



Evaluation pilot project multidisciplinary committee advising on the victimhood of human trafficking

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- SUMMARY -

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Amsterdam, 10 September 2019
Publication no 17172

Summary

In this final chapter, we present the main findings of the research into the pilot project of the multidisciplinary committee advising on the victimhood of human trafficking. First, by way of a summary, we provide insight into the design and organisation of the pilot project, and the quantitative results achieved in terms of the number of applications and outcome of procedures (section 5.1). We then answer the more evaluative research questions that show how the pilot project works in practice based on the three overarching themes: accessibility, expertise, and the benefits/added value of the pilot project (section 5.2). We conclude this chapter with several suggestions for improvements if the pilot project is to be continued (section 5.3). A brief description of the research purpose and design follows below first.

Research purpose and design

This process evaluation aimed to investigate the extent to which the committee could assess the plausibility of victimhood of human trafficking and whether the committee's expert opinion would be of added value to the victim and other parties involved.

To arrive at a balanced assessment of the pilot project, an assessment framework was first drawn up with qualitative process standards for the accessibility and expertise of the committee and for the output/outcome achieved.

Various qualitative research methods were then used to answer the research questions, namely document studies, interviews with committee members and staff of the Criminal Injuries Compensation Fund (*Schadefonds Geweldsmisdrijven, SGM*) at the start of the pilot project and, towards the end, interviews with lawyers/representatives of the victims and, with the third parties involved – Immigration and Naturalisation Service (*Immigratie en Naturalisatiedienst, IND* and *SGM regular*) – a file study of 59 applications to the committee and analysis of the registration of all applications registered with the SGM.

After completing the data collection, a working session was organised with experts and those involved in the pilot project to discuss the research findings and preliminary conclusions. The future prospects for the committee were also discussed.

Organisation of the pilot project and quantitative results

The pilot project on multidisciplinary advising on the victimhood of human trafficking started on 1 January 2018. In this pilot project, carried out by the Criminal Injuries Compensation Fund (SGM), an independent committee issues an expert opinion on the plausibility of victimhood of human trafficking. The pilot project was accessible to victims whose report of human trafficking was followed by an acquittal, dismissal, or premature termination of the case on or after 1 January 2018. An exception was made for victims who are unable or unwilling to make a report because of a threat or medical/psychological impairment. A further condition was that the exploitation must have occurred in the Netherlands.

Organisation of the pilot project

The procedure consisted of several parts. The first step was for the potential victim to submit an application form. Initially, a period of no more than four weeks after the date of the decision not to prosecute (dismissal) or the judgment applied. The applicant could add the necessary information to the application or give the committee consent with authorisation forms to request the necessary information from various parties and care providers. The admissibility of the application was then assessed. The requirements for admissibility were adjusted over the course of the pilot project. In practice, a formal decision not to prosecute is often not taken, but a case is terminated prematurely. In the pilot project, a premature termination was equated to a dismissal. In most applications, the application therefore followed a premature termination. As it also transpired that the four-week submission deadline was not feasible, it was already decided during the pilot project to deal with this more flexibly. It was no longer necessary to submit a complete application within four weeks; a pro-forma application sufficed. Many applicants made use of this option.

An application was not accepted for processing if the formal requirements were not met, for example if the pro-forma application was not submitted within the four-week submission period or if the exploitation occurred entirely abroad. If the application was accepted for processing, a hearing took place. In preparation for the hearing, the committee members and legal assistants discussed the case during deliberations in chambers. After the hearing, the legal practitioners drew up a draft expert opinion that was deliberated again in chambers, after which a final decision was taken. The average length of the whole procedure (from submission of an application to final expert opinion) was 22 weeks. This was considerably longer than initially envisaged (submission period of four weeks and a decision period of ten weeks), but the length of the procedure was gradually shortened during the pilot project (to an average of twelve weeks after June 2018 plus eight weeks to issue an expert opinion). An applicant could arrange to be assisted by their own legal advisor for the entire period.

In general, the legal practitioners and committee members have had positive experiences with how the procedure was organised. However, various parts turned out to be more labour-intensive than assumed at the outset. This applies both to the efforts of the legal practitioners and the committee members. The time invested by the committee members was so great that it was disproportionate to the fee they received for their committee work. The legal practitioners also amply exceeded the hours they had been made available for the pilot project.

The preparation for the hearing and deliberations in chambers was the most labour-intensive for the committee members because they thoroughly examined all the necessary documents. Sometimes this needed to be done several times, because a lot of time passed between the different parts of the procedure, for example the preparation of a draft expert opinion after a hearing. Even the hearings themselves made more demands on the committee than was initially expected. In practice, the hearing turned out to be an essential part of the plausibility assessment to clarify any uncertainty in the file. Because of its importance and usefulness, each hearing was chaired by two committee members (instead of one). For the legal practitioners, elaborating the hearing report and preparing the draft expert opinion took the most time. Drawing up the expert opinions was an enormous effort for both the legal practitioners and the committee members, searching not only for the right tone and level of detail, but also struggling with how to express their belief in the plausibility of victimhood in words.

Feedback on victims' experience with the proceedings has been gathered through lawyers and other representatives. The picture emerging from this is that many victims found the hearing intense and emotional. However, all those involved are very appreciative of how the applicants were treated. Applicants were treated with respect, put at ease, and listened to with great patience and understanding. The SGM and the committee also took various measures to prevent secondary victimisation of victims. It was examined whether applicants were sufficiently stable to give evidence. Besides the authorised person, the applicant was free to bring other people to the hearing, for example a friend or counsellor. The questions asked related to their account of events, but the exploitation itself was not discussed in detail. Lastly, the negative expert opinions emphasised that the committee does not believe that there has been no victimhood, but that it does not have sufficient information to assess the plausibility of victimhood.

Quantitative results

During the pilot project (from 1 January 2018 to 31 December 2018), 81 applications were submitted to the committee: 64 female applicants and seventeen male applicants. Six applicants were minors, the rest were adults. Most applicants came from Africa (62). Only one of the applicants was a Dutch national. Most applicants were victims of sexual exploitation.

In total, 59 of the 81 applications were accepted for processing, four applications were withdrawn and eighteen applications were declared inadmissible. In respect of the withdrawn applications, the lawyer was no longer able to reach their client or the client was no longer willing to cooperate. The reasons for declaring the application inadmissible were an incomplete application (6), the human trafficking had occurred abroad (5), a pro-forma application was not submitted within four weeks of the

dismissal/acquittal and the period of delay was not justifiable (4), and the dismissal/acquittal occurred before 1 January 2018 (3).

In mid-April 2019, the committee issued an expert opinion in 44 applications: 32 positive and twelve negative. In the twelve cases in which the committee issued a negative expert opinion, the committee had to conclude that it did not have sufficient information to be able to assess the plausibility of victimhood. In doing so, the committee did not rule whether or not there had been victimhood, but that it had been unable to establish this. Fifteen applications were still pending before the committee in mid-April. These cases will all be completed before 1 July 2019.

Assessment of how the pilot project worked in practice

Qualitative indicators (process standards) have been drawn up for this process evaluation to form a picture of how the pilot project was implemented and worked in practice. These process standards relate to three themes: the accessibility of the pilot project, the expertise of the committee, and the added value of the pilot project for the various participants (output/outcome) (also see table 1.1 in Chapter 1). To form a picture of how the pilot project worked, the information collected from the various participants has been compiled and compared with each other. This produces the following qualitative picture on how the pilot project worked in relation to the above aspects.

Accessibility

The process standards relating to the accessibility of the pilot project concern how the field was informed of its existence and the accessibility of the pilot project for potential victims of human trafficking.

Communication

Before the start of the pilot project, the SGM informed relevant parties about its existence through various information channels (presentations, brochures, mailings, and the website). Potential victims and/or their lawyers were made aware of the existence of the committee in the Public Prosecution Service's letter/decision not to prosecute. The same applies to the IND in its letter confirming its intention to revoke the B8 permit. The parties in the field and representatives of applicants consider the provision of information to victims and/or their lawyers about the existence and procedure of the pilot project to be adequate. In relation to providing information, an important condition for accessibility has been amply met.

Accessibility for different target groups

Another important principle regarding accessibility is that vulnerable groups who are unable to report a crime because of serious threats or medical/psychological impairments, for example, must also be able to have recourse to the committee. The committee had the scope to deviate with reasons from the access requirement of making a report. No applications were submitted to the committee without a report during the pilot project. Although there is thus no formal barrier to access the committee if a potential victim is unable or unwilling to make a report, it is impossible to determine based on the research whether this specific group may have been unable to find their way to the committee for other reasons.

The definition of the pilot project's target group was intentionally broad: possible victims of human trafficking who have made a report and whose case has ended in acquittal, dismissal, or premature termination. The pilot project was explicitly intended for both foreign and Dutch victims of human trafficking. However, it was mainly foreign victims of human trafficking who had recourse to the committee during the pilot project. Only one Dutch victim submitted an application. Although Dutch victims have formal access to the pilot project, the added value of an expert opinion is not evident to this group (in terms of the facilities to which they could possibly have recourse).

Expertise

The process standards relating to the committee's expertise concern the available expertise in the committee, its independence, and how the committee has reached an opinion on the plausibility of victimhood.

Multidisciplinary nature

The SGM intended to establish a committee representing various disciplines, namely care/psychosocial support, investigation and prosecution, and science. The SGM largely succeeded in this. It established a team of people with years of experience in the field of human trafficking. The committee included investigators, prosecutors, and scientists, as well as a medical anthropologist. However, the SGM did not succeed in recruiting a psychologist/psychiatrist. The proposed candidates could not commit to the time needed for the committee alongside their regular work. The committee members viewed the lack of a psychologist or psychiatrist as a shortcoming, which prevented them, for example, from being able to better interpret inconsistent statements and the role that any trauma played in this regard.

With its combined expertise, the committee ultimately proved to be well-placed to give an opinion on the plausibility of victimhood. Due to its multidisciplinary nature, a case could be viewed from different angles. According to the committee members, this provided real added value for understanding a case, and in almost all cases the committee was able to reach a unanimous opinion on the plausibility of victimhood based on an exchange of substantive arguments that drew on the broad knowledge of the committee members.¹

Independence

The committee was able to assess the applications independently. The committee had access to various sources of information to form its opinion and ample opportunity to make its own assessment based on the available information and hearing. The committee was in possession of judicial records in all applications. Most applications were also accompanied by medical documentation/information. Residence permit documentation from the IND was also examined for some of the applications. The applicants also often provided other information, varying from a copy of a WhatsApp conversation to a photograph of a tattoo. In some cases, the committee made enquiries at parties itself, for example the judicial authorities or counsellors. This was important to develop more of a 'feeling' about a case.

With the exception of one member, the committee members had no involvement with applicants in their daily work practice. From this perspective, they therefore had no interest in the outcome of the procedure and the independence of the opinions was guaranteed. However, one of the committee members was a lawyer. Three of her clients submitted an application during the pilot project. This committee member excused herself from these applications. She had no access to the applications in the system and was not present during the deliberation in chambers. The other committee members were thus able to reach an independent opinion in these cases.

Opinion on the plausibility of victimhood

The applications that the committee receives are generally complex cases in which victimhood is not immediately obvious. The committee looks at these applications with an open mind and has not used a fixed assessment framework to assess the plausibility of victimhood.

Developing and applying an assessment framework was not part of the committee's remit, nor was it considered possible and desirable. According to the committee members, a fixed assessment framework would be counterproductive because hard criteria are not in keeping with a good qualitative and substantive assessment of complex cases. Although the committee grappled with this question, it concluded that a fixed assessment framework would impede the assessment. However, the committee

¹ This finding is in line with the experience gained in the United Kingdom with a pilot project (2015-2017) using multidisciplinary teams to assess the victimhood of human trafficking. An important conclusion from the evaluation of this pilot project is that the broad knowledge and experience of the panel members from different angles contributes towards forming a good opinion on the plausibility of victimhood (Ellis, Cooper & Roe, 2017, *An evaluation of the National Referral Mechanism pilot, Home Office*).

did verify whether it had consistently and routinely addressed the same aspects over time and across the board. That turned out to be true.

We have taken the expert opinions and distilled the grounds on which the committee considers victimhood plausible or implausible. We have reduced these grounds to four main categories based on which the committee has been able to form an opinion. In all cases, except one, the committee's opinion is based on a combination of grounds. This concerns the following categories:

- 1) The manner in which the victim made statements. For example, the applicant made detailed, consistent, or clear statements. The committee referred to this in almost all positive expert opinions. This was in fact the impression of the committee members who had chaired the hearing. The hearing was therefore very important for assessing plausibility.
- 2) Content of the statement. The content of the statement is in line with the expertise and knowledge of the committee members regarding, for example, human trafficking routes, modus operandi, the forms of coercion exercised, and the social context in the country of origin.
- 3) Documentation/information from judicial authorities. In a limited number of cases, the plausibility of victimhood followed partly from the judicial documentation, for example because the applicant had been found by the police in an actual exploitative situation, or because the public prosecutor had confirmed having no doubts about victimhood.
- 4) Documentation/information from counsellors/medical professionals. Lastly, in a large number of applications, the committee found support for plausibility in reports/statements by counsellors/medical professionals. However, this category is not undisputed because of the difficulty of demonstrating a causal nexus between psychological complaints on the one hand and human trafficking on the other. This information is always considered in combination with other grounds.

In cases where plausibility follows directly from judicial documentation, the committee itself states that it should not have to deal with these cases, because the victimhood is in fact undisputed. Even so, these cases were submitted to the committee during the pilot project.

Output/outcome

The output/outcome process standards refer to the added value of the expert opinions for victims and third parties ('users' of expert opinions).

Third parties

To the best of our knowledge, expert opinions during the research period were shared only with the IND and, to a limited extent, with the SGM. The expert opinions have therefore been used, in particular, for procedures relating to residence rights, thus giving the pilot project a narrower focus than initially envisaged. The initial idea was that expert opinions could also be used to gain access to specialist care and facilities in municipalities. This has not yet happened.

The policy of both the IND and SGM was to adopt the committee's opinion on the plausibility of victimhood during the pilot phase. However, although the IND did keep track of the cases in which an expert opinion had been requested during the pilot project, it nevertheless formed its own opinion of the plausibility of victimhood. In most cases, the IND's opinion on the plausibility of victimhood corresponded with the committee's opinion. This was not the case in four of the sixteen cases: the IND granted the B9 application three times because the committee considered the victimhood plausible, while the IND took a negative view of it; on one occasion, the committee took a negative view and the IND reached a positive opinion (based on other information). In this sense, the added value of the pilot project for the IND's procedures exists, but is limited.

Victims

The added value of the committee's opinions for potential victims is both intangible and tangible. It is intangible in the form of recognising their victimhood, which can help with the coping process. The 'healing effect' of the hearing, although emotionally stressful for the applicants, is also often referred to in this context. If the committee reaches a negative expert opinion, it states that it sees no possibility of

making a plausible case for victimhood based on the available information, not that it does not consider the victimhood to be plausible. The committee is careful in how it formulates these opinions.

At a tangible level, the positive expert opinions have added value for the purpose of applying for financial compensation for the suffering inflicted on the victim and for acquiring the right of residence (see above). A limited number of expert opinions were submitted to the SGM and proved to be decisive for the granting of financial compensation. The added value of the committee's opinions in other areas could not be established.

Future

Lastly, the research – taking into account all research results – had to be able to conclude whether it is possible to make a plausible case for victimhood of human trafficking, and whether adjustments are necessary or possible in the composition of the committee or design of the procedure.

With regard to the first point, we conclude that in many of the applications (almost three-quarters), the committee was able to make a plausible case for victimhood; out of 44 opinions, the committee found that victimhood was plausible in 32 cases. With the help of a multidisciplinary team of experts, we took an open-minded look at the applications and, based on various sources of information, found sufficient grounds to consider victimhood plausible.

However, this process evaluation and the expert session also revealed several priorities that are important for any structured continuation of the pilot project. This concerns particularly the following points:

➤ *Composition of the committee*

It is considered desirable to have a psychologist/psychiatrist serve on the committee. Particularly when interpreting inconsistent statements, knowledge about the consequences of trauma is desirable. The manner in which the victim made statements was an important reason why the committee could not reach an opinion about the plausibility of victimhood in almost half of the negative opinions. More knowledge about the effect of trauma could probably have contributed to a better interpretation of the submitted cases.

➤ *Financial preconditions*

The implementation of the pilot project proved to be much more intensive in practice than previously thought, both for the SGM employees and the committee members. The financial compensation is disproportionate to the time required to ensure that the applications are properly processed. Financial preconditions are an important priority for any structural continuation of the pilot project, including to find sufficient experts willing to serve on the committee.

➤ *More transparency about the assessment process*

Although the parties believe that a fixed assessment framework is not desirable (the committee's open and flexible approach is precisely its strength), there is a need, particularly from the perspective of health care/counselling, to gain more insight into the information based on which the committee forms its opinion. More insight into this aspect can contribute towards applicants and counsellors submitting better/more complete files.

➤ *Achieving added value in more areas*

It could be explored how the added value of the pilot project can be increased for Dutch victims of human trafficking and victims with legal residence. The added value of the expert report is namely less obvious to these victims because their right of residence is not at issue. From the low number of applications from this group, it would appear that the recognition of victimhood is not a sufficient reason for them to submit an application. Better identification of other areas in which an expert opinion could be used, and greater emphasis on this aspect, could contribute towards reaching Dutch victims more effectively.

➤ *Terminology used*

The committee looks at the applications from a non-legal perspective. It was emphasised during the expert session that in order to drive home this point, legal connotations should be removed, as much as possible, from the terminology used in the different steps of the procedure to avoid unnecessary tension among victims. A specific example of this is the term 'hearing'. Although the victims' experience of the hearing itself was generally positive, the term may inadvertently evoke false associations. A more neutral term, such as 'further dialogue', would probably be more appropriate.

➤ *Sharing knowledge about triage in the broader field*

The added value of the pilot project for third parties potentially extends beyond the two parties (IND and SGM) where the expert opinions were submitted. The committee has gained experience in assessing non-evident cases by looking at relevant signs of exploitative practices from different areas of expertise. It has gathered considerable knowledge about how to interpret the signs of human trafficking. Providing insight into how the committee reaches an opinion based on the available knowledge can contribute towards improved identification by other parties in the field. Periodically exchanging/disclosing knowledge within the committee may help in this regard. This also gives the committee's work a significance beyond the applications it processes, and can strengthen the protection of human trafficking victims.



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