues, cells or organs from the person's body;
 - c military service;
 - d slavery or servitude; or
 - e forced labour or other forms of exploitation, or whoever profits from such acts.
- 3 Imprisonment for five to twelve years or confiscation of property shall be applicable to whoever
 - a commits any such act as mentioned in Subsection 1 or Subsection 2 as a member of an organised group;
 - b exposes through such act another person to the danger of grievous bodily injury or death;
 - c commits such an act with the intent of gaining significant benefit for herself/-himself or for another person; or
 - d commits such an act while being connected to an international group active in several States.
- 4 Imprisonment for eight to fifteen years or confiscation of property shall be applicable to whoever
 - a causes grievous bodily injury by any such act as mentioned in Subsection 1 or 2;
 - b commits such an act with the intent of gaining benefit of significant scope for herself/himself or for another; or
 - c commits such an act while being connected to an international group active in several States.
- 5 Imprisonment ten to sixteen years or confiscation of property shall be applicable to whoever causes death by any such as mentioned in Subsection 1 or 2.
- 6 Preparation for any such offence in itself constitutes an offence.

Source: Kutáľková (2010, p. 30-31)

However, problems are reported regarding the definition of THB because of its unclear interpretation, for example, of terms like 'enslavement', 'forced labour' or 'other forms of exploitation', as these terms are not defined in the Criminal Code (Kutáľková, 2010; Svec, 2010). In addition, at the time that this report was written, there were no final, conclusive judgements made by the Czech courts concerning the THB for the purposes of forced labour or other forms of exploitation, although the country's criminal code has enabled the prosecution of THB for purposes other

than exploitation for prostitution since 2004⁹⁸ (Kutálková, 2010; respondent La Strada). This leads to problems in the identification of victims (see below). The La Strada CR respondent points out that the term 'forced labour' was defined in the Forced Labour Convention (C29) of the ILO (International Labour Organisation)⁹⁹ in 1930 and that the Czech Republic is a party of this Convention.¹⁰⁰ The interpretation of the term 'exploitation' is however more problematic in the Czech Republic, as the scope of the concept of exploitation is expected to be defined in jurisprudence (respondent La Strada CR). Consequently, in practice, 'trafficking' and 'exploitation' are currently used as two different terms. The MoI (2010a) considers the lack of jurisprudence on labour-trafficking to be an essential weakness in the system of combating THB. The Czech Criminal Code will be amended in the near future to include the crime 'unlawful employment of foreigners under severe forms of exploitation' due to the transposition of the EU Directive on Minimum Sanctions against Employers of Illegal Migrants (respondent La Strada CR).¹⁰¹

Implications of problems in the definition of THB

The above mentioned problems in the definition of THB have their implications on the identification, protection and assistance of the victims (see Section 3.4.1, Identification) and on the prosecution of the offenders (Kutálková, 2010). In Czech legislation, the penalty for trafficking ranges from two to 18 years imprisonment (MoI, 2008; respondent MoI) and those who profit from trafficking acts are also liable to prosecution for committing a criminal offence (Kutálková, 2010). It is reported however that, in practice, only a small number of offenders are convicted, and those who are convicted do not receive sentences that correspond to the gravity of the offence.¹⁰² The explanations for this are as follows: the inexplicit definition of THB and the unclear interpretation of the terms used (Dottridge, 2010; Svec, 2010), the tendency to prosecute suspected traffickers for less serious, related offences introduced in the new Criminal Code (such as procurement, depriving of personal free-

⁹⁸ When the current report was being written, there was a pending case of labour-trafficking waiting for judgement by the court (various respondents). At the publication phase of this report the case ended up in the conviction of the traffickers (La Strada International, 2012).

⁹⁹ Article 2 of the ILO Convention defines 'forced labour' as follows: 'For the purposes of this Convention the term forced or compulsory labour shall mean all work or services which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily' (ILO, Forced Labour Convention 1930, C29).

¹⁰⁰ Kutálková (2010) states however that the ILO Convention originated in a different historical context and was meant to address a different situation. She raises the question as to whether the 1930 definition is adequate in current practice (Kutálková, 2010).

¹⁰¹ According to this EU-Directive, the states should consider providing similar benefits as they do for trafficked persons, to those who are illegally employed and severely exploited. It is expected that the new amendment will also introduce a new offence into the criminal code i.e. that it should be considered a criminal offence if a person is illegally employed under severe exploitative conditions. However, labour exploitation (or severe forms of exploitation) by itself is not considered a crime according to the Directive (respondent La Strada CR). The La Strada-respondent points out that the term 'severe forms of exploitation' in this Directive applies only to those who are employed illegally. The same respondent states that this can actually be seen as a discriminatory measure as the Directive stresses the fact that people are being employed illegally rather than the fact that they are being severely exploited.

¹⁰² According to the Trafficking in Persons 2010 Report of the US Department of State, during April 2009-March 2010 115 persons were prosecuted and 83 were convicted for trafficking offences. Only those who were convicted under the 'pimping law' (Section 204 of the Criminal Code) were sentenced to time in prison: 19 out of 83 (this was a decrease in comparison to the period April 2008-March 2009 when 18 out of 64 traffickers were imprisoned). Of these 19 traffickers, one trafficker was sentenced for one year's imprisonment, 16 traffickers for one to five years, and two for a minimum of 15 years of imprisonment (US Department of State, 2010). According to Kutálková (2010), the number of criminals sentenced each year has recently been below five.

dom, restraint of personal freedom, and intimidation) – as these offences are usually easier to prove¹⁰³ – and the lack of preparedness of the country's judicial system to deal with complicated cases involving organised crime (Dottridge: 2010).

Policy on anti-trafficking and assistance of victims of THB

In the Czech Republic the MoI has the main responsibility for coordinating the anti-trafficking policy at national level. Since 2003, the ministry has been periodically producing a 'National Strategy to Combat Trafficking in Human Beings', in co-operation with other ministries. An inter-ministerial Coordination Group (consisting of different ministries,¹⁰⁴ the police and other relevant state administration authorities, and specialised NGOs) acts as a platform for the exchange of information regarding ongoing anti-trafficking activities. It is responsible for submitting proposals for activities at inter-ministerial level, and collects, analyses and evaluates data. A smaller group of experts, with a more operational focus, addresses problems concerning individual victims of THB. Within the context of the First National Strategy, a special programme to support and protect the victims of THB (Programme on Support and Protection of the Victims of Trafficking in Human Beings) was formally established by the MoI in 2005. The Programme is a follow-up to the pilot project of the United Nations Office on Drugs and Crime (UNODC) 'Model of Support and Protection of Victims of Trafficking in Human Beings for the Purpose of Sexual Exploitation' that was initiated in 2003 (MoI, 2011). The Programme offers shelter and support services such as financial assistance, legalisation of stay, health care, psychological, legal and educational assistance, support in seeking jobs, training courses, work permits, legal advisory services, long-term social integration, and witness protection¹⁰⁵ (Dottridge, 2010; UNODC, 2009). The MoI provides these services through three specialised NGOs, two of which provide CAA services for the victims of THB. The MoI-respondent states that providing just CAA on its own would cause capacity problems, both in terms of places and finances; in the current situation if there are no places available in the categorical shelters, services of the other specialised NGOs providing non-CAA are used. The respondent also points out that organising a governmental categorical shelter for victims of THB is not a policy priority in the coming years.

The services of the Programme are for those nationals and non-nationals (from third countries as well as the EU) who are identified as presumed victims of THB (respondent MoI). In addition Czech citizens who have been trafficked abroad belong to the target group of the Programme (MoI, 2011).

The current goals of the Programme are to support and assist the victims of THB (see further Section 3.4.1, Identification), motivate them to co-operate with the relevant authorities, and mediate 'The Assisted Voluntary Returns' programme in order to help the victims to return to their homelands (Ministry of Interior, 2010b).¹⁰⁶

Act on Social Services

In the Czech Republic social services (among others, crisis assistance, professional social assistance and shelters) are delivered under the Act on Social Services (No. 108/2006 Coll.).¹⁰⁷ The target group of this Act is all vulnerable groups, such as the

¹⁰³ See: Svec, 2010.

¹⁰⁴ In addition to the MoI, the following ministries are involved in human trafficking issues: the Ministry of Justice, the Ministry of Labour and Social Affairs, the Ministry of Health, the Ministry of Education and the Ministry of Foreign Affairs (Svec, 2010).

¹⁰⁵ <http://ec.europa.eu/anti-trafficking>, consulted on May 17, 2011.

¹⁰⁶ The methodological guidelines of the MoI on the functioning of the Programme (dated 7 June 2010). This document is a 'soft document' of the MoI. The English version used here is an unofficial translation by La Strada CR.

¹⁰⁷ The Act came into effect on January 1, 2007 (MoI, 2011).

elderly, the disabled, the addicted, victims of domestic violence or THB (respondents La Strada CR and MoI). The NGOs are the main providers of social services (respondent La Strada CR).¹⁰⁸ The NGOs which specialise in the provision of services for THB also deliver these services according to the Act and their activities are covered by funds from, among other sources, the Ministry of Labour and Social Services (MoLSA). The MoI also contributes financially to the activities of these NGOs. The two NGOs providing CAA use the MoI-funds for prevention activities only, as social services are fully covered by the MoLSA and other sources. According to the Act on the State Budget, one activity (e.g. social services) cannot be financed from two or more governmental sources at the same time. In the case of the specialised NGO with non-categorical shelters, the MoI finances social services (respondent La Strada CR).

Differences between nationals and non-nationals

All participants of the Programme have the same rights regarding social, legal and medical assistance (respondent MoI). This is also valid for those who do not participate in the Programme but who are sheltered and assisted by the specialised NGOs (respondents La Strada CR and Diaconia CNPS). For third country citizens without a legal residence status, co-operation with the police implies joining the Programme as it is through the Programme that they can legalise their stay in the country. EU-nationals have the option of co-operating with the law enforcement authorities without joining the Programme (respondents Diaconia CNPS).

Reflection period

Victims of THB are offered a reflection period of 60 days (US Department of State, 2010; various respondents). According to the Czech system, victims first need to be identified as – presumed – victims by the police before they can be offered the reflection period (respondents MoI and Diaconia CNPS). This is considered to be an important bottleneck in the system as the identification criteria of the police and the specialised NGOs responsible for sheltering and assisting victims of THB differ (respondent Diaconia CNPS; see further Section 3.4.1, Identification). In some cases the police continue with the identification activities during the reflection period (respondent MoI). A representative of La Strada CR points out that the reflection period should actually be considered as a period during which the person should gain control over her/his life, and decide whether or not to co-operate with the authorities. She/he should not come into contact with the Prosecution, Law Enforcement and Judicial Authorities (PEJA, briefly law enforcement) if she/he does not wish to during this time. The respondent points out that this is not reflected in the country's Criminal Proceedings Act and that in a 'soft law document', an internal act of the MoI, the reflection period is defined only for victims who join the Programme (respondent La Strada CR). 'The victim has a 60-day period from the date he or she has been included in the Programme (so-called reflection period) to decide whether she/he will co-operate with the Prosecution, Law Enforcement and Judicial authorities; this reflection period may be extended to maximum of 30 days only by the First Deputy Minister in case of a serious medical condition of the victim that must be documented by medical reports' (MoI, 2010b, p. 4).

Non-national victims usually receive a so called 'exit-permit' for the duration of the reflection period (Cuzuioac-Weiss & Lacroix, 2010; respondent MoI). During this time victims are expected to decide whether to co-operate with law enforcement and

¹⁰⁸ The system of social services is applicable to all vulnerable groups, equally. According to the Social Services Act, the NGOs have to fulfil certain quality standards and be registered to deliver social services. They are evaluated by an independent inspection unit to see whether they meet the required standard. Only then do they receive funding (from the Ministry of Labour and Social Affairs) for providing social services (respondent La Strada CR).

whether they indeed want to join the Programme (respondent MoI). Victims are encouraged to assist in investigations and prosecutions by providing information and testifying in court (US Department of State, 2010). Czech citizens who are trafficked abroad and want to return to the Czech Republic and Czech citizens who are trafficked in the Czech Republic can also make use of the reflection period to decide whether they want to co-operate with the law enforcement and join the Programme. Joining the Programme can also have implications for the voluntary return of Czech victims to the Czech Republic. They can, for example, return to the country with their travel costs covered (respondents MoI and La Strada CR) (see Section 3.4.4, Support focused on future residence or voluntary return). However, in some cases, trafficked persons decide to co-operate with the law enforcement during the initial contact with the police and no use of the reflection period is made (respondent MoI).

Victims of THB can stay in the shelters of specialised NGOs during the reflection period, and are provided with cost-free basic crisis intervention (medical, psychological and social assistance); while staying in a shelter is not required, victims must receive assistance from one of the specialised NGOs (respondent MoI). If a foreign victim decides not to co-operate with law enforcement, during the last ten days of the legally permitted period of residence, steps are taken towards return to the country of origin. If the presumed victim decides to co-operate with the authorities, her/his participation in the Programme continues under the support of the specialised NGO and the police; others are expelled from the Programme (MoI, 2010b; respondent MoI) and offered voluntary return to their country of origin. If victims reject voluntary return, they are deported after their permit expires (MoI, 2008).

Temporary residence permit

According to the Act on Residence of Foreign Nationals, trafficked persons from third countries who decide to co-operate with the authorities and join the Programme are entitled to a temporary residence permit (the so-called Long-Term Residence Permit for the Purpose of Protection in the Czech Republic). This permit is initially issued for up to six months by the Asylum and Migration Department of the MoI, and can be extended depending on the duration of the victim's co-operation with the law enforcement authorities and the criminal proceedings. This residence permit allows the holder to work in the country for the duration of the court proceedings and continue to receive assistance within the context of the Programme. On paper, the temporary permit looks like a regular permanent residence permit; for example, when the permit holders look for a job the employers are not aware that this is a special permit and the person is a victim of THB (representative MoI).

If, over the course of time, third country nationals do not want to remain in the Programme, for example, because they no longer want to co-operate with the authorities, they can apply for a change of 'purpose of stay' in the Czech Republic (e.g. to study or to work) one year after receiving the initial temporary permit (respondent MoI). The change can take place later, during the criminal proceedings too. As a result, victims 'become' 'regular' migrants, and they lose their rights to special protection connected to the special residence permit for victims of THB. *'We say "we can't protect you anymore from the offenders; but it is your life; you now become a regular migrant"'* (respondent MoI). After the change in purpose of stay is made, the procedure cannot be reversed. This means that victims also lose their chances to get a permanent residence permit on the grounds of 'special consideration' (respondent MoI) (see Section 3.4.4, Support focused on future residence or voluntary return).

Duty to report

With the introduction of the new Czech Criminal Code, the crimes of human trafficking and deprivation of personal freedom (a frequent element of THB) are included in the list of crimes to which the duty to report applies (Sections 367 and 368 Act. No.40/2009 Coll.). A person who has reliable information about these crimes is considered criminally liable if she/he does not immediately report the crime to the law enforcement authorities or refuses to preclude the crime (La Strada International, 2010, 2011). The duty to report has implications for service providers (mostly NGOs), and for victims themselves (La Strada International, 2010). In other words, service providers are obliged to report any presumed trafficked persons regardless of their consent. The duty to report was introduced as a way of combating THB but, according to the specialised NGOs, it has an important negative impact, particularly on identification of trafficked persons.¹⁰⁹ According to a representative of La Strada CR, the majority of victims do not want to contact the police straight away because, in the beginning, they do not consider themselves as being trafficked: *'It is a process where they realise "OK, I am not just a person who is illegally in the country and committing offences, but I am also a victim of a severe crime"'* (respondent La Strada CR). Furthermore, the specialised NGOs argue that the duty to report prevents them from establishing contacts with trafficked persons, endangers the trust relationship between the service providers and the trafficked persons, and forms a barrier in offering support and assistance to the victims, puts employees of NGOs under security risks, obstructs the implementation of preventive activities on THB, causes the re-victimization of trafficked persons created by their being prosecuted for the failure to report, and reduces the motivation of persons who do not want to come into contact with the police for a number of reasons (e.g. customers of sexual services) to report suspicions of THB.¹¹⁰ When this report was being written, a pending amendment to the criminal code – which was a result of advocacy work of La Strada CR was approved (respondent La Strada CR). This amendment exempts workers of organisations providing services to victims of crimes from the duty to report on the human trafficking crime and the crime of restriction of liberty (La Strada International 2011; respondent La Strada CR).¹¹¹ Duty to report is still applicable for trafficked persons themselves. It is pointed out, however, that the non-punishment principle¹¹² stated in international treaties may offer a way out in cases where the police want to punish trafficked persons (respondent La Strada CR).

3.1.3 History of Categorical Accommodation and Assistance

As mentioned above, the Programme provides accommodation and specialised assistance to victims of THB through three specialised NGOs. La Strada CR (from here onwards shortly La Strada), the Diaconia Centre for Nationwide Programs and Services (Diaconia CNPS) and The Archdiocese of the Charity in Prague (Caritas) (respondent MoI).¹¹³ La Strada and Diaconia CNPS provide CAA to trafficked people and are the only two specialised NGOs in the country providing CAA to this group. The shelters run by Caritas are non-categorical, and female victims of THB are

¹⁰⁹ www.strada.cz/index.php/en/who-we-are/proffesional-public/publication-of-la-strada-cz, consulted on December 7, 2011.

¹¹⁰ Idem.

¹¹¹ According to the MoI (2011) the duty to report will be maintained if the presumed victim is a minor.

¹¹² The non-punishment principle is an international principle to the effect that victims of human trafficking should not be punished for offences they have committed in a situation where they were being exploited (NRM, 2010, p. 50). The Council of Europe Convention on Action Against Trafficking in Human Beings (2005) is the first international convention which contains a non-punishment clause for victims of human trafficking (NRM, 2009, p. 207).

¹¹³ La Strada and Caritas are official partners of the Programme; the MoI and Diaconia CNPS are in the process of dialogue for this NGO to become an official partner of the Programme (respondent MoI).

sheltered and assisted together with the victims of domestic violence. Female victims of THB with children are usually sheltered by this NGO. Caritas shelters male victims of THB with victims of other crimes and/or homeless people (a representative of Caritas).

La Strada has been active in the country since 1995, initially as a project of the pro-Fem foundation (Central European Consultation Centre for Women's Projects).¹¹⁴ It is one of the co-founder members¹¹⁵ of La Strada International (which was founded in 2004), a network of NGOs with nine members that is active in European countries.¹¹⁶

La Strada aims to contribute to the elimination of THB and human exploitation and to provide support and protection to victims of THB and exploitation as well as those who are under (serious) risk of trafficking and exploitation. Since the end of the 1990s La Strada has been active in the country to put THB on the agenda of the Czech government through advocacy and lobbying activities and by issuing recommendations to the government to prevent THB. As regards prevention activities the organisation conducts field work to disseminate information among groups at risk. Since 1996 it has also been operating a hotline. In 2000, before the Programme was even established, La Strada acquired its first categorical shelter to provide safe accommodation for trafficked women. Soon after, it provided its first services to women exploited in sectors other than the sex industry and to male victims (respondent La Strada).

Diaconia CNPS is a branch of the Evangelical Church of Czech Brethren (ECCB). Diaconia ECCB is one of the 31 members of Eurodiaconia which is comprised of 31 churches, non-statutory welfare organisations and NGOs and which is based on the traditions of the Protestant Reformation and Anglican and Orthodox traditions.¹¹⁷ Diaconia ECCB was established on June 1, 1989 and provides a wide range of social and medical services, including home care for the elderly, special schools for handicapped children and centres providing social prevention programs and support programs for migrants. Diaconia CNPS was created by the merging of two Diaconia centres, one of which was running the project 'No to violence!'. By its program 'No to violence!' and the prevention activities Diaconia CNPS (hereinafter Diaconia) strives to 'rescue victims of THB in the country and develop educational activities in order to prevent people from becoming victims of violence and exploitation' (written document received from Diaconia). Within the context of this programme the organisation runs different activities: developing prevention programs (e.g. video for schools to prevent forced labour), field work for identification of victims (and also for prevention purposes). The categorical shelter for men is a part of the Programme, and has been operating since June 2010. The shelter was set up in response to indications from the field that the number of exploited or trafficked men had been increasing over the last years and yet there was no shelter for this group. *'Basically, there was nobody else who had a shelter for trafficked or exploited men, except La Strada which has two beds. We could see that the target group was there. This was our basic motivation to open a shelter for men.'* (representative Diaconia)

In addition, when the CAA services for men were started, the organisation addressed particular problems related to this target group: men are not usually seen as victims of trafficking or exploitation but rather as illegal migrants and they are deported home without even being identified as victims; they are usually too ashamed to ask for help as society does not value men who seek help; and men have a greater

¹¹⁴ www.lastradainternational.org, consulted on May 9, 2011.

¹¹⁵ Other cofounder members include two NGOs from the Netherlands and Poland.

¹¹⁶ www.lastradainternational.org, consulted on May 9, 2011.

¹¹⁷ www.eurodiaconia.org, consulted on May 9, 2011.

fear of being stigmatized as a victim than women do. In addition, the organisation stated that it was crucial to achieve gender balance in combating THB and consider the gender-specific needs of this group (internal document of Diaconia).

Within the context of the Act on Social Services, trafficked people can also be accommodated non-categorically by organisations other than the above mentioned specialised NGOs. There are 70 registered service providers (mostly NGOs, but also other organisations such as service providers run by the local government, or asylum centres) which define victims of THB as one of their target groups (e.g. a crisis centre may provide crisis help for mothers, seniors, foreigners, and also for trafficked people). However, many of these organisations devote their services only marginally to victims of THB (MoI, 2010a). The La Strada-respondent points out that these providers may lack the specialist skill to identify and assist trafficked people; if it is known that a person is trafficked, it is most likely that these organisations refer the person to a specialised NGO.

Minor victims of THB are sheltered non-categorically, in the so-called 'Blue School' [*Modrá škola*], a specialised education centre, also for unaccompanied migrant minors. In addition to education, the school provides specialised and individualised social, psychological and medical care (respondent MoI).

3.2 Target group

3.2.1 Nationality, gender, age and forms of exploitation

Because of the lack of a central registration system there are no figures available for the total number of victims of THB in the Czech Republic (see Section 3.4.1, Registration). The figures on the number of victims, provided by the MoI, only include those who are officially identified as presumed victims and who are participating in the Programme (respondent MoI), while the figures provided by the specialised NGOs relate to all their clients which includes a wider group; the NGOs also provide shelter and assistance to those who are under serious risk of trafficking and to victims who do not want to participate in the Programme. Between 2003 and 2010 a total of 109 presumed victims from a range of nationalities were identified and referred to the three specialised NGOs for assistance within the context of the Programme (respondent MoI). The majority of these victims had been subjected to sexual exploitation (n=74); most of them originated from the Ukraine, Czech Republic and Vietnam, followed by Romania, Bulgaria, Slovakia and Russia (see Tabel 3.1). A peak in the numbers of presumed victims of forced labour (n=16) who joined the Programme in 2008 is explained by a special police action which took place that year in a number of work places (respondent MoI). According to the figures of the US Department of State (2011) the government funded NGOs provided shelter and assistance to 58 victims of THB (of whom at least 25 were 'new victims') in 2010. This number was approximately 76 both in 2008 and 2009 (US Department of State 2010) and 75 in 2007 (US Department of State, 2009). These figures are higher than the number of victims assisted within the Programme during the same years (respectively 7, 13 and 24), probably because the NGOs also assist potential victims of THB and people who do not participate in the Programme (confirmed by the respondent of La Strada) and the annual figures of the Programme refer to 'cohorts' of victims who are included in the Programme during a specific year.

Tabel 3.1 Victims included in the Programme of Support and Protection of the Victims of Trafficking in Human Beings between 2003-2010, by nationality

Nationality	2003	2004	2005	2006	2007	2008	2009	2010	Total
Brasilian	-	-	-	-	-	3	-	-	3
Bulgarian	-	2	4	-	1	-	-	-	7
Czech	-	2	3	4	5	4	3	3	24
Honduran	-	-	-	-	-	-	-	2	2
Kyrgyz	-	1	-	-	1	1	-	-	3
Latvian	-	1	1	-	-	-	-	-	2
Macedonian	-	-	-	-	2	-	-	-	2
Moldavian	3	-	-	-	-	-	-	-	3
Nigerian	-	-	-	-	-	-	-	1	1
Romanian	-	-	-	3	-	6	-	-	9
Russian	1	1	-	-	3	1	-	-	6
Slovakian	-	3	-	1	1	1	1	-	7
Thai	-	-	-	-	-	-	1	-	1
Ukrainian	-	1	6	3	3	7	8	-	28
Uzbek	-	-	-	-	-	1	-	-	1
Vietnamese	1	-	3	3	2	-	-	1	10
Total	5	11	17	14	18	24	13	7	109
<i>Type of exploitation</i>									
Sexual exploitation	5	11	17	10	15	8	5	3	74
Forced labour	-	-	-	4	3	16	8	4	35

Source: Ministry of Interior (2011); respondent Ministry of Interior

La Strada and Diaconia operate categorical shelters for adult victims of THB and for those who are at – serious – risk of being trafficked. The clients are sheltered and/or assisted, regardless of their decision to join the Programme,¹¹⁸ or to co-operate with the authorities, their residence status or nationality. La Strada operates categorical shelters for both women and men. Diaconia runs only a categorical shelter for men. Both organisations also provide ambulatory assistance to victims of THB (Diaconia provides ambulatory assistance to women too) (respondents La Strada and Diaconia).

Victims exploited in the sex industry as well as those exploited in other sectors belong to the target group of both organisations. La Strada's female clients are predominantly exploited in the sex industry. Male clients, on the other hand, are mostly exploited in the construction, forestry, agriculture and electronic industries. These clients are considered not necessarily as having been 'trafficked' but as 'severely exploited', and thus at severe risk of being trafficked (respondent La Strada). As mentioned before, in the current practice such a division between the terms 'trafficking' and 'exploitation' is made because of the current lack of positive judgement by the Czech courts on labour trafficking.¹¹⁹

In principle the shelters are intended for victims without children. As mentioned above, female victims with children are usually accommodated in the non-categori-

¹¹⁸ The third specialised NGO with non-categorical shelters provides accommodation and assistance only to those victims of THB who join the Programme. This is because the organisation uses the funding of MoI for social services for 'Programme joining' trafficked persons (see previously presented information on the Social Services Act).

¹¹⁹ See footnote 98. Victims of labour exploitation are not considered by the law-enforcement authorities as being trafficked unless there is some physical evidence of the use of violence (respondents La Strada and Diaconia).

cal shelters of Caritas; for male clients with children or families alternative solutions are sought, mostly in dormitories (cheap accommodation facilities like hostels or cheap pensions).

La Strada shelters, on average, some 20 to 30 people per year (respondent La Strada). This number was 29 in 2010 (15 women and 14 men), of whom 18 were 'newcomers' to the shelters (six women and twelve men) (MoI, 2011). However, the organisation also has clients who receive only ambulatory assistance, especially in cases of labour trafficking.¹²⁰ These clients usually do not want to stay in the shelter because their main aim is to work and they are used to staying in dormitories close to the workplace. 'For example, if the person has a job 50 km. from Prague, he will prefer to stay in a dormitory in the neighbourhood of the workplace' (respondent La Strada). Many of the clients came from ex-communist countries like Bulgaria, Romania, and Slovakia.¹²¹ In 2010 six clients in total participated in the Programme (MoI, 2011). The clients are informed about the Programme, and advised to join it especially if they are undocumented and/or want to return to their home country. Male clients of Diaconia are also almost always exploited in the labour market, mostly in two regions of the Czech Republic: eastern and western Bohemia. The clients are usually identified through fieldwork (see Section 3.4.1, Identification) conducted in co-operation with La Strada, or to a lesser extent, are referred by the police. The clients were either working in construction companies or in other private companies or in the woods. Since the opening of the shelter in June 2010 until the time the interviews were held, the shelter had accommodated 12 clients, predominantly from EU countries of Eastern Europe (mostly from Bulgaria), but Czech and Vietnamese clients were also sheltered. Of these clients only one joined the Programme (respondents Diaconia). In addition, there are clients who receive only ambulatory assistance as they prefer to stay in accommodation in the neighbourhood of their workplace (respondents Diaconia).

3.3 Objectives of Categorical Accommodation and Assistance

The overall aim of La Strada's social services is the emancipation of trafficked and exploited people and their reintegration into society (respondent La Strada). However, each specific service provided by the organisation has its own particular goals. The shelter services aim 'to offer a safe and dignified environment to help people to broaden their horizons and lead independent lives'¹²². More specifically, they aim at:¹²³

- providing accommodation for clients where they participate in all normal daily activities (such as cleaning, washing, ironing, making the beds, personal hygiene, cooking etc.);
- providing clients with the basic material and financial means required for day to day living;
- working towards keeping clients and personnel safe;
- creating conditions in which clients can spend their free time actively and normally;
- motivating and supporting clients to realize their aims;
- providing clients with information and support so that they can protect their own interests, defend their own rights, and regain control of their own lives;

¹²⁰ In 2010 La Strada had a total of 96 clients, including those who received assistance but did not stay in the shelter (90 of them new clients; this has been the average number for the past 10 years) (respondent La Strada).

¹²¹ www.praguepost.com, interview with Petra Kutálková, Deputy Director, La Strada; posted on May 4, 2011.

¹²² www.strada.cz; consulted on May 26, 2011.

¹²³ Idem.

- minimizing the effects of criminal acts committed in connection with human trafficking and exploitation;
- co-operating with clients to improve their living situation to such an extent that they no longer require the services of the organisation.

Similarly, the goal of the CAA provided by Diaconia is to support the victims in returning to a normal way of life instead of going back into the same exploitative situation. This is done by 'providing a safe place to stay and assisting them to fight for their rights and to negotiate about their daily life.' (respondents Diaconia)

'Many of these men went through a very difficult stage in their life; a big part of our activities are directed to helping them to reconcile the bad experience they had. This is very important, the social side, because sometimes the perpetrators are not punished. It is important for these people to handle the situation and reconcile and move further; otherwise they are victims for ever.' (respondent Diaconia)

3.4 Organisation and implementation of Categorical Accommodation and Assistance

3.4.1 Working method

Identification

The government's Programme for victims of THB is implemented through a national referral system. This system consists of procedures for the identification of victims and victim assistance, and the coordination of these procedures. A working group consisting of the MoI, various police units, NGOs, IOM and asylum facilities coordinates the referral procedure (Svec, 2010; UNODC, 2009). In principle, victims are identified by the police in collaboration with the specialised NGOs and the country's regulations are considered to be in line with international human rights standards regarding identification (Dottridge, 2010). However there is a lack of common criteria that clearly spell out who is to be regarded as a trafficked person (Kutáľková, 2010; respondent La Strada). The representative of the MoI remarks that, in practice, there are two identification processes, by the police and by the specialised NGOs. The police adhere strictly to the definition of THB in the criminal code and have their own methodology to identify the presumed victims while the NGOs have identification criteria which are usually broader (respondent MoI). It is up to the PEJA to determine whether the crime of trafficking has been committed¹²⁴ and it is most commonly a branch of the police that takes the final decision about whether the case concerned is a matter of THB (Kutáľkova, 2010). Police identification is a prerequisite to be able to participate in the Programme – and that requires victims to have 'reasonable evidence' of being trafficked (MoI, 2008). Moreover, in June 2010, the target group of the Programme was reformulated to include 'victims of the crime of THB' instead of the previous formulation of 'victims of THB' (respondent La Strada). According to the representatives of La Strada and Diaconia this is why the police try to limit the offence to people who are physically injured or locked up somewhere (i.e. the certainty of proof criteria, Kutáľková, 2010). The same respondents argue that this approach potentially excludes victims of THB from participating

¹²⁴ Kutáľkova (2010) states that in criminal law practice, with respect to adult victims, all three constituent elements of THB must be present in the offence for it to meet the definition. These are the 'action' (i.e. tempting, arranging for, hiring, luring, transporting, hiding, detaining, surrendering, seducing), the 'means' (e.g. use of violence, the threat of violence, or the employment of deception or the abuse of error, duress or dependence), and the 'purpose' (the end) (Burčiková, 2008 in Kutáľková, 2010) (see also Chapter 1, Section 1.1.5).

in the Programme, especially in the cases of labour trafficking where there is no national jurisprudence.¹²⁵ At an expert-meeting (with experts, among others, from public prosecution, the MoI, IOM, NGOs, Criminal Police and Investigation Service) held within the context of a study on the identification of victims of THB, it was concluded that while the country had a long experience of the detection of THB for the purpose of prostitution, this was not the case for labour-trafficking (Kutálková, 2010).

The two specialised NGOs that provide CAA co-operate in the identification of – potential – victims. Both La Strada and Diaconia are actively involved in field work for this purpose. La Strada disseminates information about their hotline, which is considered to be a gateway to their services. The information is spread among migrant workers (who are at more risk of being exploited), other service providers and experts so that they can approach the organisation when they encounter a – potential – victim. Similarly, Diaconia is active in eastern and western Bohemia, two high risk areas in the country. The goal is to identify locations (e.g. factories) where workers may be victimized.

La Strada uses different types of indicators in the identification process:

- direct indicators that correspond to one of the three constituent elements of the definition of THB (see footnote 124);
- indirect indicators that are based on data and information from actual cases (Kutálková, 2010).

Diaconia uses comparable criteria for the identification of victims of labour exploitation. Examples are (respondents Diaconia):

- being exploited at work, e.g. not being paid for work or not being paid for all the hours worked; working much longer than normal (e.g. 12 to 15 hours/day); and
- detrimental hygienic conditions.

Furthermore, according to Diaconia a person does not need to show physical signs of violence or be constantly followed (not only during working hours, but also during her/his free time) to be considered a victim while the police sometimes consider these as criteria for identification.

According to different sources there are several bottlenecks in the process of identification of victims of THB:

- Lack of expertise and jurisprudence on the identification of victims of labour trafficking leads to continuing low numbers of formally identified instances of THB (respondent La Strada); and may influence the identification process of the Police (Kutálková, 2010).
- Capacity problems such as the limited number of police forces who are trained in how to identify trafficked people (Svec, 2010).
- Low motivation of victims to report: victims often do not trust officials or are too scared to approach the police (respondent La Strada CR). In addition, the low number of offenders sentenced for THB undermines the motivation of victims who are potential witnesses to report their experiences to the Police which, in turn, make it difficult for the Police to identify this type of crime (Kutálková, 2010).

As a result of bottlenecks such as these many victims of THB leave the country without being identified or receiving assistance (Svec, 2010), or they lose the 'privileges' they could have had as victims of THB (e.g. a temporary residence permit) if the crime is disqualified, especially in the case of labour-trafficking. (respondent La Strada)

¹²⁵ Recently the specialised NGOs proposed to the MoI that the Programme should be available to all potential trafficked persons in order to increase the very low number of identified victims who receive help and assistance within the context of the Programme (respondent La Strada).

Intake

Specialised NGOs and the police recommend victims of THB to the Programme. In order to be able to join the Programme, the following criteria must be met (MoI, 2010b; respondent MoI):

- All connections with the offenders must be ended.
- The victim's interest in participation in the Programme must be demonstrated by his/her willingness to participate and the signing of the so-called 'joining declaration'. This declaration entitles the co-ordinator of the Programme to gather the victim's personal data.
- The victim must agree to receive at least ambulatory assistance from one of the specialised NGOs.¹²⁶
- After the reflection period the victim must agree to co-operate with law-enforcement authorities.

Victims who join the Programme must have a contract with the NGOs; this includes, among others, information about the assistance (including the rules and conditions for staying in a shelter) (respondent MoI).

In the Czech Republic there is no central organisation which regulates the intake of clients into the shelters, but the three specialised NGOs (thus including Caritas) have a co-operation agreement. If an NGO cannot provide services for a specific client another NGO will assist that client. In addition, the clients might arrive at the shelters through different channels: via the identification and prevention fieldwork conducted by La Strada and Diaconia; via the police, IOM etc. The La Strada-respondent states, however, that they receive very few clients who are referred by the police.

At Diaconia, the first intake interview is conducted by the coordinator of the program against violence (who is, at the same time, the coordinator of the categorical shelter). During the interview the personal history of the client is mapped out and he is provided with information about available services. An inquiry is made about the specific needs of the person and the type of assistance he wishes to receive (respondents Diaconia). At La Strada, the first intake interview is conducted by a social worker. If the client appears to belong to a different target group, she/he is referred to a different NGO (respondent La Strada). If there is a mutual agreement on accommodation at the shelter, a contract is signed with the client that stipulates the rules and regulations related to the stay at the shelter (e.g. security measures). Both organisations inform their clients about the Programme and encourage them to co-operate with law enforcement authorities (regardless of the participation in the Programme) (respondents La Strada and Diaconia).^{127,128}

Registration

There is no national registration system of victims of THB in the Czech Republic. The Programme and the specialised NGOs have their own registrations. Within the context of the Programme, personal data of the participants are collected and registered in a simple database (the 'Trafficked Persons Information System'¹²⁹) (respon-

¹²⁶ Before June 2010, the victims had to agree to be accommodated at one of the specialised NGO shelters to receive two months crisis assistance (respondent MoI).

¹²⁷ The La Strada-respondent remarks, however, that that they respect the decisions of their clients about whether they want to participate in the Programme or co-operate with the law enforcement authorities. The organisation provides these persons with the same benefits as those provided by the Programme.

¹²⁸ The application for participation in the Programme is usually accepted by the MoI and the trafficked person can make use of the two months reflection period to consider whether or not to co-operate with the law enforcement authorities. Within the context of the Programme, the police must give a statement within this two month period about whether they consider the person a presumed victim or not (see also Section 3.1.2, Reflection period).

¹²⁹ <http://ec.europa.eu/anti-trafficking>, consulted on May 19, 2011.

dent MoI). The database is used for the sake of the Programme only and is basically meant to monitor its development (respondent MoI). The following information is registered: name, country of origin, sex, age, education, form of exploitation, language, marital status, whether the victim has children and whether the children reside in the Czech Republic or abroad; the date of inclusion in and exit from the Programme, reasons for leaving the Programme, whether the person made use of the voluntary return programme, type of residence permit, means of transport to the Czech Republic, motives for arrival in the Czech Republic, and whether the person has applied for compensation. Of these data, only country of origin, form of exploitation, and age can be reported, at an aggregated level. Other data are for internal use only. The MoI has an internal act about how to collect, use and work with these data (respondent MoI).¹³⁰ In the strategic plan for 2008-2011 the MoI pointed out the need for a centralised system of data collection on all victims of THB (including, therefore, people who do not participate in the Programme as well) in order to monitor their needs and 'to extend an offer of services rendered within the framework of the Programme' (MoI, 2008, p. 40).

The specialised NGOs do not have a common victim registration system, but use an electronic data base which is common to *all* social service providers. According to the Act on Social Services, all service providers must fulfil a range of quality standards and register their target group and activities. Personal characteristics such as nationality, sex, age, and all the individual activities provided to the client within the context of the individual plan for social inclusion (see below) (e.g. individual meetings, consultations, social activities) are registered. In addition, a complaints procedure may also be recorded. La Strada and Diaconia also have their own internal registration systems, where data such as the type and duration of exploitation are registered. Data is reported only at an aggregated level (respondents La Strada and Diaconia). La Strada is promoting a common registration system among the three specialised NGOs (thus including Caritas). The La Strada-respondent states that the MoI wants to make use of their data and that negotiations with the ministry about ways of co-operation that will not endanger the privacy of the clients are ongoing.

3.4.2 Organisation of the categorical shelters

Type of shelters and placement

La Strada and Diaconia operate two and one categorical shelter respectively. All three shelters are privately rented, ordinary apartments at secret locations in Prague. According to the representatives of Diaconia, the initial idea was to set up the shelter in one of the regions where many of the victims are exploited. However, it was decided to move the people from these regions to Prague, as a big city offers better conditions for maintaining the anonymity of both the shelter and the clients, in comparison with a small town. The possibility of easier co-operation with other NGOs was an additional reason for establishing the Diaconia shelter in Prague. The flats are intended to serve as a natural environment for people where the goal is to simulate normal life (respondents La Strada and Diaconia). The apartments have to fulfil a certain number of hygiene standards and security criteria; there must be two toilets, for example, and there should never be a balcony on the street side (respondent La Strada). All three shelters are 'open' shelters (see Section 3.4.5). They are meant for single sex only. La Strada operates one shelter for women and one for men. The two groups are never accommodated together because of the small capacity of the shelters and for privacy reasons. Diaconia operates a shelter for men.

¹³⁰ The internal act is confidential.

Capacity of the shelters

La Strada's shelter for women has five beds; the one for men has two. In both shelters there is a kitchen and a living room. The clients have to buy their own food, and cook and clean by themselves. Staying at the shelters is free of charge.

Diaconia's shelter can accommodate a maximum of five clients. The apartment has three rooms: one shared by two clients and the other by three. The third room is a workplace for assistants and staff members. The apartment also contains a kitchen with a dining corner, a bathroom and a balcony at the rear.

Duration of stay

In all the shelters the first stage of stay concerns crisis help, initially for one week. At the second stage, accommodation is provided for six months. In both stages the duration of stay can be prolonged as a result of individual needs, for example, if the client is unable to get a job because of objective reasons:

'We had three clients who were living under very bad conditions provided by their former employer; he didn't even pay any social and health care insurance for them. They were really out of any system and in big trouble. To put them back into the system took much more time than we thought. They were under risk of seizure and this was not their fault; it was the fault of their employer. All these legal procedures were very slow and it was not possible to manage the situation in the first six months.' (respondent Diaconia)

According to the Act on Social Services, the maximum duration of stay at the shelters is one year¹³¹ (respondents Diaconia and the MoI).

As a part of the assistance aiming at the social inclusion of their clients, both organisations help the victims to find follow-up accommodation (e.g. private apartments or dormitories) (see below). The MoI controls the suitability of the follow-up accommodation if clients are participating in the Programme (respondent MoI) (see further Section 3.4.4, Assistance related to integration).

3.4.3 Working method in providing assistance

This section gives a description of the general working method which is employed by the two NGOs when assisting their clients, and the types of care and support provided. The two NGOs co-operate closely in delivering services and in some cases 'share' the client (respondents Diaconia). The services are provided free of charge.

Individual approach

Both La Strada and Diaconia employ a strictly individual approach in assisting their clients and provide demand-driven, bottom-up services (respondents La Strada and Diaconia). Only the crisis support, which is offered during the first week and is directed at satisfying the basic needs of the victims, is standard in nature. It mostly includes alimentary, financial and material aid. After this period, a long term series of professional counselling sessions are offered, which is based on an individual plan (also referred as the 'commission') for social inclusion.¹³² The individual plan is developed by a key social worker, together with the client (respondents La Strada and Diaconia). At Diaconia, the coordinator of the shelter (who is also the coordinator of the programme against violence) is also involved in this process. A standard pattern in developing an individual plan includes two stages, first an assessment of the physical and psychological conditions of the client, the status of her/his docu-

¹³¹ www.strada.cz, consulted on May 26, 2011.

¹³² According to the Act on Social Services all social service providers must work with an individual plan.

ments, health and social insurance, the particular needs (e.g. language courses for foreign clients) and the client's wishes regarding co-operation with the authorities. In addition, wishes related to leisure time or contacts with family and/or friends are noted (respondent Diaconia). At the second stage, the scale of services that can be provided is presented to the client and the personal needs and priorities of the client are worked out in more detail. The future areas of co-operation and their concrete goals (e.g. regarding work, possible debts, living conditions, independent living after leaving the shelter) and any third parties who may take part in the assistance plan are identified. The most urgent issues are solved first, and then step by step services for other needs are provided; all steps are taken with the explicit consent of the victim. The clients are supported in recovering from traumatic experiences and are encouraged to build up a new life through social and legal assistance.¹³³

Another task of the social worker is to evaluate the client's progress during their stay in the shelter, also together with the client. The assistance that is offered does not necessarily end when the client moves out of the shelter (respondents La Strada and Diaconia), sometimes it continues for several years, for example, in areas such as family issues, debts, criminal proceedings, assistance with finding a job (respondent La Strada).

The representative of Diaconia stresses the importance of a demand-driven approach:

'You must work with everybody individually, even if there are bigger numbers of clients; they must tell you what is important for them; everybody has different expectations. We have a big advantage in that when these people are in our shelter they believe that we are trying to solve their problem. They agree to be in the shelter; they agree with the ways to achieve their goals. This is like a drive which takes them (...). This is very important. (...) Police cannot do it; other agencies have totally different tasks; we are here to perform social services and we do it under the principle of social services.'

The fact that all steps are taken with the consent of the client and together with the client is related to the human rights based approach of the NGOs to empowerment. The trafficked persons are considered active actors in changing their own situations rather than being passive recipients of services who are in need of rescue; respect for individual decisions is one of the central elements of this approach (respondent La Strada).¹³⁴

Counselling services outside the shelters

La Strada provides counselling services outside the shelter in a counselling centre. The support provided here is for those who receive 'comprehensive services' (i.e. crisis help, longer term assistance including stay in the shelter and assistance during criminal proceedings usually when the client has left the shelter) and most frequently concerns long-term assistance in the areas determined by the individual plan (respondent La Strada). The La Strada-respondent states that this approach is based on a particular philosophy:

'The shelter should stimulate a home situation and the services should be offered in a different environment; clients should feel themselves to be in a different environment than their homes. If there is a kind of crisis to be solved, they should feel like "this is a counselling centre, here is some social intervention happening" and more over if the clients are going to meet lawyers or psychologists or attor-

¹³³ www.lastradainternational.org, consulted on May 12, 2011.

¹³⁴ <http://lastradainternational.org/?main=informationlsi§ion=aimspilosophy>;

http://lastradainternational.org/documents/Human_Rights_Approach.pdf, consulted on May 12, 2011

neys, this must not happen in the shelter. The address of the shelter is also not known to the partners with whom we co-operate. It is better to separate these two spaces. So, there is a practical, security reason and there is a sociological reason that it is better for the clients.'

Services in the counselling centre are provided by social workers. If individuals require more specialised assistance, social workers refer them to a specialised service provider with whom La Strada co-operates. For example, in cases of debts caused by the trafficking situation, social workers can provide basic information and arrange a meeting for specialised legal assistance at specialised counselling centres. Compensation matters are managed in a similar way; clients are informed that there are attorneys who will represent them, and, depending on the wishes of the client, the organisation appoints and pays for an attorney who will work on the case with the client. If the organisation happens to have budgetary problems at the time, La Strada looks for another service provider who will provide the same type of service free of charge. Another example is drug addicted clients; if the client is used to taking certain drugs, La Strada co-operates with service providers who can provide specialised assistance and tries to find a solution together with that organisation. *'This is how we work; we do not try to solve all the problems; we are specialised in providing assistance on THB, however, there other specialised organisations who provide different types of services than ours'* (respondent La Strada).

The address of the counselling centre is undisclosed, just like the address of the shelters. Clients cannot simply walk in; an appointment is obligatory (respondent La Strada). Recently, La Strada has also started to run a low-threshold counselling centre which is open once a week, for three hours. It is open to anyone; but it is closely linked to the comprehensive hotline counselling service and the outreach work which is carried out among the migrant workers' community. The hotline counselling is provided in Czech, Russian, Romanian, Moldavian, and English, but services in other languages are available upon request. Cases treated in the low-threshold counselling centre sometimes concern 'border-cases' about labour-law violations where people may be at risk of trafficking. A social worker and a lawyer are available in the centre so that people can consult them on different situations or problems. Where necessary, people who use the services in the low-threshold counselling centre can receive the comprehensive services later (usually including shelter) (respondent La Strada and supplementary information from La Strada). Diaconia provides assistance in or outside the shelter, depending on the situation. If clients have appointments with the people working in the shelter, meetings can take place there. Consultations with experts take place in the counselling centre which Diaconia shares with La Strada (see below for further information).

3.4.4 *Types of assistance*

The two NGOs provide the following type of services to their clients:

Assistance offered in the shelters

Four assistants are employed at the women's shelter of La Strada, working on a day-night shift. The night shift runs from 7 pm to 7 am, in consideration of the fact that most of the clients have relatively severe traumas. During the day staff members only work for a few hours, as each client has her own 'assignment' with the key social worker at the counselling centre, within the context of the individual plan. The daily assistance in the shelter is not as strictly planned as the assistance provided at the counselling centre. Staff members at the shelter try to encourage the clients to keep active and go out of the facility. Free time activities are created, depending on the wishes of the clients, such as going to movies together, especially at the week-

ends, or doing some handicrafts. In addition to leisure activities, staff assists the clients with searching jobs. La Strada provides no assistance at the men's shelter because of capacity problems and the unavailability of a separate room for staff. However, clients can call the nonstop hotline services if they are in a crisis situation (respondent La Strada).

At Diaconia's shelter for men, the leader of the shelter, the coordinator and several contracted students assist and support the clients. The leader of the shelter speaks several languages, including Russian, Romanian and Ukrainian. He is present in the shelter for two to three hours a day, not only to provide direct assistance to the clients but to organise this assistance too (e.g. to make sure that clients are on time for their appointments, if necessary to accompany them to their appointments or to arrange other practical issues). The coordinator is responsible for communication with authorities such as the police and the lawyers, and is always present at the criminal procedures. The students are responsible for assisting the clients when they are dealing with bureaucratic issues (e.g. when they first arrive in the shelter, contact with embassies for arranging papers, arranging tickets for the return to the country of origin) and when they are searching for a job, for example, on the internet. If necessary they also accompany the clients to their appointments outside the shelter. Currently, there is no 24-hours assistance available in the shelter. However, there is always one person available by phone if the clients need help. The representatives of Diaconia remark that the fact that the clients look for a job during the day and are usually at the shelter in the late afternoons, make the service delivery complicated for the organisation. This is also why students are contracted as this ensures that most of the time there is someone present in the shelter to assist the clients. If necessary, communication with external parties on behalf of the clients is done mostly in the afternoon, either by the leader of the shelter or by the students. According to the respondents there is very little space for organising leisure activities, as the male clients consider searching for a job as their 'leisure' time.

'We advise them to go out and have a walk or so, but they don't agree; they say "we must find a job." It doesn't necessarily have to be a "job", they just want to work, it can be a moving chore or anything temporary like that just to generate income.' (respondent Diaconia)

Both NGOs also provide professional ambulatory assistance to clients who do not wish to stay in the shelter but prefer other types of accommodation, such as dormitories or another type of cheap accommodation, near their new jobs (see below for assistance in finding jobs). Where necessary, clients may also continue to be assisted after they leave the shelter; for example, in finding jobs.

'We also have clients who don't stay in the shelter but in dormitories; they get exactly the same assistance as the clients in the shelter. These clients do not need to receive as intensive and long term assistance as the clients in the shelter. They get back into the labour market more easily; they are more skilled or there are fewer risks. Probably they need to be assisted by us for one or two weeks; they come from time to time to get some advice; so they don't need to be in 'intensive care'. But they keep receiving assistance so that they do not find themselves in a similar situation again.' (respondent Diaconia)

Financial, alimentary, and material aid

Both organisations provide financial aid for food, basic clothing and shoes, transportation costs, mobile phones or credit for mobile phones, money for prescribed medication and costs of health care, basic hygiene needs and other additional aid

based on personal needs of the victims¹³⁵ (respondent Diaconia). These are usually standard services. However, if clients have not got a job yet and have to move to independent housing, the costs of this accommodation are covered (respondent La Strada). If clients need to pay the costs of independent accommodation in advance, this can also be met by the organisation (respondent Diaconia). In cases where the clients are not participating in the Programme, the costs of voluntary return are also met by the NGOs (respondents La Strada and Diaconia) (see Section 3.4.4, Support focused on future residence or voluntary return).

Assistance related to integration

Assistance provided by the two organisations is directed at the empowerment of the clients and their reintegration into normal life. To be able to ensure this, both NGOs provide a variety of services depending on the qualifications of the clients and their needs and wishes, as defined in the individual plan for social inclusion. During the standard six months residence in the shelter, in addition to other types of assistance provided, the key social worker (and in case of Diaconia also the shelter coordinator) works with the client on the client's future, including on issues related to a longer perspective (respondents La Strada and Diaconia). This includes for example, assistance in getting proper documentation, finding a job and future accommodation, supporting them in re-establishing proper relationships including those with their family. As previously mentioned, male clients are interested in finding a job as soon as possible; that's why the core of the integration activities of Diaconia is focused on assisting clients in finding a job (respondent Diaconia).

La Strada co-operates with other NGOs which provide Czech language courses to migrant workers. Diaconia is among these organisations and has a separate budget for language courses for foreign workers. La Strada sometimes refers its clients to Diaconia for this purpose (respondent Diaconia). If free language courses are not available, La Strada pays for courses offered by other institutions (respondent La Strada). Other examples of integration services are mediating for vocational trainings such as computer courses or assisting the clients in finding a job (without disclosing that the person is a victim of THB). La Strada's philosophy in assisting the clients, also in finding a job, is directed to empowerment:

'We don't do work in the name of our clients. We are assisting them. "Here is the agency, here are the websites, this is the office you should contact; we can accompany you there". But the person will be the one who does the negotiations with the employer (...). We are motivating them to do it themselves. We shouldn't treat them as children (...). This is a very important principle in our work.'
(respondent La Strada)

Diaconia prefers the clients not to look for a job independently as they are vulnerable because of their exploitation experience, their language problems and often their ill-health. The students who are contracted try to find job opportunities mostly on the internet and to communicate with the employers on behalf of the clients. However, the clients are always involved in the process and assisted towards independence. Like La Strada, Diaconia follows the codes of social work and 'does not do this *without* the clients or *for* the clients but *with* the clients' (respondents Diaconia). However, the clients often need special assistance.

'Sometimes language during the first contact, even on the phone, may be a problem. We can tell you that, even our colleague, who is not a native Czech person, when he calls somewhere, he can have problems. Sometimes even the accent is

¹³⁵ www.strada.cz, www.lastradainternational.org, consulted on May 12, 2011.

a problem that is why we guide them. But we try to keep them independent as much as possible; sometimes we are there to support them to do it on their own.'

The respondents also note that the biggest problem in this context is the lack of suitable jobs for the clients.

The respondents point out that respect for individual decisions is considered to be an essential part of these activities. For example, if female clients want to go back to work in the sex industry, in spite of the assistance provided, their decision is respected.

Assistance in finding independent accommodation

Another aspect of the social inclusion activities is the assistance given to find independent accommodation. Both organisations assist their clients to find future accommodation within the context of the individual plan. As previously mentioned, it is possible to stay at the shelters for a maximum of one year.

To avoid dependency, La Strada continuously encourages clients (especially after six months stay in the shelter) to gain control over their own life, among other things, by moving into independent living. The representative of La Strada states that the motivation for independent living is related to the following factors:

- whether the client sees accommodation outside the shelter as a priority (which is stated in the individual plan);
- the degree of trauma; and
- having the special residence permit which allows them to work.

Similarly, Diaconia-respondents report that their male clients, predominantly from EU-countries, are highly motivated to move out of the shelter as their primary aim is to work. Follow-up accommodation for La Strada's clients is usually a private apartment or in a dormitory,¹³⁶ however, if necessary and if it is vacant, the shelter for men can be used as a follow-up accommodation for women. Most of the clients of Diaconia prefer to move out of the shelter into a dormitory. The respondents report that possibilities regarding dormitories are limited in the country and staff members know exactly where they are located. They state that assisting the client in finding a job usually precedes finding follow-up accommodation (as clients prefer dormitories located near the workplace). Where necessary, both organisations provide financial support to cover clients' accommodation payments even after they have moved to independent living (sometimes for up to six months; respondent La Strada).

'We want them to be on their own, to be independent and not to be paid by us. But sometimes we need to support them for at least two months as they get paid after working one month. In some cases dormitories must be paid in advance. We need to support them to be independent even after they leave the shelter.'
(respondent Diaconia)

It is also possible for victims of THB to apply for some social benefits from the state to cover the payment of their rent; these benefits may sometimes be partially financed by a budget from the EU (respondent MoI).

Legal assistance

La Strada helps the clients to organise their formal documents and/or social benefit payments in accordance with the country's legislation. For example, the organisation assists clients to draw up formal requests (e.g. application for the special residence

¹³⁶ There is no social housing in the Czech Republic (various respondents).

permit for victims of THB), to negotiate with various authorities and organisations, and pay their actual or alleged debts;¹³⁷ it also provides legal assistance during the criminal proceedings. La Strada co-operates with five to six law firms and subcontracts lawyers to represent the clients in the criminal proceedings. The organisation tries to co-operate with lawyers who have more awareness about the issue of THB, the psychological situation of the trafficked people, and current developments in the field of THB. It also tries to keep the subcontracted lawyers up to date with the latest developments in the field, but does not interfere with their work:

'I would compare this, for example, to going to a hospital for an operation, you would never advise the doctor how to do the surgery. We have this kind of a relationship; they have their own expertise, we have ours. Of course, we ask our clients whether they are satisfied with the assistance provided, because they are the ones who sign the power of attorney with the lawyer. If the client has specific requirements, such as the gender of the lawyer, we try to satisfy the requirements of our client.' (respondent La Strada)

In the Czech Republic there is a new institution to help and support victims of THB during the entire criminal procedure, namely the 'attorneys'. Attorneys are *not* the legal representatives of the victims in the criminal procedures but stand up for the rights of the victims and make sure that no violations of human rights occur during the criminal procedures. They may be social workers or someone else from the NGOs (respondent MoI).¹³⁸ Within this context, the clients are prepared in advance for the criminal proceedings:

'We try to explain the stages of the criminal proceedings and try to avoid certain risks, for example, the defenders of the perpetrators can have some very bad, very damaging questions. We try therefore to do some kind of "harm-reduction" work and try to prevent this secondary victimization.' (respondent La Strada)

In addition, a safety plan is drawn up to ensure that the clients feel secure as they may meet their perpetrators during the proceedings. Clients may be accompanied to the courthouse by car (respondent La Strada). Dottridge (2010, p. 103) states that the provision of information to victims during criminal procedures – e.g. whether a suspected trafficker is in detention, being charged or is in custody – is inadequate in the Czech Republic. According to the La Strada-respondent, this situation can comprise a safety risk for the trafficked person. It is essential that the victim is informed about the whereabouts of the trafficker and any possible new circumstances should be considered in the safety plan.

Compensation for victims

Another aspect of assistance offered during criminal proceedings is the claim for compensation. Although there have only been a small number of successful compensation claims in the Czech Republic (respondent MoI), La Strada has had some success in claiming compensation in the criminal proceedings for material damages, including health-related issues, for victims of trafficking for sexual exploitation or pimping (respondent La Strada).¹³⁹ When claiming compensation it is possible to

¹³⁷ www.strada.cz, www.lastradainternational.org, consulted on May 12, 2011.

¹³⁸ Lawyers or advocates represent the clients legally in the criminal proceedings while attorneys are not legal representatives and not necessarily jurists (respondent MoI).

¹³⁹ Victims of THB (like any other injured party) have the possibility of claiming compensation during criminal proceedings or civil proceedings. After the compensation claim has been submitted it is up to the judge to decide whether compensation claims will be included in criminal proceedings or will be moved to a civil proceeding that will take place only after the criminal proceeding has been finalized. Usually compensation claims are forwarded

make use of some specific tariffs (for example, if the person has a broken leg, there is a corresponding tariff that can be claimed). In one case La Strada was also successful in claiming compensation for psychological damages, when an expert witness, a psychiatrist, reported that severe psychological damage had been done to the victim. The organisation has not yet tried to claim compensation for unpaid wages. It is not possible to claim compensation for immaterial damages, such as emotional damage (respondent La Strada). If compensation is claimed during the criminal proceedings, it can be paid from the frozen assets of the traffickers (valid both for national and non-national victims). However, this does not work in practice, especially in cases of labour trafficking, as the Czech courts still do not recognize any labour trafficking cases. The respondent states that, in these cases, the organisation tries alternative ways of claiming compensation, for example, from the exploiters. However, this also seems to be difficult as the employers usually claim that there is no proof that the victim ever worked in that workplace. Furthermore, in cases where the trafficked person is acting as an undisclosed witness, claiming compensation appears to be quite difficult as the perpetrator doesn't actually know who the victim is and cannot properly defend his case (respondent La Strada).¹⁴⁰

Diaconia co-operates closely with La Strada in providing legal assistance for its clients. If Diaconia has a client who has to go through legal procedures, he is initially heard by respective staff members of both organisations at the same time, to avoid having to tell his story twice. If it is concluded that the client does need legal assistance, he is referred to La Strada and signs a contract with that organisation. He is then provided with all kinds of legal assistance by La Strada, including assistance for the criminal procedures and compensation claims (respondents Diaconia).

Medical and psychological care

Both organisations arrange basic medical insurance for their clients and where necessary offer them medical (among others health examinations before starting a new job), psychological or psychotherapeutic consultations. La Strada has social workers who are experienced and trained in crisis intervention in situations of post traumatic stress disorder, and are able to recognize such cases. There are psychologists with whom the organisation co-operates. In cases where clients have specific needs, care in specialised facilities (e.g. rehabilitation centres or psychiatric clinics) is facilitated.¹⁴¹ Two Diaconia staff members are psychologists, one of whom has psychotherapeutic skills. They are actively involved in the psychological counselling of the clients and manage a variety of crisis situations. This is seen as a big advantage by the respondents of the organisation.

to civil proceedings because of the delays they may cause in the process. However, the chances for compensation to be acknowledged during civil proceedings are lower in comparison to criminal proceedings: civil proceedings may take place several years after the crime has been committed and/or the victims often do not want to be engaged in a new procedure and simply want to forget what has happened (in cases where the person claims compensation during civil proceedings, she/he receives another type of residence permit after the criminal proceedings have been finalized) (respondent MoI). The specialised NGOs have experience in claiming compensation for their clients mostly within criminal proceedings. Civil proceedings are considered to be risky scenarios for claiming compensation, as the NGOs will have to cover all the expenses of the proceedings if they lose the case (respondent La Strada). It is also possible to claim compensation directly without a legal representative, but the chances of compensation being granted are considered to be small as submitting a correct application is complicated (e.g. one has to estimate the amount of money to be claimed and justify it) (respondent MoI).

¹⁴⁰ In addition, there is a state fund for financial assistance of victims of crime where compensation can be financed. In cases where victims do not claim compensation, they can claim financial assistance from this fund. However this fund is limited to Czech and EU citizens. If people receive compensation from both the traffickers and the state fund, they must refund the state (respondent La Strada).

¹⁴¹ www.strada.cz, consulted on May 9, 2011.

Other types of support

La Strada provides its foreign clients with translation services. In this respect the organisation co-operates closely with Diaconia and makes use of their interpretation services, as Diaconia has a separate budget for this (respondents Diaconia). Translation services can for example, be utilized if formal documents need to be translated for the authorities or for job applications; they can also be useful during psychological consultations. In addition, clients are given continuous information about possible ways of solving their crisis situation through prevention and educational activities (respondent La Strada; supplementary information from La Strada). The client's individual plan may include different kinds of support from the key social worker, for example, mediation of personal relationships with the family, assistance in contact with children and family reunion or ad hoc counselling when needed etc (supplementary information from La Strada; respondents Diaconia). Both organisations also provide safety planning and lend mobile phones to the clients (see Section 3.4.5).

Support focused on future residence or voluntary return

Upon conclusion of the criminal proceedings (which can take up to three years or longer),¹⁴² assistance and services provided within the context of the Programme normally come to an end (assistance may continue until receiving permanent stay in the Czech Republic) (respondent MoI), although assistance provided by the specialised NGOs may still continue (respondents La Strada and Diaconia). At this stage there are different options for the victims of THB:

The Programme for Voluntary Returns to the country of origin

All foreign country nationals – including EU citizens – who participated in the Programme are offered a voluntary and safe return to their countries of origin within the context of the Programme for Voluntary Returns, which is a global programme of the International Organisation for Migration (IOM). However, people can decide to return home in any phase of the Programme. Czech nationals who are trafficked abroad and who wish to return to the Czech Republic can also use the Programme for Voluntary Returns to return to the country. This Programme is operated by the IOM Prague and is financed by the MoI (MoI, 2011). The following range of services can be provided (MoI, 2010a):

- The voluntary, organised, safe and dignified return to the country of origin.
- Assistance before, during, and after the return; information on assistance options in the country of origin.
- Cheaper travel arrangements, usually on the basis of agreements with carriers.
- All costs of return to the country of origin can be covered in full, depending on the financial situation of victims and their family members. In case of Czech citizens, payment of return to the country is not conditional to entry into the Programme (MoI, 2011).

Prior to implementation of a voluntary return, the risks concerning the return of a victim of THB to the country of origin must be assessed. In order to diminish the risks, the Czech police are consulted regarding the return of the person. In co-operation with the specialised NGOs, the IOM Prague conducts a risk assessment, during which the wishes of the person are also taken into account. If the person insists on returning in spite of the risks involved, she/he is instructed accordingly and the return is implemented. If the person wishes, follow-up care in the country of origin is provided by either the IOM mission in that country, or an NGO. The MoI

¹⁴² Respondent MoI.

(2010a) states that because of the low number of cases¹⁴³ it is possible to devote individual and thorough care to each case. However, it is also remarked that despite the efforts, risk assessment remains limited, in particular because of the short time dedicated to the pre-departure arrangements, the coordination of the return to the country of origin and the preparation of follow-up care. Similarly, Dottridge (2010) states that the process of voluntary returns is a weak point in the Programme, as risk assessments related to the victims' security in the country of origin are not optimal.

The specialised NGOs co-operate with the IOM on the voluntary return of their clients. However, Diaconia has not co-operated with the IOM yet, as almost all its clients came from EU countries and did not want to be involved in the Programme. In these cases, the IOM does not offer assistance in voluntary return (respondents of Diaconia). If clients who participated in the Programme express a desire to return, the relevant NGO requests assistance from the IOM which facilitates the return process. IOM contacts the MoI to formally announce the end of the client's participation in the Programme (Cuzuioc-Weiss & Lacroix, 2010). At the same time it negotiates with the relevant embassy if the person has no documents and secures a new passport (respondent La Strada). The NGOs make the travel arrangements and when the return date has been confirmed and the ticket booked, IOM contacts the MoI with the request to cover the flight and related costs, such as further IOM assistance, local travel etc. When IOM receives a formal approval from the MoI, the ticket is issued and, in co-operation with the NGO, IOM operational staff members assist the trafficked person during airport procedures and accompany her/him to the gate (Cuzuioc-Weiss & Lacroix:35). When necessary, a social worker from the NGOs may accompany the person during the journey, but this does not happen very often (respondent La Strada).

Both La Strada and Diaconia also assist clients who do not participate in the Programme but who want to return to their home countries. Although both organisations initially advise their clients to join the Programme if they are planning to return to their home countries, as the costs of return would then be covered by the MoI, this does not always happen, for example, simply because the person does not want to reveal her/his personal data to the Ministry. The NGOs do not have a special dedicated budget for voluntary return, and in such cases the problem is solved individually, for example, by trying to secure finances from the relevant Embassy or from the organisation's own budget. The Diaconia-respondents point at the special problem relating to the return of the EU citizens who do not co-operate with the Programme. The organisation can hardly find money, for example, for the train tickets for Romanian and Bulgarian clients. There had been cases where the embassies did not want to co-operate because the person in question was an EU citizen and was expected to arrange for his own return (respondents Diaconia). Also the follow-up assistance in the country of origin was not optimal for this group:

'One of our clients had to go home, but we are still not sure if everything went well because we never got any feedback about whether he is back at home. (...) We miss the capacity to do the follow-up. It is in a way not the obligation of the shelter to take care of this, but without this it doesn't make any sense, if you don't know what happened to your client. This is why we think that we are missing a better follow-up. The capacity is not only related to staff members, but more specifically to money, because we get money from the state only for a

¹⁴³ Between 2003 and 2010 a total of 48 voluntary returns were organised for victims of THB who participated in the Programme; 14 were citizens of the Czech Republic who were trafficked abroad (MoI, 2011.). For the number of victims of THB who participated in the Programme during the same period, see Tabel 3.1

limited part of the activities; what we do extra we fund from contributions from donors or foreign partners.' (respondent Diaconia)

The respondent remarks that it is very important to have a partner NGO in the country of origin which can take over the provision of support to the client when he returns home, and assist the person in finding a job or to be sure that the person does not end up in the same exploitative situation. For these purposes, Diaconia co-operates with partner organisations in some of the EU countries (respondents Diaconia).

Possibility of obtaining permanent residence

According to the Act on Residence of Aliens, victims who reside in the country with a 'long term-residence permit for the purpose of protection in the Czech Republic' can apply for a permanent residence permit (the so-called 'permanent residence permit for other reasons to be taken into special consideration') (MoI, 2008). Initially for those victims who are unwilling or unable to return to a specific location an alternative solution is sought, such as settlement in another town or region in the country of origin. If there are risks involved from the traffickers or criminal circles in the country of origin, the person may apply for permanent residence (Cuzuioc-Weiss & Lacroix, 2010). However permanent residence is bound by strict conditions. The main condition is that there is a positive THB judgement from the court and the offenders have been sentenced for THB. This also means that the victim has co-operated with the law enforcement authorities and has provided relevant information. Other conditions are: the victim has cut off contacts with the offenders, is integrated in the society (e.g. has a job), and the case is supported by the police (e.g. the victim has all the necessary documents). *'We do not easily say "OK, the offenders have been sentenced, thank you very much and we have something for you; we can provide you with a permanent residence on special consideration"'* (respondent MoI). In 2008 one person, in 2009 six people were granted permanent residence (US Department of State, 2010).

Administrative expulsion

If a person does not want to return to the country of origin, she/he is entitled to reside in the Czech Republic for the duration of the residence permit. After the permit expires, a so-called administrative expulsion follows (MoI, 2010b). The specialised NGOs are not involved and also do not want to be involved in this process (respondents La Strada and Diaconia).

3.4.5 Security measures

Both NGOs take security measures to guarantee not only the safety of their clients but also of the personnel working in the shelters. The measures that the two organisations have taken are alike in many respects. The most important security measure in all three shelters is that the addresses are secret, even for the police (respondents La Strada and Diaconia). Although there is close co-operation between the two NGOs, the organisations do not share any information about the locations of their shelters (respondents Diaconia).

The shelters are 'open' without any restrictions of movement. The clients have their own key and can come and go whenever they wish, but are required to respect the other clients' rights to night-time peace and quiet. Lack of movement restrictions in the shelter are related to the working method used which is based on a human rights approach (respondent La Strada). A restriction in all three shelters is that it is strictly forbidden to receive guests as it is believed that guests can potentially endanger the security of other clients and the personnel (respondents La Strada and Diaconia). In addition no drugs are allowed in the shelter (respondent La Strada).

The clients are not allowed to talk about the shelter or its location with anyone and they cannot provoke or draw the attention of others in the neighbourhood. Security requirements are put down in the contract made with the clients before they move into the shelter (respondents Diaconia).

None of the shelters have security cameras, either inside or out. However, other measures have been adopted to ensure security, such as the use of curtains or louvre windows to prevent outsiders from looking in, the installation of door locks which are more secure than normal (respondents Diaconia), and the requirement that any balconies must be on the rear of the building (respondent La Strada).

The clients of both organisations are allowed to carry mobile phones, either their own phone or one lent by the organisation. Diaconia requires its clients to use phones that are lent for official contacts. In line with agreements with the police, the number of the police is put into the phones so that, in emergency situations, clients can contact the police. In addition, all other necessary numbers, including the hotline are also put into the phones (respondents La Strada and Diaconia).

An important security measure taken by both organisations consists of individual training of clients in avoiding risks. A map of the surroundings of the shelter is made by the staff and clients receive training in 'counter-spying' methods or techniques when they first arrive in the shelter. They are told which routes to take in order to escape if they feel they are being followed (respondent La Strada). This detailed safety plan is drawn up with each client and is based on their personal needs, as the security requirements of the clients depend on their personal stories and where they were trafficked (respondents Diaconia). Within this context the clients are also advised about how far away from the shelter they may have appointments and in which cases they should ask for assistance or help. During the training, negotiations are made to reach a consensus between the client and the organisation on the safety measures. The safety of other clients and the staff is also considered in these negotiations. *'There is a rule that a client might endanger his own security, for example, if he doesn't agree with the methods, but must never endanger the security of other clients and staff members'* (respondent Diaconia). In some situations clients have been advised and had agreed to change their looks, such as their hair or the way they dress, or shave their beard or moustache (respondents Diaconia).

If necessary, both organisations use a car with dark windows for the transportation of their clients. An implicit security control is done through the financial assistance that is provided. As the clients are required to account for their expenditure, the organisations have a 'perfect overview' of what the clients do and where they go (respondents Diaconia).

If there are security risks, the shelters can be moved (representative of La Strada). Having rental apartments as a shelter gives this flexibility. La Strada's women's shelter has moved approximately three times over the last ten years; the address of the men's shelter has changed twice within the same period (respondent La Strada).

The apartments that serve as shelters are found through acquaintances. Before moving to a new neighbourhood an assessment of possible criminal activities taking place in that neighbourhood is made (respondent La Strada). Flexibility concerning the accommodation of individual clients is also considered to be very important. *'As trafficking concerns a very organised crime, it is possible that the address may become known. In this case we move the client to another place as quickly as possible'* (respondent La Strada). In such cases La Strada can move the clients from one shelter to another, and if there is no vacancy in the shelters, the accommodation provided by partner NGOs or dormitories can be used. In the past ten years cases where individual clients had to be moved were very rare (respondent La Strada). Representatives of Diaconia report that they have not encountered such a case yet,

but they have an emergency evacuation plan; clients can then temporarily be moved to another Diaconia accommodation (respondents Diaconia).

3.4.6 Realisation of objectives

In the above sections the goals, organisation and implementation of CAA in the Czech Republic are described. Within the context of the current study, it has also been investigated whether there were any evaluation studies about the effects of CAA. According to the literature examined and the respondents' feedback, this was not the case.

The functioning of the Programme (providing both CAA and non-CAA) was only evaluated in 2006, after the pilot was completed (respondents MoI and La Strada). It was concluded that, as only a limited number of victims had gone through the Programme, it was impossible to evaluate whether it had realised its objectives or not (MoI, 2008).¹⁴⁴ Still, the study concluded that:

- The social-reintegration of several foreign victims from the Ukraine and Vietnam was successful, however no or only fragmentary information existed regarding persons who returned to their countries of origin (MoI, 2008).
- It was difficult to assess to what extent individuals contributed to exposing, prosecuting, and proving the crime and punishing offenders (MoI, 2008).
- The goal regarding the co-operation with the PEJA was dominating the Programme, sometimes even to the cost of safeguarding the victim's human rights (Štastná et al., 2006, in Kutálková, 2010).

The MoI is planning an evaluation of the effectiveness of the Programme within the coming years (respondent MoI).

The two specialised NGOs providing CAA conduct internal evaluations; La Strada usually uses three methods. Firstly, the organisation makes an annual strategic plan in which different teams present an annual evaluation of all the activities regarding the achievement of their goals and the bottlenecks and new strategies to overcome these bottlenecks. In turn, the new strategic plan tries to reflect these new strategies.¹⁴⁵ Secondly, the database of the organisation is used to assess whether services that are provided match the needs of the clients.

'For example, in previous years we had quite a number of Czech women who were trafficked within the country. They were mentally handicapped. We then asked ourselves how we could adjust or optimize our services now that we were encountering so many clients with specific needs. So, the services are evaluated on the basis of the information we have from our clients and we are trying to adjust the services according to the needs. Similarly, as we currently see many more cases of labour trafficking, we are trying to respond to it; we are trying to find ways to assist these men as their needs are definitely different from those of the women who were trafficked for sexual exploitation. So, this is an ongoing process and is reflected in our services.' (respondent La Strada)

Finally, a complaints procedure is in operation to use the complaints and recommendations of the clients to improve the services. Each shelter and counselling centre contains a box where clients can place such comments (respondent La Strada).

¹⁴⁴ When the Programme was set up the goals were formulated as follows: to provide *victims of THB* with support and to safeguard the protection of their dignity and human rights; to motivate victims to provide testimony and to assist law enforcement authorities in criminal proceedings in exposing, prosecuting, proving crime and punishing offenders of criminal offences concerning THB; to implement a programme of voluntary return – to intermediate the return of Czech victims of THB to the Czech Republic who may decide, after they are back in the Czech Republic, to join the Programme (MoI, 2008, Annex 2: 10-11).

¹⁴⁵ These evaluation documents are confidential (respondent La Strada).

In its internal evaluations Diaconia takes into account not only the direct results regarding the individual clients, but also results related to the team, co-operation with other specialised NGOs (i.e. La Strada and Caritas) and the progress of the team members. As regards the results concerning the clients, the representatives of Diaconia state that by the date of the interview – of the 12 clients who had been accommodated since 2010 – ten were able to *'find a way to go ahead with certain dignity, which is very important'*. All these ten clients had a new job (of the remaining two clients, one had died and the shelter lost contact with the other after he had left). It is also remarked that the perpetrators were not in all cases punished, although this is not a direct objective of the activities of the organisation (respondent Diaconia).

3.4.7 Bottlenecks

During the interviews the respondents described a series of bottlenecks related to the organisation and the implementation of CAA in the Czech Republic. It should be pointed out, however, that these bottlenecks are not necessarily typical of CAA but can also be encountered during the organisation and implementation of non-CAA:

- Privately rented apartments as shelters: the categorical shelters of both of the two organisations are privately rented apartments. These types of shelters are considered by the respondents of the two NGOs to be more favourable as 1) there is more flexibility to move to another address in comparison to buildings owned by an organisation, and 2) they provide a natural home environment for the clients. However, there are also bottlenecks regarding this type of shelter. Firstly, it is necessary to move them to another address at least every four years to keep the address secret, which is consuming regarding financial and personal capacity. Secondly, the representatives must have acquaintances in potentially suitable neighbourhoods to rent a suitable new shelter (respondent La Strada).
- CAA is not meant for large groups of victims of THB: the categorical shelters do not have the capacity to accommodate large numbers of victims. Also there is no referral mechanism set up for migrant workers who are in an emergency situation because of exploitation (respondent La Strada). There is a 'crisis plan' which was developed by the MoI in 2008. When the country faces large groups of victims for example, as a result of police actions in specific workplaces, this plan is implemented for a few days. As an emergency solution, these people can then be accommodated in a 'shelter' of the MoI, which is actually a hotel where policemen or foreign visitors normally stay. During these few days the police can work with the victims; if victims decide to co-operate with the PEJA, they can be referred to one of the specialised NGOs (respondent MoI). However, the representatives of both NGOs report capacity problems in such cases, even if they co-operate with Caritas which offers non-categorical shelter for victims of THB. They advocate for improvements in the emergency plan, among other reasons, to avoid the situation where people are repatriated to their country without having the 'chance' of being identified as victims. Based on the results of a pilot study conducted recently – on a recent occasion of approximately 200 people who were exploited in one factory remained without any shelter –, the three NGOs proposed to the MoI that, in times of crisis, they would be able to facilitate accommodation and assistance services, but only for a maximum number of 20 persons in total. They argue that when the number of victims gets higher, the services should be coordinated by the state (respondent La Strada).
- CAA excludes minors and adults with children: minor victims of THB and adult victims with children are accommodated and assisted non-categorically. Categorical shelters would offer more safety and feeling of solidarity to these groups (respondents MoI and Diaconia).

- Possible exclusion of socially disadvantaged groups from CAA: a shadow report submitted by the European Roma Rights Centre (ERRC) to a meeting of CEDAW in October 2010 stated that, in spite of the legal system, very few Roma women benefit from the legal protections offered, as they rarely come into contact with anti-trafficking services. The report argues that law enforcement authorities and service providers sometimes blame the group themselves for their vulnerability (ERRC, 2010). *'We do not assess the ethnicity of our clients. That is why I can't tell you the proportion of Roma women who were assisted by us. But generally I cannot say that they are not assisted. Obviously we have clients from these communities'* (respondent La Strada). Both the representatives of Diaconia and La Strada state that they have had clients in their shelter whose perpetrators were Roma. However, representatives of Diaconia point out a case where discrimination probably played a role in assistance:

'We had one Bulgarian client, who did not stay in our shelter but was assisted by us, who looked like a Roma probably because he was dark. He had big problems, he couldn't find a job, many people considered him as a Roma.'

- Contradictory goals: the question of conditionality of the residence permit for victims of THB is considered to be in contradiction with the goal of social inclusion and integration activities of specialised NGOs. On the one hand, the NGOs work on the inclusion of the victims of THB in the society, on the other hand a residence permit is not issued unless the police consider that the testimony of the person is relevant for the criminal proceedings, the client is willing to co-operate with the PEJA and the crime is qualified as human trafficking, although the 2004 EU directive on residence permits for victims of THB applies to crimes *related* to THB (respondent La Strada). It is remarked that in the past there were cases where the person was successful in her/his inclusion in the Czech society by having a job, independent housing and a private life, but as soon as the crime was disqualified as THB the residence permit was cancelled and the person had to leave the country (respondent La Strada).
- Problems related to the accommodation of victims with different nationalities and ethnic groups: according to the La Strada-respondent language differences among clients may lead to bottlenecks in delivering services. Social workers can speak several languages, but not all (e.g. Asian languages). In these cases the organisation makes use of interpreters, but finding interpreters who are able to respect the rules of the social assistance is considered to be challenging:

'As I mentioned before we do not make decisions on behalf of our clients and we speak with the clients in a certain manner. I notice sometimes that some interpreters have the tendency to decide for the client or suggest things for them, or recommend something. The interpreter actually thinks that this is something good that she or he is doing. So, if we have a new interpreter, it is essential to explain what social work is; that we are not here to make decisions on behalf of someone. We are here may be to propose something but decisions should be made by the people themselves and we shouldn't manipulate them into deciding or doing something. The interpreters should understand that they shouldn't act with their intuition and they should be updated on what we expect from them.' (respondent La Strada)

This situation may be especially challenging in the shelters as there may be clients who speak completely different languages accommodated at the same time and this can lead to communication problems. The interpreters cannot be present in the shelter 24 hours a day and the assistants in the shelter try to communicate with the clients about basic things and solve each problem case by case by employing their

own methods (respondent La Strada). Representatives of both specialised NGOs stress that an individual approach is easier to employ because of the small number of clients in their shelters in comparison to bigger shelters. The representatives of Diaconia note that although they themselves did not have problems related to the differences in the cultural background of their clients, experiences from other shelters show that this might cause problems because of the prejudices they have about each other, for example, when Roma and non-Roma are accommodated together. In addition, there may be some practical problems arising when people live in the same apartment because of their different habits, such as ways of cooking. In spite of the above mentioned bottlenecks, the respondent of the MoI remarks that it is essential for governments to find good partners in delivering services to victims of THB from different nationalities and ethnic backgrounds:

'We have very professional NGOs; we also have clients from different backgrounds, for example, African clients. We can choose which NGO will be the best for a victim with a certain nationality. Of course, we consult our colleagues from the NGO. "What do you think? Do you have services suitable for this client? Are you able to provide suitable services for her or him?" I think it is about discussion and being open to this kind of problem.'

- Co-operation with health care providers: respondents of Diaconia point out that their clients are not only victims of labour exploitation, but many of them are also in ill-health and the organisation has had one client who died as a result. They remark that it is not always easy to find a doctor who will be happy with 'this type' of clients and that they experienced great problems finding a doctor prepared to be the clients' family doctor; this was, among other things, because of the problems that could result from a lack of health insurance for specialised services.
- Shelters located in big cities: all three categorical shelters are located in Prague. Although there are advantages of having shelters in the big cities (e.g. anonymity of shelters and clients, easier co-operation with other NGOs), the unfamiliarity of the clients, who are mostly foreign or Czech citizens who do not come from Prague, causes some problems. As they are not familiar with the city they need to be guided to find their way around the city as well as the community (respondent Diaconia).
- Financial limitations: both NGOs operate shelters and deliver services according to the Act on Social Services. These activities are financed by the Ministry of Labour and Social Services. The financial support is given at the beginning of each year regardless of the number of clients. In situations where the organisations encounter higher numbers of clients than normal, budgetary problems may occur. Both organisations receive financing from other sources or donors and try not to be solely dependent on government financing (respondents La Strada and Diaconia).

'If we were financed only from the state subsidy, there wouldn't be any time for proper communication with our clients [...]. This is very important in solving many problems. You can really invest your time in communication with the clients. This is very intensive work, communication, communication, communication.' (respondent Diaconia)

- Low capacity to staff ratio: Representatives of Diaconia point out that in small-scaled categorical shelters such as theirs, even if there are only a few clients, it is still necessary to employ the staff, sometimes full-time, to provide services. This is considered to be uneconomical in comparison to shelters with bigger capacities. This is why the organisation contracts students to help assist the clients.

3.5 Perceived advantages and disadvantages of Categorical Accommodation and Assistance

During the interviews respondents were asked about their opinion on the advantages and disadvantages of CAA in comparison to non-CAA for victims of THB. The following issues were identified by the Czech respondents.

3.5.1 Perceived advantages of Categorical Accommodation and Assistance

- Specialised assistance: CAA provides professional and specialised assistance for victims of THB. Specialised NGOs providing CAA have specific expertise on different aspects of the issue of THB and on the particular needs of the target group (several respondents). For example, other non-categorical service providers who list trafficked people as one of their many target groups, probably lack information about basic legislation related to THB or are not aware of the existence of the Programme which, among other things, provides the possibility for the foreign victims who do not have a valid residence permit to legalise their stay in the country (respondent La Strada). Similarly, representatives of Diaconia remark that employment programs for typical migrants are very different from those for the victims of THB and that the organisation has amassed a lot of sound experience about such employment programs (e.g. on the functioning of the employment system through agencies and that of foreign workers in the Czech Republic).
- Better security: categorical shelters offer better security aimed at the specific needs of victims of THB (respondents Diaconia and MoI). In addition, the risks of encountering people who may be potentially dangerous for victims of THB are higher in non-categorical shelters:

'We had a female client who had to be hidden as we were worried that she could be followed by the perpetrators and she was accommodated for a while in one of our [non-categorical] shelters for women; just for mothers and children. We had to move her away immediately because the visitors who came to see the others suddenly became a big problem for our client as she recognized someone. If you are taking care of people who are at risk; it is better to have a good/better protected place; especially with these type of clients.' (respondent Diaconia)

- Similar problems among the victims: in categorical shelters people are 'in the same boat', they have a similar experience; they can share these problems with each other more easily and feel that they are not alone (respondent MoI).
- Smaller scale of the shelters: in the Czech Republic categorical shelters are smaller in scale than non-categorical shelters. Small scale shelters offer more possibilities for changing the location when there are security risks (respondent MoI).
- Increased awareness among the ordinary population: an unexpected positive result of the identification activities of – potential – victims of labour exploitation through fieldwork is the increased awareness among the general population about the fact that migrants from different countries are exploited in the Czech Republic and the conditions under which this takes place. This process is also stimulated by the prevention activities (respondents Diaconia).

3.5.2 Perceived disadvantages of Categorical Accommodation and Assistance

- Costs of categorical shelters: categorical shelters are more expensive than non-categorical shelters and it is difficult to find funding for these types of shelters (respondent MoI).
- Unused capacity: categorical shelters might sometimes be vacant as they serve a specific target group. La Strada reports that, although not very often, it has had vacant beds in the shelters over the last three to four years. This is explained by the increase in labour-trafficking in the country: *'as the primary aim of these people is to work, they prefer not to stay in a shelter and wait and see what happens. Instead, they usually stay in dormitories, and work and co-operate with us'* (respondent La Strada).

4 Italy



Source: CIA The World Factbook

4.1 Introduction

Italy is a republic in the South of Europe. It is a peninsula with the Alps in the north and surrounded by the Adriatic Sea in the east, the Ionian Sea in the south and the Tyrrhenian Sea in the west. Italy has been a republic since 1946 and has approximately 61 million inhabitants.¹⁴⁶ There are large socio-economic differences between the flourishing north and the much poorer south. The main economic sectors are tourism, fashion, technology, chemistry, car industry, and food.¹⁴⁷ The southern region is typified by its agricultural sector.

The phenomenon of trafficking in human beings (THB) in Italy has a long history, although it is only recently that this word has been used to describe this type of crime. Between 1876 and 1976, Italy was one of the major countries from which poor individuals migrated (regularly or irregularly) to other European countries, and to the Americas and Australia. These migrants often reached their destination countries by being smuggled or trafficked, making Italy a country of origin for THB (Orfano & D'Angelo, 2007). Last century, during the 70s, Italy began to transform into a country of transit and destination. After the fall of the Berlin Wall (1989), this transformation reached its peak during the 90s. As a result of its geographical position, Italy is now one of the main ports of entry for thousands of migrants with an irregular status coming from many different countries; these migrants either stay in Italy, or continue their journey to other European countries, the United States (US) or Canada (Orfano & D'Angelo, 2007). This development has an impact on the number of victims of THB, as some of these migrants are vulnerable, and thus 'easy targets' for traffickers. Since 1998, the government has implemented programmes to provide victims of THB with assistance and a temporary residence permit.

¹⁴⁶ www.europa-nu.nl, consulted on May 19, 2011.

¹⁴⁷ www.europa.eu, consulted on May 19, 2011.

4.1.1 Background

Forms of THB

Italy is a destination and a transit country for women, men and minors subjected to THB for the purposes of sexual exploitation and forced labour (US Department of State, 2011). In recent years, some transgender individuals have been identified who had been exploited sexually (Ferraris, 2010).

Most studies conducted on THB focus on women and sexual exploitation. Consequently, there is limited information on men and transgender persons who have been trafficked for the same purposes. However, there is a recent publication on the trafficking of mainly transgender persons from Brazil to Italy (Capussotti & Orfano, 2011). Little is known about child trafficking, other than that Romanians and other children from Eastern Europe are subjected to trafficking for sexual exploitation and forced begging (US Department of State, 2011). Similarly, there is limited information about trafficking for forced labour (Capussotti & Orfano, 2011; Ferraris, 2010).¹⁴⁸ But according to the US Department of State (2011), a significant number of men are subjected to forced labour and debt bondage in the service sectors in Northern Italy, and in the agricultural sector in Southern Italy, which is largely controlled by criminal organisations (Capussotti & Orfano, 2011). Recruiters or intermediaries, often foreigners linked to organised crime groups, frequently act as enforcers overseeing the work on the farms (US Department of State, 2011). Unregistered immigrant workers in the agriculture, construction, and domestic service sectors and those working in hotels and restaurants are particularly vulnerable to the subjugation of forced labour (US Department of State, 2011).¹⁴⁹

Trafficking for organ transplantation has not been proved in Italy (Capussotti & Orfano, 2011).

The average age of victims trafficked for sexual exploitation is between 18 and 30 years old (Capussotti & Orfano, 2011). However, the percentage of exploited minors seems to be increasing over the years. Victims of forced labour are usually older (Ferraris, 2010).

Nationalities of the victims

The victims of sexual exploitation, who are predominantly female, originate mainly from Romania, Nigeria, Morocco, Albania, Moldavia, Russia, the Ukraine, Bulgaria, and China.

Forced labour victims come from Poland, Romania, Pakistan, Albania, Morocco, Bangladesh, China, Senegal, Ghana and Cote d'Ivoire (US Department of State, 2011). Some of the victims are women; they come from Eastern European and some South-American countries (Capussotti & Orfano, 2011).

The proportion of identified Italian victims of THB is unclear; UNODC (2009) reports a proportion of 9%, and states that this form of internal trafficking is often reported under other offences, such as pandering or slavery. According to representatives of the Department of Equal Opportunities no Italian victim has ever been assisted by the national system.

Trafficking networks

Many different criminal networks have been active in the trafficking of women for sexual exploitation, such as Albanian, Nigerian, Romanian, and other East European networks. The organisations recruit, transfer and exploit their victims in a variety of different ways that can change over time; the methods used relate closely to factors such as the particular country and place of origin, whether the victim knows what

¹⁴⁸ Since then, some information has been gathered in Italian; see Carchedi (2010).

¹⁴⁹ In 2009, labour inspectors discovered 98,400 unregistered workers working at farms (US Department of State, 2010).

the real aim of the recruitment is, and the relationship between the victim and the trafficker and/or the exploiter (Capussotti & Orfano, 2011).

Usually, victims are recruited by an acquaintance, a friend, or a relative. But, sometimes, victims themselves approach a recruiter, which can also be a travel or an employment agency (Orfano & D'Angelo, 2007). In other cases victims are directly approached by the recruiter (Headway, 2007). Women are promised a good job in Italy, but are then forced into the sex industry. Women may also be offered a job as a prostitute, strip teaser or call girl, without being informed about the abusive working and living conditions. Victims of sexual exploitation are usually forced to prostitute themselves, both on the streets and behind-closed-door premises, such as in apartments, night clubs, hotels, saunas and massage parlours (Headway, 2007; Orfano & D'Angelo, 2007). In the last few years, Albanian traffickers have started to 'negotiate' with their victims about their 'working' conditions instead of exclusively using violence; a small part of the earnings are shared with the victim, and victims have more freedom. This development appears to be motivated by the exploiter's desire to gain the victims' trust (Capussotti & Orfano, 2011; Headway, 2007). Eastern European victims seem to negotiate more often and ask for better working and living conditions, because they are generally better educated and know the objective of the trafficker (Capussotti & Orfano, 2011).

Trafficking routes and the methods of exploitation can also change because of actions carried out by the law enforcement agencies in Italy, the country of origin or in the transit-country or because of the implementation of social protection schemes, or better knowledge of the phenomenon 'THB', and more restrictive migration policies, that play into the hands of criminal groups engaged in illegal activities (Capussotti & Orfano, 2011).

4.1.2 Policy context

Definition of THB in Italian legislation

In 1958, in order to stop the sexual exploitation of women, Italy introduced a law that abolished the existing regulation system which allowed the running and functioning of brothels. This law ('Cancellation of regulations on prostitution and fight against exploitation of prostitution', Law 75/1958) is known as the '*Legge Merlin*', after the senator who proposed it, and is part of the Criminal Code (Orfano & D'Angelo, 2007). In Article 3, activities are criminalized which would, in any way, facilitate, abet and procure prostitution. These offences which may differ in terms of gravity, are punishable with a term of imprisonment of two to six years and a fine ranging from 260 to 10,400 euro (Hancilova & Massey, 2009).

In 2005, Italy signed the Warsaw Convention, which was then ratified in November 2010 and came into force on March 1st 2011. To acknowledge the trafficking definitions of the Palermo Protocol, Law 228/2003 'Measures against trafficking in persons' came into force and replaced three articles of the Criminal Code. Consequently, the crime of THB is defined in Article 600 'placing or holding a person in conditions of slavery or servitude' and in Article 601 'trafficking in human beings'. Furthermore, in Article 602, provisions related to the 'sale and purchase of slaves' are defined (see Box 4.1).

Box 4.1 Definition of THB in the Italian Criminal Code

Article 600: Whoever exerts on any other person, powers and rights corresponding to ownership; places or holds any other person in conditions of continuing enslavement, sexually exploiting such person, imposing coerced labour or forcing said person into begging, or exploiting him/her in any other way, shall be punished with imprisonment from eight to twenty years. Placement or maintenance in a position of slavery occur when use is made of violence, threat, deceit, or abuse of power; or when anyone takes advantage of a situation of physical or mental inferiority and poverty; or when money is promised, payments are made or other kinds of benefits are promised to those who are responsible for the person in question. The aforesaid penalty becomes harsher, increasing by one third to 50%, if the offences referred to in the first paragraph above are perpetrated against minors under eighteen or for sexual exploitation, prostitution or organ removal purposes.

Article 601: Whoever carries out trafficking in persons who are in the conditions referred to in article 600, that is with a view to perpetrating the crimes referred to in the first paragraph of said article; or whoever leads any of the aforesaid persons through deceit or obliges such person by making use of violence, threats, or abuse of power; by taking advantage of a situation of physical or mental inferiority, and poverty; or by promising money or making payments or granting other kinds of benefits to those who are responsible for the person in question, to enter the national territory, stay, leave it or migrate to said territory, shall be punished with imprisonment from eight to twenty years. The aforementioned penalty becomes harsher, increasing by one third to 50%, if the offences referred to in this present article are perpetrated against minors under eighteen or for sexual exploitation, prostitution or organ removal purposes.

Article 602: Whoever, in cases other than the ones referred to in article 601, purchases or sales (sic) or transfers any person who is in any of the conditions referred to in article 600, shall be punished with imprisonment from eight to twenty years. The aforesaid penalty becomes harsher, increasing by one third to 50%, if the offences referred to in this present article are perpetrated against minors under eighteen or for sexual exploitation, prostitution or organ removal purposes.

Source: Law 228 dated August 11, 2003: Measures against trafficking in persons. Official Journal of the Italian Republic.

In August 2011, a new law came into force regarding labour exploitation. According to Article 603*bis* of the Criminal Code, the crime of illegal intermediation and labour exploitation is punishable with a term of imprisonment of 5 to 8 years and a fine of 1,000 to 2,000 euro for every recruited worker. In the new law, the criteria for exploitation are set down, such as: payment clearly different from collective labour agreements or disproportional to the quantity and quality of the work done; systematic violation of norms regarding labour hours, weekly rest, holidays; violation of security and hygienic norms in workplaces so as to expose the worker to danger for his health, or his security; to submit the worker to degrading work conditions, supervision methods or accommodation.

Before this law, it was not easy to prosecute the offenders for labour exploitation, because the crime of placing or holding a person in conditions of slavery or servitude had to be used (Article 600 of the Criminal Code). Not all the necessary requirements were always met, so the alternative was to apply the law on work regulation, which only provides for fines as sanctions, and not imprisonment. In the last two years the number of identified cases of labour exploitation has increased. Out of the total number of victims assisted by the national system, approximately 20% were found to be victims of labour exploitation (representative Department of Equal Opportunities).

Policy on anti-trafficking and assistance of victims of THB

Two programmes in Italy are of great importance to victims of THB, the so-called Article 13 and Article 18 Programmes. These programmes are meant to fund projects for assisting victims of THB. They are planned and supervised by the Department of Equal Opportunities.

The Article 18 Programme was introduced in 1998, when Italy started to develop structural policies to address the issue of THB from a victim's perspective (Roagna, 2011). It is named after Article 18 of Legislative decree 286 of the Immigration Law (see Box 4.2).

This article offers the possibility of granting foreigners who have suffered abuse or severe exploitation a special temporary residence permit on humanitarian grounds. The projects within this programme (Article 18 projects) provide a series of measures and activities aimed at fostering the empowerment and autonomy of victims. The projects are intended to promote the victims social inclusion in Italy or in their country of origin.

Originally, the programme was meant to provide support to persons who were sexually exploited but, since the second half of 2006, it has been extended to include persons trafficked for other purposes (e.g. labour exploitation).¹⁵⁰

In 2003, a short-term programme of temporary assistance was introduced by Article 13 of the above mentioned Law 228/2003 'Measures against trafficking in persons'; this programme is intended for all victims, regardless of their nationality. Since 2007, the scope of the Article 18 Programme, which was originally only intended for third-country nationals, was broadened to include EU-nationals¹⁵¹ (Orfano & D'Angelo, 2007). As a result, the difference between the assistance given by Article 13 and Article 18 Programmes became unclear. The Article 13 Programme has, therefore, been used as an emergency measure, the application of which could lead to the later application of Article 18 (Raffaelli, 2009). Victims of THB can benefit from a three months programme which, if applicable, can be extended for a further three months. Victims receive accommodation, social assistance, and health care services. When the programme has ended, foreign victims can receive ongoing continuous help under the Article 18 Programme (Capussotti & Orfano, 2011; Orfano & D'Angelo, 2007).

Article 18 projects offer accommodation, access to social services and educational institutions, enrolment in the State's employment bureau, and access to employment. Both programmes are meant for adult victims as well as minors.

It is the responsibility of the Chief of Police to determine whether the victim qualifies for the Article 18 permit, but the granting of a residence permit of this type does not necessarily mean that the victim is willing to co-operate with law enforcement authorities. In fact, two paths are possible (Ferraris, 2010):

- The 'judicial path', if victims of THB are willing to co-operate with the police and prosecutor. The victim has to press charges against the perpetrator.
- The 'social path', which means that the victims are not obliged to press charges against the trafficker, but are expected to give extensive information to the police via the public social services of local governments or accredited NGOs (Capussotti & Orfano, 2011; Sorgoni, 2010). In this case these organisations submit a 'statement' on behalf of the trafficked person.

In practice, the social path is not applied uniformly across Italy, as the law is interpreted differently throughout the country. Petrini and Ferraris (2002) speak of high-

¹⁵⁰ In the Law Decree 286/1998 there is no specific reference to the crime of trafficking; it states 'foreigners who have suffered abuse or severe exploitation'.

¹⁵¹ By Law 17/2007: 'Turning into law, with changes, the law decree December 28, 2006, no. 300, containing the extension of the limits foreseen by legislative provisions'.

ly ambiguous legislative provisions. According to the law (Article 18 paragraph 1 of the legislative Decree 286/98, see Box 4.2), the Chief of Police can issue the residence permit without seeking the opinion of the Public Prosecutor. Directives from the Minister of the Interior clarified that this opinion is only needed when the 'judicial path' is taken and should never be required if the social path is followed. Even when consulting the Public Prosecutor is necessary, the final decision has to be made by the police. Yet, some police headquarters refuse to start the procedure for the request of the residence permit if no official denouncement has been made. Also, some police superintendents are only willing to issue the permit if the Public Prosecutor has given his approval (Raffaelli, 2009). This also became clear from the interviews held with representatives of the two researched NGOs. The representative of Cooperativa Lotta says:

'In Italy the law says that the victims can choose the social path, but it is not applied the same way in every part of Italy. So, for example, in Milan it is almost impossible to offer victims the choice of the social path. (...) It depends on the city (...). It is always the Public Prosecutor who decides whether victims can enter the programme. The Questura (local police headquarters) can also decide, but the Questura giving a residence permit without the decision of the Public Prosecutor is practically unheard of.'

According to a representative of On the Road around 30% of the victims of THB follow the social path, and 70% the judicial path. Nigerian women, for example, often choose the social path, because they do not want to denounce their exploiters. If a victim follows the judicial path and presses charges, the residence permit is offered at an earlier date than it would have been had the social path been followed. According to the data of the Department of Equal Opportunities, in 2011 32% of the Article 18 residence permits were issued via the social path, and 68% via the judicial path (respondent Department of Equal Opportunities). Although the 'social path victim' is not obliged to press charges, a victim may still be required to testify in criminal proceedings (Orfano & Bufo, ca. 2010; Raffaelli, 2009). Views differ on how this works in practice. According to a representative (a lawyer) of OTR '*victims must testify in all cases*', yet according to another respondent of this same organisation, some victims are not asked to testify in court: '*So they just continue with their programme and the residence permit and that is all*' (respondent OTR).

The experience in Italy is that many victims do report to the police, after first following the social path and having gained confidence in institutions (Orfano, 2001).

The temporary residence permit is initially valid for six months and can be extended for a year or a longer period for judicial purposes. At the end of both paths, the Article 18 temporary residence permit can be renewed, if the victim has a temporary job, for the duration of the employment contract. If, at the date of expiry, she/he has an indefinite employment contract, a residence permit can be granted according to the requirements for the issuance of residence permits on such grounds. It can also be converted into a residence permit for educational purposes if a victim starts a course of study. Eventually permanent residency is possible, under the rules which normally apply to applications. Victims who are granted an Article 18 permit are obliged to participate in an Article 18 project (Orfano & D'Angelo, 2007).

Box 4.2 Article 18 of the Legislative Decree 286/98 (Immigration Consolidation Act), Residence permits for social protection grounds

- 1 Whenever police operations, investigations or court proceedings involving any of the offences set out in Article 3 of Law 75 (1958),* or in Article 380 of the Code of Criminal Procedure,** or whenever the social services of a local administration,** in the performance of their social assistance work, identify situations of abuse or severe exploitation of a foreign citizen, and whenever the safety of the said foreign citizen has seen to be endangered as a consequence of attempts to escape from the conditioning of a criminal organisation which engages in one of the afore-cited offences, or as a consequence of statements made during preliminary investigations or in the course of court proceedings, then the Chief of Police, also acting on the proposal of the Public Prosecutor, or with the favourable opinion of the same Public Prosecutor, may grant a special residence permit enabling the foreign citizen to escape from the situation of abuse and conditioning perpetrated by the criminal organisation and to participate in a social assistance and integration program.
- 2 Along with the proposal or opinion specified in the above para 1, the Chief of Police shall receive notice concerning the elements which support the existence of the above-mentioned circumstances, with special reference to the severity and imminence of the danger to the foreign citizen and the importance of the contribution offered by that foreign citizen to combating the criminal organisation, or to the identification and capture of the perpetrators of the criminal offences set out in para 1. The modalities of the participation of the foreign citizen in a social assistance and integration program shall be notified to the mayor.
- 3 The implementation regulations shall establish the necessary requirements for the programs to be entrusted other than institutionally responsible for social services in the local administration and also for their related monitoring. The same regulations shall identify the requirements that these subjects shall meet to ensure their competence and ability to promote social assistance and integration, as well as the availability of adequate organisational facilities
- 4 The residence permit issued in pursuance to this article has duration of six months and may be renewed for one year or for a longer period, if required for judicial purposes. Said permit is revoked in the case that the holder drops out from the social programs or engages in behaviour which is incompatible with the program's goals, as reported by the Public Prosecutor or by the local administration's social service, within its sphere of competence, or as ascertained by the Chief of Police, or in the case that the other conditions that initially warranted the issuance of the residence permit should no longer apply.
- 5 The residence permit provided for by this article enables access to social services and to educational institutions, as well as enrolment in the Employment Bureau, and the possibility of access to employment, providing that the minimum age requirement is met. Should the holder of the residence permit be employed at the date of expiry, then said permit may be renewed for the duration of the employment contract. In the case of an indefinite employment contract, the modalities for the issuance of residence permits on such grounds shall apply. The residence permit provided for by this article may also be converted into a residence permit for educational purposes, when the holder of said permit is enrolled in an official educational institution.
- 6 The residence permit provided for by this article hereto may be granted upon proposal of the Public Prosecutor of the Supervisory Judge of the Juvenile Court, following the release from a custodial institution of a foreign citizen who has served a detention sentence for offences committed as a minor, and has given concrete evidence of participation in a social assistance and integration program.
- 7 The financial burden resulting from the hereto article is estimated as ITL five billion in 1997 and ITL ten billion annually, starting from the year 1998.

* The law on exploitation of prostitution of others.

** Cases in which the police must arrest the offender.

*** City Councils or Regions.

Source: Orfano & Bufo (ca. 2010, p. 10)

The programmes are planned and supervised by the Department of Equal Opportunities. This department, under the Presidency of the Council of Ministers, chairs the 'Inter-Ministerial Committee for the support of victims of trafficking, violence and exploitation' (Quadri, 2010). The Inter-Ministerial Committee consists of representatives of the Ministry of Justice, the Ministry of Interior, the Ministry of Labour and Social Policies, the Under-Secretary for Family Policies, the Unified State-regions Conference,¹⁵² and the National Association of Italian Municipalities (Ferraris, 2010). Each year the Department of Equal Opportunities launches a call for proposals to fund projects that are operationally managed by NGOs and local authorities. Each grant must be, according to law, co-financed by the Department of Equal Opportunities and by local authorities. An NGO that applies for funding must sign an agreement with a local authority. There are many NGOs that carry out Article 13 and Article 18 projects, among them are Associazione On the Road (hereafter: 'OTR') and Cooperativa Lotta contro l'Emarginazione (hereafter 'Coop Lotta'). In 2011 the call for Article 13 and Article 18 projects was combined.¹⁵³ Article 13 projects are funded 80% by the State and 20% by local authorities (Sorgoni, 2010, see also footnote 153); for the Article 18 projects this is respectively 70% and 30%.

Table 4.1 Article 13 projects funded, 2006-2010

Project calls	Number of projects funded
1 st call (August 2006)	26
2 nd call (July 2007)	23
3 rd call (August 2008)	23
4 th call (August 2009)	25
5 th call (August 2010)	27
Total	124

Source: Written information respondent Department of Equal Opportunities

Table 4.2 Article 18 projects funded, 2000-2010

Project calls	Number of projects funded
1 st call (December 1999)	48
2 nd call (November 2000)	47
3 rd call (October 2001)	58
4 th call (September 2002)	69
5 th call (January 2004)	72
6 th call (January 2005)	77
7 th call (January 2006)	77
8 th call (February 2007)	42
9 th call (February 2008)	43
10 th call (February 2009)	40
11 th call (March 2010)	40
Total	613

Source: Written information respondent Department of Equal Opportunities

From 2006 to 2010, a total of 124 projects were funded (see Table 4.1) and 2,191 persons were assisted within the framework of Article 13 Programme (representa-

¹⁵² A conference of the state with regions.

¹⁵³ Presidenza del Consiglio dei Ministri, Dipartimento per le pari opportunità. Bando congiunto per la concessione di contributi per la realizzazione di interventi a favore delle vittime di tratta e grave sfruttamento: - programmi di emersione e prima assistenza ex art. 13 Legge 228/2003 - Avviso 6/2011; - programmi di assistenza ed integrazione sociale ex art. 18 d.lgs 286/1998- Avviso 12/2011.

tive Department of Equal Opportunities). In article 18 Programme between 2000 and 2010, a total of 613 projects were funded (see Table 4.2) and 18,190 persons were assisted. The number of annually assisted victims in the Article 18 projects was approximately 1,700 (representative of the Department of Equal Opportunities).

Furthermore, there is the *Numero Verde contro la tratta*, a national toll-free telephone hotline set up to combat trafficking. Its main objectives are to provide detailed information about the legislation and services available to trafficked persons in Italy and, upon request, refer callers to specialised service providers. Information is provided in the languages spoken by the main target groups, including English, Albanian, Russian, French, Spanish, Rumanian, Bulgarian, Hungarian and Chinese, which allows victims of THB to get in touch with professionals who can help them to escape from exploiters. The phone line facilitates networking among relevant stakeholders at national level and facilitates liaison about the Article 13 and Article 18 projects. It is composed of one national central post which works in close co-operation with local operational units established with each Article 13 project. These specialised units are supposed to take calls from *Numero Verde*, manage their local cases and refer the potential victim to appropriate services in their territory.¹⁵⁴ *Numero Verde* is also responsible for the coordination of victims who must be relocated (e.g. for security reasons or because they enter the next stage in the programme, which requires other shelter facilities). NGOs that assist these victims can contact *Numero Verde*. The victim is then registered and placed on a list held by *Numero Verde*. All the other NGOs in the network of private and public bodies which run Article 18 and Article 13 projects, have access to this list and can offer the victim assistance (respondents Department of Equal Opportunities and Coop Lotta).

Italy has not yet appointed a National Rapporteur, or established a National Referral Mechanism, or made a National Action Plan on THB (Capussotti & Orfano, 2011; Ferraris, 2010). However, the Department of Equal Opportunities did begin work on the first National Action Plan in 2010 and, to this end, established an Inter-Institutional Technical Board. Also, in January 2011, the Department of Equal Opportunities opened a central database in which anonymised data on victims of THB could be registered so that information is collected and monitored. Organisations which manage the Article 13 and 18 Programmes input these data,¹⁵⁵ and the database itself will probably become public in the future (representative Department of Equal Opportunities).

A national referral system is also being developed: a working group has been appointed by the 'Inter-Ministerial Commission for the support of victims of trafficking, violence and exploitation'. In co-operation with the International Centre for Migration Policy Development (ICMPD), the Department of Equal Opportunities has led a European project aimed at developing guidelines for the establishment of a Transnational Referral Mechanism; this referral mechanism will be adjusted to the Italian context (Capussotti & Orfano, 2011).

Reflection period

In Italy, there is no reflection period envisaged by law. Italy did not implement the reflection period imposed by the European Council Directive 2004/81/EC in its legislation because, in Italy, obtaining a temporary residence permit is not dependent on the victim's willingness to co-operate with law enforcement agencies or judicial authorities (Bilger et al., 2010).

¹⁵⁴ Until 2010, *Numero Verde* was composed of a single central headquarter, that functioned as a filter for the telephone calls, and 14 territorial branches located in 14 different regional or interregional areas throughout Italy, but the local posts of the toll free telephone lines have been closed since then.

¹⁵⁵ www.osservatorionazionaletratta.it/, consulted March 20, 2012.

In practice, the Article 13 Programme is 'informally' used as a kind of reflection period (representatives Coop Lotta and OTR). As no rules were set out on how Article 13 and Article 18 projects should interrelate, the stakeholders filled in this gap by means of their practice. They first assist the victim under the Article 13 Programme, and after three months, they apply for the Article 18 permit. However, since 2012, the Department of Equal Opportunities has been providing directions on how the programs relate to each other (Representative of the Department of Equal Opportunities). A problem, according to the representative of Coop Lotta is that if the victims are stopped by the police before they had made their denouncement, they can be sent to an identification and expulsion centre because they do not have a residence permit or any other legal documents, as Article 13 of Law 228/2003 does not provide for them to be granted. However, according to the representatives of the Department of Equal Opportunities, if victims participate in a program of assistance, they have a kind of informal warranty on their legal status (that the assisted person is waiting for the decision on her/his residence status in Italy) provided by the NGO and/or local authority running the project and by the police office that approved the individual assistance program. This difference in view is probably because of the fact that in some places in Italy the co-operation of NGOs with the police and the prosecutors' office is better than in others.

4.1.3 History of Categorical Accommodation and Assistance

Before 1998, when the Article 18 Programme was introduced, there was no specific legal framework within which social protection and services could be offered to victims of THB. However, various NGOs and religious organisations had already been assisting these victims for a number of years and, in the early 90s, some local authorities began providing assistance to victims of THB as well, for example, the Municipality of Venice, the Emilia Romagna Region (representative Department of Equal Opportunities) and the Turin Municipal Council. The latter set up the Office for Foreigners and Nomads of the Turin Municipal Council (*Ufficio Stranieri e Nomadi del Comune di Torino*) to provide assistance to immigrants without regular status in Italy; this included victims of THB (Aghatise, 2004).

As discussed, the Article 13 and Article 18 Programmes for funding the projects are operated at national level, and the projects offering assistance and support to victims are locally organised, by accredited NGOs which are entitled to support the presumed trafficked persons and to ask for a residence permit for them. The organisations running the projects, do not offer all the assistance on their own. They can offer accommodation, and other services, but can also make use of services provided by other organisations, in a network of private and public bodies which all run Article 18 and Article 13 projects. According to the representative of Coop Lotta, at the time of writing, the network consisted of more than 50 local organisations, registered in a special national register managed by the Department of Equal Opportunities. Every organisation does something particular for the victims:

'For example, we assure secondary assistance and there are some organisations assuring assistance and support to minors or to mothers with children (...). We have a structure which helps us to satisfy all of the needs of the victims, and everyone has different projects. So, we try to understand what the need of the victim is and then we try to provide the assistance offered by the organisation which can do it best.' (respondent Coop Lotta)

In Italy, assistance and accommodation to victims of THB is mainly given categorically, via the Article 13 and Article 18 Programmes. This chapter focuses on two NGOs that provide categorical accommodation and assistance (CAA) for victims of

THB. These NGOs were chosen because they are well-known and they were willing to participate in the current research. They are:

- *Associazione On the Road*.¹⁵⁶ This Association has been active since 1990 with regard to interventions in the fields of prostitution and THB for sexual exploitation. It was formally established in 1994, and started with outreach work in prostitution in response to the trafficking phenomenon. It was the first to provide accommodation for trafficked persons, even when the word 'trafficking' was not used yet (respondent OTR). OTR covers the regions Marche, Abruzzo and Molise, in the middle of Italy, on the Adriatic coast. The organisation develops structured activities and services which are focused directly on people affected by social exclusion, especially victims of THB. OTR is also engaged in national networking and in policy development, as well as in awareness raising activities, community work, training modules, research and publications (Orfano & Bufo, ca. 2010).
- *Cooperativa Lotta contro l'Emarginazione*. Coop Lotta grew out of the social commitment of a group of citizens living in the Parpaglioni neighbourhood in the town of Sesto San Giovanni (Milan). Since 1980, Coop Lotta has designed and managed social interventions and services for the physically and mentally disabled, young people in difficult situations, drug addicts, AIDS patients, foreign migrants and for victims of THB, both of sexual exploitation and forced labour. On behalf of the northern region Lombardia and a number of its municipalities, Coop Lotta designs and runs training classes and courses for social workers and trainers, working in the public and private sectors (respondent Coop Lotta).

4.2 Target group

As has been discussed above, the different NGOs in Italy all run their own specific Article 18 projects, within the legal provisions of that Article. That means that, in practice, the target group and the organisation of the assistance differs. The target group of OTR and Coop Lotta consists of adult male and female victims of THB. Both NGOs provide CAA as part of the Article 18 Programme. Almost all victims who access the Article 18 Programme are illegally in the country and do not have a residence permit. Although nationals also belong to the target group, no Italian victims have entered the Article 13 Programme.

4.2.1 Nationality, gender, age and forms of exploitation

In Italy, the victims assisted in 2007 under Article 13 and 18 projects were, for the greater part, Nigerian, followed by Romanian. The other countries of origin were: Moldavia, Albania, the Ukraine, Russia and Bulgaria (Barberi, 2008). There are no statistics on the gender and age of the total number of victims assisted in all the projects run across Italy.

Most female victims assisted by OTR are of Nigerian origin, and between 21 and 25 years old. The shelter for males accommodates victims from various countries of origin, for example Pakistan, Egypt, Bulgaria and India. Most male victims are over 30 years of age (Associazione On the Road, 2010).

The OTR shelters accommodate victims of sexual exploitation, labour exploitation, and at times of other forms of trafficking. *'Most of the victims have a background in labour exploitation and sexual exploitation. Only a few were exploited in domestic servitude, begging or even unlawful activities'* (respondent On the Road).

Coop Lotta also offers CAA to victims with different nationalities. For years the target group of the Coop Lotta shelters for females consisted mostly of Nigerian

¹⁵⁶ www.e-notes-observatory.org/partners/associazione-on-the-road/, consulted on May 31, 2011.

females between 18 and 26 years old. In the last two years, the target group has become more diversified and middle-aged women from China and a few young girls from Eastern Europe have found refuge at the Coop Lotta shelter. Most females are victims of sexual exploitation; the Chinese women, however, may also be victims of labour exploitation.

'Mainly they [victims] come from sexual exploitation, but it can happen that we take in Chinese women who are victims of exploitation in the labour market. But they have stories that are quite similar, because when they start our project for exploitation in the labour market, usually most of them also have a story of sexual exploitation. (...). Many of them have been here since the end of the nineties or the beginning of 2000s. They were exploited, for example, for some periods in their lives in the manufacturing industries, and then they started to work in massage parlours, in Chinese beauty farms, prostituting themselves.'
(respondent Coop Lotta)

The Coop Lotta shelters for males usually host victims between 20 and 40 years of age who have been exploited in the labour market. They usually come from North Africa, Pakistan, Afghanistan, China and India. Most of them were employed in the construction business, in the transport industry or in the hospitality industry. A few male victims of sexual exploitation have also been hosted in the shelters of Coop Lotta (respondent Coop Lotta).

4.3 Objectives of Categorical Accommodation and Assistance

The Article 18 Programme offers social assistance to victims of THB. The goal of the Programme is to facilitate the integration (social and labour inclusion) of the victims in Italy or, upon request, in the victim's country of origin (Ferraris, 2010).

The general goal of both OTR and Coop Lotta is to support the autonomy of victims who have escaped from a situation of exploitation, to promote their social and labour inclusion, and to help them overcome their trafficking past. A related goal mentioned by a representative of Coop Lotta is for victims to obtain a residence permit for work, since this stimulates the integration process:

'So our goal is to assist them in finding a job and changing their six months residence permit granted for humanitarian reasons into a residence permit for job reasons. The residence permit for humanitarian reasons is connected to participation in our project. So if they are not in our project, they cannot get the permit.'

To achieve these aims, different measures, structures and opportunities are provided; an individualised programme is drawn up in co-operation with the victim, and individual goals are defined (respondent OTR) (see Section 4.4.3).

4.4 Organisation and implementation of Categorical Accommodation and Assistance

4.4.1 Working method

Identification

In Italy there are no standardised national identification procedures based on common guidelines and tools (Ferraris, 2010; Orfano & D'Angelo, 2007; representative Department of Equal Opportunities), but there are many local referral mechanisms in place. Sometimes these are based on written agreements, at times they are

founded on a more practical collaboration between NGOs, local authorities, health services and police forces, public prosecutors (Ferraris, 2010; Quadri, 2010; representative OTR).

Victims are referred to OTR and Coop Lotta by different actors. Outreach units and the police refer the majority of victims. Some of these victims approach the police themselves, while others are found by the police, for example, in Chinese manufacturing industries or in beauty parlours (representative Coop Lotta). Other referring actors are drop-in centres, the *Numero Verde* toll-free number, non-profit organisations such as a legal association that provides legal information for foreigners without a residence permit, organisations that provide medical assistance to illegally staying migrants, teams contacting sex workers who work indoors (e.g. private houses, massage parlours, night clubs), social services, trade unions, and labour inspectors. At times, victims approach the NGOs themselves for help (respondent Coop Lotta).

Coop Lotta co-operates with the police and the *Carabinieri*.¹⁵⁷

'Not all of them contact us if they meet a victim and not all of them are aware of the ways to identify a victim, but we are (...) training the police to make them aware of the indicators which will enable them to recognise and to identify a victim.'

The organisation offers training courses to different actors who may come in contact with victims of THB regarding the criteria for victim identification and the ways of referring them to assistance programmes (respondent Coop Lotta).

In co-operation with the Public Prosecution Office of the Court of Teramo, OTR developed a protocol for identifying victims of THB, and drew up formal agreements. The protocol dates from 2005 (Public Prosecutor's Office, 2009) and was updated in 2010 (Procura della Repubblica presso il Tribunale di Teramo, 2010).¹⁵⁸ A check list of indicators for victim identification and an interview model that should be used by law enforcement agencies during the initial contact with a victim is also available.¹⁵⁹ An employee of both the police, and the social services should be present, as well as an interpreter or a cultural mediator (Procura della Repubblica presso il Tribunale di Teramo, 2010).

The check list of indicators for victim identification used (Associazione On the Road, 2005) contains topics regarding:

- recruitment: e.g. place, methods;
- transport: e.g. documents, means, ways;
- exploitation:
 - working conditions: e.g. no payment or insufficient payment, long working hours, dangerous/unhealthy working conditions;
 - living conditions: e.g. low housing standard, exorbitant rent;
 - control methods: e.g. violence (physical violence, psychological abuse, sexual abuse, threats, threats to family members).

A point of concern mentioned by OTR is that although there are criminal trafficking networks that use the asylum procedure as an entrance for their victims, many victims of THB who ask for asylum are not identified as such.

¹⁵⁷ The Carabinieri is a distinct branch of the army (and is a part of the Ministry of Defence) that has similar functions as the police, particularly regarding criminal investigation. The Carabinieri deals with national and serious crimes, including organised crime. Both the Carabinieri and the 'ordinary' police are responsible for public order and security.

¹⁵⁸ The protocol of 2005 is available in English; at the time of writing, the 2010 one is only available in Italian.

¹⁵⁹ Written information sent by OTR.

The representative of Coop Lotta indicates that for the identification of victims, they also use indicators. The most commonly used are the following (they are similar to those used by OTR):

- the person is not free to leave the work site and is controlled;
- the person shows signs of physical, sexual or psychological abuse;
- the person is not paid or paid very little;
- the person does not have identity or travel documents;
- the person has someone who controls all the money, victims have very little or no pocket money;
- the person fears that something bad will happen to him/her, or to a family member, if she/he leaves the job.

Intake

As soon as victims come into contact with OTR or Coop Lotta, they are interviewed to hear their story and to check if they meet the requirements for entering the project (has the victim really been exploited, is she/he interested in the project and is she/he possibly willing to denounce the exploitation).

If the NGOs identify persons as victims of THB, they start assisting them. In first instance, this assistance can be given on the basis of the Article 13 Programme, and later on the basis of Article 18.

With regard to the judicial path, when the victim makes a denouncement, the authorities are directly involved and the victim is granted an Article 18 permit.

The routes that the NGOs take are different. The representative of OTR and the Department of Equal Opportunities report that to enter the Article 13 Programme, the NGO/local authority submits a document to the police which presents the victim's story and the fact that the referrers are taking care of the victim. A multi-agency approach is adopted by OTR as the organisation works together with law enforcement and the Public prosecutor. This co-operation is necessary for all the requested permits to be obtained. At the end of the Article 13 Programme (three months), the NGO contacts the *Questura* to demand a residence permit for the victim, after which the Article 18 Programme starts.

The representative of Coop Lotta states that for the victims who have not yet denounced their exploitation to the police, they record the victims' story, contact the police and assist with filing a complaint against the traffickers. As seen in Section 4.1.2, although, according to Italian Law, victims of THB can receive an Article 18 permit via the social route, this is not possible everywhere in Italy. The respondent of Coop Lotta:

'So we decide where to go to denounce, where to find the best place to denounce and then, after the denouncement, there is a procedure in place and there is a public prosecutor who will decide whether the victim can have a residence permit for humanitarian reasons.'

Depending on the situation and the needs of the victim it is decided whether they can be accommodated in an NGO shelter (respondents OTR and Coop Lotta). In case of an emergency, for example, the victim can be placed in a shelter of another organisation, possibly via the *Numero Verde* helpline.

According to the OTR representative, even if a victim is accommodated in a shelter that does not belong to OTR, the organisation is still in charge of the Article 18 Programme and an OTR employee is responsible for a particular victim and supervises the programme.

Registration

In Italy, there is no central registration system for victims of THB (Ferraris, 2010). *Numero Verde* registers victims who need to be relocated (see for further information Section 4.1.2, Policy on anti-trafficking and assistance of victims of THB).

4.4.2 Organisation of the categorical shelters

Type of shelters and placement

The shelters where victims of THB are accommodated can be classified as follows (Orfano & D'Angelo, 2007, p. 36):

- *Flight and emergency shelters*: for a short first stay period in which the motivations of victims (to choose for the judicial or the social path) are verified and a first draft of the personal programme is worked out.
- *First care shelters*: for stays of two or three months in which the programme is carried out and all steps for the regularisation are undertaken.
- *Second care shelters*: for stays from two to six months in which the programme is developed in an advanced phase.
- *Autonomy houses*: houses where victims are hosted while starting a job and waiting to find their own house.
- *Family placement (especially for minors)*.
- *Non residential programme*: in which the person is supported at different levels – legally, psychologically etc. – but enjoys an autonomous accommodation usually shared with 'significant others', such as partners, family members or friends.¹⁶⁰

Victims can be accommodated in these shelters consecutively, following the order above, but victims can also find refuge in just one or two types of shelter (Orfano & D'Angelo, 2007).

The two NGOs, at the time of the current research, have the following kinds of shelters: Coop Lotta has six 'second care shelters' and OTR runs two shelters, which are a combination of 'first care' and 'second care' shelters. Victims of sexual exploitation and labour exploitation are placed in the same shelters (respondent OTR).

To encourage the victims' integration into society, the shelters of both organisations are located close to cities.

Coop Lotta decided to provide assistance in the secondary phase to promote the autonomy of victims if they are not at risk or no longer in any danger. However, the Coop Lotta shelters are structured in such a way as to ensure protection as victims are offered emergency shelter during the first few days after their escape. As one of the goals of Coop Lotta is to help integrate the victims into society, the – secondary – shelters are private apartments. In this way the victims learn to live in a building where other people are present, and can start meeting others and experiencing activities which are part of real life. *'So for example, to respect the rules of the building, to start going to the shops or the church in the area'* (respondent Coop Lotta). However, at the same time the victims also live quite autonomous. *'They don't really live together and they are not forced to do activities together'* (respondent Coop Lotta). They can cook their own food and have the freedom to decide to eat – alone or with others – whenever they wish.

OTR used to provide all kinds of shelters: an emergency shelter, a shelter for women, a shelter for men, an autonomy house, and family placement (Sorgoni, 2011). Now, because of financial cutbacks, OTR runs only two shelters. For emergency situations, victims can be placed in emergency shelters run by other organisations

¹⁶⁰ This is an alternative solution for those who have 'significant others' and autonomous accommodation. This form of 'shelter' is permitted within the Programme of Social Assistance and Integration on the basis that it is fundamental to value the victims' personal network in order to support her/his social inclusion in Italy.

in the network of organisations assisting victims of THB. However, victims stay in the OTR programme and receive assistance by OTR staff-members, who have meetings/talks with the victims and the contacts in the network. At the beginning of their accommodation in the shelter, victims usually stay inside more often so they can experience the feeling of being at home. In the past, at least one employee was always present in the shelter. However, at the time of writing, OTR was experimenting with a different form of organisation of the shelter, by means of case management. This implies that employees are no longer present 24/7; however victims can contact them by phone any time. An employee's constant presence is considered to be less necessary, because of a change in the victims' personal situation; victims seem to be more independent than they were in the past. For example: *'Nowadays the Nigerian girls are slightly older and more autonomous. Consequently, they can go out easier and find their way outdoors'* (respondent OTR).

At both OTR and Coop Lotta, female and male victims are placed in separate shelters. According to the respondent of OTR this is to guarantee victims privacy and provide the opportunity for them to organise their days and their own lives in rhythms that are most similar to 'normal' life (self-management of food, shopping); furthermore, the presence of female staff members who work with women, and male staff members who work with men, makes it easier to build trust relationships between staff members and victim, and to confide in each other (representative OTR). The respondent of Coop Lotta gives a similar reason: *'Some of the women don't feel safe, especially those who have had bad experiences with men. They need some time to get used to having normal relationships with men.'*

Capacity of the shelters

As previously mentioned, OTR runs two shelters, one for men and one for women. The women's shelter is a house which can accommodate nine women. Women with children are accommodated in a shelter within OTR's local network. The men's shelter is an apartment that accommodates five people (six in case of emergency) (respondent OTR).

Coop Lotta runs six shelters specifically for victims of THB; three apartments for women and three for men. Two of the shelters (one for females and one for males) are located in a town close to Milan, three (two for females and one for males) are located in the town of Varese and one shelter (for males) is located in Sondrio.¹⁶¹ The apartments can host four to seven persons. In total there are 11 places for females and 14 places for males.

Duration of stay

The duration of stay is based on the individual needs of the assisted person.

At the Coop Lotta shelters, the duration of stay varies from a couple of months to one year (representative Coop Lotta).

At the OTR shelters victims – both of sexual and of labour exploitation – can stay up to 18 months, which covers the time in which the Article 18 residence permit can be converted to a work permit (Representative OTR).

4.4.3 Working method in providing assistance

Each Coop Lotta shelter has a team of shelter workers. For example the team working in the female shelter in Milan consists of four people. In the women's and men's shelter of OTR three and two people, respectively, work in shifts.

¹⁶¹ Both Varese and Sondrio are located in Northern Italy.

Individual approach

The Article 18 Programme offers an individualised programme of social assistance and integration measures tailored to the needs of the victims.

At the start of each programme, at both NGOs, the victim and staff work together to determine the victim's individual needs and to draw up an individualised programme with the goals and the steps required to achieve these goals (respondents Coop Lotta and OTR). Consequently, support is personalised and takes into account the choices and the specific needs of the victim. The goals can be to gain autonomy and stability, to obtain income and housing and, for example, to teach victims to take care of their children (representative OTR).

At both NGOs most assistance takes place outside the shelter. For OTR it is usually given at the office of OTR; the representative of Coop Lotta states that as it is a secondary shelter and victims have to learn to live autonomously, the assistance is usually provided outside the shelter, and is focused on things such as obtaining an income and housing.

At OTR the progress of victims is evaluated every three months and, if necessary, the goals can be adapted. This process offers insight into the effectiveness of the working method. As a result, the quality of assistance can be measured and improved during the programme.

According to the OTR representative, men exploited for labour have different perceptions and require different assistance than women who have been exploited sexually. The assistance of male victims of labour exploitation focuses more on denunciation, than on the reconstruction of what has happened, and usually these victims want to go back to work as soon as possible (representative OTR).

4.4.4 Types of assistance

Coop Lotta and OTR provide medical, psychological and social care and, if necessary, legal assistance.

Medical care

In Italy a National Health Care System (NHS) provides a uniform level of coverage of medical assistance throughout the country. Nationals and authorised residents have to register with the local health administration which provides them with a health card. Since 1998, undocumented migrants have had access to the services provided by the NHS, as long as they have an STP pass (a pass for 'temporarily present foreigners'). This pass provides them free access to different health services, such as urgent and essential medical care, preventive care, care provided for public health reasons (including prenatal and maternity care, care for children, vaccinations and diagnosis and treatment of infectious diseases). Victims of THB who are nationals from third countries have the same rights as undocumented migrants and need an STP pass. Victims of THB from EU countries, who are in an Article 13 or 18 Programme, have full access to the NHS (Ferraris, 2010).

Both NGOs state that victims of sexual exploitation are usually asked at the beginning of a project to go and be screened for sexually transmitted diseases. Coop Lotta works with a hospital close to the shelter. *'So we support the victims in these medical screenings and we accompany them, for example, to visit the doctor or to do the tests'* (respondent Coop Lotta).

Psychological care

Both NGOs assist with psychological care and can offer expert psychological consultations to victims (at Coop Lotta there is a psychologist and at OTR, a psychologist/

psychotherapist). The meetings take place at the office of Coop Lotta but, if necessary, this can also be done at the shelter (Coop Lotta).

If more specific assistance is needed, in order to guarantee appropriate assistance to victims with mental problems or to those who are traumatized, victims are referred to the clinical psychological services of the consultants, or to mental health services (representative OTR). Coop Lotta works in co-operation with the Community Psychiatry Service (CPS): psycho-social centres that provide psychiatric and psychological assistance. Some of these are specialised in assisting patients with different nationalities: *'So they are used to working with foreign people and they know how to work with some of the nationalities. And they can also take in people without a residence permit'* (respondent Coop Lotta).

Legal support

Both organisations provide legal support. OTR has its own lawyers to assist victims of THB with administrative procedures (residence permit), during the criminal procedure or civil procedures, and to accompany them to court (representative OTR). As civil procedures can often take a very long time, the legal assistance continues even after the Article 18 Programme is finished. Coop Lotta works with a law centre which has lawyers specialised in immigration law and in the THB. The organisation seeks legal assistance if a case is complicated, for example, if the organisation is certain that a person is a victim, but she/he is not recognised as such by law enforcement authorities, or if a victim is responsible for a criminal act. However, according to the representative of Coop Lotta this is not very common. Sometimes legal support is used to claim compensation (representative Coop Lotta).

Compensation for victims

The information in this section is largely based on written information provided by the respondent of OTR, a lawyer.

The crime of trafficking is only prosecuted occasionally, whereas many legal proceedings take place for the 'exploitation of prostitution of others' and for the 'abetting of irregular migration and exploitation of undeclared work' along with crimes punished under other laws. It is still difficult to prosecute the crime of trafficking because of the rigorous proof required by law: the 'continuous subjection of the victim by her/his exploiter and /or trafficker'. According to jurists, victims of the above mentioned crimes could all be considered victims of THB.

To claim compensation, victims can bring a civil action in the penal process, or start a civil procedure, or if they are victims of labour exploitation, they can appeal to a judge who is specialised in employment (labour disputes etc). In the latter case, the victim is considered a 'worker', rather than a 'victim', so the compensation is based on salary differences, relative contributory burdens. According to the OTR representative, in cases of labour exploitation, they can often achieve positive results in terms of effective compensation in an extrajudicial setting for example, at the *Direzione provinciale del lavoro* (Provincial Directorate of Labour).

In the penal process a compensation claim can be decided upon in different ways:

- It can be decided upon by a sentence in which the judge decides the amount of compensation. In this case, the victim must wait until the sentence becomes definitive and then she/he can act directly towards the condemned by issuing a writ in order to obtain the amount of compensation due.
- The judge can also decide to grant a *'provvisoria'* (a provisional compensation by a provisional sentence): an amount that is immediately available without waiting for the sentence to become effective, after which the victim can act immediately in order to obtain the amount due. The victim can claim the full compensation of the damage in civil court.

- The judge can give a sentence which endorses the victim's right to compensation but does not establish the amount. In this case the victim must act in civil court to have the suffered damage quantified (referring to documentation and tests).

Civil action can be undertaken:

- after the conclusion of the penal process for the recognition of the right to compensation (if the victim has not brought a civil action during the penal process);
- after the conclusion of the penal process for the quantification of the damage (if the victim has brought civil action during the penal process and the judge has ordered the settlement of the damages in a civil court);
- autonomously (if the victim decides not to bring civil action during the penal process).

The OTR and Coop Lotta lawyers can assist the victims in making a claim for compensation. However, representatives of both organisations point out that gaining compensation is difficult. The reasons are (representative of OTR):

- Access to legal aid is difficult for foreigners (courts often ask for a certificate from the embassy proving that the victim does not have sufficient financial resources).
- According to law, the boards and associations supporting the victims have no access to court.
- In the majority of the cases, the accused are foreigners and have no property in Italy; property investigations are not made.¹⁶²
- It is difficult to quantify the victim's damage.
- There is no ring-fenced OTR budget for the legal bills; so the work becomes too onerous to be supported by lawyers. There are difficulties in obtaining money for legal bills for the trial and for the forensic tests of the consultants. The access to the legal aid is still only a declaration of intent by the state and OTR cannot rely on the payment being made. The legal aid doesn't cover the transfer bills.

According to the respondent of Coop Lotta:

- the time period between the facts and the possible compensation is very long, and this demotivates the victim. Also, legal procedures take a long time.

Yet, in spite of these problems, both Coop Lotta and OTR do sometimes succeed in getting compensation for the victim:

'Only if the organisations are quite big, powerful, if they have, for example, building or properties (...) I remember two years ago, we assisted a transgender victim who was exploited in the labour market and she managed to gain compensation through our lawyer.' (respondent Coop Lotta)

A representative of OTR states that in three out of 15 penal processes, compensation was obtained for victims of sexual exploitation (prostitution), but the sentences were not definitive and have been appealed by the condemned. As a result, it has not yet been possible to bring civil action in order to obtain the compensation. A provisional sum of 10,000 euro was obtained by OTR for two Romanian victims. One person, who was a victim of 'fraud' but in fact a victim of labour exploitation, received compensation in the amount of 3,000 euro. A Pakistani and an Indian victim of labour exploitation got a compensation of 15,000 and 10,000 euro respectively (extrajudicial, by the Provincial Directorate of Labour; the civil action within the penal process was still running at the time of writing).

¹⁶² A respondent of Coop Lotta states something similar: *'It is very difficult for the victims to obtain compensation if exploiters or traffickers are foreigners and do not have properties, means of support or do not have a residence permit in Italy. Some of them manage to flee to their country of origin before the trial.'*

According to Article 12 of the Law 228/2003, 'measures against trafficking in persons', a fund for anti-trafficking measures aimed at the reparation of damage had to be set up. The goal was to finance Article 18 Programmes with the proceeds derived from the confiscation of property or money from the offenders who had been sentenced for trafficking or trafficking related crimes (apart from the money reserved for the Article 18 Programme). The fund however was never set up.¹⁶³

Assistance related to integration

The main goal of the Article 18 projects is the social and labour inclusion of the trafficked persons.

A range of activities are used to achieve this goal. During the intake for the programme the specific needs that the victim has in order to integrate into Italian society become clear. These can be Italian language courses, but also, for example, dance classes.

The representative of Coop Lotta states that the organisation tries to make victims feel part of the community they live in by teaching them how Italian society works, and what resources they can find in the area. The victims are assisted to socialise with people living in the area, and build a personal network of friends and other people they can rely on. *'Because we think it is the most powerful resource for the victims to have support not only from us, but also from people around them, like friends or boyfriends or so'*. The victims are also assisted with activities like shopping and saving money.

OTR, for example, also helps women to take care of their children individually, without relying on the community, as is the case in most African cultures (representative OTR).

As it is very important for victims to have a regular job so that their residence permit can be extended, both NGOs provide assistance in finding a job.

The Coop Lotta-respondent reports that, in the first phase of the project, victims have Italian language classes or vocational training and the like, depending on their personal needs. Then, after three to six months, when they can speak Italian, Coop Lotta helps them to write their Curriculum Vitae (CV) and consults their network of organisations and industries. Coop Lotta also teaches victims how to present their CVs, the ways that they can introduce themselves, how to read job announcements and search for a job themselves. They can receive this job search-related assistance as long as they are in the project (representative Coop Lotta).

The OTR representative describes two different methods of facilitating the labour-participation of victims of THB: helping them to get a job and/or vocational training on the job. For the second option, funding is provided in different ways, namely through funds of the Department, or region, funds managed directly by OTR, and funds provided by national measures of the Ministry of Work to encourage participation in the labour market. These activities are developed through key persons, tutors of job mediation, before, during and after the work training and the successful acquisition of a job. Assistance is given in three stages. In the first stage activities for job orientation are the focus, like actively searching for a job, also through a network of public/private institutions in the labour market. During the second stage, assistance is given to search directly for a job, or it consists of on-the-job training; tutoring is provided throughout the process of work integration. During the final stage, there is an evaluation of the training programme in the company concerned, and the contractual terms of the work assignments are verified.

¹⁶³ There is a Fund aimed at damage compensation for victims of mafia crimes. Victims of THB, according to some jurists, can access the state reparation system through this fund. However, to the knowledge of the OTR representative, no victims of THB have ever accessed this fund.

The respondents of both NGOs state that nowadays, because of the economic recession, they are less successful in finding jobs for victims than they were in the past.

Even though there is no follow-up procedure in place after the victims have finished their programme (mainly because of the fact that she/he has become a regular migrant living and working in Italy), they generally contact OTR if they need some support and assistance. A sort of 'informal' follow-up is also available as various OTR workers are invited by the formerly assisted persons to participate in important life events (e.g. weddings, Christenings, graduations) (respondent OTR).

Assistance in finding independent accommodation

According to a representative of OTR, the organisation has no structural service to obtain independent accommodation. Yet, over the years it has developed funds that can be used to pay for a deposit for the first monthly rents for victims who are on their way to socio-work-integration. If this aid is not available, OTR tries to activate the work-related network of the victim (employers, employees) to find housing near the workplace.

After victims have found a job, Coop Lotta supports them in finding housing, by, amongst other things, drawing up agreements with social housing associations (respondent Coop Lotta). It seems to be less difficult for men to find a house than for women. For women, in particular Nigerian females, it is especially complicated, because they are usually low-skilled and so they work in low-skilled and low-paid jobs. Renting a flat is very expensive in big cities like Milan, and many Italians do not want to rent houses to immigrants. Dormitories can be a cheap alternative: '*In Italy there are 'Pensionati', dormitories for workers, big buildings where they can share the kitchen and have their own room; sometimes even sharing a room.*' (respondent Coop Lotta). Another solution is that victims start working while they are still residing in the shelter; after three to six months they have collected enough money to rent their own flat. If their income is not sufficient, Coop Lotta sometimes provides the victims with some sort of micro credit (representative Coop Lotta).

Support focused on future residence or voluntary return

Possibility of obtaining permanent residence

As stated in Section 4.1.2, victims of THB may be granted a permanent residence permit under the same rules that apply to all migrants.

Organisation of voluntary return to the country of origin

Since 2001, a special programme for assisted voluntary return has been created [*Progetto nazionale per assicurare il ritorno volontario assistito e la reintegrazione nel Paese di origine delle vittime della tratta*]. This programme is available for victims of THB who wish to return to their country of origin. It is funded by the Ministry of Interior, but nowadays through European funds (FER – Fondo Europeo Rimpatri). EU citizens cannot benefit from these funds.¹⁶⁴ It is managed by the IOM Italy. The programme offers the following (Orfano & D'Angelo, 2007, p. 39):

- information and counselling;
- case assessment;
- medical assistance (in Italy and in the country of origin);
- referral;
- arrangement of travel and papers;
- reception in countries of origin through IOM focal points;
- accommodation (family, residential or non-residential measures);

¹⁶⁴ According to the respondent of the Department of Equal Opportunities

- support towards social and labour reinsertion (for six months).

If a victim of THB wants to return to her/his country of origin, a risk assessment of the possible risks to the individual or members of her/his family is carried out as a matter of routine prior to return (Ferraris, 2010). According to the representative of Coop Lotta, only a small number of victims ask for assistance for the purposes of return to the country of origin. If victims want to return or need to be repatriated, both NGOs will offer support, usually by referring the victims to the IOM (representatives Coop Lotta and OTR).

4.4.5 Security measures

The different forms of shelters in Italy have different security measures. Security measures are particularly relevant in the emergency shelters, where victims who have just escaped their trafficking situation reside. The two interviewed NGOs do not manage emergency shelters.

The OTR shelters are open shelters. According to a representative of OTR that is possible because there are no harsh security problems; trafficking networks have changed and traffickers nowadays use far less physical force:

'In the past, for example, the traffickers from Albanese organisations came by to pick up the women from the shelter. Today, amongst the Nigerian organisations, the threats are not physical but psychological in nature. Even if Nigerian girls know how to escape from their traffickers, they pay their debt till the end of time, sometimes for more than 20 years, out of fear of the curse of voodoo.'

Yet the respondent further states:

'If, after a risk assessment, we think it is dangerous to accommodate that person in a specific area, we can move him or her to another area. And so normally the shelters don't have specific security measures.'

The secondary shelters of Coop Lotta have secret addresses, but are located in central areas of the towns in order to make it easier for victims to integrate socially. After the first stage of the programme, people receive the keys to the apartment and can then go out and start making contact with the social environment they live in. Victims who are endangered are usually placed in shelters far from the location of their exploitation. As a result, they can start a new life in a safe place without the fear of going out (representative Coop Lotta). Coop Lotta also works in co-operation with local organisations which can provide emergency shelter for victims with 24 hours assistance and security measures (respondent Coop Lotta).

Because victims need to become familiar with living autonomously, the shelter workers are not always present in the shelters. In the women's shelter in Milan, shelter workers visit the shelter three to four times a week. However, if there is a special situation and more supervision is needed, shelter workers can visit more often. In addition, they can be reached on their mobile phone 24-hours a day in case of an emergency (representative Coop Lotta).

Witness protection during criminal proceedings

Protection outside the court is part of the Article 13 and 18 Programmes: victims of THB who testify in court against their perpetrators receive physical protection from the NGOs, in the form of shelter. However NGOs are limited in their capacities. In particular circumstances, a victim of THB can receive protection under Law 82/1991 for the protection of witnesses of offences committed by organised crime members,

but victims can only be protected if they give concrete help to the investigation. Protection measures can consist of a bodyguard, a safe and secret place to live and an identity change, but these measures are not common for victims of THB (Ferraris, 2010).

In court there are several protection measures available, not especially for victims of THB, but for situations in which giving testimony is sensitive (Ferraris, 2010). The main way of protecting the victim's safety when she/he is giving evidence is by using the *incidente probatorio* (special evidence pre-trial hearing). This is a closed hearing that can be requested by the victim or the prosecutor under Articles 392 and 394 of the Criminal Code. It is used in cases where witnesses may be pressured not to testify, or if there is a risk of them leaving the country before the actual trial starts, and also in cases in which there is a risk that the evidence will be interfered with. The witnesses testify in front of the investigative magistrate, prosecutor, defence counsel and usually the defendant. As the testimony can be transferred to the trial, a victim does not have to testify in open court. An *incidente probatorio* is frequently used in trafficking cases, but does not protect the identity of the victim from the trafficker, but merely from the wider public (Anti-Slavery International, 2002).

4.4.6 Realisation of objectives

The final aim of the Article 18 Programme (Programme of Social Assistance and Integration) is the social and labour inclusion of assisted persons (Ferraris, 2010). As soon as victims have a job, their Article 18 permit can be changed into a work permit. When the work permit is granted the Article 18 Programme ends and they are integrated in Italian society. Consequently, the number of victims who find a job is considered to be an indicator of the realisation of the objective.

Of the 14,689 victims who entered the Article 18 Programme between 2000 and 2008, some 6,659 have found employment (representative Department of Equal Opportunities; Quadri, 2010).¹⁶⁵

A representative of OTR estimates that 70% of victims who were guided towards employment have established a stable housing situation and realised socio/work inclusion in the last 5 years. The representative of Coop Lotta estimates that about 95% of the victims that enter their Article 18 projects, find employment. As far as we know, there is no information available about social inclusion.

4.4.7 Bottlenecks

During the interviews the following bottlenecks were mentioned, many of which are connected to funding in general and to the current difficult economic situation. Most do not seem specific to CAA:

- Adequate and regular funding is not high on the political agenda: currently, funding is not sufficient to provide proper assistance to trafficked persons. While the number of funded projects has increased throughout the years, the total amount of money has remained the same. There is uncertainty about the national funds provided by the Department of Equal Opportunity. The Article 13 and 18 Programmes are still based on an annual call for proposals, even if the projects function as services and should be treated as such. The projects have to be co-funded by local authorities. Also there are fewer options for funding from the European level (representative OTR).
- The capacity to identify and to support trafficked persons has decreased; there are, for example, fewer opportunities to do outreach work and run drop-in centres. This resulted in a critical situation in tackling the phenomenon and in responding to the victims' needs (representative OTR).

¹⁶⁵ At the time of writing more recent data were not available.

- The NGOs do not have enough resources for social projects that are particularly important for the development of young victims. *'I would like to invest more of my time in educational support. By staying with them you can teach more about how to do the shopping or how to save money'* (representative Coop Lotta).
- Lack of places in the shelters (representative OTR).
- It is more difficult to find jobs for the victims since the economic crisis.
- NGOs have neither the capacity nor the desire to control the victims constantly. So situations can occur in which victims go their own way, without the organisation knowing this. The representative of OTR reported, for example, that on one occasion a victim was not working where she was supposed to be, but had in fact returned to prostitution without telling the workers, and was continuing to come to OTR for support.

4.5 Perceived advantages and disadvantages of Categorical Accommodation and Assistance

In Italy, as seen, assistance and accommodation for victims of THB is mainly provided categorically, under the Article 13 and Article 18 Programmes. The respondents have mentioned the following advantages and disadvantages of CAA.

4.5.1 Perceived advantages of CAA

- In categorical shelters there is less stigmatization among victims. Especially in women's shelters, as most victims are sexually exploited, it is easier for them to talk about their experiences. If victims of sexual exploitation were accommodated together with, for example, victims of domestic violence, the victims of THB could be looked down upon as was experienced in mixed meeting groups, where Italian and migrant women met outside the shelter (representative OTR).

4.5.2 Perceived disadvantages of CAA

- Different nationalities can create tensions within the group (representatives OTR and Coop Lotta) because victims speak different languages and, because of cultural differences, they may not understand each other and be prejudiced towards one another. But in the past the women's shelter in Milan only accommodated Nigerian women. As they were expressive and loud spoken, this could also lead to tensions. Victims are not forced to do things together if they do not wish to do so. In this way, tensions can be avoided (representative Coop Lotta). If there is a group of victims in a shelter with the same nationality, and an individual victim with another nationality, there is the risk that this victim falls outside the group, because of the different customs and language (representative OTR).

5 Spain



Source: CIA The World Factbook

5.1 Introduction

Spain is located in South-western Europe¹⁶⁶ and borders the Mediterranean Sea, the North Atlantic Ocean, the Bay of Biscay and the Pyrenees Mountains. France and Portugal are its neighbouring countries. South of Spain – divided by the State of Gibraltar – lies Morocco. Over the past ten years, many legal and illegal immigrants have found their way to Spain via this country,¹⁶⁷ in search of a better future, because of wars in their countries of origin or for other reasons. Some of them end up in exploitative situations and might be considered the victims of trafficking in human beings (THB).

Spain's commitment to combatting THB dates from 1996, when a *Commission on Women's Rights and Equal Opportunities* was established in the Spanish Parliament to study trafficking in women and minors in Spain.¹⁶⁸ In the years that followed, Spain has taken a variety of preventative measures to combat THB; awareness raising campaigns were set up and different studies¹⁶⁹ were conducted on the subject.¹⁷⁰ Spain has also developed a coherent and ongoing process of signing and ratifying

¹⁶⁶ According to the CIA 2012 Factbook in 2011 (July 2011 est.) the population consisted of 47,042,984 inhabitants. www.theodora.com/wfbcurrent/spain/spain_people.html, consulted March 21, 2012.

¹⁶⁷ www.state.gov/r/pa/ei/bgn/2878.htm#gov, consulted: June 9, 2011.

¹⁶⁸ <http://ec.europa.eu/>, consulted June 21, 2011.

¹⁶⁹ Such as: the study on trafficking in women in Spain, coordinated by the Universidad de la Laguna, a study on the consequences of trafficking and a third research paper on the legal treatment of victims of THB. In 2009, the NGO ACCEM published the first study on victims of labour exploitation (Susaj, 2010).

¹⁷⁰ Additionally, a measure that is considered to be leading within the European context in the fight against trafficking is the creation of a specific database on THB which contains data on the modus operandi of criminal groups, as well as other data of interest for the preparation of strategic intelligence on organised criminal activities (Ministerio de Igualdad, 2010a).

international treaties concerning human rights and international humanitarian law (Costas Trascasas, 2010). After Spain signed the Council of Europe Convention on Action against THB on July, 9 2008 (it was ratified August, 9 2009), a National Action Plan for combating THB for sexual exploitation for the period 2009-2012 was approved on 12 December 2008 by the Council of Ministers (respondent Ministry of Interior, MoI; Susaj, 2010; US Department of State, 2010). In addition, a National Action Plan for combating THB for labour exploitation is currently under development and an Inter-Ministerial Coordination Group has been established to follow up and evaluate its implementation (Ministry of Health, Social Policy and Equality – MoHSE – , 2011).

Recently, a National Rapporteur was appointed in Spain. The Government Delegate (i.e. Directorate-General) for Gender Violence of the MoHSE¹⁷¹ exercises this role and is involved in monitoring anti-trafficking responses. However, since this Delegate is only specialised in the topic of sexual exploitation, other competent Ministries are consulted when dealing with other forms of trafficking (respondent MoHSE).

In this chapter, the focus lies on Categorical Accommodation and Assistance (CAA) for victims of THB in Spain. Firstly, the general situation regarding THB in Spain is presented: its forms, victims and trafficking networks, followed by an overview of the policy context. Secondly, attention is paid to the organisation and implementation of CAA by one particular specialised Spanish project¹⁷² on THB.

5.1.1 Background

Forms of THB

Spain is a destination and a transit country for male, female and minor victims of THB, mainly for the purposes of sexual and labour exploitation (respondent MoHSE; United States (US) Department of State, 2010). According to the 2010 annual report by the MoHSE (2011), in that year, the majority of all identified victims (1,641) who were sexually exploited, were females (92%). Fifty percent were between the age of 23 and 32 years old. There are also reports of both men and women who are subjected to exploitation in domestic service, agriculture, tourism and the construction sectors (Susaj, 2010; US Department of State, 2009; 2010). The US Department of State (2010; 2011) notes that minors are particularly vulnerable to forced prostitution and forced begging. According to the European Commission there has been an increase in the number of children who are being forced to beg.¹⁷³ According to police data, 93% of all identified victims in 2010 were of foreign descent; 32.5% did not have legal residency documentation (MoHSE, 2011). Several reports (Dottridge, 2010; US Department of State, 2010; 2011) mention that Spanish nationals have also been identified as victims of sexual or labour exploitation. However, non-nationals seem to end up in exploitative situations substantially more often.

Nationalities of victims

Recent data shows that the majority of identified victims come from Eastern-Europe (mainly Romania and Russia), sub-Saharan Africa (mostly Nigeria and Morocco), Latin America (especially Brazil, Paraguay and Colombia), and East Asia (Ministerio de Igualdad, 2010b; MoHSE, 2011; Susaj, 2010). Chinese victims are also identified, however in smaller numbers (US Department of State, 2009).

¹⁷¹ Formally known as the 'Ministry of Equality'. See also: www.migualdad.es

¹⁷² In this chapter the term NGO is used. However, this also includes 'projects', such as PE, a project that assists victims of THB and which will be discussed in further depth later on in this chapter.

¹⁷³ <http://ec.europa.eu/>, consulted: June 21, 2011.

According to the MoHSE, victims from Central and South-America frequently travel to Spain through other countries within the Schengen zone. For example, victims who come from Brazil often make a stop over in Paris and continue their trip via connecting flights to Bilbao, Madrid or Pontevedra. Eastern European victims are usually transferred by bus from Russia, Lithuania, Ukraine and Romania, crossing all of Europe (Ministerio de Igualdad, 2010b).

Trafficking networks

According to the Spanish MoHSE (2010b), victims of THB are mostly captured or recruited in their country of origin where the traffickers take advantage of their personal situation (often characterised by a lack of economic resources, unemployment, a low level of education and difficulties in immigrating legally). Usually, the traffickers employ different deceitful tactics, such as placing advertisements for fake job vacancies in the local media, or by using match-making services; in a report on female trafficking in Spain, Gallagher (2003) notes that these techniques are particularly used by Latin American trafficking networks. Sometimes, the recruitment of female victims is organised by other women who have already worked as prostitutes in Spain.

The networks usually seem to pay for their victims' travel tickets and the necessary documentation to enter Spain. As a result, victims end up with a debt that is used as a pretext for exploitation (Ministerio de Igualdad, 2010b). In this context, Gallagher (2003) points to the Nigerian trafficking networks that often sign a contract with women (destined for prostitution) including certain conditions for their voyage. Asian females are smuggled into Spain and forced to work in restaurants, the textile industry, or are obliged to do other unskilled work; according to Gallagher (2003), only a very few of the Asian trafficking networks are involved in sexual exploitation. Men can also become victims of sexual exploitation. In 2010, for the first time, the police dismantled a professional male prostitution trafficking network.¹⁷⁴

5.1.2 Policy context

Spain does not have a specific law on human trafficking; regulations concerning this matter are incorporated in the 'Immigration Law', which is an 'Organic Law' (i.e. Constitutional Act),¹⁷⁵ and the 'Penal Code' (respondents MoHSE and *Proyecto Esperanza-PE*). Over the years many modifications have been made to these laws but, during the past two years, important changes have taken place that have impacted the way victims of THB are protected and dealt with by relevant actors such as the police. As a result of these recent changes, there still seems to be a lot of uncertainty about the enforcement of the enacted new laws, and their related measures, amongst relevant parties, such as the police, ministries and NGOs (various respondents). At the time of writing it was, therefore, still unclear just how these new instruments were being implemented.

Definition of THB in the Spanish legislation

In the past, Article 318*bis* of the Spanish Penal Code of 1995¹⁷⁶ prohibited the act of smuggling and trafficking, but trafficking was only punishable if it involved smug-

¹⁷⁴ Minder, R (2010) 'Spain breaks up a trafficking ring for male prostitution', New York Times, published: August 31, 2010. URL: www.nytimes.com/2010/09/01/world/europe/01iht-spain.html?_r=1&ref=human_trafficking# (consulted: July 11, 2011).

¹⁷⁵ The Immigration Law is the legal framework which regulates the rights and freedoms of foreign persons in Spain. It is contained in the Organic Law 4/2000 which, along with regulations, royal decrees, orders and instructions, establishes the required legal context to interpret the legal situations of foreign persons in Spain.

¹⁷⁶ The penal code was approved by the Organic Law 10/1995, and later amended by the Organic Law 11/2003 (respondents PE).

gling (US Department of State, 2011). Trafficking was thus an aggravating circumstance of smuggling (respondent MoHSE). Representatives of PE state the same: *'Article 318bis was mixing or relating trafficking and smuggling. If a person was trafficked but smuggling had not taken place, you could not prosecute the perpetrators'*. Victims from EU countries, for example, were omitted because they were not smuggled into Spain but had entered legally. According to different sources Article 318bis of the Penal Code was not in line with the Council of Europe Convention (2005) and the Palermo Protocol (2000) as it did not criminalise the recruitment, transportation, transfer, harbour and receipt of persons, including children, for the purpose of exploitation (ECPAT, n.d.; representatives PE; Dottridge, 2010).¹⁷⁷

Over the years, a number of changes in Spanish legislation took place. In 2007, the Spanish government implemented new legislation that increased the penalty prescribed for trafficking from two to six years in prison if the offender was found to be a part of a criminal organisation. Additional legislation was passed in 2007 that allowed Spanish courts to prosecute cases of trafficking that had occurred outside Spain's borders.¹⁷⁸ On June 22, 2010 a new Law (5/2010) was enacted, which modified the Organic Law 10/1995 (23 November 1995) of the Penal Code by incorporating Chapter VII *bis*, dedicated specifically to 'THB'. This consisted of a new Article 177bis¹⁷⁹ (see Box 5.1) which introduced the first Spanish definition of THB based on the definitions used in the 2002 Council Framework Decision and the Council of Europe Convention, thus reflecting the provisions of all the relevant international and European standards in relation to THB. It also makes a legal distinction between trafficking and smuggling, and explicitly prohibits internal trafficking (US Department of State, 2011).

Article 177bis is fully in line with the Palermo Protocol (2000) as it criminalises the recruitment, transportation, transfer, harbour and receipt of persons, including children, for the purpose of exploitation (forced labour or services, slavery or practices similar to slavery, servitude, use in begging, sexual exploitation and removal of organs) (see Box 5.1). Under this article, those who are guilty of THB shall be sentenced to between 5 and 8 years of imprisonment. According to the latest TIP report by the US Department of State (2011), these penalties are sufficiently stringent, and the penalties prescribed for sexual exploitation commensurate with the penalties prescribed for other serious crimes, such as rape. Under Article 177bis – paragraph 4, which states that trafficking in children is an aggravated circumstance of the criminal act of THB, offenders can be sentenced to 8 years of imprisonment (ECPAT, n.d.)

¹⁷⁷ www.e-notes-observatory.org/legislation/spain/; consulted: November, 09, 2011.

¹⁷⁸ <http://ec.europa.eu>, consulted July 07, 2011 (country information: Spain).

¹⁷⁹ Bolétin Oficial des Estado, num. 152, Miércoles 23 de junio de 2010, Séc. 1. Pág. 54839-54840.

Box 5.1 Definition of THB in Spanish legislation

- 1 One shall be punished with imprisonment from five to eight years when accused of trafficking in human beings which, either took place from, within, in transit or destined for Spanish territory, when using violence, intimidation, deception, or taking advantage of a position of superiority or the needs or vulnerability of the foreign/national victim. By overpowering, transporting, harbouring, taking in or housing someone with the following purposes:
 - a the imposition of forced labour or services, slavery or practices similar to slavery or servitude or begging;
 - b sexual exploitation, including pornography;
 - c the removal of organs.
- 2 Even when none of the means set forth in the preceding paragraph have taken place, it will be considered trafficking in human beings if any of the actions outlined in the preceding paragraph are directed towards minors for the purpose of exploitation.
- 3 The consent of a victim of trafficking is irrelevant when one has resorted to the means indicated in the first paragraph of this article.
- 4 The penalty is higher when:
 - a the occasion of trafficking involves serious threats to the victim;
 - b the victim is a minor;
 - c the victim is particularly vulnerable because of illness, physical or mental disability or other circumstances.

Source: Organic Law 5/2010 (BOE No. 103 of April 30, 2010), Article 177bis

Paragraph 11 of Article 177bis further states: 'Without prejudice to the application or general rules of this Code, the victim of human trafficking shall be exempted from punishment for criminal offences committed in a situation of exploitation if their participation was a direct result of a situation of violence, intimidation, deception or abuse and if there is a adequate proportionality between this situation and the criminal act.'

According to the 2011 TIP report, the government has yet to use Article 177bis to secure the conviction of any traffickers in Spain. Respondents from PE state something similar:

'This is the new regulation from 2010. We have not seen [it being used] very much in practice yet, as many of the cases we are dealing with now, took place before it came into force. We [therefore] do not know if it is working or not. It is in general, we think, a step forward.'

Policy on anti-trafficking and assistance of victims of THB

In 1985, Spain implemented the Immigration Law, or the Organic Law on the Rights and Freedoms of Foreigners in Spain; a law in which immigration was seen as a mostly temporary phenomenon and which focused primarily on control over migrants who were already in the country. Since then, other laws have been adopted, amending the 1985 Law. A noticeable change was seen when the *Law on the Rights and Freedoms of Foreigners in Spain and their Integration* (Organic Law 4/2000, of January 11) took force on January 12, 2000. This Law included improvements in specific procedures for unaccompanied and trafficked minors (Article 35), provisions for cases where victims co-operate in investigations and prosecutions and – when applicable – a temporary suspension on the return to the country of origin (Article 59). This Law was backed by a broad political consensus, and was characterised by its clear focus on integration and the political and social rights which it extended to non-EU foreigners; it also, recognised immigration as a permanent phenomenon. Most importantly, this Law marked the transition from policies focused on controlling

immigration flows [*política de extranjería*] to those that looked more broadly at immigration and integration [*política de inmigración*] in Spain (Pérez, 2003). A particularly important development was the adoption of the Law 2/2009 of December 11, 2009,¹⁸⁰ which involved various amendments to the Organic Law 4/2000. With this Law, Article 59*bis* was added to the already existing Article 59 of the Organic Law 4/2000, which is devoted specifically to victims of human trafficking. Article 59*bis* deals with measures for the identification, treatment and protection of victims of THB, including a reflection period of at least 30 days, a referral to social and health services and the granting of a residence and work permit. Additionally, it sets out regulations covering all victims of THB (Spanish, EU and non-EU citizens), irrespective of whether they were victims of organised networks, individuals or groups of individuals (MoHSE, 2011). These adjustments have also been reflected in the Penal Code which has had a new title added called *Crimes against third country nationals' rights* and a new Article 318*bis* covering illegal immigration and THB. Amendments were also made to Articles 515, 517 and 518 which established sanctions and penalties for the traffickers.¹⁸¹

The latest development was the enactment of the Royal Decree 557/2011¹⁸² of April 20 (enacted on April 30, 2011), approving the Regulation of the Organic Law 4/2000 of 11 January on the rights and freedoms of foreigners living in Spain and their social integration, following the amendments by the Organic Law 2/2009. Chapter IV of the Royal Decree 557/2011 called 'Temporary residence and work under exceptional circumstances for foreign victims of human trafficking' deals, amongst other things, with the identification of victims, the reflection period, residence and work, return migration to the country of origin and minor unaccompanied victims.¹⁸³ A problem mentioned in this context is that when Article 59*bis* was implemented at the end of 2009, the Spanish government did not pass the (detailed) regulation (in the Royal Decree) until April 2011. As a result, from the adoption of the Law 2/2009 until the enactment of the Royal Decree 557/2011 it remained unclear as to how this Law had to be applied in practice:

'It has been very complicated because we had (...) this new Article, 59bis, providing more rights, more protection [and] the incorporation of the reflection period which we did not have before. (...) Now we had the Law, but we did not have the detailed regulation of the Royal Decree. So from 2010 until 2011 implementing the protection measures that were incorporated in the Law has been very complicated.' (respondent PE)

A related complication is that certain implementation details of the Law were still missing until the end of 2011, because the Regulation (the Royal Decree 557/2011) referred to a national Protocol which was still being developed by the MoHSE: *'[This] Protocol should have been approved and enforced at the same time as the Regulation'* (respondents PE). On October 28, 2011, Spain finally passed the 'Framework Protocol for Protection of Human Trafficking Victims', which aims to: *'(...) establish operational guidelines for the detection, identification, support and protection of victims of human trafficking, to foster coordination among the institutions involved in these processes and to define the mechanisms for the relationship among authorities with responsibilities in the fields (...)'* Although the protocol defines many procedures that will favour greater efficiency when applying Article 59*bis*, NGOs and projects like PE point out that some key

¹⁸⁰ Bolétin Oficial del Estado (BOE), numero 299, Sábado 12 de diciembre de 2009, Sec. 1, Pág. 104986.

¹⁸¹ <http://ec.europa.eu>, consulted July 07, 2011 (country information: Spain).

¹⁸² The Royal Decree contains the detailed regulations related to the laws within the Organic Law.

¹⁸³ Bolétin Oficial Del Estado, núm. 103, Sábado 20 de abril de 2011, Sec. I., pág. 43821.

definitions and criteria, which would bring about considerable improvement in the effective implementation of protection measures, are still missing (Pro, 2011, p. 13; respondents PE).

Legal protection measures

The 2010 annual report by the MoHSE (2011) notes that a recent measure adopted in the field of prosecution of the crime, and support of the victim, is the provision of free legal assistance for the victims of THB. The Organic Law 4/2000 (reformed by Organic Law 2/2009 of December 11, 2009), guarantees the right to free legal aid and an interpreter for victims of THB (residing legally or illegally in Spain) on the same terms as other citizens (MoHSE, 2011; Susaj, 2010).

However, it seems that in practice the provision of legal assistance is not yet optimal. Susaj (2010) points out that this free legal aid is not specifically intended for cases of THB. As a result, (legal) protection measures are not always in place. Also, according to her, most victims do not receive adequate information about their rights and legal obligations if they decide to collaborate with law enforcement agencies. The MoHSE (2011) states that, because there is still a long way to go in the field of legislation, it continues to advocate for the guarantee of free legal support and the effective protection of victims and witnesses.

Reflection period

A reflection period of a *minimum* of 30 days is available for officially identified non-EU foreign victims in an irregular situation (see Box 5.2). During this period, victims can recover and escape the influence of traffickers and make an informed decision about co-operating with the competent authorities (Ministerio de Igualdad, 2010b). The reflection period was codified into Law (02/2009) in December 2009, under Article 59*bis* (e.g. Organic Act, 11 December 2009), with the Parliament's approval of the reform of the Immigration Act (US Department of State, 2010; Ministerio de Igualdad, 2010a). In the Royal Decree 557/2011, Article 142 focuses on the reflection period and describes under which conditions victims are provided with this: 'The proposal [to grant a reflection period] will be favourable when there are reasonable grounds to believe that the alien is a presumed victim of human trafficking and, where appropriate, will include a reflection period of at least thirty days, sufficient for the alien to recover and decide whether to co-operate with law enforcement authorities, and if necessary, assist in criminal proceedings.'

However, until recently it was unclear what 'reasonable grounds' meant but the implementation of the Protocol (Chapter VI. C. 'Determination of the Existence of Reasonable Grounds for Evidence' and Annex 2.) clarified this matter. Chapter XIII A. 'Rehabilitation and Reflection Period' of the Protocol further specifies under what circumstances such a permit must be granted (Box 5.2).

Box 5.2 Chapter XIII A. 'Rehabilitation and Reflection Period' of the Protocol

- 1 In the event that the individual identified as a victim is a foreigner and does not have the necessary legal papers, he or she shall be informed of the possibility of being granted a rehabilitation and reflection period, as laid down in Article 59 bis of Organic Act 4/2000 and Article 142 of the corresponding Regulation. Such victims shall expressly be informed that during this period they will be provided with the resources required for their physical, psychological and emotional recovery, and will be removed from the influence of the presumed traffickers, allowing them to take a considered and balanced decision on whether to co-operate or not with the authorities in the investigation and prosecution of the perpetrators of the offence.
- 2 Where identification has been performed by the police unit responsible for Immigration, it must, within a maximum period of 48 hours and with the victim's agreement, transfer the proposal to grant the period to the Government's Regional Delegation Office or Deputy Office in the province where identification was performed.
- 3 If identification was performed by other police bodies or units, they shall immediately notify the Immigration unit of the location where identification was performed, presenting a reasoned report stating the evidence of trafficking observed in accordance with this Protocol, together with any other information and documentation of interest, as well as, with the consent of the victim, the proposal for the rehabilitation and reflection period. The Immigration unit shall proceed to pass this proposal on to the Government's Regional Delegation Office or Deputy Office within a maximum period of 48 hours of receipt thereof.
- 4 The official notice of referral and proposal must also include:
 - a a copy of all documentation containing all information to which the police unit may have had access, and in particular that provided by organisations or bodies with proven experience in attending to victims of trafficking;
 - b information on any statements which the victim may have given in response to the information on rights referred to in Annex 3 to this Protocol;
 - c information on the victim's legal status in Spain;
 - d information on the victim's personal circumstances;
 - e any other information deemed relevant for the ruling.
- 5 A proposal to grant the rehabilitation and reflection period may not under any circumstances be dependent on the victim giving a statement or co-operating with the police or court authorities involved in the investigation and prosecution of the offence. It must likewise expressly state the proposed duration deemed necessary in order to achieve the purpose of the period in question, which must be at least 30 days.

Source: Framework Protocol for Protection of Human Trafficking Victims

– Presumed – victims are interviewed by police units specialised in identifying victims of THB to determine whether there are 'reasonable grounds' to presume that the person is a victim (see further Section 5.4.1, Identification). Following this investigation, the National Police Force (CNP) decides (based on a list of indicators, see Section 5.4.1, Identification) who is eligible for a reflection period; within 48-hours a report is sent to the *Delegación del Gobierno* (hereafter: *Delegación*),¹⁸⁴ which includes a recommendation on whether or not to provide a reflection period. This *Delegación* decides within 5 days if and for how long such a period is provided (respondents Ministry of Interior and *Centro de Inteligencia y Análisis de Riesgos-CIAR*; *Guardia Civil*). In practice *Delegaciones* use different criteria for providing a reflection period (respondent CIAR). According to a representative of the Analysis

¹⁸⁴ Government's Delegate Office which represents the central government in each province.

and Risk Centre [*Centro de Inteligencia y Análisis de Riesgos-CIAR*], the CNP relies on other institutions, such as NGOs to complement this decision. However respondents of PE state even though NGOs or other institutions may pass on relevant information and reports: *'The critical situation is when a victim has her/his first contact with police, and the police do not think there are reasonable grounds to believe that the person is a victim of human trafficking and therefore may not refer this person to an NGO.'*

Once a victim has been identified and the reflection period has been ascribed, she/he will be referred 'to any of the support resources provided by the regional and local public authorities or organisations and bodies with proven experience of attending victims of trafficking' (Protocol for Protection of Victims of Human Trafficking, p. 8) (see further Section 5.4.1, Identification).

Usually a period of 30 days is provided; the criteria under which a longer reflection period can be given or when such a period is extended does not seem to be specified, this is decided on a case-by-case basis (various respondents; Dottridge, 2010). Chapter XIII D. of the Protocol ('Conclusion and Possible Extension of the Rehabilitation and Reflection Period') clarifies how relevant parties should act when a request for extension occurs: 'If the victim states the need for an additional period for rehabilitation and reflection, or if the police unit itself considers this to be the case, the possibility of a one-off extension to the period initially granted shall be offered (...). In ruling as to the granting of such an extension, the competent Government's Regional Delegation Office or Deputy Office shall take into consideration the personal circumstances of the victim and the information provided by those public authorities and bodies and organisations with proven experience in attending to victims of trafficking who are attending the victim.'

Different sources criticise the implementation of the Spanish reflection period (Susaj, 2010; various respondents). For example, respondents of PE state that the duration of the reflection period should depend on the needs and the personal situation of the victim. However, what generally happens is that when victims are granted the reflection period, they receive it for a period of 30 days, without an in-depth investigation of their particular needs or personal situation:

'They have thirty days (at minimum) to decide whether they will collaborate or not and that is really not enough to detect a trauma and to work on it. Many times, the woman is second priority. What counts is the investigation, catching the traffickers.' (respondent PE)

Another problem mentioned regarding the implementation of the reflection period is related to the lack of a national Protocol until, which was implemented recently. When the Protocol did not exist a related problem was that: *'you had the reflection period for a minimum of thirty days, but how did we know when there were reasonable grounds to assume that a person was a victim of human trafficking? We did not know how 'reasonable grounds' was defined'* (respondent PE).

Different respondents (CIAR; MoHSE; PE) mention that, in practice, the reflection period is only sporadically applied. The possible reasons mentioned for this are that victims:

- are in a regular situation (they come from EU-countries, or from third countries and have documentation) (respondent MoHSE);

- do not want to make use of the reflection period, but wish to give a statement immediately (respondent MoHSE);¹⁸⁵
- do not want to collaborate (for example out of fear); or
- are not always adequately informed about the reflection period (respondents PE and CIAR).

In 2010 the reflection period was offered to 523 victims and accepted by 43 (MoHSE, 2011).

Temporary residence permit

Since the Law of 2009 (Article 59*bis*) came into effect, the process of acquiring a residence permit has changed. As a result there have not been many cases of victims requiring such a permit under the new Law (respondents PE).

A CIAR-respondent mentions that when a person is identified as a victim of human trafficking by the police he or she can receive a temporary residence permit. This permit can be acquired via two routes; the first (collaboration) is provided by the Secretary of State for Security, the second (personal circumstances) by the Secretary of State for Immigration and Emigration.¹⁸⁶ The first route enables victims to obtain a temporary residency permit, which is conditional upon their co-operating with law enforcement authorities (US Department of State, 2011).¹⁸⁷ The second route is based on the applicant's personal circumstances. Article 184 of the Explanatory Report of The Council of Europe's Convention on Action against Trafficking states that 'personal situation' refers to the victim's safety, state of health, family situation or other factors (Pro, 2011). At the time of writing, a residence permit was rarely provided through this second route.

If victims decide to co-operate after having acquired a reflection period, a temporary residence permit can be requested from the *Delegación*. Based on information from the police, NGOs and other social services, the *Delegación* sends a report to either the Secretary of State for Security (MoI), or the Secretary of State for Immigration (Ministry of Labour and Immigration). If the *Delegación* sends a positive report, victims receive a provisional permit which is valid until one of the two relevant Secretaries decides whether the victim should receive a one-year residency permit (renewable on a year-by-year basis until a long-term permit for five years is granted) (respondent MoHSE).¹⁸⁸ If a permit such as this is granted, victims are thereby exempted from the obligation to leave the country but if they do decide to return to their country of origin, their travel costs will be covered.¹⁸⁹

A problem applicable to both routes is that it remains unclear for both government officials and NGOs what is meant by 'co-operation with law enforcement authorities' and 'personal circumstances' respectively (respondents PE, MoHSE and CIAR). This lack of clarity is partially related to the fact that the corresponding Law has only

¹⁸⁵ In this context, a representative of the MoHSE states that different parties have pledged for an instrument through which foreign victims of THB in an irregular situation can be referred directly to protection services without the need of making use of the reflection period.

¹⁸⁶ Under Article 59*bis*, victims receive a work permit together with their residence permit. Before the introduction of the 2009 Law, victims would receive a temporary residence permit for one year. A job offer was needed to receive a work permit. If –during this period– victims were not able to acquire a job offer, the permit was not renewed. Exceptions were made if the person was considered to be very important for the criminal investigation (respondents PE).

¹⁸⁷ In 2010, the government reported 46 trafficking victims benefited from the reflection period and it provided temporary residency permits to 37 trafficking victims who were co-operating with law enforcement personnel.

¹⁸⁸ See also: Report of the Second Expert Meeting by the Office for Democratic Institutions and Human Rights (ODIHR) on Human Rights Protection in the return of trafficked persons to countries of origin. 14 April 2010, Warsaw.

¹⁸⁹ <http://ec.europa.eu>, consulted: July 07, 2011 (country information: Spain).

recently been implemented (respondent MoI). Chapter XIII E. of the Protocol ('Exemption from liability and residency and work permit granted under exceptional circumstances'), sets out the guidelines regarding these matters.

Differences between nationals and non-nationals

The Immigration Law (e.g. Organic Law) states that all the protection measures extend to all the victims, whatever their nationality (both nationals and non-nationals). NGOs, such as PE, support victims regardless of their nationality and legal residence status in Spain (respondents PE).

5.1.3 History of Categorical Accommodation and Assistance

In Spain various NGOs and centres provide specialised assistance for victims of THB. While some organisations provide so-called 'comprehensive assistance' (assistance covering all needs), others focus solely on one or two types of support (such as legal assistance). A number of organisations also offer categorical accommodation. In 2009, to get an idea of the number of NGOs offering CAA, the MoHSE developed a guide of resources which is annually updated. At the end of 2011, the most recent guide stated that – of the 43 organisations studied, 33 ran 59 specialised centres that offered assistance (psychological, medical, legal and labour assistance) to victims of THB. Apart from victims of THB other target groups were also assisted. Nineteen of these 59 centres also offered categorical accommodation (in addition to specialised assistance). In total 41 shelters in Spain offer accommodation exclusively to victims of THB; together they have 397 places.

Examples of organisations that deal with victims of THB are the Association for the Prevention, Reintegration and Attention of Prostituted Women (APRAMP), the Voluntary Association of Dominican Mothers (VOMADE), and the Association for Co-operation with the South – the Segovias (ACSUR). The majority of NGOs in Spain focus on female victims of THB. According to a MoHSE-representative, in 2010 99% of the assisted victims were female; only two men (transsexuals) were accommodated. However, recently the White Cross [Fúndación Cruz Blanca] started a pilot project with CAA exclusively for male victims (representatives PE). In general, however, male victims are accommodated in shelters for the homeless, where they do not receive any form of specialised assistance (representatives PE).

The same counts for victims of forced labour; CAA is lacking, despite continued calls by local experts (US Department of State, 2011). Minor victims of THB are usually accommodated in centres for vulnerable children who are particularly at risk, or in shelters that assist both adults and minors (ECPAT, n.d.; respondents PE). It is only recently that minors have been receiving some specialised assistance as a result of agreements made between the public prosecutor's office for minors and regional government projects (respondents PE).

This chapter focuses on one organisation that provides CAA to the victims of THB: Proyecto Esperanza (PE), which is part of *Congregación de Adoratrices*, the 'umbrella organisation'.¹⁹⁰ This organisation is internationally known and has been assisting victims of THB for numerous years. Spanish NGOs generally provide CAA to female victims of sexual exploitation (Dottridge, 2010); only PE offers CAA to adult female victims of all forms of exploitation, including labour exploitation and

¹⁹⁰ Apart from speaking with respondents from PE, employees of APRAMP were also interviewed. APRAMP deals with female prostitutes. It was founded in 1989 and provides CAA to prostitutes who have been exploited. APRAMP has two shelters at a secret location. One of the methods used to trace victims of THB is to approach prostitutes on the streets (respondents APRAMP). The information from the interviews provided background information for this chapter, as the choice was made to focus on one project, namely PE. For APRAMP information see: www.unodc.org/ngo/showSingleDetailed.do?req_org_uid=17935, consulted: July 13, 2011.

exploitation in the spheres of domestic servitude, agriculture and forced begging. This is why PE was chosen for this study.

PE was founded in 1999 in Madrid. Apart from its accommodation services (see Section 5.4.2, Type of shelters and placement), PE educates institutions and relevant actors (for example the police) and raises awareness about human trafficking (for example via the media) (Proyecto Esperanza, 2010).¹⁹¹

5.2 Target group

5.2.1 Nationality, gender, age and forms of exploitation

PE has not seen any cases of victims who were trafficked for the purpose of the removal of organs. The victims who are assisted by PE are generally between 18 and 40 years old and mainly single (Proyecto Esperanza, 2010; respondents PE). Pregnant women are allowed to stay at one of the two PE shelters (emergency and long-term) (see Section 5.4.2, Type of shelters and placement). Women with children are usually only accepted for a short period of time in the emergency shelter (max. two weeks), after which they are referred to an organisation that offers specialised support for mothers and their children (respondents PE).

PE offers CAA to each identified woman, regardless of her nationality. *'We do not separate cultures, because we value an environment with a diverse culture. We live in a global world, so intercultural environments are a reality'* (respondent PE). National victims are rarely assisted, since they are only sporadically identified or ask for assistance themselves. Women from other EU member states form the largest group of victims who are assisted, but victims from third countries also belong to the target group. Currently, the organisation provides most assistance to women from Romania and other Eastern European countries, Nigeria, and Brazil. Additionally, PE assists victims from various other African countries and – to a lesser extent – Asian countries, such as Thailand (respondents PE). PE does not differentiate between these groups regarding its assistance; all groups receive the same support. *'The assistance is provided regardless of whether the person is in an irregular situation or not, and regardless of whether she has co-operated or not or whether she is a foreigner or not'* (respondent PE).

In former years, the number of victims who were accommodated was either higher than, or equal to, the number of women who only received specialised assistance. However, from 2009 onwards an opposing tendency seems to be developing. One possible explanation is a change in victim profiles, together with a change in assistance needs (respondent PE) (see Table 5.1).

Table 5.1 Number of victims assisted by PE

	2007	%	2008	%	2009	%	2010	%
Residential	42	75	20	50	23	49	34	36
Non-residential	14	25	20	50	24	51	60	64
Total assisted victims	56	100	40	100	47	100	94	100

Source: Proyecto Esperanza, 2010

¹⁹¹ See also: www.proyectoesperanza.org, consulted: July 13, 2011.

5.3 Objectives of Categorical Accommodation and Assistance

In Spain, the government finances the NGOs that provide CAA; the formulation of objectives regarding CAA is left to the NGOs. PE's philosophy is based on the protection and promotion of women's rights. Its effort is focused on strengthening and promoting the independence of women who have been victims of THB and supporting them to regain control of their own lives and to play the leading role in their own recovery and social integration. In this context, its main mission is 'to combat trafficking in women by protecting the human rights of the victims and by speaking out against this modern form of slavery'. The three following objectives regarding CAA play a central role:¹⁹²

- to offer comprehensive support services – safe housing, psychological, medical, legal and social assistance to women who are victims of trafficking;
- to support the integration processes of those who wish to remain in Spain;
- to support the process of voluntary return to the country of origin.

5.4 Organisation and implementation of Categorical Accommodation and Assistance

5.4.1 Working method

Identification

The Royal Decree 557/2011 (Article 141) – enacted on April 30, 2011 – (see Section 5.1.2, Policy on anti-trafficking and assistance of victims of THB), and Chapter V ('Detection of possible victims of human trafficking and initial actions') and VI ('Identification of presumed victims of human trafficking') of the Protocol describe the identification process of victims of THB. Anyone who identifies a victim of THB must inform the local immigration police (e.g. police units with specific training in the prevention and combating of trafficking and victim identification and support), as they are responsible for officially identifying victims. There are two national police authorities in Spain: the CNP and the Civil Guard (*Guardia Civil*), the latter working solely in rural areas (respondents PE), and different regional police forces.¹⁹³

According to representatives of PE, victims are spotted at various locations such as detention centres, night clubs, at the airport or the southern Spanish border. These are usually victims of sexual exploitation since other forms of exploitation, such as labour exploitation, are much less visible in Spain (various respondents). For example, victims of domestic servitude are identified at times, but the awareness of labour exploitation in general is considerably less, so that very few victims of this form of exploitation are identified by the police and referred to specialised NGOs. The same goes for minor victims, these children are identified only occasionally (various respondents).

Different measures have been taken to improve the identification of victims. For example, the government funded several NGOs so they could provide 'victim identification training' for officials throughout Spain (US Department of State, 2009; 2010). In January 2010, under Article 59*bis* of the Organic Law 4/2000, the MoI issued a directive with formal instructions about identification (Instruction 1/2010 of the Department of Security) for Immigration and Alien Affairs officers and police (MoHSE, 2011; US Department of State, 2010; various respondents). The instructions include

¹⁹² www.proyectoesperanza.org, consulted: July 13, 2011.

¹⁹³ The country has a central government with power devolved to seventeen autonomous communities, each with their own regional governments (and police units). These autonomous communities are integrated into 50 provinces.

operational guidelines and procedures that should be followed by law enforcement agencies for the proper identification of victims and a full and comprehensive guide to their rights (MoHSE, 2011). The total list of indicators has not been published because of confidentiality reasons (respondent MoI). A respondent of the CIAR mentions the following main indicators:

- general indicators (for example: lack of identity documents, lack or shortage of money, inability to leave one's job, social isolation from family, friends and other outsiders, inability/language difficulties, suffering or having suffered psychological/verbal abuse);
- environmental indicators (for example: extreme security measures at the place of residence such as barred windows, kept under surveillance in public, residing at a facility where the prostitution takes place or being escorted by the traffickers from/to a place where prostitution takes place) and;
- indicators of conduct (for example: reluctance or unwillingness to speak, fear of one's own situation and the family, traces of physical abuse).

If a victim is identified Chapter IX 'Referral to support resources' of the Protocol lists the following actions that should be taken (see Box 5.3).

Box 5.3 Chapter IX 'Referral to support resources' of the Protocol

- 1 The victim shall likewise be informed of the support resources available, in order to guarantee him or her appropriate and secure accommodation, where necessary, along with material assistance, psychological support, medical support, interpretation services and legal advice.
- 2 If the victim so agrees, he or she shall be provided with a referral to the competent regional or local authorities dealing with social support or the services of organisations and bodies with proven experience in attending to victims of trafficking, in particular those which provide a comprehensive support service and are involved in public administration programmes for victim support and protection.
- 3 All bodies involved must guarantee the confidentiality and informed consent of the victim.

Source: Framework Protocol for Protection of Human Trafficking Victims

Some aspects of the identification process still seem unclear. Within this context, different points of criticism are mentioned. Firstly, because of a lack of formalised procedures for victim identification in practice, some victims are being penalised for crimes committed as a direct result of being trafficked (US Department of State, 2011). Secondly, it seems that many victims are being interviewed immediately after a law enforcement operation, sometimes alongside members of trafficking networks; these presumed victims often have difficulties in understanding the local language and are thus not inclined to disclose elements of their exploitation (US Department of State, 2011). This is confirmed by a PE respondent:

'For example, for identifying female victims in clubs; the national police enter the club and the women are asked to show their documents. They may inform the women, telling them that there is some regulation that could protect them if they are a victim of human trafficking, and that they could ask for a reflection period if they want. Government data show that very few women ask for a reflection period under these circumstances. We understand that this is not the situation, the moment, or the context for them [to be informed].'

Given these circumstances, the monopoly position of the police regarding the identification of victims is discussed; both respondents of PE and the MoHSE mention it is important for victims to be able to get into contact with a – specialised – NGO or

social services to explain the situation. *'Because a police man with a uniform at 3 a.m. in a club, asking for their documentation; most of them will refuse and will not even understand what they are being offered'* (respondent PE).

Chapter VI B. (see Box 5.4) and Annex 1. of the Protocol ('interview process') give a description of how, where and when such an interview should take place:

Box 5.4 Chapter VI B. 'Interview Process' of the Protocol

1 The interview shall be conducted by personnel of the Law Enforcement Agencies responsible for the investigation of these crimes, with specific training in the identification of victims of human trafficking (...) 3. Interviews shall be conducted on a private confidential basis, in a language comprehensible to the victim and in the presence of an interpreter if necessary. As far as possible, the interview shall be conducted within a context appropriate to the gender, age and other personal circumstances of the interviewee. The necessary measures shall be taken in order to avoid contact with the presumed traffickers and with persons directly or indirectly associated with them (...).

Source: Framework Protocol for Protection of Human Trafficking Victims

A positive development mentioned by various respondents (MoHSE, MoI, and PE) is related to Article 2 of the Law 10/2010 of July, 27 2011¹⁹⁴ that modified paragraphs 2 and 3 of Article 59*bis* which states that if there are reasonable grounds to believe that a person is a victim of THB, the authorities are not allowed to start a deportation procedure against him or her. According to respondents of PE, this did happen in the past; the police would first start proceedings against irregular immigrants that could end in deportation, and only if there were reasonable grounds to believe that the person was a victim, would this deportation procedure be suspended.

Victims do not have to be identified by, or co-operate with, the police to be assisted by PE. PE respondents mention that as some women can – at times – be afraid of the police, an organisation such as PE can be approached more easily. Victims can be referred to the organisation by various actors; apart from the police – who refer most victims to PE –, other NGOs, organisations that also belong to *Adoratrices* (the 'umbrella organisation' of PE), public institutions and embassies can also identify victims of THB. In very few cases, victims seek contact with PE themselves (respondents PE).

Intake

If the police – or other parties – become aware of indications that they are dealing with a female victim of THB and they contact PE¹⁹⁵, the Identification department of PE will then interview the woman, either at the police station, at the PE office, or at another location, depending on where the victim is. If PE also identifies indicators, that correspond to a list of indicators that was published by the Spanish National Network Against Trafficking, PE can offer CAA. Apart from the victim's nationality, his or her duration of residence in Spain is not taken into consideration when providing assistance. Additionally, women do not need to press charges to enter a shelter of PE (representatives PE). Victims enter a PE shelter voluntarily. If they have accommodation, for example, with friends or family members, it is possible to only receive ambulatory specialised assistance (see Section 1.4.4) (representatives PE).

¹⁹⁴ Boletín Oficial Del Estado, núm. 180, Jueves 28 de julio de 2011, Sec. I. 85346.

¹⁹⁵ PE is only contacted when it involves female victims, since men are not assisted by this organisation.

Registration

There is no national registration system in Spain that gives an overall picture of victims of THB.¹⁹⁶ PE does, however, register the number and characteristics of its assisted victims, these data are noted in the annual reports of the organisation (respondents PE).

5.4.2 Organisation of the categorical shelters

Type of shelters and placement

PE uses a three-phase residential care program and three types of shelters (emergency shelter, long-term shelter and transit-apartments) for victims of THB (Alliance News, 2006, p. 32). Different objectives are in place for each phase.

Emergency shelter

The first shelter, the 'emergency shelter', serves as a safe place where the occupants – who have usually just left a trafficking environment – receive direct and basic support (three meals a day, a bed and emotional support) (Proyecto Esperanza, 2010). 'The objective is to provide a secure and comfortable place where the victim can recuperate physically and emotionally' (respondent PE). Here, the victims are introduced to the different departments of PE (see Section 5.4.4), and they can think about what steps they wish to take in the future. 'They are supported in their decision to stay in Spain or to return to the home country, to stay in the project and continue with the different levels or to live outside [of the shelters] but continue receiving the other [non-residential] services' (respondent PE).

Long-term shelter

The second shelter is long-term in nature. In this shelter there is continuous attention given to the physical and emotional recovery of the victims; they are stimulated to develop social skills which will allow them to live autonomously (Proyecto Esperanza, 2010, p. 14). The length of stay depends on the (needs of the) woman. 'As she [the victim] moves from the emergency to the long-term shelter she really starts to identify what her needs, goals and objectives are' (respondent PE).

Transit apartments

When victims are considered to be ready (e.g. stabilised their personal situation and are either working or studying), PE staff and the women consider the option of housing in an independent apartment – a 'transit apartment' – which is monitored by educators. The third phase consists of two sub-phases as there are two apartments in which victims can stay (Alliance News, 2006). Also, they learn how to work out a personal budget and are able to save up money for their move into independent accommodation (non PE housing) (respondents PE). In the first apartment, the victims only have to pay for their utilities (gas, electricity and water), in the second apartment they are also required to make a small contribution towards the rent (Alliance News, 2006; respondents PE).

Capacity of the shelters

In total, PE has 19 places for female victims of THB. In both the emergency shelter and the long-term shelter there is room for seven women. The two apartments (first and second) have two and three beds available for victims respectively. The occupancy rate at the shelters differs over time. PE rarely deals with a shortage of places

¹⁹⁶ The Centre for Investigation Against Organized Crime (CICO) has recently begun to collect unified and detailed data on THB (Pro, 2011). For more information see: www.intelpage.info/centro-de-inteligencia-contra-el-crimen-organizado.html, consulted: January 17, 2012.

in the shelters. *'Sometimes it happened in the emergency house, but [in that case] we always contact other projects of Adoratrices'* (respondent PE).

Duration of stay

In the emergency shelter, the women generally stay between 15 days and two months, and in the long-term shelter six to nine months. In the first apartment victims generally reside nine months with the possibility of an extension, in the second the duration of stay is twelve months (respondents PE). In consultation with the specialised supervisors, the victims decide when they want to move to the next level. For example, when victims move from the emergency shelter to the long-term shelter the following actions are taken:

'The woman decides if she is ready and the team also evaluates whether this is the case. (...) On the one hand, [this involves] that she wants to stay with PE and that she started developing or writing a reflection report [see Section 5.4.3]. On the other hand, the team should see that she is trying to reach her goals and that she's working together with PE. (...) One of the things we look at is whether she has improved her Spanish if she arrived at the shelter not speaking the language, whether she can move around the city independently and use public transportation; whether she is attending all of her appointments and has begun showing interest and independence in her physical and emotional recovery process (...). Usually between one to two months, we start talking to her about moving to the next house. Sometimes this happens sooner if a woman has recovered quicker.' (respondent PE)

5.4.3 Working method in providing assistance

PE offers both residential and non-residential services. Residential services are offered inside the shelter and refer to assistance which is focused on strengthening both the individual and the group as a whole. Non-residential services are provided at the PE-office by different specialised departments of the organisation; they include different forms of assistance such as legal support, and psychological and medical assistance. Since staying at the PE-shelter is voluntary, victims can also only receive ambulatory assistance. This is stopped when the PE-team decides – in collaboration with the victims – that they have gained sufficient independence.

Residential services: Individual and group approach

In the shelter attention is paid to each woman's individual needs, goals and the actions which are necessary to achieve her objectives. In this context, usually starting in the emergency shelter and continuing in the long-term shelter, the PE team develops an individual care path together with and for each victim (Proyecto Esperanza, 2010).

'She [the woman] reflects on her personal situation so that she can continue improving and advancing. (...) It [the reflection report] is usually revised and looked over with the educator every month. In the beginning this happens more often because the objectives are relatively minor. (...) [Furthermore] every two weeks there is a meeting held that involves all departments and educators. Each case is discussed individually.' (respondent PE)

Additionally, in both shelters, women are supported in their day-to-day activities, and receive information about education, health, nutrition, emotional balance and sex education (Proyecto Esperanza, 2010).

There is also attention given to the group process. PE organises group meetings where victims can share their thoughts about living together in both the emergency

shelter and the long-term shelter. The women and educators also dine together in both shelters and excursions are planned during the day (Proyecto Esperanza, 2010; respondents PE).

Dining together is one of the rules that the women are supposed to comply with when residing in a shelter of PE. Furthermore they are – amongst other things – expected to respect a possible curfew and to clean the house collectively (respondents PE).

Non-residential services

PE also offers victims different forms of non-residential assistance, such as legal advice, health care (including psychological aid), education and vocational training (Susaj, 2010) which will be discussed hereafter. The duration of this type of assistance depends on the needs and the process of integration or return of the victim (Dottridge, 2010; respondents PE). It is always provided at the PE office, because:

'(...) [This is taken] very seriously; there is the shelter and there are other spaces for non-residential specialised assistance, this is precisely because we want to be more realistic about life in general [where] you do not have this support at home. Instead, you go to an office, you have an appointment and you have to be there on time.' (respondent PE)

5.4.4 Types of assistance

Legal support

PE has a legal department which offers legal support (representative PE). It includes:¹⁹⁷

- information and guidance for women regarding their legal situation;
- support for requesting the reflection period;
- assistance to guarantee that women can effectively exercise their rights, for example, when they decide to file a formal report and co-operate with legal authorities;
- (administrative) support regarding the regularisation of their residence status for women who wish to stay in Spain.

Apart from helping victims with administrative issues, such as requesting relevant documentation, PE informs the victim about the legal procedure, accompanies the person to the different legal parties, and serves as an intermediary between the lawyer or the prosecutor's office and the victim. In very few cases, PE represents the victim in court (Proyecto Esperanza, 2010; representatives PE).

Compensation for victims

According to Dottridge (2010) Spain is one of the countries within the EU in which victims of THB have received a payment in damages or as compensation in the years 2008 and 2009.

In Spain, victims have the right to compensation in both criminal and civil proceedings. However, this does not seem to happen very frequently in practice; PE, for example, has not seen any cases of the latter. Nevertheless, respondents of PE state that lately there is more awareness amongst lawyers about claiming compensation for victims.

Even when compensation is court-ordered, this does not mean that payment is guaranteed. The traffickers, who are responsible for this payment, are often either declared bankrupt or have moved their assets to another country or transferred it to another person. The accused usually have time enough to do this during the investi-

¹⁹⁷ www.proyectoesperanza.org, consulted: July 20, 2011.

gation process.¹⁹⁸ As a result, victims normally do not receive a payment, or only receive a very small amount (respondents MoHSE and PE).

Psychological and medical care

The health department of PE – consisting of a psychologist and a social worker – is responsible for assisting victims with mental and physical health problems (Proyecto Esperanza, 2010, p. 15). Women (also those without any documentation) can also visit a number of governmental health centres for medical care (respondents PE). Specifically, PE provides the following services:¹⁹⁹

- information and assistance to women so that they can receive immediate medical treatment;
- certificate of residence at city hall and handling the paperwork necessary to obtain a health card;
- individual and group psychological support.

Psychological support starts in the emergency house and is encouraged throughout all the phases of residency. Apart from setting emotional and therapeutic goals for each woman, the PE health department organises weekly therapeutic gatherings that women from both the emergency and the long-term shelter can attend. Supervised by a psychologist, different issues are discussed (respondents PE). It is assumed that group therapy of this nature helps victims to socialise, open up, and conquer their fears; it also increases their ability to express emotions and feelings (Proyecto Esperanza, 2010). This group therapy is also meant for women who receive only ambulatory services and for those who already left the shelter (respondent PE).

Assistance related to integration

The social labour department informs victims about the processes of social and occupational integration (Proyecto Esperanza, 2010). The organisation distinguishes between four different forms of support in this regard:

- support to learn Spanish;
- information and support related to access to education or training;²⁰⁰
- information and guidance on the job market in Spain;
- workshops to improve job-searching skills.²⁰¹

The latter, for example, involves showing the victims how to take part in a job interview, how to write a résumé and where to look for jobs.²⁰² By co-ordinating with various companies and other NGOs, job offers can be detected, after which PE intermediates between the employer and the victim (Proyecto Esperanza, 2010; respondents PE).

When victims contact the social and labour department, a specialist from the department builds a profile of the victims' educational backgrounds and professional achievements. Apart from that, the victim's educational needs are identified and they are orientated to existing education structures (respondent PE). Another service that the social labour department of PE offers to victims is information on housing and the rights one has as a tenant. Victims also receive support

¹⁹⁸ There are pre-trial mechanisms to freeze and confiscate assets; however this is a complicated process. In PE cases this has not been applied very often (respondents PE).

¹⁹⁹ www.proyectoesperanza.org, consulted: July 20, 2011.

²⁰⁰ PE links woman to other organisations, agencies and programs in Spain offering education and training programs.

²⁰¹ www.proyectoesperanza.org, consulted: July 20, 2011.

²⁰² In the beginning of their integration process, the Social-labour department usually meets once a week with the women to assist in, for instance, finding employment via the internet (respondents PE).

on understanding and signing housing contracts and women are referred to other relevant services that are specialised in finding housing.

Support focused on future residence or voluntary return

Possibility of obtaining permanent residence

After having acquired a temporary residence permit based on either collaboration or personal circumstances, and having resided (continuously) legally in Spain for five years, foreign victims, like other immigrant groups, can apply for an indefinite residence permit. For this, one must present a passport, make a payment and hand in a photograph (respondents CIAR and MoHSE).²⁰³

Organisation of voluntary return to the country of origin

The voluntary return department of PE supports women who decide to return to their country of origin. If a woman (either from a third country or an EU member state) wants to return to her country of origin, PE searches for economic means and manages the voluntary return process for the woman. This is done, for example, by mediating between the victim and the IOM, which amongst other things, finances the return. A report is compiled and sent to the IOM, after which the return of the victim can be realised fairly quickly. This process stagnates, however, if a victim does not have any documentation. As PE also assists victims in acquiring the necessary documentation, when necessary PE staff will visit embassies to explain the situation of the victim and to obtain an identification document or a travel document. PE often works with relevant organisations in the victims' countries of origin.²⁰⁴ If a woman wants the support of such an organisation, PE tries to put both parties in contact with each other (respondents PE).

5.4.5 Security measures

The three PE shelters have secret locations; both the addresses and the phone numbers are confidential, even for the police. All the coordination with external parties, such as the police, takes place at the PE office. For example, when a new victim arrives, she is met at the office and, after the police have left, she is accompanied to the shelter. The reason for this policy is that:

'(...) usually the victims are escaping from a group of people or a person and they do not want that person to know where they are located. (...) When they are leaving the trafficking situation, they can be at risk of the traffickers looking for them. We take very high precautions.' (respondent PE)

Additionally, this policy is implemented to secure the safety of those who are already staying in the shelter.

Each shelter uses slightly different security measures. In the emergency shelter the level of surveillance is relatively high; the doors are locked and the occupants do not have the keys. Victims have to ask for permission to leave the shelter, and explain where they are going and when they will return. *'In the first few weeks we are getting to know a woman, we do not know with whom she is meeting and if she really has broken all ties with the traffickers, so we evaluate this little by little'* (respondent PE). At this stage, especially when the woman has just entered the shelter, she is often accompanied by educators to various appointments. Also, at that time, the

²⁰³ See also: Boletín Oficial Del Estado, núm. 103, sábado 30 de abril de 2011, Sec. I. 43821 (Chapter I 'permanent residency').

²⁰⁴ www.proyectoesperanza.org, consulted: July 20, 2011.

identification department evaluates the risks for her in Madrid; what neighbourhoods she can better avoid. There are also various cameras (at the door, in the office and in the house) to guard who is at the door, and the use of the internet and the land phone are generally prohibited. At the emergency-shelter staff members are present 24 hours a day. As a result, victims can always turn to an educator for their basic needs and emotional support, and they can be accompanied at all times when necessary. In addition to the night staff, there are four educators who work at the emergency shelter; there is always at least one staff member present, during the day usually two to three. These are all female, as this enhances the level of trust between the (female) victims and the staff members (respondents PE).

At the long-term shelter, and in the apartments, the women can decide when they leave and return to the accommodation; they are no longer accompanied (regularly) to their appointments because the idea is that, in this phase, they are more independent. *'They have to be responsible for their appointments and study/work schedules. The objective in all houses is that the women gain independence'* (respondent PE). At the long term shelter, every occupant makes a schedule of where she will be during the week; this is given to one of the four educators who live with the women. If clients do not return to the shelter at the time they had initially stated, they must call.

In the apartments a schedule is no longer requested and the women do not have to inform anyone about their daily activities. One educator is still present (and living) in the first apartment, but this is no longer the case in the second.

In Spain, there is a Witness Protection Law since 1994 (19/1994 of December, 23), which applies to anyone (thus not only victims of THB) who is scared because of their collaboration in a criminal investigation. Depending on the particular circumstances of the case, the judge decides what measures are needed to protect the victim, such as excluding the victim's name and other personal data in the documentation, or the police authorities accommodating the person and guaranteeing that the victim is not seen by the traffickers in court (by putting up a screen) (respondents CIAR and PE). Changing the identity of the victim and providing financial help if the victim wishes to change residency are measures which are also available. However, according to PE respondents, these are rarely applied.

PE would like to see the implementation of a measure which would consider reuniting family members by bringing family members to Spain if they are at risk because of the women's the trafficking situation. Also, PE wishes to see the adoption of the protective measure of distorting a victim's voice during the criminal procedure more often; in cases where a screen is put up and the victim cannot be seen, the victim's voice can still be heard and possibly be recognised by the accused. A problem inhibiting the progress (*a bottleneck*) in this matter is, however, that the trafficker must be able to defend himself as well; she/he should thus also have access to the trafficking story. A possible solution might be that *'(...) some of the detailed information can be left out, for example whether the victim has children and which province she came from'* (respondent PE). Some information is not relevant to the person's [traffickers'] defence and could be provided without identifying the victim. However, sometimes judges recognise that 'witness protection' measures can violate the rights of the accused. It may be difficult, therefore, to apply these measures during and after the criminal procedure (respondent PE).

5.4.6 Realisation of objectives

In Spain, there are no (independent) evaluation studies available on CAA. Based – amongst other things – on internal evaluation studies in which victims were asked what they thought of PE's shelter facilities and the specialised assistance, respon-

dents of PE say that the organisation generally realises her goals. According to the latest annual report of PE (2010, p. 8) 67% of women who receive support by PE are satisfied with the quality of this assistance. Women seem generally positive about both the residential and the non-residential services.²⁰⁵ However, this is no indication that the objectives are being realised.

5.4.7 Bottlenecks

The bottlenecks the respondents named seem relevant for both CAA and non-CAA:

- If a large group of victims is identified, this can be a problem, because of a lack of capacity. In that case, PE works together with the umbrella organisation *Adoratrici* and victims are assisted by other organisations.
- Possible bottlenecks arise mainly as a result of external circumstances, such as the current economic crisis. This generally makes it harder for women to integrate and find a job (respondents PE).

5.5 Perceived advantages and disadvantages of Categorical Accommodation and Assistance

During the interviews a number of perceived advantages and disadvantages of CAA for victims of THB were mentioned by the respondents.

5.5.1 Perceived advantages of Categorical Accommodation and Assistance

- Specialised assistance: Victims who come out of a trafficking situation are very vulnerable at that time and need support tailored to their needs (respondents PE and MoHSE). They have security issues, are in many cases afraid, and have specific needs that differ per case. Non-categorical organisations and social services often do not know how to deal with this group (respondent MoHSE). Furthermore, there is regular contact with a lawyer and attention is paid to the particular trafficking trauma they may have suffered (respondents PE).

5.5.2 Perceived disadvantages of Categorical Accommodation and Assistance

- If a new client comes into the shelter with 'fresh traumas' and is housed with women who have managed to take steps forward in their recovery process, these women might re-live their traumas. PE tries to lessen this effect by first placing women in an emergency shelter, after which they are housed in a more permanent accommodation (representatives PE).
- There is a possibility of stigmatisation:

'Because we work with women who have suffered human trafficking, we have to be very cautious not to re-victimize woman. We thus must be careful with using the word victim. We must avoid looking at her or treating her like a victim. We constantly need to question ourselves, how we look at the woman because everyone is different. We must not fall into stereotypes. We must focus on the women's capabilities and strengths.' (respondent PE)

²⁰⁵ The various annual reports of the organisation can be consulted:
www.proyectoesperanza.org/?page_id=83&lang=en, consulted: January 3, 2012).

6 Conclusion

6.1 Background, aim, and method of the study

In June 2010 the Dutch government started a pilot project on Categorical Accommodation and Assistance (CAA) for adult victims of trafficking in human beings. At the time of report-writing (2012) the pilot was being evaluated by the WODC, the Research and Documentation Centre of the Dutch Ministry of Security and Justice. The current study may provide input, based on the experiences of eight NGOs in four European countries (Belgium, the Czech Republic, Italy, and Spain), for the possible further implementation of CAA in the Netherlands. The aim of the research is to provide a description of the organisation and implementation of CAA in the selected countries, the bottlenecks experienced, possible solutions, and advantages and disadvantages of CAA. The particular countries in the study were chosen with an eye on diversity regarding the organisation and implementation of CAA (e.g. use of different types of shelters for victims in different phases of assistance vs. the same shelter for all phases). Similarity with the Netherlands (all countries are transit and destination countries for victims of THB), and the Dutch pilot on CAA (a broad target group) also played a role in this selection.

For the purpose of this study, a literature survey was conducted and 27 representatives from ministries, NGOs and other relevant institutions involved in the provision of CAA in the four countries provided information (mostly by interviews, occasionally by providing written information). Little information about the implementation of CAA was encountered in the literature; the respective country reports are, therefore, predominantly based on interviews regarding this aspect. In Belgium and the Czech Republic representatives of all specialised NGOs providing CAA were interviewed (respectively three NGOs operating three shelters and two NGOs operating three shelters). In Italy representatives from two Italian NGOs (respectively operating two and six shelters), and in Spain from one NGO²⁰⁶ (operating three shelters) were interviewed. Considering the large number of NGOs providing CAA in these two countries the results of this study do not cover all possible variations in the implementation of CAA in Italy and Spain.

In this concluding chapter the results from the studies of the four countries are presented without referring systematically to the respective countries. For the specific situations in the selected countries, please refer to the respective chapter on the particular country.

Below some background information on the policy context in the selected four countries is provided first (Section 6.2). Then the following topics are handled: objectives and the target group of CAA (Section 6.3), organisation and implementation of CAA (Section 6.4), and perceived advantages and disadvantages of CAA (Section 6.5). The chapter closes with some concluding remarks (Section 6.6).

6.2 Background information on selected countries

In all four countries it is the policy of the government to protect and assist victims of THB, yet the form and duration of these policies differ. In the Czech Republic and Italy there are special governmental programmes for the protection and assistance of victims. In the Czech Republic, the Ministry of Interior has been governing the Programme on Support and Protection of victims of THB since 2003, while in Italy the so-called Article 13 Programme (a short term protection programme for three

²⁰⁶ For the consistency, in this study the term NGO is also used when referring to the specific Spanish project.

months introduced in 2003) and Article 18 Programme (a long term protection programme for six months introduced in 1998) are run by the Department of Equal Opportunities for the protection and assistance of victims. In Belgium, the Circular Letter of 26 September 2008 (which is related to the Law of August 10, 2005) regulates a multi-disciplinary collaboration approach to, amongst other things, the protection and assistance of victims of THB. Since 2009, the protection and assistance of victims of THB has been regulated according to the Organic Law 2/2009 that brought important changes to the Organic Law 4/2000. The guidelines for the implementation were recently set out in the Royal Decree 557/2011, and in addition in the Framework Protocol for Protection of Human Trafficking Victims (enacted on October 28, 2011) of the Ministry of Health, Equality and Social Policy. The target groups of the governmental policies are defined within the context of the legal definitions of THB (usually given in the criminal codes of the countries). In all four countries, CAA for victims of THB is provided by specialised NGOs that are co-financed by the – local – governments.

6.3 Objectives and target group of CAA

What are the objectives of CAA for victims of THB in the selected EU countries and what is the target group?

In all four countries, the main objective of the NGOs providing CAA is 'empowering victims of THB and increasing their autonomy'. In general, activities intended to protect and assist victims of THB target specific goals (e.g. providing a safe shelter and comprehensive and specialised support tailored to the specific needs of victims of THB, providing assistance for those who want to return to their countries of origin). In the Czech Republic and Italy, the interviewed NGOs also formulated the social inclusion of victims in society as a goal by, among other things, work and independent living.

According to policy documents of the respective countries and interviews with government representatives, the goals of the governments seem to be more differentiated: in the Czech Republic, the governmental Programme (which provides both CAA and non-CAA for victims of THB) aims to provide support and assistance to victims, motivate them to co-operate with law enforcement authorities and mediate for their voluntary return to the home country. In Italy, the Article 18 Programme targets the social inclusion of victims of THB. In Belgium, the government aims to provide a 'safe haven' for the victims of THB and – similar to the Czech Republic – tends to encourage co-operation with law enforcement authorities. Yet, in Belgium and Spain, the formulation of – further – goals is left to the NGOs.

Target group

In all the countries except Italy, CAA is meant for adult victims of THB regardless of their nationality, gender or the type of exploitation. In Italy, minor victims also belong to the target group; however this group is outside the scope of the present study. All the interviewed NGOs provide CAA to a heterogeneous group of victims concerning their nationality and sectors of exploitation. The composition of these groups changes from time to time. For example, some NGOs reported an increase in the number of assisted victims of labour exploitation at the time the interviews were held.

In Belgium, although nationals form part of the target group of CAA, they are preferably placed in non-categorical shelters as these victims often find it difficult to be accommodated with a group of predominantly foreign victims. In addition, it is argued that non-nationals can be encouraged to integrate in society and comply with the rules as they can acquire a residence permit whilst for Belgian victims there

is no such stimulus. In Italy, nationals have only belonged to the target group of the Article 18 Programme since 2007. So far no Italian victims have been assisted within the Programme.

Victims with children are only accommodated in the categorical shelters in exceptional circumstances and for short periods of time and are referred to non-categorical shelters (Belgium, Italy, and Spain). In Belgium, officially identified victims who are placed in non-categorical shelters (e.g. those with children) receive ambulatory assistance from the specialised NGOs which also provide CAA. In the Czech Republic, women with children are in general referred to a specialised NGO which provides non-CAA; for men with children the NGOs seek appropriate accommodation (e.g. hostels).

6.4 Organisation and implementation of CAA

How is CAA for victims of THB organised and implemented in the selected countries, are there any indications that the objectives are realised; are there any unexpected results and are there bottlenecks in the organisation and implementation?

6.4.1 Central enrolment and registration

None of the four countries has a central system of enrolment and registration for the placement of victims of THB. The NGOs which provide CAA receive the victims whom they accommodate and/or assist through various channels (e.g. the – immigration – police, other NGOs, own field-work for identification of victims). The NGOs communicate with each other, and with governmental or local authorities about the placement of the victims. In Italy, there is also a nationwide free helpline for victims of THB where victims who need to be relocated within the context of the Article 13 and Article 18 Programme are registered. All the NGOs that are involved in these programmes have access to this registration system and can communicate with each other about the possible relocation of these victims.

6.4.2 Type of shelters and placement

Some of the interviewed NGOs operate shelters for both men and women, while others have shelters for either men or women. NGOs that operate shelters for both sexes accommodate victims in 'single sex' or 'mixed' shelters. The limited capacity of the shelters, privacy reasons and the traumatic experiences that the women have had with men are reasons for operating 'single sex' shelters.

In the shelters of the two specialised Belgian NGOs, women and men with different backgrounds of exploitation live on the same floor, but are accommodated in separate rooms. A 'mixed' shelter is assumed to be 'healthy', as it resembles the reality of society. Furthermore, running two separate shelters for men and women is considered to be impractical as the men-women ratio of the victims in the shelters differs from time to time, and mixed shelters are seen as a good solution for trafficked families, who would otherwise be separated. Shelters run by the interviewed NGOs are either small-scale apartments or houses with relatively larger capacities; some of the NGOs have both types of shelters. In the latter case, some NGOs choose to provide emergency and long term care in houses while private apartments are used to accommodate victims who have become 'stabilised' (i.e. who are studying or working). In the apartments as well as in the houses, the NGOs try to encourage the empowerment and autonomy of the victims by providing them with a sense of freedom in their daily lives (e.g. shopping and cooking on their own, spending pocket money). The NGOs that use apartments as shelters see these as an environment that encourages normal life. Some NGOs work explicitly on 'life in a group' (e.g. by

stimulating eating as a group or organising weekly group meetings or by celebrating special occasions).

The shelters of all interviewed NGOs are located in or near – big – cities. Better facilities for the victims, better conditions to maintain the anonymity of the shelter and its inhabitants, and greater possibilities of co-operation with other NGOs are among the reasons for this choice.

Capacity and duration of stay

The capacity of the individual shelters ranges from two (the Czech Republic, Spain) to sixteen places (Belgium). In some cases victims may have to change shelters depending on the phase of the assistance being provided (Italy, Spain), while in other cases emergency care and longer term assistance are provided in the same shelter (Belgium, the Czech Republic). The duration of the stay in the shelters ranges from two to 18 months.

6.4.3 Types of assistance provided

In addition to basic financial/alimentary assistance, all NGOs provide specialised administrative, social, medical, psychological and legal assistance to victims of THB. Victims of THB share similar experiences and circumstances created by their exploitation history, but providing individualised care and assistance is essential to ensure the most appropriate protection (e.g. IOM, 2007). All interviewed NGOs tailor their specialised assistance to the specific needs of victims. Individual assistance plans, in which the person's goals and the necessary means to achieve these goals are defined, developed and evaluated in co-operation with the victims. Consequently, person-specific types of assistance are worked out and, where necessary, revised. In all four countries the importance of multi-agency co-operation in the identification of, and provision of assistance to, victims of THB is recognized. The interviewed NGOs have their own specialised personnel, but also co-operate with other organisations or service providers when specific or more specialised assistance is needed which NGOs cannot provide themselves. All NGOs offer specific assistance for social inclusion or integration purposes. In Italy, the entire Article 18 Programme is focused on integrating victims of THB in society. In all the countries, assistance related to integration includes a wide range of services which are offered depending on the individual needs of the victims (e.g. language courses, vocational or educational training, and information about employment possibilities). Also, victims are assisted in finding independent follow-up housing. If victims struggle to find a job, additional financial assistance may be provided for this purpose (e.g. by paying the rent for a certain time or by providing 'micro-credit').

The legal assistance is directed towards ensuring the rights of the victims regarding their legal stay in the country (e.g. requesting necessary or lacking documents, starting up relevant procedures), but also towards assisting the victims during the criminal proceedings. For example, victims are informed about the legal procedures and prepared for the hearing during criminal proceedings. An important aspect of legal assistance concerns claiming compensation (depending on the country in civil and/or criminal proceedings, or via other channels). Except for the Spanish NGO, all interviewed NGOs have experiences in claiming compensation, though not always successful ones.

In all four countries it is possible for victims of THB to receive permanent residence (for the specific conditions see the individual country chapters). Within this context NGOs inform victims about the possibilities available and the conditions for further residence in the country or their voluntary return to the country of origin. In the individual assistance plans the wishes of victims regarding this matter are taken into account and the victims are assisted accordingly. In general, NGOs refer those, who wish to return to the country of origin, to the International Organisation for

Migration (IOM); in all countries voluntary return is regulated through the Assisted Voluntary Return Programme of this organisation. In some cases the voluntary return is financed by the government, in others travel arrangements are made and paid by the NGOs or funded via other institutions if victims are unable to finance the return themselves. Sometimes victims are put in touch with organisations in their countries of origin (either through IOM or partner NGOs in these countries) to access practical support and to ensure that people do not fall prey to the same exploitative situation. Evidence from the literature suggests that, because of the lack of long-term support in the countries of origin, victims can indeed fall back into re-trafficking situations (Kootstra & Commandeur, 2005). Jobe (2010) distinguishes several factors that increase victims' vulnerability to re-trafficking. Among these are economic or social difficulties after the return to the country of origin, being part of an ethnic minority group which is discriminated against, and alcohol or drug dependency. If there are debts owed to family members because of the costs related to the first migration/trafficking experience, victims may try to migrate again; third country nationals in particular may be in a dependent and vulnerable position as their legal options of re-migration may be more limited compared to EU citizens. This emphasizes the importance of long term follow-up assistance in the countries of origin. One of the NGOs reports that this is a weak point in the assistance provided.

In general, consultation services are usually provided outside the shelters, either at the NGOs' offices or at special consultation centres of the NGOs. The division between 'residential' and 'non-residential' assistance is made for security reasons (e.g. secret locations of the shelters, see below) but also because of the 'philosophy' that providing specialised assistance outside the shelter reflects real life in which people also have appointments outside their homes, for which they are expected to be on time. Some NGOs assume that this may enhance the victim's awareness of the assistance provided. In addition, it is assumed that assistance outside the shelters encourages victims to develop an autonomous life. However, in some cases, the assistance takes place in the shelter (e.g. if a victim is afraid to go outside or for job-searching on the internet). All interviewed NGOs provide ambulatory assistance to victims who do not – wish to – stay in their shelters or who have already started to live independently after having resided there.

6.4.4 Security measures

Providing a safe and secure environment for victims is considered to be the most important aspect of a shelter (e.g. Appelt et al., 2004). Sheltering victims of THB is considered to be especially risky for the safety of both the victims and the personnel because of the background of the victims and the possible involvement of international criminal networks; retaliation of traffickers against victims who managed to escape or testified against them is a well known phenomenon (IOM, 2007).

To ensure the security of victims and staff members, the interviewed NGOs employ a variety of security measures. These measures differ between countries, and especially between shelters in a certain country, depending on the type of shelter, the phase of the assistance, and the perceived security risks. In some shelters, the NGOs do not adopt any strict security measures as they no longer experience serious security problems. The absence of any strict security measures is explained by the changing composition of trafficking networks; while in the past traffickers from certain nationalities used to form a physical threat by picking up the women from the shelters, it is stated that nowadays traffickers from other nationalities stick to making threats of a psychological nature (e.g. the curse of voodoo).

Security measures taken by different NGOs can be grouped in several domains:

Location and type of shelters

- Secret location: all the shelters in the selected countries are at secret locations. In some cases the address, and even the telephone number, is not disclosed to external parties, even to the police, in others police surveillance is used for preventive purposes.
- Apartments as shelters: according to some NGOs, privately rented apartments used as shelters offer better security advantages than houses – owned by an organisation – as they provide more flexibility to relocate in cases of a security crisis. One of the NGOs had moved its shelters a number of times over the last ten years. New shelters – without balconies in the front – are found via acquaintances; security assessments are conducted in potential neighbourhoods before the shelter is moved to a new location. However it is also noted that regularly moving a shelter to another address in order to keep it secret can be costly, and requires contacts in suitable neighbourhoods.
- Placement of victims: NGOs try to place victims in shelters far away from the location of their exploitation; if security threats relate to an individual victim, then the victim is moved to alternative locations (e.g. own shelters or shelters of other NGOs).

Measures orientated toward controlling and influencing the behaviour of the victims

All the shelters employ various security measures that concern the behaviour of victims to ensure their safety but also that of the personnel:

- Controlling the 'openness' of the shelters: While in some shelters there is a curfew, in others residents have their own keys and can come and go as they please. Advocates of the first approach consider it important for victims to know that 'someone is waiting for them who worries if they do not come home' while NGOs without curfews stress the principles of human rights. Sometimes the degree of freedom of movement differs according to the phase of the assistance; in the emergency shelters the movement of victims is more restricted. One of the NGOs with emergency shelters reports a relatively high surveillance in these shelters where the doors are locked; victims do not have their own keys and have to ask for permission to go outside. In the emergency shelter of another NGO, victims are not allowed to communicate with people outside the shelter at all. The restriction of movement is explained by the fact that the service providers are not yet familiar with the 'newcomers' and whether they have really broken all ties with their traffickers is still not known; the potential risks are, therefore, considered to be greater. In this respect it is relevant to point out that it is not always easy for victims of THB to break the ties with their traffickers who know their victims' weaknesses, and that personal or romantic relationships between traffickers and victims are not uncommon (e.g. Anti-human trafficking task force strategy and operations e-guide).²⁰⁷ Besides, 'it is not uncommon for victims to feel both relief at having been identified and fear and suspicion toward the identifying actor' (Surtees, 2007, p. 104). At the long term shelter, victims have more independence, but must make a weekly planning describing their whereabouts. If they do not return to the shelter at the planned hour, they are required to call. In the apartments which are intended for victims who are considered to be ready for independent living, such restrictions no longer apply. Another NGO applies a day and night curfew for all victims during the first three days of their stay in the shelter, so that the 'newcomers' can become acquainted with the shelter and their co-residents. In addition, experience has shown that if the traffickers are going to chase their victims, this occurs during the first few days. These findings show that the shelters are 'open' in nature (apart from the emergency shelters), but the

²⁰⁷ www.ovcttac.gov/TaskForce/Guide; consulted on March 28, 2012.

extent of the openness differs. There is some evidence that where shelters are operated with strict rules, including restrictions of movement, victims find the conditions very stressful, sometimes even worse than the trafficking experience, which might eventually cause them to leave (Brunovskis & Surtees, 2007).

- No visitors from outside: in addition to the possible curfews, the 'openness' of the shelters is also determined by controlling the admittance of visitors; some of the NGOs do not allow visitors at all as they could endanger the security of the victim concerned, and of other victims and the personnel at the shelter.
- Risk assessment and security training: some of the NGOs with 'open' shelters instruct victims not to talk to anyone about the shelter or its location, and offer support and guidance on how to avoid risky situations, for example by informing them about unsafe neighbourhoods and/or about behaviour that may provoke or attract the attention of others in the neighbourhood. There are also NGOs which conduct a personal security risk assessment when the victim first arrives at the NGO. This is drawn up into an individual safety plan in co-operation with the victim, and the victim is instructed accordingly. In some cases a contract is made with the clients about security rules before the person moves into the shelter.
- 'No return' policy: the three specialised NGOs in Belgium implement a 'no return' policy. If victims decide to leave the shelter to reside elsewhere, they are not allowed to return to any of the categorical shelters. In this way, the NGOs strive to limit the information about who is staying in the shelters both among the victims and the traffickers.
- Implicit security control: some NGOs implement 'implicit security control' by using the financial assistance requiring victims to justify their expenses which provides a 'perfect overview' of their whereabouts.

Supervision in the shelters and technical means

- Assistance in the shelters: in some shelters there is someone present 24 hours a day for security purposes, in others, there is either day or night assistance – sometimes combined with a few hours daily assistance. Lack of 24-hours assistance is explained by insufficient financial means, but sometimes is not seen as a problem as, during the day, victims are usually absent from the shelters. If there are no personnel in the shelters, victims can usually make use of a 24 hour help-line in case of a crisis. NGOs sometimes employ expert personnel but they also use volunteers to provide the 24-hours assistance, or residents are asked to keep an eye on the entrance at night.
- Use of mobile phones: victims are allowed to use mobile phones, also for security purposes (sometimes their own, sometimes ones lent by the NGOs). The emergency numbers of the NGOs themselves, or of the police, are stored on the phones so that victims can call these numbers in case of crisis situations. NGOs with a totally open shelter policy rely on mobile telephones for emergencies.
- Use of security cameras: a few shelters use security cameras (an emergency shelter and an 'ordinary' shelter), others consider this to be unnecessary because of the use of alternative methods such as badges or special locks, curtains, or simply because the shelters look like any other regular apartment and do not attract attention in the neighbourhood.

Other security measures

- When necessary victims are escorted to court (by the NGO or by the police) and confrontation with the traffickers is avoided as much as possible (e.g. by arriving and leaving at different times than the traffickers).
- Accompanying victims to their out-door appointments during the initial period of their stay in the shelter (to ensure feelings of security among the victims).

- Changing the appearance of the victims: an NGO sheltering male victims of THB reported that they occasionally change the appearance of the victims as a means of security.

6.4.5 *Realisation of objectives and unexpected results*

In the above sections, the organisation and implementation of CAA in the selected EU-countries has been presented. Within the context of the current study, an investigation was also conducted to see if any independent evaluation studies of the effects of CAA in these countries had been carried out. According to the literature encountered and to the respondents, this was not the case. Consequently, no firm conclusions can be drawn about whether the objectives were realised or about any possibly unexpected results. The NGOs 'evaluate' their own activities in various ways, such as conducting internal evaluations (many of which are confidential), gathering data for, among other things, annual reports, adjusting their activities to the changing composition of victims of THB, carrying out complaints procedures in the shelters or client satisfaction studies. Various indicators, such as the number of victims who start criminal proceedings, find a job, and/or start living independently, are also used. Based on this information, the representatives of the governments and NGOs state that, in general, they achieve their objectives. An unexpected result of CAA, according to one NGO, was that their identification activities has led to an increased awareness among the ordinary population about migrants from different countries who are being exploited in the country and the conditions under which this takes place. Increased awareness within the community was also reported by Caliber (2007) as a result of the provision of services for victims of THB in the USA.

6.4.6 *Bottlenecks*

In all four countries, the NGOs and governmental organisations involved in the implementation of CAA face a variety of bottlenecks. These bottlenecks can be grouped in the following main categories: co-operation with other parties, lack of capacity/resources, placement of victims and follow-up housing. Most of these seem to hold for sheltering THB victims in general, and are not typical of CAA. If problems are related to the organisation or implementation of CAA in a specific country, this is reported explicitly.

Co-operation with other parties

- The specialised NGOs need to co-operate with other institutions to deliver services which they themselves cannot provide. Not all of these parties are specialised in THB issues, however. As a result, victims of THB are sometimes given inaccurate information (e.g. information about 'regular' migrants instead of this particular group).
- NGOs in some countries report that their goals contradict with those of governmental policy. On the one hand, the NGOs work on the integration of victims of THB into society, on the other hand a residence permit is not issued unless certain conditions are met which are related to the results of the criminal proceedings (e.g. the testimony of the victim has to be considered relevant and the crime qualified as THB). This sometimes leads to situations where people who have been successfully integrated (e.g. by participating in the labour market and/or living independently) may still have to leave the country.
- NGOs often use interpreters for specialised, individual assistance, but this can endanger the trust relationship between a supervisor and a victim. Sometimes interpreters tend to influence the victims by suggesting things or making recommendations. Within this context, some NGOs regularly update the interpreters about the principles of social work and what is expected from them.

- All NGOs provide health care assistance for victims of THB. However, some NGOs have problems finding a doctor for their clients because, for a variety of reasons, health care providers are reluctant to support this 'type' of victims, e.g. because of the possible lack of health insurance. Difficulties in meeting medical needs of victims of THB are also noted by Caliber (2007).
- One of the reasons stated for terminating the assistance of victims of THB is if they re-establish contact with their traffickers. In Belgium, the specialised NGOs judge whether this is the case. Other organisations are critical to this autonomy of the specialised NGOs and would like to see more co-operation between the parties involved. The Belgian NGOs state however that assistance to the victims is not stopped without consulting the police or social inspection services.

Lack of capacity/resources

- Some NGOs report a lack of resources for providing proper or better assistance to victims of THB (e.g. better individual communication, special social projects). Italian NGOs report that government funding has been at the same level for a number of years, but that this has had to be allocated between an increasing numbers of projects. Furthermore, future government funding seems uncertain, among other things, because of the requirement of co-funding from the local authorities, and a lack of political will to support adequate and regular funding. NGOs in some other countries state that they can invest in intensive individual communication, which they consider as an essential part of their activities, as a result of receiving donations. The importance of having sufficient resources or capacity to be able to provide better assistance (e.g. individual communication) is supported by evidence: because of insufficient or confusing information about the types of assistance offered and the victims inability to understand this, some victims of THB may decline assistance (Brunovskis & Surtees, 2007).
- Some NGOs report lack of capacity if a large group of victims is identified at the same time, for example, as a result of specific tracing activities. In such cases one of the NGO co-operates with the 'umbrella' organisation, and victims are assisted by other organisations; in another case a governmental emergency plan is implemented and victims are accommodated and assisted by the government for a few days.
- In smaller shelters, even if there are only a few clients, it is still necessary to employ staff, sometimes full-time. This low capacity to staff ratio is considered to be uneconomical in comparison to bigger shelters. Solutions are found in contracting students or calling in volunteers.

Placement of victims and follow-up housing

- The interviewed NGOs target victims of THB regardless of their nationality, ethnic origin or religion. Placing victims from different backgrounds in one shelter can sometimes cause tensions (e.g. communication problems because of language differences, prejudices about one other, or problems created by cultural differences). NGOs employ different strategies to deal with such problems: to solve the tensions individually, sometimes with the help of interpreters (it is noted however that this is easier in small-scale shelters), not forcing victims to do things together if they do not wish to do so, or placing nationals in non-categorical shelters where they receive ambulatory assistance from the specialised NGOs.
- Almost all NGOs report problems in finding follow-up housing for victims because of a scarcity of rental apartments or high rents. As a solution, the victims may stay in the shelters for a longer period of time; some NGOs sublet so-called transit apartments to victims at reduced prices for a certain period of time. In some cases the rent is paid for a while if the person in question has not yet found a job.

Other bottlenecks

- Exclusion of certain groups from CAA: in all four countries, victims with children are accommodated in non-categorical shelters or other types of accommodation. While, in some countries, this is considered to be a bottleneck as categorical shelters could offer these groups more safety and feelings of solidarity, in other countries it is pointed out that non-categorical shelters where women and children are accommodated have better facilities for this group.
- Contextual factors: various NGOs mention the influence of the current economic crisis on their ability to provide assistance regarding the economic integration of victims of THB. The NGOs assist victims to find a job in various ways but, because of the economic situation participation in the labour market remains problematic.

6.5 Perceived advantages and disadvantages of CAA

What are the perceived advantages and disadvantages of CAA?

The respondents were asked their opinions about the advantages and disadvantages of CAA in comparison to non-CAA. It should be pointed out that providers of CAA may have a positive bias towards the provision of this type of accommodation and assistance. However, the respondents are representatives of NGOs and government officials; they come from different countries, and thus different contexts. For these reasons a unifocal bias is not to be expected.

Some of the advantages that are named are typical of CAA while others can be considered as advantages of both CAA and non-CAA in general.

6.5.1 Perceived advantages of CAA

- Specialised assistance. Victims of THB come from a trafficking/exploitation situation; they are very vulnerable and need professional assistance aimed at their specific needs. NGOs providing CAA are specialised in THB issues and can work better on the social inclusion of victims, while organisations providing non-CAA may lack this expertise.
- Better security. According to some respondents, categorical shelters offer better security, there are, however, mixed opinions on this matter (see below).
- Victims of THB are 'in the same boat': they can share their experiences more easily, and provide each other with emotional or psychological support and information. This may also lead to increased motivation to press charges. Victims who are not yet sure whether or not to press charges against their traffickers may be motivated by other victims who have done so.

In addition, the following advantages were named which are *not* necessarily typical of categorical shelters:

- The placement of victims from various nationalities and with different exploitative backgrounds in the same shelter resembles real life. However, placing victims from various different groups in the same shelter is also identified as a bottleneck by some NGOs because of possible tensions (see above).
- Motivation for independent living. Familial ambiance in the shelters creates a feeling of a real 'safe haven'; victims make friends at the shelter whom they still may be in contact with after leaving the shelter; this contributes to victims' motivation to live independently.

6.5.2 Perceived disadvantages of CAA

Some of the disadvantages that are identified seem to be related to a greater or lesser degree to organisational issues:

- Higher security risks. While, according to some, CAA offers better security tailored to the specific needs of victims of THB, others feel that security risks in CAA are higher; as one deals with – international – criminal networks and all the victims are placed together, security and organisational aspects need to be carefully considered.
- Unused capacity. As CAA is meant for victims of THB only, the shelters may be partly empty from time to time.
- Higher costs. Categorical shelters may be more expensive than non-categorical shelters; it may be difficult to find financing for this type of shelter.

Other disadvantages that were mentioned are of a more social nature:

- Postponement of social interaction with other groups. Victims stay in their own 'circle' and 'environment', thus the step to getting into contact with other people is postponed in comparison to situations where victims of THB are accommodated with other clients.
- Possible postponement of the recovery process. Victims at the shelter who have recovered from their past traumas may re-live them when a new victim arrives with 'fresh' traumas. This may hinder their recovery process. One NGO sees a possible solution in placing its clients in different shelters depending on the stage that they are at in their recovery process.
- Because of the uniform target group, care-providers may fall into stereo-types and concentrate on the aspect of being a 'victim' instead of focusing on the person's all round capabilities and strengths. NGOs providing CAA and governments try to limit the stigmatisation of victims by restricting the length of stay, by providing specialised, individually-tailored assistance, and by making efforts to keep the 'victim status' off official documents.

Besides the above advantages and disadvantages of CAA, different perceptions were pointed out which relate to the stigmatisation among victims. According to some respondents, in non-categorical shelters victims of other types of crimes, for example, victims of domestic violence may look down on victims of THB. However, in categorical shelters, differences in exploitative backgrounds of victims can also create tensions. For example, victims of economic exploitation may belittle victims of sexual exploitation because the former feel that they had a 'real' job and consider prostitution to be a degrading profession.

6.6 Concluding remarks

This study has investigated, for the first time, the organisation and implementation of CAA for victims of THB in a number of different countries. In spite of the differences in the legal and policy contexts of the provision of assistance and protection of victims of THB in the various countries, and in approaches to CAA, the *core* of CAA consists of the following:

- CAA is meant for adult victims of THB regardless of their nationality, gender and type of exploitation.
- CAA is provided by specialised NGOs which receive financing – in part – from the governments. Their target groups are either defined within the limits set by the governmental programmes or policies, or they provide services to a broader group.

- Categorical shelters are an important component of CAA. However, CAA offers more than just 'a roof over the head'; it consists of a wide range of services from emergency shelters providing immediate protection and assistance, to ambulatory services for victims of THB. This pattern is parallel to the organisation of shelters and assistance for women who are victims of various forms of violence in the Netherlands (Lünneman et al. 2000), as well as in other countries (Appelt et al., 2004; UN, 2006).
- CAA consists of professional assistance aimed at the specific needs of victims of THB as a group, but is also individually tailored. It offers, among others consultation services, legal assistance (including during the criminal proceedings), and activities towards social and economic inclusion, such as training/education programs, language courses and assistance in finding jobs and independent accommodation. The fact that there is no set formula for how to give assistance to victims of THB is recognised in the literature. Surtees (2007) states that victims and their experiences are as distinct as their needs. According to her, considering each case as unique and responding on an individual case-by-case basis is the only way to accommodate this diversity and complexity.
- To provide professional and individually tailored assistance, NGOs co-operate with other specialised NGOs but, for the provision of services in which they are not specialised, they co-operate with other non-governmental or governmental organisations.
- CAA aims at *continuity* of assistance; it is meant for the assistance of victims through different phases, starting from initial emergency care, to longer term care, support during the criminal proceedings, and possible voluntary return or permanent stay. During these different phases victims are usually assisted by the same NGO, but in the process they are sometimes referred or transferred to other NGOs for specific purposes.
- Ambulatory assistance is meant not only for victims who have already left the shelter but also for those who do not – wish to or need to- stay at the shelters at all. If certain groups (e.g. nationals because of practical and cultural reasons and mothers with children because of lack of suitable services) are placed in non-categorical shelters, they still receive ambulatory assistance from the specialised NGOs providing CAA.
- The overall aim of NGOs providing CAA is to support the empowerment of the victims of THB and improve their autonomy.

To implement CAA, the interviewed NGOs sometimes use differing means, working methods, and 'philosophies' behind these working-methods. Additionally they employ various security measures, and strategies to deal with the bottlenecks they face. In spite of differences in implementation, representatives of these NGOs and government officials identified more or less the same advantages (specialised assistance and better security tailored to the needs of this specific group of victims, and emotional and psychological support among the victims themselves which might lead to increased motivation to press charges against the traffickers) and disadvantages of CAA (unused capacity, higher costs, postponement of social interaction with other groups, risk of stereo-typing among service providers) based on their experiences. However, views on one important assumed advantage of categorical shelters, namely better security, seem to be differentiated.

Providing safe accommodation and/or specialised assistance to victims of THB, who are in need of support, can be regarded as the heart of the services provided for this group. The form through which these services should be provided to achieve the best results for victims in need is not an easy question to answer. On the one hand, it is argued that group-specific specialised assistance (CAA) offers a remedy for the bottlenecks in the assistance to victims of THB, on the other hand, there are advocates of accommodating and assisting this group together – *where and if possible* –

with victims of domestic violence, with the assumption that the background, experiences and needs of the two groups are similar (e.g. Surtees & Somach, 2008; Warnath, 2007). In addition, difficulties in funding are considered to be a reason for offering services to both groups of victims (e.g. Warnath, 2007). A comparison between the implementation of CAA and non-CAA, including the opinions of victims of THB regarding these two different forms, was beyond the scope of this study. There is some evidence that if the organisation or features of the assistance are not suited to the victims' needs, they may decline assistance (e.g. Brunovskis & Surtees, 2007; Kootstra & Commandeur, 2005). For example, some victims are unwilling to enter trafficking specific assistance because they want to distance themselves from the trafficking experience (Brunovskis and Surtees, 2007). Some female victims also prefer to receive vocational training in heterogeneous groups instead of in a group of only trafficked women (Kootstra & Commandeur, 2005). Similarly, there is evidence that if there is no scope for earning an income while receiving assistance, victims may not be able to accept assistance, or if the provision of assistance is centralised at a shelter or day centre where education or training is provided, some victims may not be able to attend the activities because of other obligations, such as work or care responsibilities within the family (Brunovskis & Surtees, 2007). It is evident that there is a lot of scope for future research to explore in which form – CAA or non-CAA – the assistance to the victims of THB should be organised and implemented to achieve its goals, and whether this is context dependent. The here presented description of the various 'ingredients' of the organisation and implementation of CAA in different European countries, the reasons for the choice of certain ingredients, the bottlenecks encountered and the perceived advantages and disadvantages of CAA represent a first step on the route to discovering the most successful 'recipe'.

Samenvatting

Categorale opvang voor slachtoffers van mensenhandel in vier Europese landen

Achtergrond en doel van het onderzoek

Het tekort aan adequate en passende opvangmogelijkheden voor slachtoffers van mensenhandel staat in Nederland al een aantal jaren op de beleidsagenda. Tot voor kort, werden vrouwelijke slachtoffers van mensenhandel meestal gehuisvest in vrouwenopvang; mannen meestal in daklozenopvang of maatschappelijke opvang. Er waren signalen dat deze opvangvormen niet aan de specifieke behoeften van deze groep slachtoffers tegemoet konden komen (bijv. wegens gebrek aan gespecialiseerde hulp en voldoende veiligheidsmaatregelen). (NRM, 2009; 2010; Ministerie van VWS 2010). In juni 2010 is de Nederlandse overheid een pilot project gestart met categorale opvang van volwassen slachtoffers van mensenhandel, ongeacht hun nationaliteit en de sectoren van uitbuiting. Het project loopt tot eind 2014.

Het doel van het onderhavige onderzoek is om de kennis en ervaringen die andere Europese landen hebben opgebouwd met betrekking tot categorale opvang voor volwassen slachtoffers van mensenhandel in kaart te brengen en een beschrijving te geven van de organisatie en implementatie van deze vorm van opvang, de ervaren knelpunten en de eventuele oplossingen hiervoor, en de voor- en nadelen van categorale opvang in deze landen. Het onderzoek kan input leveren voor de verdere implementatie van categorale opvang in Nederland. Vier landen zijn geselecteerd: België, Tsjechië, Italië en Spanje. Deze landen werden gekozen met het oog op verscheidenheid wat betreft de organisatie en implementatie van categorale opvang, de vergelijkbaarheid met Nederland (alle landen zijn doorgangs- en bestemmingslanden voor slachtoffers van mensenhandel) en met de Nederlandse pilot m.b.t. categorale opvang (een brede doelgroep).

Onderzoeksvragen en methode

De drie centrale onderzoeksvragen in dit onderzoek zijn:

- 1 Wat zijn de doelen van categorale opvang voor slachtoffers van mensenhandel in de geselecteerde EU landen en wat is de doelgroep?
- 2 Hoe is de categorale opvang voor slachtoffers van mensenhandel georganiseerd en geïmplementeerd in de geselecteerde landen? Zijn er knelpunten?
- 3 Wat zijn de voor- en nadelen van de categorale opvang voor slachtoffers van mensenhandel volgens de betrokkenen?

Om de bovenstaande onderzoeksvragen te beantwoorden, zijn de volgende methoden gehanteerd:

- literatuuronderzoek;
- interviews met 22 vertegenwoordigers van ministeries, gespecialiseerde NGO's die slachtoffers van mensenhandel van categorale opvang voorzien, en met vertegenwoordigers van andere betrokken instellingen in de geselecteerde landen; daarnaast verleenden vijf vertegenwoordigers van deze organisaties schriftelijk medewerking aan het onderzoek.

In België en Tsjechië zijn vertegenwoordigers van alle gespecialiseerde NGO's die categorale opvang verlenen geïnterviewd (respectievelijk drie en twee NGO's en res-

pectivelijk drie opvanghuizen). In Italië zijn vertegenwoordigers van twee Italiaanse NGO's (die respectievelijk twee en zes opvanghuizen hebben) en in Spanje vertegenwoordigers van één NGO (met drie opvanghuizen) geïnterviewd. Gezien het grote aantal NGO's in Italië en Spanje dat categorale opvang verleent aan slachtoffers van mensenhandel, is het mogelijk dat de onderzoeksresultaten niet alle variaties in de implementatie van deze vorm van opvang in deze twee landen bestrijken.

Resultaten

In alle vier landen is er overheidsbeleid om slachtoffers van mensenhandel te beschermen en te begeleiden waarbij de implementatie van categorale opvang voor deze groep is overgelaten aan de gespecialiseerde NGO's. Hieronder worden de resultaten van het onderzoek per land samengevat. Tabel S1 geeft een overzicht van enkele belangrijke kenmerken van de organisatie en implementatie van categorale opvang in deze landen.

België

Achtergrondinformatie

België is een doorgangs- en bestemmingsland voor vrouwen en mannen die slachtoffer zijn van mensenhandel, voornamelijk van uitbuiting in de seksindustrie en andere economische sectoren. Nationale wetgeving inzake de bescherming en begeleiding van slachtoffers van mensenhandel stamt uit de jaren 1990; de implementatie van een multidisciplinaire samenwerkingsaanpak betreffende bescherming en hulp aan slachtoffers wordt gereguleerd door de Omzendbrief van 26 september 2008 (die is gerelateerd aan de wet van 10 augustus 2005). Drie gespecialiseerde NGO's verlenen categorale opvang aan slachtoffers van mensenhandel: Pag-Asa (Brussel), Payoke (Vlaanderen), en Sürya (Wallonië). Deze NGO's hebben op een aantal punten een autonome positie (bijvoorbeeld met betrekking tot het aanvragen van bedenktijd voor de slachtoffers of het beoordelen van de vraag of de slachtoffers hun banden met de handelaren hebben verbroken).

Bedenktijd en voorwaardelijkheid van hulp en tijdelijke verblijfsvergunning

In België wordt slachtoffers van mensenhandel een bedenktijd van 45 dagen aangeboden waarin ze kunnen beslissen of zij een aanklacht in willen dienen tegen hun handelaren; verlenging is niet mogelijk. Identificatie door de politie is geen voorwaarde om bedenktijd te verkrijgen; de drie gespecialiseerde NGO's kunnen zelf een reflectieperiode aanvragen. Dit is een uniek aspect van het Belgische systeem. Tijdens de bedenktijd hebben slachtoffers recht op bescherming en kunnen zij in de opvanghuizen van een van de drie NGO's verblijven. Slachtoffers die willen samenwerken met politie en justitie en ermee instemmen begeleiding te krijgen van een van de drie gespecialiseerde NGO's (waarbij verblijf in de opvang niet noodzakelijk is) krijgen de speciale status 'slachtoffer van mensenhandel'. Hen wordt een tijdelijke verblijfsvergunning toegekend, aanvankelijk voor drie maanden, met de mogelijkheid tot verlenging voor nogmaals drie maanden (er is op dit punt geen verschil tussen EU onderdanen en derdelanders). Daarna kan hun verblijf telkens met zes maanden verlengd worden, afhankelijk van de voortgang van het onderzoek; deze verlenging kan herhaaldelijk verlengd worden met zes maanden, tot de strafrechtelijke procedure is beëindigd. De tijdelijke verblijfsvergunning kan worden beëindigd, bijvoorbeeld als slachtoffers besluiten te stoppen met de samenwerking met politie en justitie. Slachtoffers van mensenhandel kunnen een permanente verblijfsvergunning krijgen onder bepaalde voorwaarden.

Doelen en doelgroep van categorale opvang

Het doel van de Belgische overheid bij het verstrekken van categorale opvang voor slachtoffers van mensenhandel is hen voorzien van een 'veilige haven' en hen stimuleren om samen te werken met politie en justitie. De formulering van verdere doelen is overgelaten aan de NGO's; de drie gespecialiseerde NGO's hebben onderling vergelijkbare doelen: 'empowerment' van de slachtoffers, hen 'ondersteunen in het overwinnen van hun uitbuitingsverleden' en hen 'helpen bij het maken van keuzes voor de toekomst' (bijvoorbeeld wat betreft het doen van aangifte tegen hun handelaren, of terugkeer naar het land van herkomst).

Categorale opvang is bedoeld voor volwassen slachtoffers van mensenhandel, ongeacht nationaliteit, geslacht, en de aard van uitbuiting. Slachtoffers met kinderen en Belgische slachtoffers worden meestal doorverwezen naar niet-categorale opvang, maar ontvangen wel ambulante zorg van een van de drie bovengenoemde NGO's.

Organisatie en implementatie van categorale opvang

— Categorale opvanghuizen

Pag-Asa en Sürya hebben elk één categoriaal opvanghuis (losstaande gebouwen) waarin mannen en vrouwen samen worden gehuisvest, maar wel in aparte kamers. De opvanghuizen bieden ieder plaats aan 16 slachtoffers. Deze twee NGO's hebben ook enkele appartementen waar slachtoffers, die het opvanghuis moesten verlaten maar nog niet afdoende zelfstandig worden geacht gehuisvest kunnen worden.

Payoke beschikte tot 2011 alleen over categorale opvang voor vrouwen (tien plaatsen). Toen startte de organisatie een categoriaal opvanghuis waar vrouwen en mannen in verschillende vleugels worden gehuisvest. De NGO's beschouwen een 'gemengd' opvanghuis als 'gezond', omdat dit de werkelijkheid in de samenleving weerspiegelt en het een goede optie is voor het huisvesten van gezinnen. Bovendien, wordt aparte opvang voor beide geslachten als onpraktisch gezien vanwege de onvoorspelbaarheid van de man/vrouw ratio van de te huisvesten slachtoffers. De verblijfsduur in de opvang is meestal tussen drie tot zes maanden. Alle opvanghuizen hebben geheime adressen; het zijn 'open' opvanghuizen met een avondklok. Een scala aan maatregelen wordt genomen om de veiligheid van de slachtoffers zowel als van het personeel te bewaken (bijvoorbeeld slachtoffers mogen gedurende de eerste dagen van hun verblijf de opvang niet verlaten, en toezicht in de opvang).

— Soort hulpverlening

Alle drie de NGO's voorzien in hulp op maat: psychosociale, medische en administratieve hulp en rechtshulp (inclusief assistentie tijdens het strafproces en bij schadevergoedingsclaims). Bovendien wordt hulp verleend om de integratie van de slachtoffers te bevorderen, bijvoorbeeld door het aanbieden van taalcursussen en trainingen, en het helpen bij het vinden van werk en zelfstandige woonruimte. In Vlaanderen zijn slachtoffers uit derde landen verplicht een inburgeringscursus te volgen. Nadat de slachtoffers de opvang hebben verlaten, ontvangen zij – afhankelijk van de rechterlijke procedure – ambulante hulp van de NGOs. Slachtoffers die terug willen naar het land van herkomst worden meestal verwezen naar de Internationale Organisatie voor Migratie (IOM).

— Knelpunten

Volgens de respondenten, vormen de volgende zaken knelpunten in de uitvoering van categorale opvang²⁰⁸: problemen gerelateerd aan de samenwerking met derde partijen, de autonome positie van de drie NGO's, en het huisvesten van slachtoffers

²⁰⁸ De knelpunten die genoemd zijn, zijn echter niet noodzakelijkerwijs typisch voor categorale opvang. Dit geldt ook voor de knelpunten die genoemd zijn door de respondenten uit andere landen.

met verschillende nationaliteiten en godsdiensten in dezelfde opvang. Het laatstgenoemde punt wordt echter door sommige respondenten juist gezien als een voordeel van categorale opvang (zie hieronder).

Voor- en nadelen van categorale opvang

De Belgische respondenten beschouwen de volgende punten als voordelen van categorale opvang voor slachtoffers van mensenhandel: gespecialiseerde begeleiding, een veilige omgeving voor de slachtoffers (de meningen verschillen echter over dit onderwerp, zie hieronder), soortgelijke problemen onder en gevoelens van solidariteit tussen de slachtoffers (wat tot een grotere aangiftebereidheid kan leiden), huiselijke sfeer in de opvanghuizen en dat het plaatsen van slachtoffers met verschillende nationaliteiten en met verschillende achtergronden in uitbuiting een weerspiegeling van de samenleving is. Als nadelen van de categorale opvang worden genoemd: de tendens van de slachtoffers om in dezelfde kring te blijven, mogelijke spanningen tussen de slachtoffers vanwege de verschillen in uitbuitiesachtergrond, de noodzakelijkheid om relatief vaker tolken in te zetten wegens de gespecialiseerde hulpverlening, met als gevolg een mogelijk gebrek aan vertrouwen tussen de slachtoffers en hun begeleiders, en tot slot potentiële veiligheidsrisico's door alle slachtoffers van mensenhandel bij elkaar te plaatsen.

Tsjechië

Achtergrondinformatie

Tsjechië is een herkomst-, doorvoer- en bestemmingsland voor mannen en vrouwen die slachtoffer zijn van mensenhandel, vooral van uitbuiting in de seksindustrie en andere economische sectoren. Sinds 2003 implementeert het Ministerie van Binnenlandse Zaken het 'Programma voor de Steun en Bescherming van Slachtoffers van Mensenhandel' uit (het Programma) dat bestemd is voor door de politie geïdentificeerde (vermeende) slachtoffers van mensenhandel, ongeacht hun nationaliteit. In het kader van het Programma worden opvang en hulp geboden aan de slachtoffers via drie gespecialiseerde NGO's; twee van deze (La Strada CR en Diaconia CNPS) voorzien in categorale opvang.

Bedenktijd en voorwaardelijkheid van hulp en tijdelijke verblijfsvergunning

Aan slachtoffers die aanvankelijk instemmen met het participeren aan het Programma wordt een bedenktijd aangeboden van 60 dagen; deze kan verlengd worden onder strikte voorwaarden. Tsjechische slachtoffers die in het buitenland zijn uitgebuit en terug willen keren naar Tsjechië en die in het eigen land zijn verhandeld, kunnen ook gebruik maken van de bedenktijd om te beslissen of zij aangifte willen doen tegen hun handelaren en aan het Programma willen deelnemen. Gedurende de bedenktijd kunnen de slachtoffers in de opvang van de gespecialiseerde NGO's verblijven, en krijgen ze 'basis hulp' (medische, psychologische en sociale hulp). Deelnemers van het Programma uit derde landen die meewerken met politie en justitie, verkrijgen een tijdelijke verblijfsvergunning (voor zes maanden; de verlengingsmogelijkheden zijn afhankelijk van de duur van de samenwerking met politie en justitie). Alle deelnemers van het Programma moeten accepteren, zowel tijdens als na de bedenktijd, dat ze ten minste ambulante hulp krijgen van de gespecialiseerde NGO's. De verblijfsvergunning wordt, onder andere, beëindigd als de persoon besluit te stoppen met de samenwerking met politie en justitie. Slachtoffers van mensenhandel kunnen een permanent verblijf krijgen onder strikte voorwaarden.

Doelen en de doelgroep van categorale opvang

Het Programma (dat voorziet in zowel categorale opvang als niet-categorale opvang voor slachtoffers van mensenhandel) beoogt volwassen slachtoffers van mensenhandel te beschermen en te begeleiden, hen te motiveren mee te werken met politie

en justitie, en te bemiddelen bij vrijwillige terugkeer naar het herkomstland. De gespecialiseerde NGO's hebben als doel emancipatie en empowerment van de slachtoffers, en hun integratie in de samenleving onder andere door zelfstandig wonen en participatie op de arbeidsmarkt zonder uitbuiting. Slachtoffers van mensenhandel, ongeacht hun nationaliteit, geslacht of aard van uitbuiting, behoren tot de doelgroep. De twee NGO's bieden ook categorale opvang aan slachtoffers die niet – willen – deelnemen aan het Programma en aan potentiële slachtoffers (zij die – ernstig – risico lopen slachtoffer te worden). Volwassenen met kinderen worden ofwel niet-categoriaal opgevangen door een andere gespecialiseerde NGO of worden in andere vormen van opvang gehuisvest.

Organisatie en implementatie van categorale opvang

– Categorale opvanghuizen

La Strada beheert twee categorale opvanghuizen voor volwassen slachtoffers, een locatie met vijf bedden voor vrouwen en de ander met twee bedden voor mannen. Diaconia heeft een opvanghuis voor alleen mannen (vijf bedden), maar verleent ook ambulante hulp aan vrouwelijke slachtoffers. Alle drie de opvanghuizen zijn particulier gehuurde appartementen. De eerste fase van het verblijf in de opvanghuizen is gericht op crisishulp, te beginnen met een week. In de tweede fase wordt huisvesting voor zes maanden aangeboden. In beide fasen kan de duur van het verblijf verlengd worden wegens individuele behoeften van de slachtoffers. De maximale verblijfsduur is een jaar. Alle opvanghuizen bevinden zich op een geheim adres. Zij zijn 'open' van aard zonder avondklok, maar de NGO's nemen verschillende veiligheidsmaatregelen (bijvoorbeeld individuele veiligheidstraining).

– Soort hulpverlening

Beide NGO's verlenen materiële hulp, en sociale en juridische assistentie op maat. Zij bieden o.a. beroepstraining en taalcursussen, en helpen slachtoffers bij het zoeken naar werk en vervolghuisvesting. Juridische hulpverlening varieert van hulp bij het regelen van documenten tot hulp bij het eisen van schadevergoeding. Daarnaast wordt ondersteuning verleend wanneer het slachtoffer terug wil naar het land van herkomst. Binnen het kader van het Programma wordt hulp aangeboden tot het eind van het strafproces of tot het verkrijgen van een permanente verblijfsvergunning in Tsjechië. Deelnemers van het Programma kunnen gebruik maken van het Programma voor Vrijwillige Terugkeer. Beide NGO's assisteren soms hun cliënten ook na afloop van het strafproces. Deze organisaties verlenen ambulante zorg aan slachtoffers die het opvanghuis al verlaten hebben, of die geen gebruik willen maken van de opvang. Waar nodig werken de twee NGO's samen, met elkaar en met andere organisaties.

– Knelpunten

De Tsjechische respondenten zien de volgende knelpunten in de organisatie en uitvoering van categorale opvang: onvoldoende capaciteit voor het huisvesten van grote groepen slachtoffers en van slachtoffers met kinderen of minderjarigen, tegenstrijdige doelen van de gespecialiseerde NGO's en de overheid met betrekking tot het lange-termijn verblijf van slachtoffers in het land, problemen gerelateerd aan de huisvesting van slachtoffers van verschillende nationaliteiten of etnische groepen in hetzelfde opvanghuis (zoals taalproblemen en cultuurverschillen), problemen bij de samenwerking met derde partijen, de noodzaak om de opvanghuizen met regelmatige tussenpozen naar een andere locatie te verhuizen, onbekendheid van sommige slachtoffers met grote steden, financiële problemen en een soms laag aantal bewoners ten opzichte van het aantal personeelsleden.

Voor- en nadelen van categorale opvang

De Tsjechische respondenten vinden dat gespecialiseerde hulpverlening, grotere veiligheid en het bestaan van gelijksoortige problemen en solidariteitsgevoelens onder slachtoffers, voordelen van categorale opvang zijn. Bovendien wordt aangegeven dat kleinschalige Tsjechische categorale opvanghuizen meer mogelijkheden bieden om van locatie te wisselen als er veiligheidsrisico's zijn. Anderzijds wordt aangeduid dat categorale opvang duurder is dan niet-categorale opvang, en dat het moeilijk is deze te financieren. Daarnaast kunnen de categorale opvanghuizen soms leeg staan, omdat zij hulp verlenen aan een bepaalde doelgroep.

Italië

Achtergrondinformatie

Italië is een doorvoer- en bestemmingsland voor mannen en vrouwen die slachtoffer zijn van mensenhandel voor doeleinden van seksuele uitbuiting en uitbuiting in andere economische sectoren. Bescherming en hulp aan slachtoffers van mensenhandel worden geboden in de context van het zogenoemde Artikel 13 en Artikel 18 Programma (respectievelijk sinds 2003 en 1998). In het kader van deze programma's worden door NGO's uitgevoerde hulpverleningsprojecten voor slachtoffers gefinancierd. Het Departement van Gelijke Kansen plant en houdt toezicht op beide programma's. Het Artikel 13 Programma is bedoeld voor korte termijn bescherming van de slachtoffers, terwijl lange termijn hulp verleend wordt in het kader van het Artikel 18 Programma. In dit onderzoek wordt de implementatie van categorale opvang door twee Italiaanse NGO's, namelijk van Associazione On the Road (OTR) en Cooperativa Lotta contro l'Emarginazione (Coop Lotta) beschreven.

Bedenktijd en voorwaardelijkheid van hulp en tijdelijke verblijfsvergunning

In Italië is er geen formele bedenktijd; in de praktijk worden de projecten van het Artikel 13 Programma voor dit doel gebruikt. Deze projecten bieden bescherming en hulp aan slachtoffers van mensenhandel gedurende drie maanden (zonder een formele verblijfsvergunning), met de mogelijkheid tot verlenging van drie maanden. Slachtoffers ontvangen huisvesting, sociale- en medische hulp. Na afloop van dit Programma, kunnen slachtoffers die formeel zijn geïdentificeerd door de politie, assistentie verkrijgen onder het Artikel 18 Programma (voor zes maanden). Buitenlandse slachtoffers worden voorzien van een speciale tijdelijke verblijfsvergunning op humanitaire gronden (geldig voor zes maanden, met een mogelijkheid tot verlenging van een jaar, of een langere periode voor strafrechtelijke doelen). Voor een 'Artikel 18 verblijfsvergunning' is het doen van aangifte door de slachtoffers geen directe voorwaarde. Zij kunnen kiezen uit twee mogelijke opties: het 'gerechtelijke pad' waarbij slachtoffers aangifte moeten doen tegen de handelaren en het 'sociale pad' waarbij zij niet verplicht zijn aangifte te doen, maar wel worden geacht uitgebreide informatie aan de politie te geven.

Volgens verschillende bronnen wordt het sociale pad niet consistent toegepast in het hele land, omdat de wet verschillend wordt geïnterpreteerd. Bovendien melden respondenten van beide NGO's dat slachtoffers die het sociale pad volgen ook verplicht kunnen worden te getuigen in het strafproces. Alle slachtoffers met een 'Artikel 18 verblijfsvergunning' zijn verplicht deel te nemen aan een Artikel 18 integratieproject. Daarna kunnen zij in aanmerking komen voor een permanente verblijfsvergunning volgens de regels die voor alle migranten gelden.

Doelen en de doelgroep van categorale opvang

Het Artikel 13 Programma is bedoeld om direct korte termijn bescherming te bieden aan slachtoffers van mensenhandel. Het doel van het Artikel 18 Programma is sociale inclusie van de slachtoffers, inclusief arbeidsmarktparticipatie, en kan gericht zijn op Italië of op het land van herkomst, afhankelijk van de wensen van de slacht-

offers. In deze context zijn de projecten van OTR en Coop Lotta gericht op het stimuleren van de autonomie van de slachtoffers en hen te helpen hun verleden te boven te komen. Beide Programma's hebben als doelgroep minderjarige en volwassen slachtoffers van mensenhandel, ongeacht nationaliteit en aard van de uitbuiting. De doelgroep van zowel OTR als Coop Lotta bestaat uit volwassen mannelijke en vrouwelijke slachtoffers van mensenhandel. Hoewel Italiaanse slachtoffers tot de doelgroep behoren, namen er in ieder geval tot eind 2011 nooit Italiaanse slachtoffers deel aan het Artikel 18 Programma.

Organisatie en implementatie van categorale opvang

— Categorale opvanghuizen

In Italië zijn er verschillende typen categorale opvanghuizen, afhankelijk van de fase van de verleende hulp, variërend van crisisopvang tot appartementen waar slachtoffers zelfstandig kunnen wonen. Coop Lotta heeft zes categorale opvanghuizen voor slachtoffers van mensenhandel in het noorden van Italië (Lombardije); drie appartementen voor vrouwen en drie voor mannen (in totaal elf plaatsen voor vrouwen en veertien voor mannen). Dit zijn zogenaamde 'tweede fase opvanghuizen' die gewoonlijk gebruikt worden voor slachtoffers die in een gevorderd stadium van hun integratieproject zijn, maar die, indien nodig, ook gebruikt kunnen worden voor kortdurende crisisopvang. OTR beheert twee opvanghuizen (een voor vrouwen, en een voor mannen) waarbij een combinatie van 'eerste fase hulp' (voor slachtoffers in het begin van hun integratieproject) en 'tweede fase hulp' aangeboden wordt. De vrouwenopvang bestaat uit een huis dat ruimte biedt voor negen vrouwen. De opvang voor mannen bestaat uit een appartement met ruimte voor vijf tot zes personen. Slachtoffers met kinderen worden verwezen naar niet-categoriale opvang. De verblijfsduur in de opvanghuizen is afhankelijk van de individuele behoeften van het slachtoffer; in de opvanghuizen van Coop Lotta varieert deze duur van een paar maanden tot een jaar, terwijl bij OTR huisvesting tot 18 maanden mogelijk is. Er zijn geen strikte veiligheidsmaatregelen in de opvanghuizen.

— Soorten hulpverlening

Beide NGO's geven medische, psychologische, sociale, administratieve en juridische hulp (inclusief voor schadevergoeding) op maat. Slachtoffers van mensenhandel in Italië hebben toegang tot het uniforme niveau van medische zorg binnen het Nationale Gezondheidszorg Systeem.

Omdat het Artikel 18 Programma gericht is op integratieprojecten voor slachtoffers van mensenhandel, bieden beide organisaties activiteiten aan om dit doel te bereiken, bijvoorbeeld taalcursussen, beroepstraining (eventueel op de werkplek), informatie over de Italiaanse samenleving, steun bij het opbouwen van sociale netwerken en participatie op de arbeidsmarkt. Hulp bij het vinden van zelfstandige woonruimte wordt gegeven op verschillende manieren, bijvoorbeeld door het financieren van de huur gedurende de eerste maanden. Hoewel er geen officiële follow-up procedure is na het voltooien van een integratieproject, kunnen slachtoffers als dat nog nodig is nog hulp krijgen van de NGO's.

Slachtoffers die terug willen naar het land van herkomst worden meestal verwezen naar de IOM die in Italië sinds 2001 een speciaal programma heeft voor deze doelgroep.

— Knelpunten

Tijdens de interviews werden de volgende knelpunten genoemd in de uitvoering van categorale opvang in Italië: gebrek aan adequate overheidsfinanciering om slachtoffers van mensenhandel te kunnen identificeren en voldoende zorg aan te kunnen bieden, gebrek aan financiële middelen bij NGO's om vooral voor jongere slachtoffers sociale projecten uit te voeren, het moeilijk werk kunnen vinden voor

de slachtoffers sinds de economische crisis, en gebrek aan capaciteit in de opvanghuizen.

Voor- en nadelen van categorale opvang

Volgens de Italiaanse respondenten, lopen slachtoffers van mensenhandel in categorale opvanghuizen een kleinere kans gestigmatiseerd worden dan in niet-categorale opvanghuizen (meningen hierover verschillen echter, zie onder, Spanje). Mogelijke spanningen als gevolg van taal- en cultuurverschillen, doordat verschillende nationaliteiten gehuisvest worden in hetzelfde opvanghuis, worden als een nadeel gezien; dit probleem kan echter ook gelden voor niet-categorale opvang.

Spanje

Achtergrondinformatie

Spanje is een doorvoer- en bestemmingsland voor mannen en vrouwen die slachtoffers zijn van mensenhandel (uitbuiting in de seksindustrie en overige economische sectoren). Een overgrote meerderheid van de geïdentificeerde slachtoffers is vrouw. Sinds 2009 wordt de bescherming en hulp aan slachtoffers van mensenhandel geregeld volgens de 'Organieke' Wet 2/2009 die wijzigingen doorvoerde in de 'Organieke' Wet 4/2000. De richtlijnen voor de implementatie zijn vastgesteld in het 'Koninklijk Besluit' 557/2011 en het Kaderprotocol voor de bescherming van slachtoffers van mensenhandel (vastgesteld op 28 oktober 2011).

Als gevolg van de recente veranderingen blijkt er onduidelijkheid te bestaan onder de betrokken partijen zoals de politie, ministeries en NGO's over de praktische uitwerking van de regelgeving. Ongeveer 20 NGO's verlenen categorale opvang in het land, vooral voor vrouwelijke slachtoffers die seksueel zijn uitgebuit. Proyecto Esperanza (PE) is opgenomen in dit onderzoek omdat het als enige categorale opvang verleent niet alleen aan volwassen vrouwelijke slachtoffers van mensenhandel die uitgebuit zijn in de seksindustrie maar ook aan hen die zijn uitgebuit in overige economische sectoren.

Bedenktijd en voorwaardelijkheid van hulp en tijdelijke verblijfsvergunning

In Spanje wordt slachtoffers van mensenhandel een bedenktijd van minimaal 30 dagen aangeboden; zij moeten voordien echter formeel geïdentificeerd zijn door de politie als vermoedelijk slachtoffer. Over de mogelijkheid tot verlenging wordt per geval beslist. Volgens verschillende respondenten is de implementatie van de bedenktijd niet optimaal. Samenwerking met de politie is een eerste vereiste om een tijdelijke verblijfsvergunning te verkrijgen, maar niet voor categorale opvang verleend door NGO's. Volgens de Spaanse wet, kan aan slachtoffers ook tijdelijk verblijf verleend worden op basis van persoonlijke omstandigheden (bijvoorbeeld veiligheidsoverwegingen, gezondheidstoestand of gezinssituatie), maar dit gebeurt in de praktijk zelden. De tijdelijke verblijfsvergunning is een jaar geldig en kan jaarlijks verlengd worden totdat een lange termijn vergunning verleend wordt voor de duur van vijf jaar. Slachtoffers die gedurende vijf jaar onafgebroken in Spanje hebben gewoond, kunnen een permanente verblijfsvergunning aanvragen.

Doelen en de doelgroep van categorale opvang

In Spanje financiert de overheid de NGO's die in categorale opvang voorzien en wordt het formuleren van de doelen aan de NGO's overgelaten. PE beoogt de autonomie en de sociale inclusie van slachtoffers te stimuleren. Voor dit doel biedt het verschillende soorten gespecialiseerde hulp om de integratie- of de vrijwillige terugkeerprocessen van degenen die respectievelijk in Spanje willen blijven of terug willen naar het land van herkomst te ondersteunen. Categorale opvang is vooral bedoeld voor vrouwen uitgebuit in de seksindustrie; sinds kort is er een pilot project gestart voor mannelijke slachtoffers. De doelgroep van PE bestaat uit vrouwelijke

slachtoffers ongeacht de sectoren waarin ze uitgebuit zijn; aan de Spaanse slachtoffers wordt echter zelden hulp verleend, omdat zij sporadisch geïdentificeerd en doorverwezen worden naar PE.

Organisatie en implementatie van categorale opvang

— Categorale opvanghuizen

PE verleent huisvesting aan slachtoffers van mensenhandel in drie opvanghuizen, afhankelijk van de fase van de verleende hulp: in een crisisopvanghuis, in een langetermijnopvanghuis, en in de zogenaamde doorgangsappartementen (bedoeld voor vrouwen die werken of studeren). In totaal heeft PE 19 beschikbare plaatsen; in de crisisopvang en in de langetermijnopvang is plaats voor zeven vrouwen. De twee doorgangsappartementen beschikken over respectievelijk twee en drie bedden. De opvanghuizen zijn in principe bedoeld voor alleenstaande vrouwen. Vrouwen met kinderen worden meestal voor maximaal twee weken in de crisisopvang gehuisvest; daarna worden zij verwezen naar een instantie die gespecialiseerde hulp verleend aan moeders en hun kinderen. De verblijfsduur in de opvanghuizen varieert afhankelijk van het type opvang: tussen 15 dagen en twee maanden in de crisisopvang, tussen zes maanden en een jaar in de langetermijnopvang, en tussen negen en twaalf maanden in de doorgangsappartementen. De opvanghuizen zijn gevestigd op geheime adressen. Er zijn relatief strikte maatregelen in de crisisopvanghuizen (bijvoorbeeld gesloten deuren, geen sleutels voor de slachtoffers, veiligheidscamera's, 24-uurs assistentie), terwijl vrouwen in de overige opvanghuizen geleidelijk meer zelfstandigheid krijgen.

— Soorten hulpverlening

PE verleent zorg op maat, namelijk administratieve, juridische (inclusief bij eisen tot schadevergoeding), psychologische en medische hulp, alsmede assistentie gericht op de integratie van de slachtoffers (bijvoorbeeld taalcursussen, training, onderwijs, hulp gericht op toegang tot onderwijs en arbeidsmarkt, inclusief vaardigheidstraining voor het zoeken naar werk). Volgens de Spaanse wetgeving hebben de slachtoffers van mensenhandel ongeacht hun verblijfsstatus recht op kosteloze rechtshulp en een tolk; in de praktijk blijkt de verlening hiervan echter niet optimaal te zijn. Hulp wordt gegeven aan hen die terug willen keren naar het land van herkomst (bijvoorbeeld voor het verkrijgen van de noodzakelijke reisdocumenten of door te bemiddelen tussen de slachtoffers en de IOM).

— Knelpunten

Knelpunten die zijn genoemd in de implementatie van categorale opvang zijn: gebrek aan capaciteit in de opvanghuizen in geval dat grote aantallen slachtoffers tegelijkertijd worden geïdentificeerd en barrières bij de integratie van slachtoffers (bijvoorbeeld bij het vinden van werk) vanwege de huidige economische crisis.

Voor- en nadelen van categorale opvang

Door de Spaanse respondenten wordt gespecialiseerde hulp op maat beschouwd als een voordeel van categorale opvang. Een eventueel uitstel in het herstelproces van de al zittende inwoners die hun trauma's opnieuw kunnen beleven als er nieuwe slachtoffers in de opvang komen en de mogelijkheid dat in categorale opvang de hulpverleners focussen op slachtofferschap in plaats van op de capaciteiten van het slachtoffer, worden als nadelen van categorale opvang gezien.

Concluderende opmerkingen

Het onderhavige onderzoek voorziet in 'ingrediënten' voor de organisatie en implementatie van categorale opvang voor slachtoffers van mensenhandel, gebaseerd op de ervaringen in vier EU-landen. Door het ontbreken van onafhankelijke evaluatiestudies is het niet mogelijk om iets te zeggen over het meest succesvolle 'recept'. Er is behoefte aan toekomstig onderzoek om na te gaan in welke vorm – categoriaal dan wel niet-categoriaal – de opvang van slachtoffers van mensenhandel georganiseerd en geïmplementeerd zou moeten worden om gestelde doelen te bereiken, en of deze vorm context afhankelijk is.

Tabel S1 Organisatie en implementatie van categorale opvang voor slachtoffers mensenhandel in België, Tsjechië, Italië en Spanje

	Beleidsinstrument betreffende bescherming van & hulpverlening aan slachtoffers van mensenhandel	Categorale opvang verleend door	Bedenktijd	Voorwaarden voor tijdelijke verblijfsvergunning & hulpverlening	Algemene doelen van categorale opvang	Doelgroep van categorale opvang	Aantal, type & capaciteit van de categorale opvanghuizen	Duur van de categorale opvang	Soort hulpverlening	Veiligheidsaspecten
België	Wet van 10 augustus 2005; Omzendbrief 2008 Categorale opvang als standaard	3 gespecialiseerde NGO's: Payoke, Pag-Asa & Sürya	45 dagen Geen verlenging	<i>Verblijfsvergunning</i> Samenwerking met politie en justitie & Het accepteren van ten minste ambulante hulpverlening van een van de drie gespecialiseerde NGO's <i>Hulpverlening door de overheid & de NGO's</i> Dezelfde voorwaarden als die voor verblijfsvergunning	<i>De overheid</i> Het bieden van een 'veilige haven' aan slachtoffers Het stimuleren van samenwerking van slachtoffers met politie en justitie <i>De NGO's</i> Het bevorderen van empowerment van slachtoffers Dezelfde voorwaarden als die voor verblijfsvergunning m.b.t. het doen van aangifte en verblijfsstatus	<i>De overheid</i> Volwassen vrouwen en mannen Alle nationaliteiten Alle sectoren van uitbuiting <i>De NGO's</i> Dezelfde als die van de overheid; Belgische slachtoffers en kinderen worden meestal geplaatst in niet-categorale opvanghuizen maar krijgen ambulante hulp van de NGO's	3 'gemengde' opvanghuizen: 2 met 16 bedden, één met 10 bedden Vooral losstaande gebouwen; enkele appartementen	Verblijfsduur in de opvanghuizen verschilt per NGO (van 3 tot 6 maanden); verlenging is mogelijk in persoonlijke omstandigheden Ambulante hulpverlening tot het einde van het strafproces	Hulpverlening op maat Psycho-sociale & medische hulp Rechtshulp & administratieve hulp Hulp gericht op integratie Hulp bij vrijwillige terugkeer	'Open' opvanghuizen met avondklok

	Beleidsinstrument betreffende bescherming van & hulpverlening aan slachtoffers van mensenhandel	Categorale opvang verleend door	Bedenktijd	Voorwaarden voor tijdelijke verblijfsvergunning & hulpverlening	Algemene doelen van categorale opvang	Doelgroep van categorale opvang	Aantal, type & capaciteit van de categorale opvanghuizen	Duur van de categorale opvang	Soort hulpverlening	Veiligheidsaspecten
Tsjechië	Het Programma voor de Steun en Bescherming van Slachtoffers van Mensenhandel Categorale en niet-categorale opvang	2 gespecialiseerde NGOs: La Strada CR, Diaconia CNPS	Max. 60 dagen Verlenging mogelijk met max. 30 dagen onder strikte voorwaarden Alleen voor slachtoffers die er aanvankelijk mee instemmen deel te nemen aan het Programma	<i>Verblijfsvergunning</i> Deelname aan het Programma (degenen die door de politie geïdentificeerd zijn als een (vermeend) slachtoffer & na de bedenktijd uiteindelijk beslissen mee te werken met politie en justitie & accepteren ten minste ambulante hulp te krijgen van de gespecialiseerde NGOs) <i>Hulpverlening door de overheid</i> Het deelnemen aan het Programma NGO's Identificatie door de politie als een (vermeend) slachtoffer en samenwerking met politie en justitie zijn niet noodzakelijk	<i>De overheid</i> Het ondersteunen en helpen van slachtoffers van het delict mensenhandel Het stimuleren van samenwerking van slachtoffers met politie en justitie Bemiddelen voor vrijwillige terugkeer NGO's Het bevorderen van empowerment en sociale inclusie van slachtoffers	<i>De overheid</i> (het Programma, ook voor niet categorale opvang): Volwassen vrouwen en mannen Alle nationaliteiten Alle sectoren van uitbuiting NGO's Deelnemers & niet-deelnemers (zij die ernstig risico lopen slachtoffer van mensenhandel te worden & zij die niet mee willen werken met politie en justitie) aan het Programma: Volwassen vrouwen & mannen Alle nationaliteiten Alle sectoren van uitbuiting Slachtoffers met kinderen worden verwezen naar niet-categorale opvang	3 opvanghuizen: 2 voor mannen, met 2 en 5 bedden; één voor vrouwen, met 5 bedden Appartementen	Verblijfsduur in de opvanghuizen aanvankelijk voor 6 maanden; verlenging is mogelijk; maximale verblijfsduur is één jaar Assistentie door het Programma tot afloop van het strafproces of het verkrijgen van permanente verblijfsvergunning. Hulpverlening door de NGO's kan worden voortgezet na een strafproces	Hulpverlening op maat Sociale, medische and psychologische hulp Rechtshulp Hulp gericht op integratie Hulp bij vrijwillige terugkeer	Open opvanghuizen zonder avondklok

	Beleidsinstrument betreffende bescherming van & hulpverlening aan slachtoffers van mensenhandel	Categorale opvang verleend door	Bedenktijd	Voorwaarden voor tijdelijke verblijfsvergunning & hulpverlening	Algemene doelen van categorale opvang	Doelgroep van categorale opvang	Aantal, type & capaciteit van de categorale opvanghuizen	Duur van de categorale opvang	Soort hulpverlening	Veiligheidsaspecten
Italië	Artikel 13 en Artikel 18 Programma's Categorale opvang als standaard	Talrijke gespecialiseerde NGO's; in dit onderzoek: Associazione on The Road (OTR) & Cooperativa Lotta Contro l'Emarginazione (Coop Lotta)	Geen officiële reflectieperiode Het Artikel 13 Programma (3 maanden) functioneert in de praktijk als zodanig	<i>Verblijfsvergunning</i> Identificatie door de politie als slachtoffer mensenhandel & Deelname aan het Artikel 18 Programma (het doen van aangifte tegen de handelaren is niet verplicht) <i>Hulpverlening door de overheid en NGOs</i> Dezelfde voorwaarden als die voor verblijfsvergunning	<i>De overheid</i> (Artikel 18 Programma): Sociale inclusie van slachtoffers Volwassenen en minderjarigen Vrouwen en mannen Alle nationaliteiten Alle sectoren van uitbuiting <i>OTR & Coop Lotta</i> Dezelfde als de doelgroep van de overheid maar alleen volwassenen en slachtoffers zonder kinderen	<i>De overheid</i> Deelnemers aan Artikel 13 en Artikel 18 Programma's Volwassenen en minderjarigen Vrouwen en mannen Alle nationaliteiten Alle sectoren van uitbuiting <i>OTR & Coop Lotta</i> Dezelfde als de doelgroep van de overheid maar alleen volwassenen en slachtoffers zonder kinderen	<i>OTR & Coop Lotta</i> Acht opvanghuizen: 4 voor vrouwen en 4 voor mannen (in totaal 20 bedden voor vrouwen en 19 mannen) Appartementen & huizen	<i>OTR & Coop Lotta</i> Verblijfsduur verschilt per NGO (van 2 tot 18 maanden) Ambulante hulpverlening voor de duur van het persoonlijk 'integratieproject' in het kader van het Artikel 18 Programma	<i>OTR & Coop Lotta</i> Hulpverlening op maat Sociale, medische, and psychologische hulp Administratieve hulp & rechtshulp Hulp gericht op integratie Hulp bij vrijwillige terugkeer	<i>OTR & Coop Lotta</i> Open opvanghuizen zonder avondklok

	Beleidsinstrument betreffende bescherming van & hulpverlening aan slachtoffers van mensenhandel	Categorale opvang verleend door	Bedenktijd	Voorwaarden voor tijdelijke verblijfsvergunning & hulpverlening	Algemene doelen van categorale opvang	Doelgroep van categorale opvang	Aantal, type & capaciteit van de categorale opvanghuizen	Duur van de categorale opvang	Soort hulpverlening	Veiligheidsaspecten
Spanje	De 'Organieke Wet' 2/2009 die wijzigingen doorvoerde in de Organieke Wet 4/2000; Het Koninklijke Besluit 557/2011; het Kaderprotocol voor de Bescherming van Slachtoffers van Mensenhandel	Talrijke gespecialiseerde NGO's/centra/projecten; in dit onderzoek: Proyecto Esperanza (PE).	Minimum 30 dagen Mogelijke verlenging wordt per geval beslist	<i>Verblijfsvergunning</i> Samenwerking met politie en justitie of persoonlijke omstandigheden <i>Hulpverlening door de overheid</i> Geen specifieke voorwaarden <i>Hulpverlening door NGO's</i> Samenwerking met politie en justitie is niet noodzakelijk	<i>De overheid</i> De formulering van de doelen is overgelaten aan de NGO's <i>PE</i> Autonomie van slachtoffers Integratie in Spanje of hulp bij vrijwillige terugkeer	<i>De overheid & NGOs</i> Vooral volwassen vrouwen, recent een pilot project voor mannen Alle nationaliteiten In principe alle sectoren van uitbuiting, maar vooral uitbuiting in de seksindustrie <i>PE</i> Volwassen vrouwen Alle nationaliteiten Alle sectoren van uitbuiting Slachtoffers met kinderen worden verwezen naar niet-categorale opvang	<i>PE</i> Eén crisisopvang, één langetermijnopvang-huis (ieder met 7 bedden) en 2 appartementen voor het onafhankelijk wonen, respectievelijk met 2 en 3 bedden	<i>PE</i> Crisisopvang: 15 dagen tot 2 maanden; langetermijnopvang: 6 tot 12 maanden; appartementen: 9 tot 12 maanden Ambulante hulpverlening tot de slachtoffers 'voldoende onafhankelijk' zijn	<i>PE</i> Psychologische en medische hulp Rechtshulp Hulp gericht op integratie Hulp bij vrijwillige terugkeer	<i>PE</i> Crisisopvang eerste dagen met uitgaansverbod, langetermijnopvanghuizen en appartementen zonder avondklok

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Appendix 1 Supervisory Board

Chairwoman

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Faculty of Law, VU University Amsterdam

Members

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Faculty of Social and Behavioural Sciences,
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S.J.P. Snijder, LL M

La Strada International
then, Bureau Nationaal Rapporteur on
Trafficking on Human Beings

per 1-02-2012 replaced by

F.J. Noordhoff, Ph D

Bureau Nationaal Rapporteur on Trafficking
on Human Beings

L.M. Lemmer

Directorate Migration Policy, Ministry of the
Interior and Kingdom Relations

Appendix 2 Internal Review Board

Members

C.M. Klein Haarhuis, Ph D

Justice Administration, Legislation,
International and Aliens Affairs Division,
WODC

J.M.D. Schans, Ph D

Justice Administration, Legislation,
International and Aliens Affairs Division,
WODC

M.A. Verhoeven, MA

Crime, Law Enforcement and Sanctions
Division, WODC

Appendix 3 Provisions regarding accommodation and assistance in four international and European legal instruments, for adult victims of THB²⁰⁹

UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime (2000)

Article 2 Statement of purpose

The purposes of this Protocol are:

- a To prevent and combat trafficking in persons, paying particular attention to women and children;
- b To protect and assist the victims of such trafficking, with full respect for their human rights; and
- c (...)

Article 4 Scope of application

This Protocol shall apply, except as otherwise stated herein, to the prevention, investigation and prosecution of the offences established in accordance with article 5 of this Protocol, where those offences are transnational in nature and involve an organized criminal group, as well as to the protection of victims of such offences. (...)

II. Protection of victims of trafficking in persons

Article 6 Assistance to and protection of victims of trafficking in persons

- 1 (...)
- 2 Each State Party shall ensure that its domestic legal or administrative system contains measures that provide to victims of trafficking in persons, in appropriate cases:
 - a Information on relevant court and administrative proceedings;
 - b Assistance to enable their views and concerns to be presented and considered at appropriate stages of criminal proceedings against offenders, in a manner not prejudicial to the rights of the defence.
- 3 Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society, and, in particular, the provision of
 - a Appropriate housing;
 - b Counselling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand;
 - c Medical, psychological and material assistance; and
 - d Employment, educational and training opportunities.
- 4 Each State Party shall take into account, in applying the provisions of this article, the age, gender and special needs of victims of trafficking in persons, in particular the special needs of children, including appropriate housing, education and care.

²⁰⁹ Text focusing on issues other than accommodation and assistance, or specifically concerning children is left out in this overview.

- 5 Each State Party shall endeavour to provide for the physical safety of victims of trafficking in persons while they are within its territory.
- 6 Each State Party shall ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered.

Article 7 Status of victims of trafficking in persons in receiving States

- 1 In addition to taking measures pursuant to article 6 of this Protocol, each State Party shall consider adopting legislative or other appropriate measures that permit victims of trafficking in persons to remain in its territory, temporarily or permanently, in appropriate cases.
- 2 (...)

Explanatory report of the Council of Europe Convention on Action against Trafficking in Human Beings (...)

124. Chapter III contains provisions to protect and assist victims of trafficking in human beings. Some of the provisions in this chapter apply to all victims (articles 10, 11, 12, 15 and 16). Others apply specifically to victims unlawfully present in the receiving Party's territory (art. 13 and 14) or victims in a legal situation but with a short-term residence permit. In addition, some provisions also apply to persons not yet formally identified as victims but whom there are reasonable grounds for believing to be victims (art 10 (2), art. 12 (1 en 2) and art. 13).

(...)

Council of Europe Convention on Action against Trafficking in Human Beings (2005)

Article 1 – Purposes of the Convention

- 1 The purposes of the Convention are:
 - a to prevent and combat trafficking in human beings, while guaranteeing gender equality;
 - b to protect the human rights of the victims of trafficking, design a comprehensive framework for the protection and assistance of victims and witnesses, while guaranteeing gender equality, as well as to ensure effective investigation and prosecution;
 - c (...)
- 2 (...)

Art. 2 – Scope

This Convention shall apply to all forms of trafficking in human beings, whether national or transnational, whether or not connected with organised crime.

Chapter III Measures to protect and promote the rights of victims, guaranteeing gender equality

Art. 10 Identification of the victims

- 1 (...)
- 2 (...) Each Party shall ensure that, if the competent authorities have reasonable grounds to believe that a person has been victim of trafficking in human beings, that person shall not be removed from its territory until the identification process as victim of an offence provided for in article 18 of this Convention has been completed by the competent authorities and shall likewise ensure that the person receives the assistance provided for in Article 12, paragraphs 1 and 2.

Article 12 Assistance to victims

- 1 Each Party shall adopt such legislative or other measures as may be necessary to assist victims in their physical, psychological and social recovery. Such assistance shall include at least:
 - a standards of living capable of ensuring their subsistence, through such measures as: appropriate and secure accommodation, psychological and material assistance;
 - b access to emergency medical treatment;
 - c translation and interpretation services, when appropriate;
 - d counselling and information, in particular as regards their legal rights and the services available to them, in a language that they can understand;
 - e assistance to enable their rights and interests to be presented and considered at appropriate stages of criminal proceedings against offenders;
 - f (...)
- 2 Each Party shall take due account of the victim's safety and protection needs.
- 3 In addition, each Party shall provide necessary medical or other assistance to victims lawfully resident within its territory who do not have adequate resources and need such help.
- 4 Each Party shall adopt the rules under which victims lawfully resident within its territory shall be authorised to have access to the labour market, to vocational training and education.
- 5 (...)
- 6 Each party shall adopt such legislative or other measures as may be necessary to ensure that assistance to a victim is not made conditional on his or her willingness to act as a witness.
- 7 For the implementation of the provisions set out in this article, each Party shall ensure that services are provided on a consensual and informed basis, taking due account of the special needs of persons in a vulnerable position (...).

Article 13 – Recovery and reflection period

- 1 (...)
- 2 During this period, the persons referred to in paragraph 1 of this Article shall be entitled to the measures contained in Article 12, paragraphs 1 and 2.
- 3 (...)

Art. 15 Compensation and legal redress

- 1 Each Party shall ensure that victims have access, as from their first contact with the competent authorities, to information on relevant judicial and administrative proceedings in a language which they can understand.
- 2 Each Party shall provide, in its internal law, for the right to legal assistance and to free legal aid for victims under the conditions provided by its internal law.
- 3 Each Party shall provide, in its internal law, for the right of victims to compensation from the perpetrators.
- 4 Each Party shall adopt such legislative or other measures as may be necessary to guarantee compensation for victims in accordance with the conditions under its internal law, for instance through the establishment of a fund for victim compensation or measures or programmes aimed at social assistance and social integration of victims, which could be funded by the assets resulting from the application of measures provided in art. 23.

Art 16 Repatriation and return of victims

- (...)
- 5 Each Party shall adopt such legislative or other measures as may be necessary to establish repatriation programmes, involving relevant national or international institutions and non governmental organisations. These programmes aim at avoiding revictimization. Each Party should make its best effort to favour the reinte-

- gration of victims into the society of the State of return, including reintegration into the education system and the labour market, in particular through the acquisition and improvement of their professional skills. (...).
- 6 Each Party shall adopt such legislative or other measures as may be necessary to make available to victims, where appropriate in co-operation with any other Party concerned, contact information of structures that can assist them in the country where they are returned or repatriated, such as law enforcement offices, non-governmental organisations, legal professions able to provide counselling and social welfare agencies.
- 7 (...)
(...)

Directive 2011/36/EU on Preventing and Combating Trafficking in Human Beings and Protecting its Victims and Replacing Council Framework Decision on Combating Trafficking in Human Beings 2002/629/HA

Article 1 Subject matter

(...) It also introduces common provisions, taking into account the gender perspective, to strengthen the prevention of this crime and the protection of the victims thereof.

Article 11 Assistance and support for victims of trafficking in human beings

- 1 Member States shall take the necessary measures to ensure that assistance and support are provided to victims before, during and for an appropriate period of time after the conclusion of criminal proceedings in order to enable them to exercise the rights set out in Framework decision 2001/220/JHA, and in this Directive.
- 2 Member States shall take the necessary measures to ensure that a person is provided with assistance and support as soon as the competent authorities have a reasonable-grounds indication for believing that the person might have been subjected to any of the offences referred to in Articles 2 and 3.
- 3 Member States shall take the necessary measures to ensure that assistance and support for a victim are not made conditional on the victim's willingness to cooperate in the criminal investigation process, prosecution or trial, without prejudice to Directive 2004/81/EC or similar national rules.
- 4 Member States shall take the necessary measures to establish appropriate mechanisms aimed at the early identification of, assistance to and support for victims, in cooperation with relevant support organisations.
- 5 The assistance and support measures referred to in paragraphs 1 and 2 shall be provided on a consensual and informed basis, and shall include at least standards of living capable of ensuring victims' subsistence through measures such as the provision of appropriate and safe accommodation and material assistance, as well as necessary medical treatment, including psychological assistance, counselling and information, and translation and interpretation services where appropriate.
- 6 The information referred to in paragraph 5 shall cover, where relevant, information on a reflection and recovery period pursuant to Directive 2004/81/EC, and information on the possibility of granting international protection pursuant to Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted^(...) and Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status^(...) or pursuant to other international instruments or other similar national rules.

- 7 Member States shall attend to victims with special needs, where those needs derive, in particular, from whether they are pregnant, their health, a disability, a mental or psychological disorder they have, or a serious form of psychological, physical or sexual violence they have suffered.

Article 12 Protection of victims of trafficking in human beings in criminal investigations and proceedings

- 1 The protection measures referred to in this Article shall apply in addition to the rights set out in Framework Decision 2001/220/JHA.
- 2 Member States shall ensure that victims of trafficking in human beings have access without delay to legal counselling, and in accordance with the role of victims in the relevant justice system, to legal representation, including for the purpose of claiming compensation. Legal counselling and legal representation shall be free of charge where the victim does not have sufficient financial resources.

Article 17 Compensation to victims

Member States shall ensure that victims of trafficking in human beings have access to existing schemes of compensation to victims of violent crimes of intent.

(...)

Directive 2004/81/EC on the Residence Permit issued to Third-country Nationals who are Victims of Trafficking in Human Beings or who have been the Subject of an Action to Facilitate Illegal Immigration, who Cooperate with the Competent Authorities

Article 3 Scope

- 1 Member States shall apply this Directive to the third-country nationals who are, or have been, victims of offences related to the trafficking in human beings, even if they have illegally entered the territory of the Member States.
- 2 (...)
- 3 This Directive shall apply to the third-country nationals concerned having reached the age of majority set out by the law of the Member States concerned. By way of derogation, Member States may decide to apply this Directive to minors under the conditions laid down in their national law.

Article 5 Information given to the third-country nationals concerned

When the competent authorities of the Member States take the view that a third-country national may fall into the scope of this Directive, they shall inform the person concerned of the possibilities offered under this Directive.

Member States may decide that such information may also be provided by a non-governmental organisation or an association specifically appointed by the Member State concerned.

Article 6 Reflection period

- 1 (...)
- 2 During the reflection period and while awaiting the decision of the competent authorities, the third-country nationals concerned shall have access to the treatment referred to in Article 7 and it shall not be possible to enforce any expulsion order against them.
- 3 (...)
- 4 (...)

Article 7 Treatment granted before the issue of the residence permit

- 1 Member States shall ensure that the third-country-nationals concerned who do not have sufficient resources are granted standards of living capable of ensuring their subsistence and access to emergency medical treatment. They shall attend to the special needs of the most vulnerable, including, where appropriate and if provided by national law, psychological assistance.

- 2 Member States shall take due account of the safety and protection needs of the third-country nationals concerned when applying this Directive, in accordance with national law.
- 3 Member States shall provide the third-country nationals concerned, where appropriate, with translation and interpreting services.
- 4 Member States may provide the third country nationals concerned with free legal aid, if established and under the conditions set by national law.

Article 9 Treatment granted after the issue of the residence permit

- 1 Member States shall ensure that holders of a residence permit who do not have sufficient resources are granted at least the same treatment provided for in Article 7.
- 2 Member States shall provide necessary medical or other assistance to the third-country nationals concerned, who do not have sufficient resources and have special needs, such as pregnant women, the disabled or victims of sexual violence or other forms of violence (...).

Article 11 Work, vocational training and education

- 1 Member States shall define the rules under which holders of the residence permit shall be authorised to have access to the labour market, to vocational training and education.
Such access shall be limited to the duration of the residence permit.
- 2 The conditions and the procedures for authorizing access to the labour market, to vocational training and education shall be determined, under the national legislation, by the competent authorities.

Article 12 Programmes or schemes for the third-country nationals concerned

- 1 The third-country nationals concerned shall be granted access to existing programmes or schemes, provided by the Member States or by non-governmental organisations or associations which have specific agreements with the Member States, aimed at their recovery of a normal social life, including, where appropriate, courses designed to improve their professional skills, or preparation of their assisted return to the country of origin.
Member States may provide specific programmes or schemes for the third-country nationals concerned.
- 2 (...)
- (...)

Appendix 4 Overview of the respondents

Belgium (n=8)

- Two representatives from the Centre for Equal Opportunities and Opposition to Racism (*Centrum voor Gelijkheid van Kansen en Racismebestrijding- CGKR*). The CGKR is highly specialised in THB-matters in Belgium and closely associated with policy making concerning this topic.

Representatives of the only three specialised NGOs providing CAA in Belgium:

- three representatives from PAYOKE;
- two representatives from Pag-Asa;
- one representative from Sürya.

The Czech Republic (n=5)

- One representative from the Ministry of Interior, Crime Prevention Department. The governmental Programme for the protection and assistance of victims of THB is developed and implemented by this Department.

Representatives of the only two specialised NGOs providing CAA in the Czech Republic:

- two representatives from the NGO La Strada Czech Republic; one representative is interviewed; the other provided written information;
- two representatives from the NGO Diaconia Centre for Nationwide Programs and Services.

Italy (n=7)

- Two representatives from the Department of Equal Opportunities; one representative is interviewed; the other provided written information and comments on the draft version of the country-chapter.

Representatives of two specialised NGOs providing CAA:

- three representatives from Associazione On the Road;
- two representatives from Cooperative Lotta; one representative is interviewed, the other provided written answers to the questionnaire.

Spain (n=7)

- One representative from the Ministry of Health, Equality and Social Policy;
- one representative from the Ministry of Interior, The Public Administration Department;
- one representative from the Civil Guard (*Guardia Civil*) (written answers to the questionnaire);
- one representative from the Analysis and Risk Centre (*Jefe del Centro de Inteligencia y Análisis de Riesgos*) (written answers to the questionnaire);
- three representatives of Proyecto Esperanza, a project providing CAA in Spain.

Appendix 5 Overview Framework Decision 2002/-629/JHa and UN Convention against transnational organized crime

Framework decision 2002/629/JHA Verbatim text of definition of THB

art. 1: Offences concerning trafficking in human beings for the purpose of labour exploitation or sexual exploitation.

1 Each Member State shall take the necessary measures to ensure that the following acts are punishable:

the recruitment, transportation, transfer, harbouring, *subsequent reception of a person, including exchange or transfer of control over that person*, where (a) use is made of coercion, force or threat, including abduction or (b) use is made of deceit or fraud, or (c) there is an abuse of authority or a position of vulnerability, *which is such that the person has no real and acceptable alternative but to submit to the abuse involved*, or (d) payments or benefits are given to achieve the consent of a person having control over another person, a position of vulnerability, *which is such that the person has no real and acceptable alternative but to submit to the abuse involved* for the purpose of exploitation of that person's labour or services, including at least forced *or compulsory* labour or services, slavery or practices similar to slavery or servitude, or for the purpose of the exploitation of the prostitution of others or other forms of sexual exploitation, including in pornography.

Art. 1 (2) The consent of a victim of trafficking in human beings to the exploitation, *intended or actual*, shall be irrelevant where any of the means set forth in paragraph 1 have been used.