



**Novel Strategies to Fight Child Sexual Exploitation and  
Human Trafficking Crimes and Protect their Victims**

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**White paper on promising practices  
regarding the treatment  
of victims during criminal proceedings:  
Examples from the HEROES project**

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## **Executive summary**

This white paper lists recurrent barriers and remedies regarding the treatment of victims of trafficking in human beings (THB) and child sexual abuse/exploitation (CSA/E) during criminal proceedings. Based on targeted research conducted in Brazil, Bulgaria, Greece, Peru and Spain, the paper identifies and analyses inadequate procedures, and suggests promising practices with regard to the treatment of victims in criminal proceedings.

This paper stems from a manual developed during the HEROES project which was aimed to provide targeted information to other HEROES components to develop training programs and e-learning courses for better treatment of victims of THB and CSA/E. In addition, the manual was aimed to support various stakeholders involved in criminal proceedings, including LEAs and practitioners providing support services to victims (e.g. health workers, social workers, psychologists etc.). This current paper is a shorter version of that manual and is published with the aim to inform relevant stakeholders (outside the HEROES project) about the promising practices analysed, which provide examples for designing measures to respond to these particular crimes.

## Abbreviations

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APA	American Psychological Association
AURORA	National Programme for the Prevention and Eradication of Violence against Women and Family Members (Peru)
CC	Criminal Code
CEM	Women's emergency centre (Peru)
CPC	Criminal Procedure Code
CRAS	Social Assistance Reference Centre (Brazil)
CREAS	Specialised Social Assistance Reference Centres (Brazil)
CSAM	Child sexual abuse material
CSE/A	Child sexual exploitation/abuse
CSO	Civil Society Organisation
CTHBA	Combating Trafficking in Human Beings Act (Bulgaria)
CVAFCA	Child Victim Assistance and Financial Compensation Act (Bulgaria)
DoA	Description of the Action, Annex 1 of the Grant Agreement
DIRCTP-TIM	Directorate against Trafficking in Persons and Smuggling of Migrants (Peru)
PNP	National Police of Peru
ECtHR	European Court of Human Rights
EKKA	National Centre for Social Solidarity (Greece)
EU MS	European Union Member State
FAO	Food and Agriculture Organisation of the United Nations
FRA	Fundamental Rights Agency
GAVTA	Management Assistance to Victims and Witnesses (Brazil)
GRETA	Group of Experts on Action against Trafficking in Human Beings (Council of Europe)
HRT	Temporary shelter homes (Peru)
ICMPD	International Centre for Migration Policy Development
ICT	Information and communication technologies
IO	International organisation
IOM	International Organization for Migration
LEAs	Law Enforcement Agencies
LGBTQIA+	Lesbian, gay, bisexual, transgender, queer or questioning, intersex, asexual and more
LOEx	Law on foreigners (Spain)
MIMP	Ministry of Women and Vulnerable Populations (Peru)
MININTER	Ministry of the Interior (Peru)

MINJUS	Ministry of Justice (Peru)
MINSA	Ministry of Health (Peru)
MFA	Ministry of Foreign Affairs
MoI	Ministry of Interior
MoJ	Ministry of Justice
MT	Multidisciplinary Teams
NETP	Municipal-level anti-trafficking office or nuclei (Brazil)
NGO	Non-governmental organisation
NRM	National Referral Mechanism
PO	Project Officer
PTSD	Post-traumatic stress disorder
SACP	State Agency for Child Protection (Bulgaria)
SECTT	Sexual exploitation of children in (the context of) travel and tourism
SOP	Standard Operating Procedure
TCN	Third-country national
THB	Trafficking in human beings
UCM	Universidad Complutense de Madrid
UDAVIT	Victim and Witness Care Unit (Peru)



## **Introduction**

Based on targeted research in Brazil, Bulgaria, Greece, Peru and Spain, this paper identifies inadequate procedures and suggests promising practices with regard to treatment of victims in criminal proceedings. Based on a larger deliverable from the HEROES project, the paper offers instructions for early interviews with potential victims and witnesses of THB and CSA/E, including the appropriate treatment during different phases of criminal proceedings, culminating in protective measures for those victims and witnesses in court. It aims to support various stakeholders involved in criminal proceedings, including law enforcement agencies (LEAs) and practitioners providing support services to victims (e.g. health workers, social workers, psychologists etc.). Moreover, the promising practices analysed in the five countries provide examples for designing measures to respond to these particular crimes.

The paper is structured in three main parts: the first part describes the overall approach, including the methodology, conceptual clarifications and the limitation of the research. The second part presents promising practices in different stages of criminal proceedings, which includes a description of victims' rights in criminal proceedings as well as examples of promising practices from the countries under study. The third part analyses five promising practices identified – one in each country – according to predefined criteria.

# 1. Methodology

## 1.1. Conceptual clarifications and limitations

In line with international recommendations, the paper employs a consistent terminology, irrespectively of the legal term used in a specific country, e.g. child instead of minor (for persons under 18), child sexual abuse material instead of child pornography etc. (see Annex on Working Definitions). Moreover, the paper employs a gender inclusive language by using the singular “they” as a generic third-person singular pronoun. “Use of the singular “they” is endorsed as part of APA Style because it is inclusive of all people and helps writers avoid making assumptions about gender” (American Psychological Association).

Regarding the usage of the term victim or survivor, “both terms are correct [in the sense of accurate], the distinction is how or when they are used. Usually, the term survivor is related to the recovery process of the victims, while the term “victim” is used in legal proceedings in their cases and are usually referred to criminal justice systems (legal status of a person).” (GRACE, 2021, p. 20) Furthermore, irrespectively of criminal proceedings, the terms “survivor” and “trafficked person” aim to avoid re-victimising the persons who might have already experienced extreme exploitation.

Regarding the concept of promising practice: the paper borrows, to a certain extent, the concept from the FAO:

*“A promising practice has demonstrated a high degree of success in its single setting, and the possibility of replication in the same setting is guaranteed. It has generated some quantitative data showing positive outcomes over a period of time. A promising practice has the potential to become a good practice, but it doesn’t yet have enough research or replication to support wider adoption or upscaling. As such, a promising practice incorporates a process of continuous learning and improvement”. It is worth mentioning that many of the practices identified and presented in this manual did not generate yet “some quantitative data showing positive” results, but they are already considered by interviewed experts as a promising practice. Similarly, not many practices include “a process of continuous learning and improvement” (FAO, 2016).*

As a first step, relevant **actions, projects, initiatives** etc. which have shown promising results with regard to treatment of victims during criminal proceedings, i.e. **supporting victims’ participation in criminal proceedings and safeguarding victims’ rights** (EC DG Justice, 2013) were collected. In a second step, similar to FAO’s approach, the following criteria were employed when selecting a promising practice:

- a. **Effective and successful**
- b. **Environmentally/economically/socially sustainable**
- c. **Gender sensitive**
- d. **Technically feasible**
- e. **Inherently participatory**
- f. **Reducing risks**

A clear limitation of the approach is not including the criterion on transferability. Considering the contextual complexities in particular countries (see Brazil) as well as the different legal systems between the countries under research (between EU MS, but also between EU MS and non-EU countries), as well as the limited evaluations available to date (particularly for activities implemented in the recent years), transferability cannot be assessed consistently. However, there are activities categorised as promising practices which have the potential to be employed in other contexts.

Another limitation worth mentioning is that, particularly for adopted laws included in the list of promising practices, there is no clear indication on whether they are consistently implemented throughout a jurisdiction.

Similar to the case of applying the above-mentioned explanation of a promising practice, the opinion of experts working in the field was considered when making the decision on whether to include such a legislation in the list of promising practices.

When it comes to the conceptual distinction between early interviews and early identification, some clarifications are needed. For the purpose of this paper, an early interview is a first discussion a frontline responder has with a presumed victim in order to understand whether enough indicators for identification of THB are present in a specific situation for them to refer the case to responsible authorities and/or suggest referral. This early interview can be conducted by border guards, police officers, social workers, NGOs, National Referral Mechanism (NRM) officials etc. and it is different from the interview that is conducted in the investigation phase by LEAs. Early identification refers to the official identification of a potentially trafficked person as a victim of trafficking. This, depending on the legal context, can be conducted by various stakeholders, but it involves some criminal justice authorities. The limitation here consists in the fact that in case first responders are involved in the early identification, the two processes – early interview and early identification – could be seen as overlapping activities. Nevertheless, we keep this distinction, as some barriers and harmful practices and subsequently some promising practices refer to only one of the two.

Another important limitation concerns the types of promising practices identified. Most of these practices refer to the treatment of victims in criminal proceedings of THB cases. Fewer promising practices have been identified with regard to the treatment of victims of Child Sexual Abuse/ Exploitation (CSA/E). This can be explained in at least two ways. First, the area of anti-trafficking (addressing various type of trafficking and vulnerable groups) is more consolidated than the area of policies aimed specifically at addressing CSA/E. Second, the entry point into identifying these promising practices has been the online aspect of these crimes. In a first phase of the research which led to this paper one of the main questions was *What gaps and challenges exist regarding the treatment of victims of online-facilitated THB and CSA/E*. Considering the above, the paper does not provide an exhaustive list of promising practices, but describes the ones that are addressing recurring gaps and challenges when it comes to the treatment of victims in criminal proceedings of these crimes.

Finally, a major limitation is worth mentioning. It was not possible, with this research, to assess the extent the practices are implemented nor their actual impact to safeguarding victims' rights during the criminal proceedings. The list of promising practices was based on expert's recommendations and on measurements of administrative records. However, there are no studies to measure the impact of the practices in terms of quality of service, victims' perspective and experiences, nor the impact on convictions and continuity of proceedings.

## 1.2. Methods employed

The research, including fieldwork with relevant stakeholders in all five countries, comprised two stages. In a first stage the following research questions were addressed:

- 1) What are typical challenges for victims and witnesses in their interactions with various stakeholders during criminal proceedings for online cases of THB and CSA/E (from the perspective of victim-rights organisations)?
- 2) What are typical barriers for victims and witnesses of THB and CSA/E in order to cooperate in criminal proceedings?
- 3) What are typical practices that could harm victims and witnesses during criminal proceedings for THB and CSA/E?

The second stage of the research addresses the following research questions:

- 4) Which concrete practices can improve the **overall treatment of victims and witnesses in investigation** and prosecution of THB and CSA/E (in countries under study)?

- 5) Which concrete measures can improve **the protection of victims and witnesses** of THB and CSA/E cases in criminal proceedings, including during trial (in countries under study)?

To answer these research questions, the following qualitative methods were employed: 1) desk research of relevant secondary literature and 2) semi-structured interviews with relevant stakeholders.

- 2) **Desk research** of relevant secondary literature **in each country** comprised the systematic review of:
- a. Manuals, guides, codes of practice, reports on principles/recommendations, best/good/promising practices for **treatment of victims of THB**, including **early interviews** with (potential) victims (after indication of the crime).
  - b. Manuals, guides, codes of practice, reports on principles/recommendations, good/best/promising practices for **treatment of victims of CSA/E**, including **early interviews** with (potential) victims (after indication of the crime).
  - c. Manuals, guides, codes of practice, reports etc. on: principles, best/good/promising practices addressing **treatment of victims of related crimes** (organised crime, crimes against children etc.) during criminal proceedings, including early interviews with (potential) victims (after indications of the crime).
  - d. Manuals, guides, codes of practice, reports etc. on: principles, best/good/promising practices addressing **treatment of victims in criminal proceedings from a gender perspective**.
  - e. Identification of **actions, projects, initiatives** etc. which have shown promising results with regard to treatment of victims during criminal proceedings, i.e. **supporting victims' participation in criminal proceedings and safeguarding victims' rights** (EC DG Justice, 2013):
    - i. right to understand and be understood;
    - ii. right to receive information from the 1<sup>st</sup> contact with a competent authority;
    - iii. rights of victims when making a complaint;
    - iv. right to receive information about their case;
    - v. right to interpretation and translation;
    - vi. right of access to victim support services;
    - vii. right to be heard;
    - viii. rights in the events of a decision not to prosecute;
    - ix. right to legal aid;
    - x. right to reimbursement of expenses;
    - xi. right to the return of property;
    - xii. right to decision on compensation from the offender in the course of criminal proceedings;
    - xiii. rights of victims residents in another MS (for EU MS);
    - xiv. right to protection;
    - xv. right to avoid contact of the victim with the offender;
    - xvi. right to protection of victims during criminal investigations;
    - xvii. right to protection of privacy;
    - xviii. access to an individual assessment of victims to identify specific protection needs;

- xix. rights to protection of victims with specific protection needs during criminal proceedings;
  - xx. right to protection of child victims during criminal proceedings (this is a non-exhaustive list).
- 3) Depending on the desk research outcomes, between **3 and 9 semi-structured expert interviews** in each country under focus were foreseen. The interviews were conducted with stakeholders selected from the following stakeholder groups:
- a. **Victim-advocating institutions:** NGOs providing legal, medical and psychological assistance to victims of THB and CSA/A; **ideally a person who has been accompanying victims of THB and/or CSA/E in criminal proceedings;**
  - b. **Law enforcement actors (LEAs):** special units of the police for THB and CSA/E; **ideally a person who has been gathering evidence from victims/witnesses for prosecuting/gathering evidence for THB and/or CSA/E cases;**
  - c. **Representatives of the judiciary:** Prosecutors, judges; **ideally judges or prosecutors with experience in CSA/E cases** – here data collected during the first phase of the research is limited;
  - d. **Others, as considered necessary, depending on the specific context/specific promising practice identified:** academics, state social and child protection services, psychologists, social workers etc.

The emphasis was particularly on interviewing the relevant LEAs, representatives of the judiciary and victim protection and advocating institutions for both crimes as these stakeholders have first-hand experience with regard to treatment of victims in criminal proceedings. Other stakeholders have been included in as far as the country specific context required additional input. When selecting interview partners, a fair balance among the interviewed experts between THB and CSA/E was considered to the extent possible. For a list of the type of stakeholders interviewed, see Annex B<sup>1</sup>.

The countries under study, selected on the basis of the HEROES LEA partner countries<sup>2</sup>, were Bulgaria<sup>3</sup>, Greece<sup>4</sup>, Spain<sup>5</sup>, Brazil<sup>6</sup> and Peru<sup>7</sup>.

The 1<sup>st</sup> phase of the fieldwork took place between May – September 2022 and the 2<sup>nd</sup> phase fieldwork between May – July 2023. For a comprehensive overview of types of stakeholders consulted in each country, see Annex B.

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<sup>1</sup> Reference to the interviews is made by mentioning the country code and the number of the interview, e.g., ES\_01, BR\_01 etc.

<sup>2</sup> This ensured that information gathered is relevant for the HEROES technical tools develop to support practitioners including LEAs, to address THB and CSA/E.

<sup>3</sup> ICMPD conducted the fieldwork in Bulgaria.

<sup>4</sup> KEMEA conducted the fieldwork in Greece.

<sup>5</sup> UCM conducted the fieldwork in Spain.

<sup>6</sup> UCM and ICMPD conducted the fieldwork in Brazil.

<sup>7</sup> GI-TOC conducted the fieldwork in Peru.

## 2. Promising practices in different stages of criminal proceedings

### 2.1. Introduction/background

The international law qualifies THB as a complex and serious crime against the person. Many of the human trafficking forms, such as debt bondage, slavery, servitude, sexual exploitation, forced marriage etc. are prohibited under international human rights law, as severe human rights violations. Therefore, the **human rights-based approach** and the **victim-centred approach** are at the core of the guiding principles for adequate response and the overall treatment of THB and CSA/E victims. It means that all stakeholders “*involved in anti-trafficking efforts should integrate human rights into their analysis of the problem and into their responses*” (OHCHR, 2010). According to ICMPD, the terms human rights-based approach and safeguarding victims’ rights mean that “*the mechanisms and procedures (as well as individual measures) should be normatively based on international human rights standards and operationally directed to promoting and protecting the human rights of the victims*” (ICMPD, 2009).

This section of the paper focuses on the human rights that are **relevant to the response to trafficking and CSA/E, particularly during the criminal proceedings**. It elaborates on identified promising practices established in that regard. First, the **main international standards for safeguarding human trafficking victims’ rights related to the different criminal proceedings’ stages** (pre-investigation, investigation, pre-trial and trial) are elaborated. Further, this part provides an overview of the victims’ rights enshrined in the **international guidelines/handbooks/manuals on treatment of victims of THB and CSA/E in criminal proceedings**. Finally, the **promising practices for safeguarding victims’ rights, that have been identified in the countries under research** as a result of implementing the human rights-based and victim centred approaches are detailly analysed. In doing so, the paper addresses recurring challenges identified in the first phase of the research.

## 2.2. International standards for safeguarding victims' rights in criminal proceedings

This part provides a closer look of the human rights dimension enshrined in the main anti-trafficking international instruments, focusing on the articles and provisions relevant for the criminal proceedings. The authors of this paper, in an attempt to provide an overview of the victims' pathways throughout the criminal proceedings, suggest a working distinction between four different stages within this process:

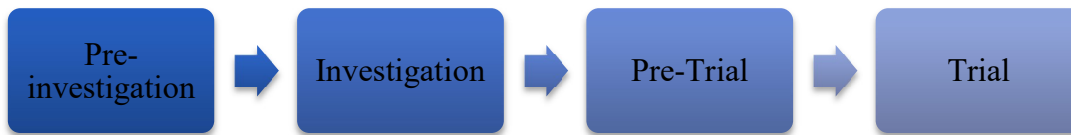


Figure 1: Stages of the criminal proceedings (authors' elaboration)

### (1) Pre-investigation stage of the criminal proceedings

This is the period that starts with detection of a suspicious case of trafficking or CSA/E until the official investigation is initiated by the responsible stakeholders (usually LEAs and the public prosecutors). It happens in parallel with the **identification process**, as a first stage through which a victim of THB or CSA/E is identified as such. The identification stage can be divided in two main parts:

#### a) Preliminary identification

The suspected case of THB or CSA/E is not yet officially identified as such, however, THB or CSA/E indicators are present. Therefore, **an early (initial) interview is conducted** by first responders (e.g., border guards, police officers, social workers, community NGOs etc.), who either detect the case or the case is referred to them (ICMPD, 2009).

**!** This early (initial) interview is different from the interview that is conducted later, during the investigation phase by LEAs, public prosecutors or other relevant stakeholders. Its goal is

*"...to ascertain whether there are reasonable grounds to believe that the person being interviewed is a possible victim of trafficking."* UNODC (2006)

**!** A person presumed to have been trafficked shall be considered and treated as a victim as soon as the competent authorities have the slightest indication that they have been subject to the crime of trafficking (ICMPD, 2009).

At this early stage, it is equally important to provide the person being interviewed with all relevant information that will enable them to access support and assistance, and to make an informed decision about his or her future actions (i.e. whether he or she will assist law enforcers in investigation and prosecution). Lastly, the first responders must ascertain whether there are any immediate safety risks for the individual being interviewed.

**!** **Reporting a crime to the relevant authority is the first step in the victim's journey to obtaining an official identification and of seeking to achieve justice through the criminal justice system.** Anti-Slavery

International (2005) in their [Protocol for Identification and Assistance of Trafficked Persons](#) developed a tool with seven steps to follow in conducting the **initial interview with a presumed victim**

<b>STEP 1: Opening the interview</b>	The intention is to establish a situation in which the potential victims feel safe enough to express and to tell their story.
<b>STEP 2: Providing information</b>	<b>Explaining the purpose of the interview</b> - the structure and the proceedings of the interview;
<b>STEP 3: Gathering information</b>	<b>This step is to determine whether there are sufficient grounds to believe that the person might be a victim of trafficking or CSA/E</b> , and to determine what immediate support and assistance measures are needed.  <b>At this step, the professionals should use the checklist of the available indicators for identification of THB or CSA/E</b> (HEROES Project, 2023).
<b>STEP 4: Updating the information (assessment)</b>	The aim is to make sure that the possible victim is safe, and to build a relationship of trust with them.
<b>STEP 5: Jointly deciding what further steps to take</b>	This step provides an opportunity to clarify any possible inconsistencies and vagueness in the story of the presumed victim and to jointly develop a plan.
<b>Step 6: Taking further steps</b>	This part of the interview provides a possibility for the professionals to ensure that the person is safe and that his or her health, physical, mental and social needs are taken care of.
<b>Step 7: Closing the first interview</b>	The interview should be closed with gathering feedback from the victim and making a clear agreement about the follow-up steps.

### Formal identification

The **formal identification** means determining the victim status through qualified/authorised persons or institutions (e.g. law enforcement officers, specialised professionals, office of the National Referral Mechanism- NRM etc). The formal identification is conducted through another, **formal interview** during or after the recovery and reflection period is over, **or in the investigation phase** against the trafficker/perpetrator in case the victim has agreed to cooperate with the LEAs on the case (**see: Investigation**). This interview is conducted by specialised professionals (usually investigators or public prosecutors), who ask questions and review circumstances to identify the individual as a formal victim of trafficking. The victim is then informed about the outcome and about the available future options to ensure informed decision making and consent on next steps. This interview is conducted by standards of the authority executing the interview.



In some countries (depending on the relevant legal and policy framework), the formal identification is conducted at the very early stage (for instance, during and after the recovery and reflection period). In other countries, the formal victim status is received only during or after the completion of the criminal proceedings against the perpetrator.



## (2) Investigation stage of the criminal proceedings

The investigation is an important segment of criminal procedure. This stage follows the preliminary (or in some cases formal) identification as a victim, after the crime is committed or information is received about the commission of THB or CSA/E offence. The criminal investigation is a process of collecting and analysing evidence to determine the facts and circumstances of the crime through searching, interviewing, interrogating, preserving, and examining physical and digital evidence. As stipulated in Article 27 of the Council of Europe Convention, *“when investigating and prosecuting the crime of human trafficking, law enforcement agencies and the judiciary have to ensure that the offence concerned is not dependent upon the file lodged or accusation made by a victim, rather on complex and proactive investigation, involving different state actors and on gathering and presentation of diverse evidentiary material collected and presented during the trial”* (Council of Europe, 2005).

According to UNODC (n.d), when handling human trafficking and CSA/E cases, it is very important that the investigation officers have experience in human trafficking cases as they can show more sensitivity to victims and their needs, and are aware of other sources of information to corroborate evidence. The UNODC toolkit highlights that *“Gaining the cooperation of victims as witnesses can be challenging. Often, because of their distrust of police in their home countries, trafficking survivors fear law enforcement agencies and are concerned that they will be treated as criminals, incarcerated, or deported. These fears must be overcome in order for victims to become cooperating witnesses. ...Investigators and prosecutors can gain the trust and cooperation of victims and witnesses by showing compassion and making them feel comfortable.*

During the investigation phase, in order to complement the evidence collection process, the investigators work together when interviewing victims and witnesses to avoid conducting multiple interviews. Other investigative methods such as surveillance, analysis of trash and correspondence, undercover operations and reviews of wire transfer records (if applicable), can also reveal pertinent information.

### **Barriers for the victims to trust the authorities**

The nature of the THB and CSA/E crimes requires appropriate social and cultural orientation to effectively gather criminal intelligence and arrest perpetrators (UNODC, n.d). Ethnic community groups, immigrants’ and workers’ rights NGOs can assist in gaining access to culturally insulated communities. Even when an interviewer has established trust with victims and witnesses, they may never provide a full account in a single interview. Aside from the trauma the victims have suffered, other sociological and psychological barriers impede the process, including sociocultural differences, language and gender. Women and child victims may be reluctant to seek assistance because of the shame and stigmatisation which may flow from disclosing their experiences. Men, particularly those from a culture with a traditional view of masculinity, may not want to admit their victimisation because they fear that their experience might disclose losing control of their lives. Investigators who are fluent in the language of the person they are interviewing and have cultural affinity with the person may have more success.

## (3) Pre-trial stage of the criminal proceedings

The issues determined during the pre-trial phase of the criminal trial process can have a substantial impact on the formal trial. The pre-trial phase can significantly impact on how victims of trafficking and CSA/E experience the trial itself. Therefore, the victims’ participatory rights during the pre-trial phase are elaborated in this section, in light of: (a) specific decision-making processes, which may particularly affect victims and their interests; and (b) protection of the victims from perpetrators and related parties. The goal of the pre-trial phase is to also ensure that the victims are:

- Fully aware of the value of the testimony for the proceedings and its possible consequences;

- Fully aware of the role of different persons involved in the legal proceeding;
- Fully aware of, where applicable, that all information provided may be subject to disclosure requirements;
- Fully aware of the court process;
- Provided with psychological support;
- Provided with safety measures (ICMPD, 2009).



In case the victims of THB or CSA/E decide to testify against the perpetrator, they should be provided orally and (to the extent feasible) in writing all necessary information to take part in the trial. This includes, inter alia, the following:

- Explaining the rights and responsibilities of the victim in a role of a witness;
- Explaining the court procedures (e.g. no/contact with the perpetrator(s), closed/open door hearings...);
- Stages of a legal proceedings;
- Possibilities for claiming compensation for damage, loss, or injury suffered;

In addition, a strategy for testimony should be developed. This should happen in a comfortable setting. The victim might be taken to the court before the trial date to familiarise with the building and the court room. If possible, the victim might sit in the witness box while the accompanying person should review how the court process will be conducted. Foreign victims that returned home after the identification should be prepared in the country of origin or resettlement at the request of the public prosecutor or judge from the destination country, where the trial will take place (ICMPD, 2009).

While taking part in criminal proceedings, and in the pre-trial stage as well, the victims may need to be protected for possible retaliations and harm from perpetrators and related parties. The protection of a victim as a witness of a THB and CSA/E crime requires tailor-made solutions to be implemented by the law enforcement agencies, prosecutors, judges and support agencies that must work in close c-operation. A risk assessment should be carried out to evaluate if the physical safety of victims (and of their significant others) is endangered and – when necessary – special resources are allocated to ensure their protection (ICMPD, 2009).



In the case of child victims of THB or CSA/E, all decisions regarding participation, assistance and cooperation with criminal and judicial proceedings shall be taken by the appointed child's guardian (case manager, legal guardian, etc.) following the legislation instructions and in consultation with the child, and/or with the family/legal guardian (depending on the child's).

#### **(4) Trial stage of the criminal proceedings**

The victims' rights in the trial phase relate to the provision of safety, psychological, and legal support to minimise the security risks and the risk of re-traumatisation they may face as a result of their participation in the legal proceeding. This will allow the victim to feel safe and give a meaningful statement. The support during the trials may be given to the human trafficking and CSA/E victims through:

- Physical protection;
- Testimony recording so that the victim-witness does not have to appear personally or at least will not be confronted with the perpetrator (e.g. video testimony, closed circuit television, use of screens, providing testimony in judicial chambers, written statement to be read during trial, closed hearing prior to the trial);
- Limited number of questionings;

- Escort of victims-witnesses to, in, and from the court;
- Avoidance of contact with the perpetrator, or the family (and to the extent possible also friends and other associates) of the perpetrator when entering the building (e.g. use of side entrance, separate waiting room, etc.);
- Provision of support persons to stand beside witness during testimony;
- Proper interpretation;
- Exclusion of the public from the court room;
- Protection of sensitive data (e.g. the personal history, name and photograph of the victim-witness) must be ensured (ICMPD, 2010).

If the victim may face high safety risks, where possible, video-conferencing, telephone or video testimony or testimony given in writing and read during the trial should be considered. Also, existing international/bilateral treaties envisaging mutual legal assistance in criminal matters should be taken into account. This also includes ensuring financial and logistical means for safe transportation in case the victim is requested to travel from another country back to the country where the trial takes place or between different locations in the country in the cases of internal THB.



Regulations and systems for the participation of children in criminal investigations, judicial proceedings and other legal proceedings vary between countries. However, all countries have developed specialised measures to protect the interests and rights of children in such matters, whether they are involved as victims or witnesses.



After the trial, the **victim must be supported in obtaining damage compensation for the physical and mental harm caused and/or for not being paid for labour services rendered to the perpetrator(s)**. The decision on compensation shall not be contingent upon the sentence handed down on the perpetrator(s) and it can be rendered either in the criminal or in a separate civil court procedures. Even during the first contact with the relevant authorities the victim should be informed on relevant judicial and administrative proceedings, as outlined in Article 15 of the CoE Convention (Council of Europe, 2005). **Victims should be able to claim compensation, encouraged to do so during criminal proceedings, and are entitled to obtain a decision within reasonable time limits as per national legislation.** The foreign victim can claim compensation even if they returned to their country of origin or resettled in a third country. In such a case, the support for the compensation claim should be arranged as well through the international liaison mechanisms available.

### **2.3. A closer look to the victims' rights throughout the criminal proceedings**

Many of the available guidebooks developed by international organisations contain dedicated sections on protection of the rights of the victims of THB and CSA/E during the criminal proceedings' stages. The authors of these manuals recognise three sets of rights/principles established, convened according to their aim/purpose/value within the different criminal proceedings and illustrated below. These rights/principles

serve as a basis for establishing promising practices in this regard. They are elaborated in the following text and are relevant to one, several or to all stages of the criminal proceedings.

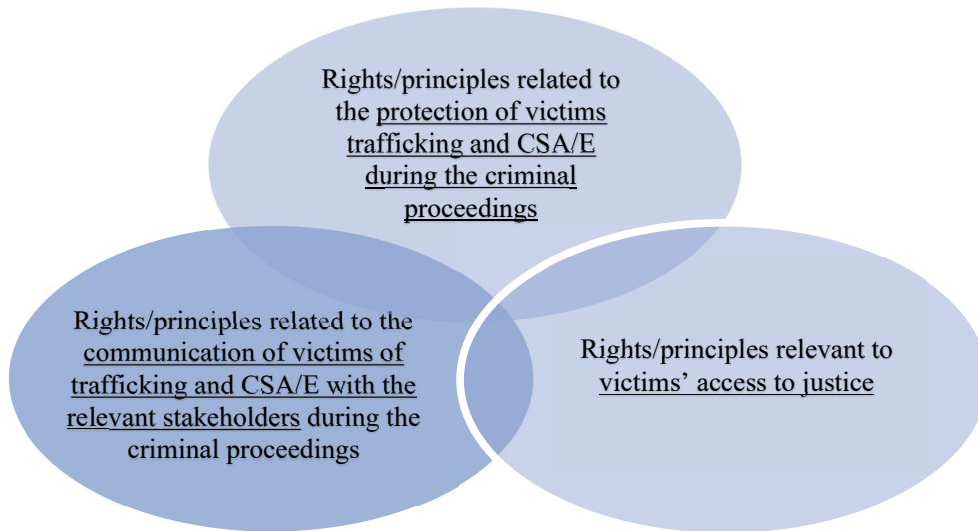


Figure 2: Different sets of victims’ rights in the criminal proceedings

**I. Rights/practices related to the communication of (potential) victims of trafficking and CSA/E with the relevant stakeholders during the criminal proceedings**

The provision of information, starting from the early interview and following the other stages of criminal proceedings, is a key component of the process that allows the victims to decrease their anxiety and uncertainty about the future and to progressively regain control over their life. It is also the first step in building a relationship of trust between the victims and the relevant professionals handling their case.

Among the rights related to the communication of (potential) victims of trafficking and CSA/E with the relevant stakeholders during the criminal proceedings, the following have been identified in the analysed documents:

- Right to receive information about their case from the 1st contact with a competent authority
- Right to understand and be understood
- Right to interpretation and translation
- Right of the victim to be heard

The right to receive information from the 1st contact with a competent authority ensures that victims are informed about their rights and options (Europol 2022; EU 2021).



The scope and specificity of the information provided shall vary according to the specific needs and personal situation of the victim and the type or nature of the offence.

In addition, the victims have **right to ask questions** (IOM, 2019) to **understand potential consequences and limitations of available protection** (OHCHR, 2010). In case the (potential) victim is a foreigner, information about right of access to diplomatic and consular representation from their State of nationality should be provided (OHCHR, 2010), as well as info about their legal rights (IOM, 2015), info on how to make complaints, where to apply for asylum etc (FRA, 2020).

The information should be provided in **an environment that allows the (potential) victim to speak freely and without fear** (EU, 2021) and **without pressure applied** (IOM, 2015). In addition, it is recommended in the guidebooks that the victim should not be interrupted/challenge the story told (UNODC, n.d). In relation to the right of receiving information, the victim **should be informed in a language they understand/easy to understand language** (OCHCR, 2002; FRA, 2020; IOM, 2018). This foresees **engagement of an interpreter or a cultural mediator** to assist conversations with the victims. It is important to notify that the interpretation should be provided by interpreters and cultural mediators that are trained to work with victims and vulnerable people. ICMPD (2009) lists a set of standards for the interpreters and cultural mediators, namely: to be carefully screened; to be trained on trafficking related issues and victims' needs; in the case of a trafficked child, trained in children's cognitive development and emotional needs. It is recommended that all organisations that come into contact with foreign trafficked persons should include in their regular staff, or have a reference list of, trained trustworthy interpreters and cultural mediators.



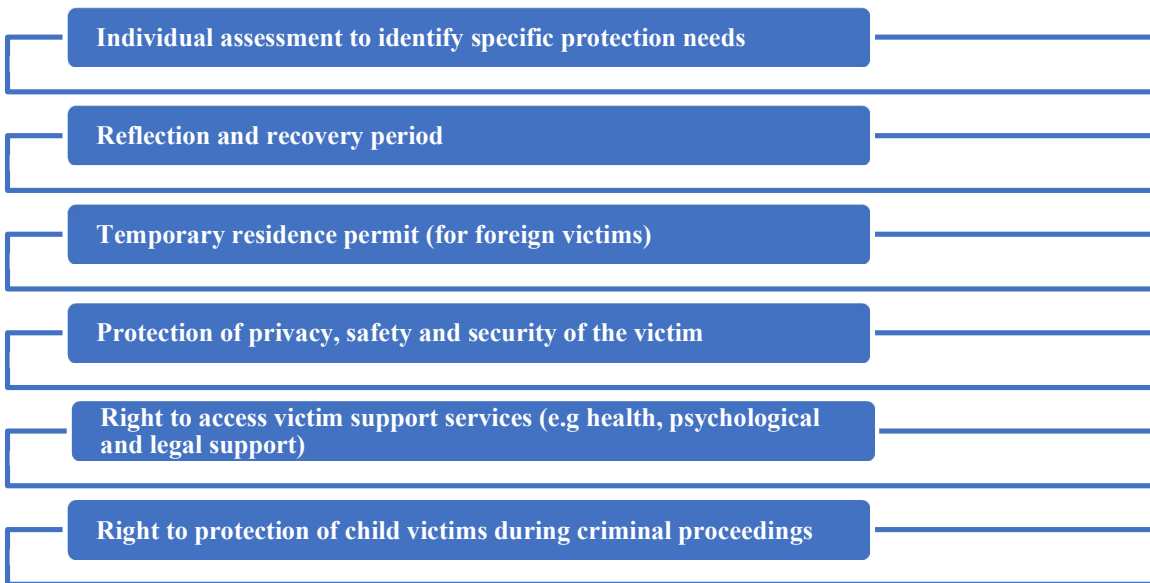
In case of child victims, specialised **professionals trained in working with children should handle the information provision** (ICMPD, 2009). The information should be provided through a legal guardian or parent, to make sure children understand what is happening and why. The information provided to children should be provided in pictograms and in easy language (on how to apply for asylum) (FRA, 2020, OECD, 2017).

For all information provided and support offered, an **informed consent by the victim is needed**. Providing a **clear, transparent and known** procedure is very important in that sense (IOM, 2015, 2018, 2019; OHCHR, 2010; Europol, 2022; FRA, 2020) so the victims can make informed decision (GRETA, 2020).

In terms of the **technology-based initiatives**, the victims, in order to report the case and participate in the criminal proceedings stages, should be entitled to line self-reporting mechanisms, helplines, digital assistance through a chat function, apps and online tools for this purpose, as well as access to material containing information made accessible online, translated in different languages (Council of Europe, 2022).

## **II. Rights/practices related to protection of (potential) victims of trafficking and CSA/E during the criminal proceedings**

There are a variety of rights stipulated in the available guidelines and manuals that are related to the protection of victims during the criminal proceedings' phases. These include **legal, physical and humanitarian protection**. The following (non-exhaustive) set of rights/practices described in the manuals/guidelines are related to victims' protection:



Each (potential) victim should be subject to an **individual assessment** (IOM, 2015, 2019; Committee of the Parties to the Council of Europe Convention on Action against Trafficking in Human Beings 2022; UN Office on Drugs and Crime; IOFA, 2011; OHCHR, 2010) and should participate in creation of their own **individual assistance plan** (ICMPD, 2009). The individual assessment is conducted to identify specific protection needs, the service and security needs of the victims of trafficking and CSA/E. These procedures may be different for native citizens and for foreigners and can require more than one meeting.

**The recovery & reflection period** is an effective practice and humanitarian measure aimed at protecting the human rights of trafficking victims (UNODC, n.d). The reflection period grants victims the possibility of **minimum 30 days to recover** from their experiences, to escape the influence of traffickers/exploiters and to make an informed decision whether to assist and cooperate in criminal proceedings (CoE, 2005). For many victims of trafficking who have irregular immigration status, the reflection period ensures that they can be provided with appropriate assistance and support, such as secure housing, psychological counselling, medical and social services and legal consultation.

ICMPD (2009) and OHCHR (2010) assert that the reflection period should be followed by a **temporary residence permit** for foreign victims of trafficking. Both the reflection period and the residence permit should be granted to victims regardless of their willingness to cooperate as witnesses and regardless of whether or not the perpetrators are prosecuted. Temporary residence permit should be granted for a **period of at least six months**, with the possibility of renewal, independent of the victim's willingness to cooperate as a witness. If the victim decides to be a witness in the criminal case, the temporary residence permit should last until the end of the proceedings.

**The service provision** should be available during all the stages of the criminal proceedings and should envisage, inter alia, the following:

- a) **safe and adequate accommodation** that meets the victims' needs. T;
- b) **health care, psychological support and counselling** (IOM, 2015, 2018, 2019; GRETA, 2020; IOFA, 2011; EU, 2021; UN Office on Drugs and Crime; OHCHR 2002; EU Council, 2014; FRA, 2020)
- c) **legal and other assistance** in relation to any criminal, civil or other actions against traffickers/exploiters (UN Office on Drugs and Crime; OHCHR, 2010; IOFA, 2011, IOM, 2015; IOM, 2019; EU Council, 2014).

- d) **protection from harm, threats or intimidation by traffickers** and associated persons. There should be no public disclosure of the identity of trafficking victims and their privacy should be respected and protected to the extent possible. (IOM, 2015, 2018; OHCHR, 2010; Europol, 2022; IOFA, 2011; IOM, 2015; IOM, 2019; FRA, 2020).
- e) **Safe and voluntary return** of victims and exploring the option of residency in the country of destination or third-country resettlement in specific circumstances (e.g. to prevent reprisals or in cases where re-trafficking is considered likely).
- f) **assistance and support necessary to ensure victims' wellbeing after the return in the country of origin**, facilitate their social integration and prevent re-trafficking (OHCHR, 2002).
- g) **Access to support and assistance through technology** (Council of Europe, 2022).



The particular physical, psychological and psychosocial harm suffered by children victims of THB and CSA/E and their increased vulnerability to exploitation requires that they be dealt with separately from adult victims in terms of laws, policies, programmes and interventions. **The best interests of the child must be a primary consideration in all actions concerning trafficked and abused children**, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies. Child victims of trafficking should be provided with appropriate assistance and protection and full account should be taken of their special rights and needs (FRA, 2020; OHCHR, 2002). They should be provided with appropriate physical, psychosocial, legal, educational, housing and health-care assistance (Child Welfare Information Gateway, 2023). Protecting, as appropriate, the privacy and identity of child victims and taking measures to avoid the dissemination of information that could lead to their identification should be considered. (OHCHR, 2002).

Consulting with the parent or guardian of each child in the design of the specific remediation program is highlighted as very important by several organisations (OECD, 2017; IOM, 2015, 2019; Committee of the Parties to the Council of Europe Convention on Action against Trafficking in Human Beings, 2022; UN Office on Drugs and Crime n.d.; EU, 2021; OECD, 2011; GRETA, 2020; OHCHR, 2010; EU Anti-trafficking Coordinator, 2022).

In cases where children are not accompanied by relatives or guardians, taking steps to identify and locate family members should be envisaged. Following a risk assessment and consultation with the child, measures should be taken to facilitate the reunion of trafficked children with their families where this is deemed to be in their best interest. In situations where the safe return of the child's family is not possible, or where such return would not be in the child's best interests, establishing adequate care arrangements that respect the rights and dignity of the trafficked child (OHCHR, 2002).

### III. Rights/practices relevant to victims' access to justice


During the criminal proceedings, victims of trafficking must be afforded to **access to justice and to receive adequate protection** to encourage them to testify against the traffickers and to ensure their rights are respected throughout criminal justice procedures (UNODC, 2009). *"One of the fundamental human rights of a trafficked victim is to have access to mechanisms of justice and prompt redress."* (IOM, 2015).

- Right to access to effective remedies
- Right to participate in legal proceedings against traffickers
- Right to security and protection during the criminal proceedings
- Non -refoulement (non-return) principle: the obligation on States not to return victims when they are at serious risk of harm, including from intimidation, retaliation or
- The special rights of child victims of trafficking and CSA/R including the obligation to take full account of the child’s best interests
- Right to make a complaint
- Rights of the victims in the events of a decision not to prosecute
- Right to compensation from the offender etc.

As already described in the above sub-chapters, victims of trafficking and CSA/E have the right to **seek and receive effective remedies** for the harm committed against them. They should also be provided with adequate reparations for harm suffered, including restitution, compensation, recovery, satisfaction and guarantees of non-repetition. Access to remedies must be non-discriminatory and available to all victims of trafficking (OHCHR, 2010).

The victims are entitled to **participate in the legal proceedings against the traffickers**. They have the right to use the legal systems to ensure that their own interests are safeguarded, and their own rights upheld. In addition, victims have the right **to receive legal and other assistance for the duration of the criminal proceedings** against their exploiters.

The **appropriate support and protection of victims at all stages of the criminal proceedings** is essential to protect victims, as well as to secure their safe and effective participation in the prosecution of traffickers.

 In many instances, victims of trafficking were forced by their traffickers/exploiters to engage in illegal conduct. Common examples, according to ICAT (ICAT, 2020), include involvement in the sex trade, involvement in drug production or trafficking, petty crime, possession or the use of fraudulent documents or entering another country in a manner that does not comply with its immigration laws. This fact is then used by traffickers as a means of maintaining further control over their victims. In some cases, a victim may be unaware that they have broken the law. Anti-trafficking, human rights and criminal justice practitioners have raised concerns that arresting, charging, detaining, prosecuting or punishing trafficking victims who commit crimes in connection with their victimisation would be unjust. They have also noted that there are insufficient measures in place to protect victims and guide decision makers on how to address such cases. As a result, the non-punishment principle for victims of trafficking has emerged. It can be generally stated as:





Trafficked persons should not be subject to arrest, charge, detention, prosecution, or be penalised or otherwise punished for illegal conduct that they committed as a direct consequence of being trafficked (ICAT, 2020).



The rights of children are specifically mentioned in most guidelines, as **children require additional or specific protection during the criminal proceedings.**

- ✓ Consulting with the parent or guardian of each child in the **design of the specific remediation program for each child** is highlighted in the guidebooks, in accordance with the best interest of the child (OECD, 2017; IOM, 2015, 2019; Committee of the Parties to the Council of Europe Convention on Action against Trafficking in Human Beings, 2022; UN, 2007; UN Office on Drugs and Crime; EU, 2021; OECD 2011; GRETA, 2020; UNHCR, 2010; EU Anti-trafficking Coordinator, 2022)
- ✓ Any uncertainty regarding the child's age should not prevent the initiation of a criminal investigation or guaranteeing the victim's rights (Europol, 2022; GRETA, 2020). Available age-sensitive protocols should be enforced in practice (Council of Europe, 2022).

In the context of legal proceedings, extra measures of protection that go beyond those guaranteed to adult witnesses should be afforded to children. Various international guidelines should inform the treatment and protection of children during criminal proceedings. These include the **Handbook for Professionals and Policymakers on justice in matters involving child victims and witnesses of crimes** (UNODC, 2009) and the **Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime** (UNODC, 2009) among others. The documents include special interviewing techniques, as well as vulnerable witness directions by trial judges to prevent them from testifying in the presence of their abuser. In some jurisdictions, audio-visual recording of hearings of children are used, while in others children may appear before the court behind a screen to prevent them from seeing the accused (UNODC, Inter-Parliamentary Union and UN. GIFT, 2009). Regarding trial procedures, the **Model Guidelines for the Effective Prosecution of Crimes Against Children** (International Association of Prosecutors and International Centre for Criminal Law Reform and Criminal Justice Policy, 2017) state that prosecutors should facilitate the development, availability and use of procedures to assist the child in giving testimony. Prosecutors should consult with the child, assist him or her in making an informed decision regarding the use of procedures and apply to the court to have procedures in place for the child during the trial. Procedures vary between jurisdictions, but may include:

- ✓ Allowing a videotaped statement of the child's evidence
- ✓ The use of closed-circuit television
- ✓ Alternative arrangements for giving evidence, such as screens
- ✓ Allowing for the presence of a support person or advocate while the child is giving evidence
- ✓ Use of an intermediary to assist child witnesses to give evidence
- ✓ Prohibiting the defendant from cross-examining the child victim in person
- ✓ Objecting to aggressive or improper cross-examination by the defence
- ✓ Closing the court to the public
- ✓ A ban on the media
- ✓ Reducing the formality of the courtroom by measures such as removing advocates' robes.

## 2.4. National-level examples

Different countries have different ways of protecting human rights and embedding them into practice. Some countries adopt specific human rights laws, others include specific protections into individual laws. In response to implementing the victims' rights and by following the international guidelines elaborated in the previous part, countries have also established **promising practices** related to criminal proceedings of THB and CSA/E cases.

**This part of the paper elaborates the promising practices identified in the countries under research (Brazil, Bulgaria, Greece, Peru and Spain).** The practices are elaborated as per the different stages of the criminal proceedings (pre- investigation, investigation, pre-trial and trial). Nevertheless, many of them are relevant for several, or for all stages of criminal proceedings. Although these procedures vary in the countries under research (see the country report annexes for more detailed information), an attempt is made to explain how they are implemented in practice and to which extent the rights of the victims are safeguarded. It is worth mentioning that most challenges identified refer to proceedings on THB and only a handful have been signalled for proceedings in relation to CSA/E. One potential reason for this is that both the legislation and the referral systems for THB victims are more coordinated (at national level) than the legislation and response to CSA/E.

The promising practices elaborated in this part are highlighted as possible examples for potential adaptation and implementation into other countries. They should serve to both: (1) **the policy makers** - to support for creation of relevant policy, legal and institutional framework at national levels, as well as to (2) **the practitioners** (LEAs, prosecutors, social workers, lawyers, NGO staff, etc), in order to be able to safeguard the victims' rights in their daily work and to apply human rights based and victim centred approach in handling the trafficking and CSA/E cases. Each subsequent section begins with explanations and the principles applicable to that respective stage of the criminal proceedings, to then provide some legal and policy context in which identified practices operate, to finally describe identified promising practices in countries under study.

### 2.4.1. Pre-investigation stage of the criminal proceedings: procedures and practices in the countries under research

. As elaborated earlier, **persons presumed to have been trafficked shall be considered and treated as victims as soon as the competent authorities have the slightest indication that they have been subject to the crimes of THB or CSA/E.**



In case of child victims, the child protection authorities should be duly informed, and a guardian should be immediately appointed before any other measures can take place. The appointed guardian should accompany the child throughout the entire process and should closely work with the national child protection services, law enforcement, immigration (in case of a foreign minor), and other service providers until a durable solution in the best interest of the child has been identified and implemented.

These rights have been comprehensively elaborated in the previous part and are illustrated below.

#### Legal, policy, operational frameworks and principles established in the countries under research (pre-investigation stage)

All the countries under research have transposed the international standards relevant for the pre-investigation stage (early interview and identification process) into their national legal, policy and institutional frameworks. Specific methodologies, rules, guidelines, standards as well as policy documents and operational frameworks have been established aiming to enforce the proactiveness of the relevant professionals to identify victims of THB and CSA/E and provide them with adequate protection and support, to be able to recover as well as to

decide whether they will be participating in the forthcoming stages of the criminal proceedings. There are also many manuals and guidebooks developed in the countries under research and they are listed in the annexes of this document (country reports).

In three of the countries under research, specific standards and principles for conducting early interviews and addressing the imminent needs and risks of presumed victims of THB and CSA/E have been established. In **Bulgaria** early identification interviews are conducted by law-enforcement officials or non-governmental workers. The NGOs working with victims (both adults and children) have **established methodologies and principles (set according to the international standards) in conducting early interviews with victims.**

The ***Bulgarian National Referral Mechanism for Victims of Trafficking (NRM)*** – officially adopted in 2017 (National Commission for Combating Trafficking in Human Beings- Bulgaria, 2016), is a cooperative framework through which state institutions fulfil their obligations to protect trafficked persons and coordinate their efforts with non-governmental and international organisations. The NRM, inter alia, sets guidance, common principles as well as **Standard Operating Procedures (SOPs) for identification and support of victims.**

The government in **Greece** adopted the Common Ministerial Decision 30840/20-09-2016 on the establishment and functioning of the National System of Identification and Referral of Victims of Human Trafficking. It is noteworthy that the decision only became effective in January 2019. The **Handbook of the Greek National Referral Mechanism for the Protection of Victims of Human Trafficking** provides detailed guidance for the professionals that may be in contact with the presumed victims and incorporates sets of indicators (physical, behavioural and other general) (Office of the National Rapporteur on Trafficking in Human Beings, Ministry of Foreign Affairs (MFA) of the Hellenic Republic, 2021) that may assist them to identify the elements of human trafficking. The existing legal framework, the guidance documents as well as the **protocols for conducting early interviews with THB and CSA/E victims**, aim to ensure a sensitive, supportive, and effective approach to gathering information from the victims.

Prior to the process of the early interview, for the professionals it is crucial to achieve the active **participation of the victim and have their informed consent.** This is conscious agreement to receive any services after being fully informed about their rights, the type of services provided, the different choices they have, and the potential risk involved (Office of the National Rapporteur on Trafficking in Human Beings, Ministry of Foreign Affairs (MFA) of the Hellenic Republic, 2021).

Similarly, in **Spain**, during the early interview, the **presumed victims must be informed of their rights and of all the options available in terms of protection.**<sup>8</sup> To this end, in the case of foreign victims, it must be ensured that this **communication is always done in a language that is understandable to them** and, if interpretation is needed, it preferably should be done by specialised interpreters who are sensitive to the different situations of the victims, not by a family member or person involved with the victim, as this could condition the story. This provides certain security for them because of the distrust they have of official bodies and the fear of the exploiters, as well as the fear of being expelled from the country (Miranda-Roche &

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<sup>8</sup> The basic principles contained in the 2005 Council of Europe Convention on Action against Trafficking in Human Beings and the European Directive 2011/36 of the European Parliament and Council, which establishes that sexual exploitation and trafficking are a violation of human rights (Directive 2011/36/EU, 2011), should be applied throughout this identification process through the interview, which must be confidential and in a language that the victim understand. These basic principles are:

- Compliance with human rights standards that include the duty to investigate any violation, punish the perpetrators and provide the victim with the necessary assistance resources.
- Application of the Principle of non-discrimination in terms of gender, ethnicity or any other type of discrimination.
- Establishment of accountability standards to determine the implementation and progress in the fight against trafficking.
- Recognition of human beings as subjects and holders of rights. In this sense, victims have the right to protection, assistance, and recourse without necessarily expressing collaboration in legal proceedings.
- Reinforcement of prevention, providing the necessary legal instruments for the defence of the victims.
- Participation of all sectors involved.
- Integration of the gender and ethnic perspective, since women do not suffer abuse in the same way as men, nor are the consequences the same.

Villacampa Estiarte, 2021). For these reasons, the victim must receive **immediate protection and support** to avoid further risks and revictimization. As in Bulgaria and Greece, this procedure in Spain cannot be initiated without the **victim's consent** and if the victim's safety is not guaranteed, especially regarding contacts with people in the trafficker's environment.

**In Brazil**, the legal status of the victim is **completely independent from any legal proceeding**.<sup>9</sup> As soon as an abusive situation has been flagged to relevant authorities, the person is considered as a victim and protected. There are therefore two separate processes in Brazil: **the protection of the victim and the legal proceeding**, whether at the criminal or the labour law court. If the victim does not wish to testify, they will still benefit from the protection system. For instance, a public defender or lawyer can ask for a protective measure under civil law to a judge, without the need to start a parallel legal proceeding on the crime itself.

**In Peru**, there are several measures that should be implemented for the purpose of safeguarding the victims' rights in the pre-investigation stage. The *Protocol of the Public Prosecutor's Office for the care of victims of trafficking* (Public Prosecutor's Office-Peru, 2019) prescribes the following: "(a) Arrange for the separation of victims in safe environments and away from detainees; (b) In the case of child victims, inform the family prosecutor or mixed prosecutor to go to the premises; (c) Inform the victim of their rights and the procedures to be carried out; (d) Arrange and supervise that the National Police carries out identification procedures, with suitable personnel, briefly and in simple and clear language; (e) Arrange for legal medical expertise on victims, objects and places (...)" (MININTER 2020,p. 49). In the case of a victim of Sexual Exploitation of Children and Adolescents "health services, legal care and family counselling should consider the needs of the victim at the referral stage and prioritise the most urgent needs" (MIMP, 2019).

#### Identified barriers, gaps and harmful practices (pre-investigation stage)

Despite the established procedures in most of the countries under research, **barriers, gaps and obstacles relevant to the pre-investigation stage of the criminal proceedings** have been identified in the first phase of the research. **Mistrust in institutions and fear of perpetrators** is a common impediment to participation in the criminal proceedings in all the countries under research. In **Greece**, for instance, mistrust in authorities is determined by many factors, among which: lack of procedures and effective mechanisms for the identification of victims at the point of entry, unawareness of one's rights and fear (due to being threatened by perpetrators), particularities of a specific crime etc. The research found that the reflection period (30 days from the time of identification) is not synchronised with the regulations and time periods for initial data gathering executed by the police authorities and with the initiation of pre-trial proceedings by the prosecution. In some THB cases (e.g. in Bulgaria), an obstacle for the victim to decide positively for participating in criminal proceedings is the **insufficient timeframe coordination of the operational steps** that the law-enforcement and protection authorities implement. The research found a serious gap in Bulgaria related to the protection of child victims during the identification stage. This gap is related to the implementation of the measure "**taking the child out of the abusive environment**". The child is taken out of the family and accommodated at a crisis unit. Children often understand this as punishment for the fact that they spoke to the authorities. In order to avoid this, the parent or the primary caretaker should accompany the child, assuming they are not? the perpetrators. Moreover, children (and potentially their parents) should be accommodated in shelters and centres with specialists trained to work with victims of sexual violence and/or trafficking. On the other side, the first phase of the research detected **lack of specific knowledge and thematic competences among law enforcement officers and the other relevant stakeholders as well as lack of awareness on the THB and CSA/E crimes**, especially at local levels (Brazil, Greece). This leads to **challenges in understanding the victim's needs and the victim's behaviour**, lack of efficient approach and impossibility to understand the nature and correctly identify the crime. Moreover, the research revealed that in some instances, the formal

<sup>9</sup> Article 7 from law No 13.344 from 6 October 2016, which states protection regardless of collaboration in administrative, police, or judicial proceedings. In addition, whistle-blowers should also be provided with protection from any harm caused that may be cause to them, as it is stated by Law n. 9.807 from 13 July 1999.

identification procedures are long and not harmonised, and sometimes there are deviations in these procedures (for instance, **provision of expert opinion by psychologists and psychiatrists is omitted** in Greece). Another barrier originates from the **institutional violence leading to prejudices, gender stereotypes** as well as sexist, racist, and patriarchal LEA's discrimination against and maltreatment of victims, often manifested as insults/or contempt or prejudiced terms by LEAs towards the victims (Brazil, Peru). Furthermore, **lack of specialised interpretation services** has been detected in some countries under research. For instance, in **Greece and Spain** there are not always translators for all the languages of the victims. In addition, the available ones do not always have the necessary training to deal with trafficking and CSA/E cases and thus are not able to relate the facts directly. In general, the access to justice, as laid down in Article 47 of the EU Charter, is hindered in practice because "*victims of crimes are reluctant to report their victimisation to the police*" (FRA, 2014). This **under-reporting**, according to findings from the first phase of the research, has several potential causes, such as: victims are unaware of their rights; they do not know where to report; even if they know their rights and where to report, cumbersome procedures are discouraging them to do so. In addition, victims might feel fear, guilt or shame and do not want to undergo formal procedures referring to traumatising events.

### **Promising practices in the countries under research (pre-investigation stage)**

Although the field research could not determine the factual state of the implementation of the prescribed standards in practice, several promising practices have been identified relevant for the pre-investigation stage. In **Bulgaria**, there is a promising practice in regard to the treatment of irregular migrants who might be victims of THB. In Bulgaria, the professionals of the State Agency for Refugees' Reception centres, are being trained to recognise potential victims of trafficking among the migrants and persons seeking and granted international protection. The *Manual for training of specialists working with persons seeking and granted international protection* (Animus Association Foundation, 2020), offers practical guidance on the identification, protection and support of victims. Moreover, the Manual elaborates on successful **interview techniques** with victims of trafficking, **according to the so-called PEACE model**. PEACE stands for Preparation/ Engaging/ Account/ Closure/ Evaluation. It is considered to be an international promising practice.

(a) **Preparation and Planning:** plan where the interview will take place and who will conduct it. To be prepared, professionals need to be familiar with human trafficking beforehand: which types of trafficking are most prevalent in the area in which they work; what are the indicators that can help them identify victims; what the impact of trafficking is on victims; what the professionals and organisations that offer appropriate services, and what their role is in relation to protection procedures. Interpretation should be provided in advance so that the victim understands the questions being asked. Before the interview, all professionals must sign a declaration of confidentiality;

(b) **Engage and explain:** It is advisable to ask more general questions at the beginning so that the interviewer and the interviewee get to know each other. It is important to inform the victim of all the steps of the process. However, in cases of assessment interviews, it is recommended not to state immediately that it is an assessment interview because the victim may be unaware of what constitutes human trafficking or may be afraid to talk about it, as there is a risk that traffickers will learn that they have shared information. It is important to pay attention to the body language of both the interviewer and the victim;

(c) **Account:** At the beginning of the assessment interview, it is important to ask open-ended questions that are not directly related to trafficking but address more general information about the person. Through their questions, professionals should also find out whether the person is familiar with the offence and whether they are aware that they have been a victim;

(d) **Closure:** Decision whether the person is a victim of trafficking. If so, the victim should be given information about the future steps and helped to understand the procedures in which they could become involved. Otherwise, they may feel threatened and unable to cooperate. If it is assessed that the person is not a victim of trafficking, an adequate information about existing organisations has to be provided in order to for this person to receive support; and

(c) **Evaluate:** Professionals should listen actively, take in what is being said and correlate the information obtained with the indicators of trafficking of human trafficking. When working with victims of trafficking, professionals should be aware that some atypical behaviours can be explained by the trauma caused by the experienced violence. They should be familiar with the impact of violence on the mental health of the victims. Professionals should have skills to support individuals with mental trauma and work with cultural mediators to provide appropriate support.

In **Brazil**, the Federal Police has created **partnerships** with airport institutions and airlines to train the staff in identification of THB cases. The use of **big data** has also greatly supported their capacity to detect and investigate THB cases. **The Federal Highway Police** is the LEA mandated with the fight against all types of crimes that may occur on federal roads or along their margins, especially drug trafficking, THB, sexual exploitation of children, environmental crimes, smuggling and theft of cargo and vehicles. They developed different **mapping systems** (Projeto Mapear) that help identify THB cases in *flagrante delicto* as well as CSA/E cases, and its officers participate in different initiatives and joint projects aimed at collecting data (Ministry of Justice of Brazil, 2019).

In **Greece**, according to the Hellenic Ministry of Foreign Affairs (Office of the National Rapporteur on Trafficking in Human Beings, Ministry of Foreign Affairs (MFA) of the Hellenic Republic, 2021), at the stage of the early communication with the victim, there are some basic principles that the professionals follow as well. In the case of an adult, the professionals (frontline responders) **set a framework of collaboration which includes the content, the purpose, the process, and the confidentiality aspect of the conversation**. Further, the professionals must concentrate and focus the conversation primarily on providing factual information concerning the case. They must have the ability and the knowledge to work with interpreters as well as to pay special attention to avoid the re-traumatization of the presumed victims. The basic guidelines towards a more effective interpretation strategy contain factors that need to be considered by both, the professional and the interpreter, while communicating with the victim:

- The professional should address the victim directly, using "I" and "you" rather than having the interpreter ask the questions.
  - The interpreter should be informed about the case in advance and be aware of any cultural sensitivities.
  - The seating arrangement should allow for direct visual contact between the victim and the professional.
  - The professional should use simple and everyday language, avoiding scientific jargon and idioms.
  - The professional should speak slowly and clearly and pause after each question to give the interpreter time to translate.
- The professional should maintain control of the meeting and not allow the interpreter to take over the conversation.
  - The professional should pay attention to body language, both their own and the victim's.
  - The professional should make sure that the victim feels included in the conversation and understands everything that is being said.
- The professional can use the interpreter's cultural knowledge to help bridge the gap between the victim and themselves.

Both the professional and the interpreter should maintain a professional demeanour throughout the meeting.

In **Peru**, according to the above-mentioned *Protocol of the Public Prosecutor's Office for the care of victims of trafficking* (Public Prosecutor's Office- Peru, 2019), the victims are separated from the alleged perpetrator, from the operation that initiated the legal process to the arrival at the police facility. The purpose of this practice is twofold: (a) it reduces the exposure of the victim to the alleged perpetrator and minimises the possibility of receiving threats; and (b) the physical, psychological and emotional integrity of the victim are safeguarded.

Countries under research have established several promising practices relevant for interviewing child victims of trafficking and CSA/E, along with measures to meet their needs and avoid re-victimisation by interviewing them only once. Since these interviews are formal and relevant for the next stages of the criminal proceedings, these practices are elaborated in the forthcoming sections.

#### **2.4.2. Investigation stage of the criminal proceedings: procedures and practices in the countries under research**

For the purposes of the investigation against the trafficker/perpetrator, a **formal interview** should be conducted after the recovery and reflection period for the victim.



The victims have the right to decide not to cooperate with the investigation authorities. Nevertheless, their protection rights as victims of THB or CSA/E should remain.

#### **Legal, policy, operational frameworks and principles established in the countries under research (investigation stage)**

In the countries under study, various investigation techniques are implemented, taking into consideration the victim centred approach in the THB and CSA/E cases. Different investigation procedures are applied among adult and child victims. All five countries have established (or plan to establish) investigation procedures in accordance with the victim centred and the child centred approach.

In **Bulgaria**, if the victim decides to testify, an investigator conducts the interrogation. The case manager/professional providing psychological support must inform the investigator in advance about the victim's emotional and physical condition. According to the Bulgarian National Referral Mechanism, the investigators should **avoid re-traumatization of the victims** during the investigation with sparing methods of testifying and interrogation in a different room from the traffickers. It is extremely important that providing testimonies should not be a traumatic process for the victim. In case leaving the shelter poses a security risk for the victim, the meeting with the investigator takes place in the shelter. Foreign victims should receive interpretation service, temporary residence permit (if necessary) and prolonged shelter accommodation.

In **Peru**, interviews with victims of trafficking and child sexual abuse or exploitation, are considered as a general tool for the investigation and for initiating the criminal proceedings. The collection of information from the victim is a key moment and, therefore, a specific tool: a **single interview with the victim in a Gesell Chamber** (special premise for interviewing victims), allowing the victim's testimony to be collected only once, is available for this purpose. This interview has two central elements: i) **it is the axis of the construction of the theory of the case** (the victim is the main witness, the aim is to reduce the victim's reluctance to give a statement and to generate greater empathy); and ii) **provides the victim with guarantees and protection so that they can give testimony only once** and thus avoid re-victimisation. Prior to establishment of this tool, the victims were called to participate at investigation interviews and to testify on several occasions, even confronting her with the perpetrators (which generated various problems in the process and affected the victim's mental health). *The Operational Guide for the investigation of the crime of trafficking in persons (2020)* of the Public Prosecutor's Office and the National Police in Peru establishes a series of recommendations in the framework of an investigation of THB cases, among which the following stand out: a) arrange for the separation of the victims in safe environments and away from the detainees and b) in the case of child and adolescent victims, inform the family prosecutor or mixed prosecutor to go to the premises. (MININTER, 2020, p.49). Moreover, the presence of measures like handling of digital evidence from a mobile device or a mobile phone (7.4) and special undercover agent (8.3) mark a slow but significant step to partially remove the burden of proof from the victim. Special investigation technics are proposed also by the Intersectorial Protocol on Trafficking in Persons, chapter 2.2.12. Principle of digital equivalence, adopted in 2023 (MININTER 2023, p.34).



In Greece, in accordance with the Law 5028/2023, a **special judicial investigator for human trafficking deals exclusively with cases involving THB victims**. The law aims to ensure that THB and CSA/E victims have access to justice and that their cases are handled by specialised investigators who have the knowledge and experience to deal with these complex and sensitive cases.

The **Spanish Ministry of the Interior** published a **Manual of Good Police Practices to combat violence against women** (2013) aiming to share and disseminate police practices in the prevention and investigation of crimes against women, including human trafficking cases. The proposed amendments in the Criminal Code of the country envisage that **the victim's right to protection and assistance is disassociated from their complaint and participation in the criminal investigation**. Without prejudice to the promotion of collaboration with the victim in the criminal investigation through adequate protection, the preliminary draft establishes that the necessary measures will be adopted to guarantee that assistance to the victim and the process of detection and identification are not conditional on their collaboration, in such a way that it is not imposed on the victim as a condition for receiving this assistance that they are willing to participate in a judicial process. Similar developments have been identified at regional level. A **Guide of good practices in the investigation and prosecution of human trafficking crimes of the Generalitat de Catalunya** was published in 2021.



The countries under research have also set specific standards for investigating the cases of child trafficking and CSA/E. **In Bulgaria**, the principle of ensuring the **best interests of the child guides the activities of the investigation** and prosecution in the cases of child victims and witnesses. The legal definition of the term "best interests of the child" is provided in the Child Protection Act. **In Greece**, a **Protocol Guide for Case Management of Child Sexual Abuse and Exploitation has been developed, focusing on**, preliminary investigations, and interviews of minor victims and witnesses in cases of child abuse and exploitation. Within this short guide, actions of police officers as first responders are described, as well as the procedural actions of police during the preliminary investigation. The **Gesell chambers in Spain and Peru** are mainly used to obtain pre-constituted evidence in an environment that favours the child's statement without being subjected to a process of re-victimisation. In Spain, the interviews are conducted by psychologists and the general rule is that parents or accompanying persons are not allowed to be present in the interview room, mainly so that they cannot be influenced in any way (Arantegui Arraez, 2022, p. 50). Outside the chamber are the observers, including the judge, the prosecutor and the lawyers. The presence of the child's companions in the observation room is not encouraged or facilitated, and in fact it is prohibited if there is any indication of a conflictive relationship between the child and his or her parents. **In Peru**, prosecutor, psychologist and victim's relatives attend the Gesell Chamber, along with the lawyers for the parties, the parents, guardians or representatives of the child or adolescent and the national police, if necessary. A translator or interpreter may also be required. The Chamber has audio and video equipment for the reproduction of the interviews, an intercommunicating microphone and furniture for the people who observe the proceedings without being directly seen. The informed consents are signed and subsequently, with support of psychologist, the prosecutor records the statement on audio or video, and explores the facts related to the complaint, through a specific instrument (a list of open questions), generating an empathetic and friendly scenario for the victim. A semi-structured questioning technique is used, with the possibility of open answers and the use of free narrative language. In interviewing children, the **law in Brazil differentiates between specialised interview and special deposition**. They are both considered as equally valid **means of collecting evidence**, which will later be accepted in court (criminal, labour, civil or administrative courts). They constitute, apart from few exceptions covered by the law, the **only legal way to interview children** and adolescents victims or witnesses of violence in the framework of the judicial proceeding and the criminal investigation. Therefore, and again, excluding some exceptions, **police officers and judges are not supposed to interview the children**. The interviews are conducted by other relevant professionals (psychologists, social workers etc).

### Identified barriers, gaps and harmful practices (investigation stage)

Despite the established framework, the first phase of the research found several challenges, gaps and barriers in implementing the investigation procedures in practice. Most of them lead to revictimization due to the inadequate information gathering processes. For instance, in **Bulgaria and Spain, the investigation interviews often interfere in the granted reflection period.** In Bulgaria, the Reflection period has a length of 30 days for adult victims and 60 days for children. However, often this time frame is not taken into consideration and the police insist on meeting and interviewing the victims for the purposes of investigation, without proper explanation on the investigation process and victims' rights in that regard. This practice brings fear and uncertainty about the immediate future and the victims' participation in the criminal proceedings. Despite the established standards in **Spain**, there is still an obligation for the victim to **give the same testimony at different stages of the process and in front of different interlocutors**, which has negative consequences for the victims and leads to revictimization. In **Peru**, despite the existence of the Gesell Chambers, the **investigation interviews are oftentimes conducted in other, limited spaces, sometimes without specialised professional staff** to carry out the meetings. There are also **logistical and time deficiencies** (for instance, appointments are made much later than ideal timeframes for the victims), which means that this efficiently designed instrument cannot always fulfil its objective in practice (Palomino, 2020). In many cases, the gathering of the initial information is done on the territory of the Local Police Departments, in crowded rooms and lack of privacy. The interviews in **Greece** revealed that there is an overall **shortage of judicial investigators.** In this country, for instance, if the THB or CSA/E crime has been committed abroad, the presumed victims are not always granted the official status of a victim because they cannot provide the information required about their exploitation abroad.

### Promising practices from the countries under research (investigation stage)

Responding to the challenges identified, the countries under research have developed several promising practices related to the investigation process of the criminal proceedings.

In **Peru**, for instance, there are established **procedures by the specialised police for confidentiality of information on the victims.** In the past, there were situations in which the identity of the relatives or the witnesses were revealed by reading of the police files. With the specialised procedures, the victims are coded, their initials are no longer used, so there is a high level of confidentiality established in terms of protecting identity of the victims in the investigation stage. In **Brazil**, the transnational cooperation on joint investigations can be highlighted as a promising practice, especially with the Latin American countries (particularly with Paraguay- joint investigation police team was launched in 2019), as well as with the Police Community of America (AMERIPOL). In 2022, an agreement was signed to establish **the International Centre Specialised in the Fight against Smuggling of Migrants and Trafficking in Persons.** The Centre will bring together 18 police officers from various countries to tackle THB and migrant smuggling, under coordination of the Brazilian Federal Police and will have the latest IT equipment to coordinate investigations. Moreover, the **police cooperation between the different Brazilian LEA agencies** has also improved and more joint training is being organised between Federal Highway Police, Military, Civil and Federal Police. The police officers know each other and have an **informal network** of focal points in the different states and at federal level for THB and CSA/E. This informal practice helps fill an institutional gap in police cooperation.

Nevertheless, most of the identified promising practices are relevant for child victims of THB or CSA/E. In this regard, it is worth to mention the practices in **Bulgaria (Blue room), Brazil (special deposition), Peru and Spain (Gesell Chambers)** where possibilities for single interview prevent the revictimization and in addition, allow that the information received during the first interview may be used for initiating investigation against the perpetrator. In addition, there are mandatory protocols established in Greece for interviewing children.



In Peru, the **Administrative Resolution 277-2019-CE-PJ** approves the **Single Interview Protocol for Children in the Gesell Chamber**. The purpose is to avoid re-victimisation during the criminal proceedings and to guarantee the child victims' rights. Similarly, in **Spain**, seeking to avoid secondary victimisation, the use of **Gesell chambers for the interrogation of child victims of sexual abuse** has proven to be a suitable tool. A Gesell chamber consists of two rooms with a mirror on the dividing wall, which is seen as a mirror by those being observed, but on the observer' side is a window into the adjoining room. In Bulgaria, **initial interviews (talk) with the child victims of THB and CSA/E in Bulgaria are conducted in the presence of the parents**, in order to collect more information on the case. The presence of a parent is supportive for the child, but sometimes, depending on the age and the case, the children prefer to talk about the abuse when the parents are not present. In this case, a trusted social worker or another protection specialist is always present. The children are interviewed in the so-called **Blue rooms for children**, which are specialised premises for safe hearing of children. The aim is to avoid further traumatisation of the children involved in legal proceedings, to ensure that their interests and their rights are protected, while at the same time ensuring the collection of complete and accurate information on a case. Both practices are analysed in the next sections of this report. In **Brazil**, there is a concept adopted that safeguards the child victim's wellbeing: they are not interviewed by first responders, but by specialised officers at a later stage, within the requirements of the **Federal Law 13.431/2017** (hereinafter "the Law") and Decree 9.603/2018<sup>10</sup> that establishes **guarantees to the rights of children and adolescents who are victims and witnesses of violence, including THB and exploitation**. Its main objective is to provide the victims with an inter-institutional framework for their treatment in criminal proceedings that avoids institutional violence and re-victimisation. The specific methodology for interviewing children, as mentioned above, foresees **specialised interviews and special deposition**, both considered as equally valid **means of collecting evidence**, which will later be accepted in court. **While the specialised interview** aims to understand the situation and to identify support needs of the child victims, with the **special deposition**, a child should be interviewed only **once**<sup>11</sup> for all open judicial and administrative processes (criminal case, change of legal tutor, suspension of family power...). The outcome of the specialised interview must be shared, if pertinent, only to the relevant public actors and can already constitute, per se, the **possible start of an investigation or even an indictment**, without asking the victim to describe the facts again to the judiciary or LEA authorities. It can therefore be understood as an alternative method to the judicial deposition. The special deposition should be used for "anticipation of evidence" in the most difficult cases: a) if the victim is younger than 7 years old, and b) in cases of sexual violence. Whilst the specialised interviews are more open, the deposition must follow a certain procedure, defined by article 12<sup>12</sup>: The deposition must be made **in a different room** that the audience/courtroom in which only the child and the interviewer are present, and the room must be furnished according to **international good standards** (e.g. the **camera should be hidden** as much as possible, the room should be **welcoming and child-friendly**, the interviewer should be **at the same eye level as the child**).

- The interviewer must **inform the child** about this deposition, its objective, the current proceedings and that the interview will be recorded;
- The use of **free narrative** is a right the child has and the interviewer intervenes only to clarify some facts (the approach taken is that the interviewer intervenes as little as possible);
- The deposition, whether performed in the context of the police or the judicial proceedings, **must be recorded** (both video and audio). If made in the framework of a judicial proceeding (criminal, civil...), it is then **transmitted live to the courtroom** (also so the child does not meet his/her presumed aggressor). If the child does not consent to the recording of his/her deposition, then a specialised

<sup>10</sup> Law 13.431 of 4th April 2017 and Decree 9.603 of 10<sup>th</sup> December 2018.

<sup>11</sup> Article §2 allows for a second interview or deposition only when it is deemed essential and if the victim or its legal tutor agrees.

<sup>12</sup> This methodology, even though very summarised and not very detailed in the law, seems to be up to the international standards for specialised hearings/depositions, like the Dialogical Communication Method (DCM).

interview will be conducted instead (as the recording is not mandatory by law for this type of interview). The report of this interview will be used in the court proceedings, and the child will not be forced to repeat his/her statement twice, whether or not it is recorded;

- The judge, after consultations with the Prosecutor's Office, the Defence lawyer (or public defender) and the technical assistants, can evaluate the **need and relevance for additional questions** to be asked;
- The interviewer (psychologist, social worker, case manager etc.) can **adapt the questions** formulated by the judge or the LEA agency to the child's cognitive level for a better understanding.

The child can choose to directly make his/her deposition in front of a judge. **This is very important to note, as the deposition in front of a judge changes from being the normal process to being an exception since this law entered into force.** This support system in Brazil is not defined on the basis of the **child's cooperation in the investigation or criminal proceedings** and should be put in place whether or not a criminal proceeding has or not started.

When interviewing child victims of sexual abuse or exploitation in **Greece, in accordance with the Protocol Guide for Case Management of Child Sexual Abuse and Exploitation**, the interviewers must apply **child-centred approach**. They must be focused on the child's well-being, comfort, and communication abilities. Questions and language should be age-appropriate and non-leading. Several key principles must be followed to reassure the child, help the professional to create a relationship of trust with the victim and manage to provide the protection/ support services that the child needs more in the most effective way. When possible, child victims must be interviewed by professionals who specialize in children's protection. In this context, it is foreseen under art. 226 of Code of Procedures that during minors' examination is obligatory the **presence of specially trained child psychologist or psychiatrist**. In addition, the **Protocol of the Judicial Interview of the allegations of minor victims of violation of their sexual freedom** consists of three specific stages with individual sub-stages, the observance of which is mandatory:

- 1) **Preparation:** building a relationship; getting to know the professional; establishment of a supportive environment the rules of the interview; the practice of free narration;
- 2) **Conducting the essential part of the interview:** go to the main topic; free narration of events; targeted questions to enrich the information; and
- 3) **Closing the interview:** summary of what was reported by the minor; moral enhancement by empathy – express gratefulness for the cooperation; update on what's to come; search for trusted people; encouragement and encouragement for another communication or meeting; desensitisation – discharge.

The protocol includes further guidelines with given examples of questions and answers that can occur during the interview.

### 2.4.3. Pre-trial stage: procedures and practices in the countries under research

As elaborated earlier, the pre-trial phase is extremely important. This section elaborates the victims' participatory rights in the countries under research during the pre-trial phase.

#### Legal, policy, operational frameworks and principles established in the countries under research (pre-trial stage)

Serious attempts have been made in the countries under research to safeguard the victims' rights in the pre-trial phase, as well as to encourage them to participate as witnesses in the trial processes.

In **Peru**, the above-mentioned **Protocol of the Public Prosecutor's Office for the care of victims of human trafficking** (Public Prosecutor's Office - Peru, 2019), regulates the mechanisms to grant protection measures

to the adult victims in the pre-trial phase: to provide them and their dependants health and psychological care; to enable free legal assistance and defence to victims as well as to provide the victims with comprehensive care to contribute to the protection, recovery and access to justice in accordance with the National Programme against Family and Sexual Violence. Moreover, the Programme and the Victim and Witness Care Unit (UDAVIT), enables legal, psychological and social assistance to victims and witnesses in legal, psychological and social matters. UDAVIT cooperates with the Prosecutor's Office in Peru on provision of necessary protection measures to victims and witnesses who receive threats. These measures contribute to strengthening a bond of trust between the justice system and adult survivors and their families. However, several police officers from the specialised anti-trafficking unit report shortcomings of the UDAVIT with regard to the speed and support needed in dealing with a victim in a timely manner.

The pre-trial support services of witness/victims of THB and CSA/E in **Greece** are combined with the provision for witness protection measures. It is envisaged with the Law 4478/2017 (art. 69 in combination with art. 218 par.3 of National Code of Procedures) to replace the victim's physical presence in the next stages of the procedure with the audio-visual recording of the victim's testimony and the reading of their written statement, while in case of supplementary investigation after the hearing takes place, the investigation is done without the presence of the accused, at the place where the victim is located.

The **Criminal Procedure Code (CPC) in Bulgaria** (specifically Chapter 13, Section II, article 123) provides clear instructions on the protection of witnesses during the pre-trial stage. In cases where there are sufficient grounds to assume that, as a result of testimony, a real threat may arise to the life the witness, the prosecutor with consent of the witness, takes measures for his/her immediate protection. The witness protection under CPC is of a temporary nature and could be provided by means of **personal physical protection** by the Ministry of Interior or the Bureau for Protection and by **keeping victim's identity secret** on request of the prosecutor. In addition, the third **standard operating procedure within the National Referral Mechanism for Victims of THB**, contains a measure that envisages provision of legal representation for the victims (free legal aid if they comply with the conditions for receiving legal aid determined in the Legal Assistance Act), as well emotional and logistical support so they are able to provide testimony that could serve the court process. In addition, the safety of the victims and their families is to be ensured. Moreover, an individual consultant (psychologist, social worker) is appointed to work together with the victim prior, during and after the trial to avoid further traumatisation of the victim. The CPC provides the possibility for a **video or phone conference** during the pre-trial and in the trial proceedings. Interviews of witnesses with specific protection needs are conducted after measures have been taken to avoid contact with the trafficker (Art. 139 Interrogation of a witness).

In Brazil, **Law No 13.344** replaced the previous legislative act (Law 6.815, of 19 August 1980), by adding that permanent residence will be granted to victims of THB in the national territory, **regardless of their migratory status and collaboration in administrative, police, or judicial proceedings**. Changes foresee granting of permanent visa or residence permit, as family reunion to spouses, companions, ascendants, and descendants and to other members of the family group that prove economic dependence or habitual cohabitation with the victim. The Law guarantees that the foreigner will be in a regular situation in the country while requesting migratory regularisation.

In **Spain**, the **pre-constituted evidence in the pre-trial stage** has been endorsed by both the Spanish Constitutional Court and the European Court of Human Rights, and the Spanish Supreme Court itself has done important work on the systematisation of this tool. It means that the **evidence taken during the pre-trial investigation may be regained at the trial at the request of either party**. In such cases, the presence of the victim of THB and of children under 14 years of age shall not be required. The pre-constituted evidence might be carried out in the pre-trial phase, however, it will be presented at the trial stage. The following circumstances should be enabled prior to the taking of pre-constituted evidence: (a) assessment of the psycho-physical condition of the victim in order to know whether he/she is able to testify; (b) the right to a period of recovery

and reflection, as well as the assisted return must be ensured, since *"an interrogation carried out too soon can be fruitless due to the victim's state of shock"* (Guil Roman, 2021, p. 26); and (c) assessment of the advisability of waiting for the effective legal appearance of all those reasonably expected to be involved in the case. According to the prosecutors in Spain, **the use of pre-constituted evidence should be standard practice in handling THB and CSA/E cases** (Sánchez Covisa, 2021, pp.14 and 20).



As indicated in Law 8/2021 on Child Protection in **Spain**, the **pre-constituted evidence** *"is an appropriate instrument to avoid secondary victimisation, particularly effective when the victims are minors or persons with disabilities in need of special protection"* (Preamble Law 8/2021). Following these criteria, the law led to a modification of the Criminal Procedure Act which in its article 449 establishes the obligation to carry out the testimony of the minor through the use of pre-constituted evidence. In this way, *"the testimony in trial of minors under 14 years of age or disabled persons in need of special protection becomes exceptional, establishing as a general rule the practice of pre-constituted evidence in the instruction phase and its reproduction in the trial, avoiding that the time lapse between the first statement and the date of the oral trial affects the quality of the account, as well as the secondary victimisation of especially vulnerable victims"* (Preamble L.O.8/2021). According to the **Bulgarian Criminal Procedure Code**, in the pre-trial phase, children below 14 years are interrogated in the presence of a parent or other caregiver with the exception of cases where this is against the best interest of the child (e.g. in cases where the parents are involved in the exploitation). As regards to child victims of THB or CSA/E, the Services of Juvenile Probation and Social Welfare of the Ministry of Justice in **Greece**, conduct **individual assessment of the victim to identify any special protection needs**, to decide whether, and to what extent, the victim can benefit from special protection measures during criminal proceedings, to avoid the risk of suffering secondary and recurrent victimisation, intimidation and retaliation. The **Brazilian system** sets a **clear division between institutions investigating/prosecuting the crimes and institutions supporting the victims**. This, according to the research conducted, brings positive outcomes in terms of division of tasks among the professionals, especially in terms of protection of children. The law does not differentiate between a national and a foreign victim and the different legal basis on child protection clearly encompass **migrant children and adolescents** in the protection framework. **Federal Law 13.431/2017 and decree 9.603/2018** establishes **guarantees to the rights of children and adolescents who are victims and witnesses of violence, including THB and exploitation**. Its main objective is to provide the victims with a multi- disciplinary (or inter-institutional) framework for their treatment in criminal proceedings that avoids institutional violence and re-victimisation. All the specific needs of the children, whether victim or witness, either from the **medical** (including psychological or even psychiatric), **social, educational, or juridical** (legal assistance) fields should be carried out with **immediate referral** to the corresponding public programmes and services, working together for the **child's protection and well-being**. In its article 4, the law specifies the **type of violence**: physical, psychological (bullying and parental alienation), sexual (including through electronic means),<sup>13</sup> and institutional. In this regard, the right to **privacy, confidentiality and data protection** are indeed safeguarded. As the law's objective is implementing holistic inter-institutional support to the child victim, information must be shared between the different public actors involved in a confidential manner. The data shared must be done only between the different focal points and must be relevant for the efficient protection of the child. In addition, there is an **initiative of the Mixed Parliamentary Front for the Promotion and Defence of the Rights of Children and Adolescents and the Brazilian Association of Legal Psychology** to introduce a **law on coordinated and integrated approach** between the different public authorities involved: According to the Group, *"...the policies implemented in the judicial, public security, social assistance, education and health systems should adopt an articulated, coordinated and effective action to the reception and comprehensive care*

<sup>13</sup> *"Sexual violence, understood as any conduct which forces a child or adolescent to perform or witness carnal intercourse or any other libidinous act, including exposing their bodies in photographs or videos, whether electronically or not, which comprises {sexual abuse, exploitation, trafficking}"*.

*of victims of violence*". The law therefore foresees the creation of so-called **Integrated Care Centres** for children and adolescents including **specialised multidisciplinary teams** aiming at accompanying them throughout their journey (health and social care, juridical support.). It determines a system of protection from the moment of the accusation (or identification of the alleged crime) and throughout all the phases of the judicial process, including in the pre-trial, foreseeing the concentration of services in the same space. The integrated assistance aims to prevent the re-victimisation of the child or adolescent in the assistance provided by the protection network services. In terms of the insufficient accommodation of the victims, including children, it is positive that this law initiates establishment shelters in each municipality, dedicated for child and adolescent victims, including LGTBTQI+ adolescents.

### **Identified barriers, gaps and harmful practices (pre-trial stage)**

Despite these positive developments in the countries under research, there are still important challenges regarding the treatment of victims in the pre-trial phases and safeguarding their rights. During the first phase of the research, several barriers, gaps and harmful practices were detected.

One of the main barriers for the victims to participate in criminal proceedings, detected in all the countries under research, is the **lack (or insufficient) protection in the pre-trial stages**. Many victims feel detained and lack protection, which generates a certain reluctance or refusal to collaborate, putting the criminal proceedings at risk. This translates into victims' fear of reprisals, the lack of security for their family in the country of origin, and the threats they receive. Sometimes the family is threatened by their country of origin to abandon the judicial procedure. The main reasons for insufficient protection, as reported in the countries under research, are: (a) **Lack of dedicated funds or resources to protect the victims**, and (b) **lack of knowledge and skills among the relevant professionals to implement the protection measures in practice, as well as lack of coordination among them**.

In this regard, discrepancies between practice and services have been detected in Brazil, arising mainly from the **deprived social setting** of victims and the constraints of the judicial power to provide victim support. Although basic services should be available (shelter, legal and psychological counselling, etc), there are situations which require assistance from the justice courts at local level. The lack of funds to implement the envisaged protection measures towards the victims of THB and CSA/E, compels the public authorities to rely on NGOs, which brings in practice a plurality **of standards**, procedures, and treatment methods towards the victims, which do not necessarily follow the governmental standard procedures. For instance, in Brazil and Peru, **inadequate accommodation of the victims during the pre-trial phase is detected**. The victims are accommodated either in closed residential care centres (Peru), or in migrant centres of facilities for homeless people (Brazil). These conditions and the limited freedom of movement creates a context that creates emotional and psychological barriers among the victims impeding their access to justice and the exercise of their human rights with a perspective of reparation.

Another obstacle detected in the countries under research is **lack of professional staff**, for instance, lack of specialised law enforcement units **to work with victims of THB and CSA/E** (especially at local level). Instances from Brazil, Spain and Greece reveal lack of capacities among the professionals, resulting with inadequate treatment towards the victims without empathy or even aggressively. Inappropriate actions occur as well, due to insufficient experience, obsolescence or lack of adequacy among the professionals, which harms the development of the criminal proceedings and the rights of the victims. For instance, possible **breaches of confidentiality and data protection** through exchange of information by the relevant professionals via unsecured channels have been detected (Brazil). A point of concern is recording of the above-mentioned specialised interviews to capture non-verbal communication of a victim on private devices of the relevant professionals (in absence of adequate equipment), as well as exchanging sensitive information re the case via new communication technologies, such as WhatsApp. Whilst this may be an advantage of creating new ways to dialogue between institutions, the transfer of confidential personal data on such instant messaging platforms is also a serious reality.

Another obstacle detected in the majority of the countries under research are the **inappropriate procedures for provision of victims' testimony in the pre-trial stage**. As in the investigation stage, the public authorities are not sensitive to the victim's need for recovery. This, oftentimes, the moment and circumstance of giving testimony do not correspond to the most optimal moment from the victim's physical or psychological point of view. Secondly, the obligation to give the same testimony at different stages of the process and in front of different interlocutors has negative consequences for the victims and leads to revictimization.

### Promising practices from the countries under research (pre-trial stage)

There are several promising initiatives or practices that have been identified during the second phase of the research in response to the above challenges. It is nevertheless positive that coordination mechanisms were established in some of the countries under study to enable **improved collaboration among the professionals dealing with THB and CSA/E cases**, especially in the pre-trial stage, when witness protection is crucial. The **Bulgarian National Referral Mechanism** for trafficked persons is a positive example of coordination, encompassing specific standard operating procedure that envisages measures on comprehensive assistance and support towards the victims in this stage and avoiding revictimization. Another positive development in the country is development of the above- mentioned *Manual for training of specialists working with persons seeking and granted international protection (2020)*, focusing on the victims of trafficking among the migration flows. In terms of the pre-trial procedures, this paper provides detailed instructions for the professionals as regards to the treatment of the victims. For instance, it instructs them to manage expectations – as the victims should have a realistic view regarding the criminal process; to respond to the imbalance between the position of the accused and the victim, as many victims feel that the accused has all the rights, and they have none; as well as to work for the accountability of the law-enforcement and judicial system (police, prosecutor, lawyer, judge) for the consequences of the crime for the victim. In terms of victim protection issues in the pre-trial phase, a positive example was identified in **Peru**, with the Programme and the Victims and Witnesses Unit (UDAVIT), aiming to facilitate the participation of victims and witnesses in the criminal justice process by helping them to cope with emotional and physical security processes. In addition, there is a measure to protect and guarantee the victim's rights, which consists of **avoiding exposure to the perpetrators**. The Public Prosecutor's Office and the National Police have established protocols with a series of measures for the protection and care of victims and witnesses of human trafficking in this regard, in order to avoid possible threats to them and their families. Moreover, the harmful practice of transporting witnesses and traffickers together in the same mobile unit has been overcome, creating conditions conducive for the trafficker to threaten and instruct the victim. In addition, this practice helped victims to understand their situation in the pre-trial phase as well as the rights they are entitled to. Although the existence of this unit is a positive element, several police officers in the specialised unit express dissatisfaction with the system. The unit is under-resourced and this leads to victims not wishing to use the system.

As regard to the **inappropriate procedures for provision of victims' testimony in the pre-trial stage, the Spanish law provision on pre-constituted evidence**, mentioned above, can be highlighted as a positive practice. The use of pre-constituted evidence as a standard tool has allowed different objectives relevant for safeguarding the victims' rights during the criminal proceedings to be achieved. On the one hand, it avoids the threats to which the victims of trafficking are subjected throughout the proceedings. Secondly, it avoids further traumatic experiences and additional suffering for the victims due to the need to confront their traffickers face to face or by repeatedly forcing them to make statements. And finally, it allows criminal proceedings against the accused to continue regardless of whether the victim has returned to her country of origin.



In regard to safeguarding the child's rights in the pre-trial stage, an **Assessment to identify the child victim's special protection needs** is regularly conducted in **Greece**. Information on the case, upon request, is submitted to Services of Juvenile Probation and Social Welfare of the Ministry of Justice. The professionals conduct a timely individual assessment of the victim to identify any special protection needs, in order to decide



whether, and to what extent, the victim can benefit from special protection measures during criminal proceedings, in order to avoid the risk of suffering secondary and recurrent victimisation, intimidation and retaliation. In addition, according to the art. 11 of Ministerial Decision n° 7320/10.06.2019 of Ministry of Justice, Transparency and Human Rights, a competent mental health specialist should be appointed in the pre-trial phase, to prepare the minor for the examination as follows:

- a) informs the minor regarding his name and status;
- b) initially discusses with the minor on neutral topics;
- c) establishes a supportive safe and trustworthy environment,
- d) explains the reason, the purpose, the basic rules of the examination, the course of the whole process and his role;
- e) encourages the witness to testify the truth about the events that took place, as they themselves experienced them or perceived them and to recall in their memory as much information as possible.

Under no. 10 of the same decision, it is expressly stated that the assessment of the cognitive capacity and mental state of minor victims is part of the minor's preparation for the judicial examination (therefore, it is not an additional examination that will burden the minor witness more during his involvement in the criminal procedure). The mental health scientist examines the developmental stage of the latter, evaluates their perceptual, linguistic and memory capacity, as well as their ability to distinguish lies from truth. In this context, it is foreseen that the members of the minor's family, especially their siblings, will be invited to an interview, in order to achieve the evaluation of their family environment in general. The parents need to be examined before the minor, and it is necessary to consider the background of the family and in particular, any background of abuse or neglect of any other member, as well as serious mental health issues.

#### **2.4.4. Trial stage: procedures and practices in the countries under research**

In order to allow the victim to feel safe in a role of a witness during the trial against the perpetrator, as well as to be able to provide a meaningful testimony, there are certain conditions that need to be fulfilled for full protection.

##### **Legal, policy, operational frameworks and principles established in the countries under research (trial stage)**

Different procedures, all aimed to safeguard rights of the victims of THB and CSA/E during the trials, have been established in the countries under study. The protection of the rights to privacy, protection, legal representation, psychological support etc. is regulated by various legal and policy instruments. Series of rights for the victims of THB and CSA/E relevant for the trial procedures are envisaged in this regard.

Victims identified in all the countries under research have right to safety and protection during the court proceedings, although there is limited information on the specific protection (i.e. psychological support during the trial proceedings) in the country reports.

According to the *Handbook of the Greek National Referral Mechanism for the Protection of Victims of Human Trafficking* (2021), the victims' right to receive information (in their own language) on the court procedure, on the testimony to be provided and on the relevant support and protection measures in this regard. The victims also have the right to make a complaint in case their rights are not respected by the competent authority. Interpretation should be provided free of charge to the victim who does not speak or does not adequately understand the Greek language, with special provision for people with hearing problems at any stage of the criminal proceedings, even for communication between the victim and their legal representative. During the court procedures, if required, communication technology may be used such as video conferencing,

telephone, or internet, unless the personal presence of an interpreter is considered necessary.<sup>14</sup> In this country, **as well as in Bulgaria and Peru**, victims have the right to **avoid contact between the victim and the perpetrator during the court proceedings**, and for that purpose, there are adequate measures envisaged.<sup>15</sup> **In Peru**, as already mentioned, this is done by conducting a single **interview in Gesell Chamber**, aiming to avoid re-victimisation (avoiding confrontation with the alleged aggressor and having only one piece of evidence in advance). The **Bulgarian NRM for trafficked persons** goes beyond with provision of several principles and guidance for the practitioners, to avoid secondary victimisation. In that regard, specifically for the court procedures, it is recommended to **prepare in advance the positioning of the participants in the trial** (in particular, avoiding victims and defendants standing together in the waiting room or standing next to each other in the courtroom). In that regard, **in Greece** for instance, the **provision of separate waiting areas for victims in designing new court premises** are envisaged.

In the **Spanish procedural system**, it is essential, in order to be taken into account at the time of sentencing, that testimony is given during the trial. This principle means that evidence must be taken directly in front of a judge or court. In this sense, only evidence gathered during the oral trial can be considered authentic evidence that binds the criminal justice bodies at the time of sentencing (Fernández Olalla, 2015). These circumstances can be unfavourable for the victims, who may suffer the effects of a direct confrontation with their exploiters and from the inhospitable and complex environment in the courtrooms. The special vulnerability of both victims of trafficking and CSA/E requires adaptation of the procedure for giving evidence at the oral trial. As discussed in the previous chapters, to facilitate statements made in a safe environment where victims can give their testimony without being subjected to external negative inducements, the system uses two fundamental tools: the use of pre-constituted evidence and the statement of minors through a *Gesell camera*, which are elaborated in the previous parts.

**In Brazil**, the THB crime, as well as some instances of CSA/E (particularly labour exploitation and slave work) can be ruled in two different courts: at criminal level and at labour law level. The first is focused on the perpetrator and the second on the victim, including the right to compensation. The legal status of the victim is completely independent from any legal proceeding.<sup>16</sup> As soon as an abuse situation has been flagged to relevant authorities, the person is considered as a victim and protected. There are therefore two separate processes in Brazil: the protection of the victim and the legal proceeding, whether at the criminal or the labour court. If the victim does not wish to testify, they will still benefit from the protection system. For instance, a public defender or lawyer can ask for a protective measure under civil law to a judge, without the need to start a parallel legal proceeding on the crime itself.



Similar measures, adapted for children, are foreseen as regards to the trial procedures for child victims. According to Article 352A of the **Greek Penal Code**, par. 4, if considered necessary for the protection of the child victim, the prosecutor, the investigator, or the court shall order the removal of the offender from the victim's environment or shall remove the victim in a protected environment. In addition, the Articles 227 and 228 of the Code of Criminal Procedure provide for the **appointment and appearance of a (child) psychologist or (child) psychiatrist** as an authorised expert. The expert should prepare the victim for their examination and decide on the person's perceptive ability and mental state and should elaborate a written report. It is further envisaged to replace the victim's physical presence in the next stages of the procedure with

<sup>14</sup> Upon written request of the victim, the following shall be provided within a reasonable period of time: a) a written translation of the information which is essential for the exercise of their rights during the criminal proceedings, in a language that they understand and to the extent that this information is made available to the victims in Greek; b) a written translation into a language they understand of the information and documents related to the ongoing criminal case.

<sup>15</sup> The Three-Member Criminal Court of First Instance of the place where the criminal proceedings are conducted gives a definite ruling of the above request at any stage, judging under the expedited procedure.

<sup>16</sup> Article 7 from law No 13.344 from 6 October 2016, which states protection regardless of collaboration in administrative, police, or judicial proceedings. In addition, whistle-blowers should also be provided with protection from any harm caused that may be caused to them, as it is stated by Law n. 9.807 from 13 July 1999.

the audiovisual recording of the victim's testimony and the reading of their written statement, while in case of supplementary investigation after the hearing takes place, the investigation is done without the presence of the accused, at the place where the victim is located. During the criminal procedure, it is also envisaged to take measures to protect the victim-witness and their relatives from any revenge or intimidation (no. 218 of the Penal Procedure Code). In addition, the Penal Procedure Code (no. 108) guarantees increased rights in relation to their information regarding the development of the case and access to the case file for child victims of human trafficking, as well as their notification concerning the trafficker's exit or release from prison. Children can be interviewed as witnesses **in Bulgaria** after measures have been taken to **avoid contact with the accused party, including in specially equipped premises or via videoconferencing**. As elaborated earlier, the Criminal Procedure Code (Art.140) contains special measures for child witnesses. A specialist in the field of pedagogy and psychology and, if necessary, the child's parents must be present during the interrogations. **The child could be a witness in a trial only in certain circumstances**. In any administrative or judicial proceeding in which the rights or interests of a child are affected, the child must be heard only in case if: (a) Age conditions are met (the child is over 10 years of age); (b) if it would not be detrimental to the child's best interests, and (c) If it is consistent with the child's stage of development. In cases of children under 10 years of age, they may be heard, depending on their level of development. The decision maker (the Court or the administrative body) must provide the reasons for the decision (Child Protection Act, Art. 15 (1-3)). The hearing takes place in an appropriate setting, in accordance with the child's age, and the child must be provided with the necessary information to form his or her own opinion and be informed of the possible consequences of his or her wishes and of any decision of the judicial or administrative authority. In every case, the court or the administrative authority informs the relevant Directorate for Social Support, Child Protection Unit. Children below 14 years are interrogated in the presence of a parent or other caregiver with the exception of cases where this is against the best interest of the child (e.g. in cases where the parents are involved in the exploitation). During the trial phase, a child below 14 years will not be questioned a second time if the offender was present during the first interrogation. The statements of the child will be read in the courtroom without the child being present there. A child under 14 years can be questioned a second time (during the trial phase) only in very special cases, where the new interrogation is essential for the discovery of the truth. This interrogation is done by taking measures to avoid contact with the defendant, including in specially equipped premises (Art. 280).

#### Identified barriers, gaps and harmful practices (trial stage)

The seriousness and the specificities of both, THB and CSA/E crime, often lead to various challenges in incorporating the court procedures in the countries under study. These are mostly related to **ineffective prosecution of offenders** (including low number of prosecutions, trials and effective sentencing), but more importantly, to the **insufficient or inadequate provision of victims' rights during the court proceedings**. The latter is mostly the result of the **deficient knowledge among the law enforcement and judiciary** on the topic and consequently, their **low capacities to implement and safeguard victims' rights**.

The first phase of the research found **deficient witness protection** in Bulgaria, Greece and Spain. This manifests, among others, through the fact that often the victim meets the perpetrator in court. In Bulgaria, *"the victims are interrogated in the presence of the perpetrators. They are not interrogated in specialised premises or with special video and audio equipment. Having the interrogation in front of the perpetrators exposes victims to danger and increases the risk of re-victimisation. Most of the victims are interrogated repeatedly"* (Kadieva, M; Terzieva, I; Kolarov, E.). The **lack of specialised interpretation services** has been reported to affect victim's rights during trial in both Greece and Spain. In Brazil, a general **lack of specialised training on victim treatment** has been reported at the level of the judiciary. For instance, the 2017 law on special deposition for child victims of crimes **lacks a dedicated capacity-development programme**, in order to ensure that the professionals in charge of interviewing children and adolescents are effectively qualified to do so. Moreover, in Greece, **delays in judicial proceedings** have been reported to affect victim participation in criminal proceedings. The slowness of judicial proceedings and the repeated adjournment of court hearings discourage victims to seek redress. Another important gap, mentioned in Spain, but also as a general barrier to

participation in proceedings in Bulgaria, is the **lack of coordination of the victim's testimony and their need for recovery**. As mentioned above, this translates into the fact that the moment and circumstance of giving testimony does not correspond to the most optimal moment from the victim's physical or psychological recovery standpoint. Finally, different than in other countries, particularly EU MS, two other gaps have been reported in Brazil, namely **institutional violence and corruption**. The former translates into sexist, racist, and patriarchal insults frequently heard in courtrooms, including from law enforcement officers. In cases of sexual abuse and exploitation, there are also **detrimental behaviours in relation to the adolescent's age**<sup>17</sup>. Finally, although only on anecdotal basis, there is often **corruption between state actors and local prostitution and sexual abuse networks**. It has been reported that in some extreme cases, the criminal proceedings are rigged to favour the perpetrator, during the investigation (including interviews) and trial phases, which can be even life threatening to victims. In Brazil, the 2016 law on THB is still fairly recent and has not been used in many occasions, leaving a **rather small jurisprudence** for future court decisions. Due to a **lack of understanding and training on the law**, LEA, prosecution and judicial authorities are still **unclear and wary** in implementing the law.

### Promising practices from the countries under research (trial stage)

Although the research identified numerous legal and policy instruments, as well as guidelines to enable adequate protection of the victims in the role of witness during the court procedures, the extent of their implementation in practice could not be confirmed by the country reports. Nevertheless, in response to these challenges, the countries under research implemented several practices that could be classified as promising.

As mentioned in the previous sections, in order to respond to the insufficient capacity of the judicial authorities on THB crime, **Greece adopted a Law 5028/2023 that stipulates appointing of special judicial investigators for human trafficking** and other related crimes (CSA/E, crimes against sexual freedom, sexual exploitation, employment and labour exploitation of third-country nationals, etc.). The law aims to ensure that THB and CSA/E victims have access to justice and that their cases are handled by specialised investigators who have the knowledge and experience to deal with these complex and sensitive cases. The respective judicial authorities in Greece shall ensure that:

a) the victim's examination shall be carried out without undue delay after the offence has been reported to the competent authority, with the victim giving the lowest possible number of statements;

(b) if they are not represented by a lawyer of their choice or appointed on the court's initiative, victims are accompanied by their legal representative or another natural person of their choice, unless a reasoned decision has been taken to the contrary in respect of one or both of these persons. Victims have also the right **to protection of privacy**, meaning that appropriate measures are taken in order to protect the victim's and their family members' privacy and image. If the publicity of the hearing is detrimental to good morals, or there are special circumstances to protect the private or family life of the parties, the court orders the conduct of the trial -or a part of it-without making it public. To exclude publicity, after the prosecutor's and the parties' hearing, the court issues a reasoned decision and pronounces it in a public hearing. Full or partial television or radio broadcasting, as well as filming and videotaping of the trial before a criminal court is prohibited, unless the prosecutor and the parties agree otherwise and there is a substantial public interest.

As regard to the court proceedings, the right of the victims to receive information on their own language is in Bulgaria and Greece, by **provision of interpreters** specialised to work with THB and CSA/E victims throughout the criminal proceedings process, can be highlighted as promising, as well as the **possibility to provide distance or previously provided testimony via video or audio channels** (Brazil, Bulgaria, Greece, Peru<sup>18</sup>, Spain).

<sup>17</sup> For a discussion on the relevance of victim's age with regard to cases of sexual abuse and exploitation, see Deliverable 4.1.

<sup>18</sup> With the pandemic, the use of audio and video became widespread as a practice throughout the trials in Peru.

In addition, the above-mentioned tools aimed at preventing re-victimisation during the victims' testimony – can be emphasised as well. These are:

- **Single interview with the victim in a *Gesell Chamber* in Peru, which** allows the victim's testimony to be collected only once in the pre-trial phases and used during the trial;
- The **use of pre-constituted evidence in Spain**, as a tool to guarantee the safety, security and rights of both child and adult victims, as well as to ensure that the proceedings can continue even if the victim returns to his or her country of origin or decides not to appear at the trial. It means that the evidence taken during the pre-trial investigation may be regained at the trial at the request of either party.



An extraordinary practice identified during the research is the project “*Dogtor*”, implemented in Spain since 2014. The **presence of the support dogs for minors in judicial headquarters** can be considered as "therapeutic justice", placing the child at the centre. This project supports minors who have to appear in a court room by providing an accompanying dog to help them to go through the situation. Such accompaniment reduces the stress and anxiety of the child. In addition, **Barnahus homes** in the country provide a friendly and respectful environment for child victims, including an environment where testimony can be given without additional traumatisation of child victims. The Barnahus model is tailored to meet the needs of providing a welcoming environment that facilitates appropriate support for victims, thereby contributing to the reduction of re-victimisation. Furthermore, some courts have established facilities known as "child-friendly rooms," or have set up specialised courts for cases of violence against children, as exemplified by the Childhood Violence Court in Gran Canaria. These initiatives aim to enhance the victim support process and ensure an environment that promotes their well-being and the proper development of legal proceedings. **In Brazil, many courtrooms around the country are equipped with facilities allowing interviewing children in a safe environment and following international standards.** These special deposition rooms are equipped with age-appropriate furniture and toys and the children are interviewed by a specialist with a hidden camera transmitting the recording live in the main courtroom.

### 3. Analysis of selected promising practices during criminal proceedings in countries under study

This chapter describes and critically analyses selected practices which are considered (either by literature or by stakeholders) as promising practices identified in the countries under study. Several practices from Brazil, Bulgaria, Greece, Spain and Peru have been selected due to their uniqueness and their positive effects in regards to safeguarding the rights of the victims of THB and CSA/E during the criminal proceedings' stages.

The practices are described by including information, to the extent possible, on: the type of the practice; the foreseen activities/actions; actors involved in the implementation of the practice; main target audience (victim, witness, LEAs, judicial specialists etc.); timeframe; the budget available, the results achieved as well as if available and relevant, the evaluation of the results of implementing the practice.

The selected practices are analysed by addressing the following indicators and respective questions:

- a. **Effective and successful:** does the practice include an effective way to achieve a specific objective? Has the practice been successfully adopted and has had a positive impact (on safeguarding victims' rights)?
- b. **Environmentally/economically/socially sustainable:** does the practice meet current needs of victims of crime (e.g. to be heard, to have access to information), without compromising the ability to address further needs (e.g. protection against potential retaliation)?
- c. **Gender sensitive:** is the practice inclusive, when it comes to victims' gender? E.g. does it address the needs of victims that have been excluded from particular protection (e.g. lack for shelters for members of LGBTQIA+ community)
- d. **Technically feasible:** is the practice easy to implement and compatible with particular legal and institutional setting?
- e. **Inherently participatory:** how was the practice developed and implemented? What stakeholders were consulted during its development and what stakeholders are implementing the practice?
- f. **Reducing risks, if applicable:** is the practice contributing to supporting victims' access to their rights now as well as in the future?

Five practices from the countries under study are elaborated and analysed in the forthcoming pages<sup>19</sup>:

1. **Separating victims in secure environments away from the alleged perpetrator – Peru.**
2. **Statement of minors provided through a Gesell chamber – Spain.**
3. **Practice 3: Blue rooms for interviewing children in contact with the law – Bulgaria.**
4. **Establishing guarantees to the rights of children and adolescents who are victims and witnesses of violence, including THB and CSA/E - Brazil.**
5. **Appointment of special judicial investigators for THB – Greece.**

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<sup>19</sup> This is not an exhaustive list of promising practices in the counties under study.

<b>Practice 1: Separating victims in secure environments away from the alleged perpetrator</b>	
<b>Country:</b> Peru	
<b>Criminal proceedings stage:</b> Pre-investigation	
<b>Type:</b> Practice (established upon an existing protocol)	
<b>Actors:</b> Peruvian National Police (PNP) and the Public Prosecutor's Office, according to the Protocol of the Public Prosecutor's Office for the Care of Victims of the Crime of Trafficking in Persons, Smuggled Migrants and Victims of Crimes in the Context of Migration" (2019).	
<b>Target group:</b> Victims of THB and CSA/E, as well as victims of other related crimes.	
<b>Timeframe:</b> As of 2020 (it is incorporated with the "Operational Guide for the Investigation of the Crime of Trafficking in Persons (Ministry of Interior -MININTER, 2020).	
<b>Aim:</b> To ensure that victims and complainants have no contact with the alleged perpetrators, thereby reducing the possibility of re-victimisation and protecting the right to health, physical and psychological integrity and safety of the victims.	
<b>Item</b>	<b>Description</b>
	The practice focuses on the physical separation of the complainant victim from the alleged aggressor, from the operation that initiated the legal process to the arrival at the police facility.
<b>Effectiveness</b>	<p><b>Clear objective.</b> The objective is clear and concrete: to establish a space for the protection of the victim. It seeks to:</p> <ul style="list-style-type: none"> <li>i) protect the victim, reduce exposure to the alleged perpetrator and the possibility of receiving threats, and</li> <li>ii) to safeguard the physical, psychological and emotional integrity of the victim.</li> </ul> <p><b>Effective way of achieving the objectives.</b> The practice has concrete actions and effectively fulfils the principle of guarantee and protection. Thus, it allows the victim to access the Victim and Witness Protection System and to have immediate access to professionals who contribute to safeguarding their rights. It also favours the possibility of collecting evidence, establishing a safe space (and thereby reducing the possibility of the victim dropping out of the process).</p>
<b>Success</b>	<p><b>Successful adoption of the practice.</b> From the sources consulted, the practice has been successfully adopted at the national level. However, it cannot be determined to which extent it was applied in the practice.</p> <p><b>Positive impact.</b> The separation of the victim from the aggressor has a positive impact on the victim and on the safeguarding of the process. At the level of the criminal process, separation allows the victims the possibility to collaborate in the process without</p>

	interference or threats from the perpetrators. However, there are no impact measurements or specific studies on the current situation of the application of the measure.
<b>Sustainability</b>	<p><b>From an environmental point of view.</b> The measure is sustainable and does not have a major negative impact on the environment.</p> <p><b>From an economic point of view.</b> It is economically sustainable when it comes to adapting the space of the police station; however, it becomes more complex when it comes to transferring detainees and victims in operations, as it requires vehicles and river transport, for example. However, when analysed under the cost-benefit criteria, it is an investment that favours the protection of the victim and prevents the hindering of their collaboration or the generation of evidence.</p> <p><b>From a social point of view.</b> It allows for the creation of a safe space for victims, but it is also a starting point for activating other care services. It is therefore useful and sustainable in that it connects a range of state services (health, victim care, victim protection, justice system, etc.). In addition, it also contributes to gaining trust of the victims towards the responsible professionals.</p> <p><b>The measure meets the current needs of victims of crime in practice.</b> It is sustainable because it meets the needs of the justice system and the victim. The availability of special spaces within police stations is necessary for the victim to cooperate and feel that they are protected and not detained. The isolation of the perpetrator allows the victim to be heard. Likewise, the public defender can inform victims of their rights and the victims will receive assistance according to their specific needs.</p>
<b>Gender-sensitive</b>	This practice is gender-sensitive. Victims are separated by sex and age. There is an identification process, and minor victims follow a special care pathway. The rights of victims are respected if they belong to the LGBTQIA+ community, however, there are still problems with housing them for the duration of the process once they are separated from their alleged perpetrator.
<b>Technically feasible</b>	The measure is easy to implement, technically and formally recognised, and found in the institutional legal framework in the <i>Operational Guide for the Investigation of the Crime of Trafficking in Human Beings</i> (2020). This allows for improved concrete application and mechanisms for adequate implementation at the national level.
<b>Intrinsically participatory</b>	The prosecutor's office, in coordination with the national police, when carrying out an operation (in merit of their coordinated actions) has among its directives the immediate separation of the identified victims from the alleged perpetrators.
<b>Risk reduction</b>	In practice, this measure contributes to providing immediate protection to victims, avoids possible acts of aggression and/or threats and allows victims to feel safer and more willing to cooperate in the process.



<b>Expert opinion</b>	<p>The measure is relevant because the separation of the victims from the alleged perpetrators avoids possible threats to them and their families. It is one of the main protection measures. One of the prosecutors warns that the separation measure should also be taken with regard to other witnesses so that "<i>testimonies are not contaminated</i>" (PE1). It also guarantees the right to protection and allows for "<i>individual assessment of victims to determine their specific needs</i>" (PE4). However, it is not enough to separate the victim from the alleged perpetrator; adequate environments must be provided within the police stations.</p> <p><b>What would they change?</b> Although the victims are separated from the perpetrators, the "<i>victims are in the police station with their relatives, there are no adequate environments for them inside the police stations, this should be changed</i>" (PE4). A prosecutor indicated that victims are later transferred to "<i>a Playful Reception Room in order to avoid that victims do not stay in the police station, but in this room, which is a friendly room (...)</i>" (PE3).</p> <p><b>Would they recommend the measure to other countries?</b> This measure is widely spread in the international legal framework, it is one of the main measures for the protection and safety of victims.</p>
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<b>Practice 2: Statement of minors provided through a Gesell chamber</b>	
<b>Country:</b> Spain	
<b>Criminal proceedings stage:</b> Pre- Investigation, Investigation, Pre-Trial, Trial	
<b>Actors:</b> Investigation judge, Public Prosecutor's Office, lawyer of the defendant, NGOs	
<b>Type:</b> A Gesell camera can serve as a valuable <b>tool</b> to make it easier for minors to provide their testimony in a secure and comfortable setting.	
<b>Target group:</b> Minors who have been subjected to human trafficking or cases of child sexual abuse and exploitation.	
<b>Timeframe:</b> As highlighted in Law 8/2021 for the Protection of Childhood, provision of the statement of the minors serves to the pre-constituted evidence is deemed 'a suitable instrument to prevent secondary victimisation, especially effective when the victims are minors or individuals with disabilities requiring special protection' (Preamble to Law 8/2021). In line with these principles, the afore-mentioned law prompted an amendment to the Criminal Procedure Act, introducing Article 449, which mandates the use of pre-constituted evidence for the testimony of minors.	
<b>Aim:</b> To obtain pre-constituted evidence in an environment that favours the child's statement without being subjected to a process of re-victimisation.	
<b>Item</b>	<b>Description</b>
	This approach is particularly valuable for vulnerable victims, safeguarding them from potential re-victimization or adverse effects resulting from direct confrontation during testimonies. It aims to collect evidence before the trial in an environment that shields the minor, preventing them from experiencing any form of trauma or emotional harm throughout the criminal process. A Gesell chamber consists of two rooms

<p>separated by a mirrored wall, appearing as a mirror to those being observed, while functioning as a window for the observers into the adjoining room. This setup is typically complemented by a sound system facilitating communication between the two rooms. In the context of legal proceedings, if the execution of pre-constituted evidence proves impossible, the testimony provided by the victim during the pre-trial phase retains validity. It can be reproduced in the plenary phase, even if, on its own, it lacks sufficient probative force to dispel the presumption of innocence (Sánchez Covisa, 2021, pp.14 and 20). This interview process is crucial in various stages, including pre-investigation, investigation, pre-trial, and trial, aiming to gather pertinent information while ensuring a safe environment for the victim. It will be conducted by psychologists and the general rule is that parents or accompanying persons are not allowed to be present in the interview room, mainly so that they cannot be influenced in any way (Arantegui Árraez, 2022, p. 50). Outside the chamber are the observers, including the judge, the prosecutor and the lawyers. The child, however, is not always informed about who the observers are or even whether he/she is being observed (Arantegui Árraez, 2022, p. 49). The conversation with the child will be recorded and become evidence (Save the Children, 2020, p. 32).</p>	
<b>Effectiveness</b>	<p><b>Clear objective.</b> The primary objective behind integrating the Gesell chamber into legal procedures is to establish a secure and comfortable setting for vulnerable minors who have endured human trafficking or child sexual abuse and exploitation. This goal is centred on easing the process of obtaining precise and trustworthy testimonies while simultaneously mitigating the risk of re-victimization.</p> <p><b>Effective ways of achieving the objectives.</b> The Gesell chamber proves to be an effective tool in achieving this objective. By providing a two-room setup with a mirrored wall, it allows for discreet observation without causing distress to the victim. The sound system further enables communication between the observed and the observer, ensuring a controlled and supportive environment. In situations where pre-constituted evidence becomes impractical, the chamber allows for the testimony of the victim during the pre-trial phase to remain valid and, if necessary, be reproduced in the plenary phase. This comprehensive approach, integrated at various stages, including pre-investigation, investigation, pre-trial, and trial, ensures that the objectives of gathering accurate information and protecting the well-being of the victim are effectively met.</p>
<b>Success</b>	<p><b>Successful adoption of the practice.</b> The successful implementation of the Gesell chamber in legal contexts is evident through its effective integration across various stages, spanning from pre-investigation to trial. This accomplishment is underscored by its sustained utilisation as a pivotal tool for eliciting testimonies in a secure environment. The adoption process entails seamlessly incorporating the Gesell chamber into the procedural framework of legal proceedings, ensuring its consistent application throughout pre-investigative interviews, investigative processes, pre-trial preparations, and courtroom proceedings. This comprehensive integration emphasizes its enduring value in establishing a secure and supportive space for collecting precise and dependable testimonies from vulnerable individuals, especially minors affected by human trafficking or child sexual abuse and exploitation.</p> <p><b>Positive impact.</b> The Gesell chamber has demonstrated its positive impact by enhancing the collection of precise and reliable testimonies from minors who have experienced human trafficking or child sexual abuse and exploitation. Moreover, its implementation has played a crucial role in reducing the risk of re-victimization through the provision of a controlled and supportive environment. This constructive influence represents a</p>

	<p>substantial advancement in realising the objectives of safeguarding affected individuals and acquiring precise information within the legal framework.</p>
<p><b>Sustainability</b></p>	<p><i><b>From an environmental point of view.</b></i> In this context, employing a Gesell chamber positively shapes the atmosphere, tailoring the emotional environment during interrogations to meet the needs of the victim while also ensuring a secure setting for those gathering testimonies.</p> <p><i><b>From an economic point of view.</b></i> While an initial financial investment is required for the conversion of two rooms into a Gesell chamber, the long-term cost-benefit analysis reveals a notably positive impact. It is acknowledged that currently, only a few courts are sufficiently equipped, with some lacking the necessary financial resources. Nonetheless, this undertaking represents an effort that not only elevates the quality of evidence but also contributes to the well-being of the victims.</p> <p><i><b>From a social point of view.</b></i> The implementation of the Gesell chamber has the potential to enhance the public perception of the justice system. By providing a more compassionate and respectful environment for victims to testify, it reinforces trust in the legal system. This well-being-focused approach fosters a more empathetic and ethical atmosphere in the community, thereby improving the quality of justice. It also promotes the restoration of harm, prevents secondary victimisation, and prioritises the well-being of individuals over the particular interests of the criminal procedure.</p> <p><i><b>The practice meets the current needs of victims of crime.</b></i> The use of Gesell chambers for interrogating victims, especially in the case of minors, involves recognizing the need to adapt the criminal procedure to the victim's needs, prioritising their well-being. This tool is designed and implemented in a way that addresses the demands and requirements of the legal process without causing harm to the victims. It replaces an unfriendly environment with a space where the testimony can be given without the presence of multiple individuals, only the professional accompanying the minor during the session.</p>
<p><b>Gender-sensitive</b></p>	<p>From this perspective, it is evident that the use of the Gesell chamber is gender sensitive. Considering that a very high percentage of perpetrators or individuals involved in trafficking victims are men, and the victims are often women, using the Gesell chamber allows victims to share their experiences without male eyes on them. This minimises the fear they might feel in the presence of men and promotes a safe environment where they can testify in the company of a psychologist and/or a professional from NGOs.</p>
<p><b>Technically feasible</b></p>	<p>This practice is technically feasible, drawing from its successful implementation in various contexts like social and market research. Beyond the need for physical space, it does not necessitate additional technical knowledge or resources, making it a relatively straightforward practice to put into action.</p>
<p><b>Intrinsically participatory</b></p>	<p>The Gesell chamber itself is not intrinsically participatory in the typical sense of the term. It is more of an environment designed to facilitate testimonies or interviews, with its primary goal being to provide a safe and controlled space for this purpose. However, depending on how it is implemented and used, it could be considered participatory if it involves the active collaboration of those involved, such as victims, professionals, and experts, in the information-gathering process. In this sense, participation could refer to the active engagement of stakeholders in this context.</p>

<b>Risk reduction</b>	<p>The Gesell chamber minimises the risks associated with the testimony collection process, such as revictimization or secondary victimisation. However, it would also be advisable to take additional precautions to reduce any adverse impact in practice. This includes, for example, preventing the victim from encountering other observers upon exiting the room or avoiding any noise from behind the glass wall, which might indicate to the victim that they are being observed, causing discomfort and insecurity.</p>
<b>Monitoring/evaluation</b>	<p>It is unknown whether the implementation and operation of the Gesell chamber are currently being monitored, assessing whether it meets its intended objectives, if established protocols are being followed, and if there are areas that could be improved. However, it would be desirable.</p>
<b>Expert opinion</b>	<p><b><i>What they would change.</i></b> Sociologists and other professionals in the social sciences have raised some criticisms regarding the Gesell chamber. For instance, the presence of observers behind the one-way glass could introduce biases in the interpretation of behaviours, as observers may have different perspectives and biases (referred to as "observer bias"). Additionally, ethical concerns have been raised about the psychological impact on participants, especially in sensitive situations such as interviews with victims of trafficking or child sexual abuse and exploitation (this would be ethical limitations).</p> <p><b><i>Would they recommend the measure to other countries?</i></b> It is not a practice exclusive to the Spanish context; in fact, it was originally employed in the field of social sciences in North America. Therefore, it could be applied in other countries.</p>

<p><b>Practice 3: Blue rooms for interviewing children in contact with the law</b></p>
<p><b>Country: Bulgaria</b></p>
<p><b>Criminal proceedings stage: Pre-investigation, Investigation</b></p> <p>*if needed for the case, it can be used at all stages of the criminal proceedings</p>
<p><b>Type:</b> Approach to ensure safe hearing of children</p>
<p><b>Actors:</b> The Blue rooms in Bulgaria are usually set and maintained by NGOs or a state-funded social service that offers social support and psychological services to different vulnerable groups (victims of violence, children at risk, etc.). In some cases, the state institutions and regional governmental structures are also involved in the process of setting up and managing the rooms (the Ministry of Justice, the local Courts, the Municipalities, etc.). The request for the use of the Blue room can be done directly by the court or by the investigating authority (police officer, investigator, prosecutor), as well as by a referral from the Child Protection Department (Ministry of Labour and Social Protection).</p>
<p><b>Target group:</b> The rooms are used for collecting information/interviewing/interrogating on cases where children are involved (incl. as victims or as witnesses in criminal proceedings and court cases). There are incentives among some experts to enlarge the scope of the Blue rooms and to turn them into a place for safe interrogation and testimony collection of adult victims of violence (BG_1).</p>
<p><b>Timeframe:</b> The first Blue room in Bulgaria was opened in 2008 in the town of Pazardzhik. It is set-up on the premises of the Centre for Social Services for Children and Families, managed by the NGO consortium</p>

Alliance for Social Development. Since 2008, more than 40 rooms have been set up and opened across the country, mainly in the bigger regional centres and towns.

**Aim:** To avoid further traumatising of the children involved in legal proceedings, to ensure that their interests and their rights are protected, while at the same time ensuring the collection of complete and accurate information on a case.

Item	Description
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The Blue room is a specialised room for safe hearing of children in contact with the law in civil and criminal case (incl. victims and witnesses). The Blue room comprises of two premises, with two separate entrances. A common wall, with special mirrored glass, connects them. Psychologist trained to work with children, or a judge (depending on the decision of the court) have a conversation with the minors in one of the rooms that have coloured walls and is equipped with soft furniture and toys for the children to feel comfortable. The other participants in the procedure - judges, prosecutors, police officers, lawyers, the accused person, the child's parents, etc., can follow the conversation in the other premise, through the mirrored glass. Visual and audio contact between the child and the participants in the other room, including the accused, is not possible. The expert talking with the child is connected via special audio equipment with the people in the second room. In this way, they can safely transmit their questions to the interviewer (*Lex.bg*). The interrogation is video recorded and can be used by all participants at all stages of the criminal proceedings.

This approach reduces the number of interrogations of the child, and the risk of re-traumatization by repeating the same information to different participants in the process and facilitates the gathering of reliable and relevant information from the child.



*Pictures: Blue room in the town of Haskovo, Bulgaria. Source: Lex News*

<b>Effectiveness</b>	<p>No official statistics on the number of children interviewed in the existing Blue rooms (an overall number, or statistic for a single blue room) could be obtained. This is partially because the rooms do not exist under one umbrella, and there is no connection between them. The organisations/institutions managing the rooms do not publicly report such statistics. In the period 2017 – 2023, seven children victims of violence who resided in the crisis centre operated by the NGO were interviewed in the Blue room existing in their city (BG2). An online media reported in 2019 that in the period 2013-2016, 40 children were interviewed in the Blue room based in the Centre for Public Support in Burgas (BNR Burgas website ).</p>
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<b>Success</b>	<p><b>Successful adoption of the practice.</b> The practice is a used and proved tool to achieve a safe and child-friendly approach when interviewing children in the course of a criminal proceeding. It is adopted and implemented successfully.</p> <p><b>Positive impact:</b> By ensuring an age-appropriate and child-friendly approach to the evidence gathering and the official interrogation by the authorities, this practice ensures that children’s rights are safeguarded and their rights as victims protected.</p>
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<p><b>Sustainability</b></p>	<p><i>From an environmental point of view.</i> The practice does not represent a relevant environmental impact.</p> <p><i>From an economic point of view.</i> No concrete general guidelines about overall budget and the costs of setting up and maintaining a Blue room could be obtained by the research. The only financial data found is that 17 417 BGN (appr. 8,900 EUR) were used for the initial construction works and furnishing of the Blue Room in the town of Vratza, where the premises were provided for free by the local municipality authorities.</p> <p><i>From a social point of view.</i> The practice is easy to implement, especially when there is a will for cooperation between the concerned institutions and organisations at central and local level. It does not require changes in any legislation because this is a tool.<sup>20</sup> It will require the development of procedures for its use. It might also require that the Blue room is added to some institutional guidelines for interviewing children (e.g. the guidelines of police/prosecutors/ judges, child protection authorities, etc.) or to policy documents such as – national strategies, coordination mechanisms and regulations related to the children in contact with the law. In Bulgaria, some of the rooms are set in the premises of already existing facilities, with ensured central or local government funding (e.g. Centres for Social Services for Children and their Families in the main cities, local commissions combating THB or local commissions for combating juvenile crime, etc.). Some rooms are developed and funded by NGOs (Animus Association Foundation). However, the project funding is never sustainable, and it is advisable to ensure government funds (incl. by “attaching” the service to another already existing and funded one). A third practice encountered in the country is the provision of a municipality-owned space to a service provider or to the local Court that is renovated and used as a Blue room.</p> <p><i>The practice meets the current needs of victims of crime.</i> The practice’s target group is children and therefore, it is designed to ensure maximum protection in accordance with the rights that the children have. The practice is also designed to support the child in talking about difficult topics that often might involve a parent or another family member or figure of authority. The safe space provided by the Blue room supports the child to feel calm and safe enough to talk about the situation (e.g. violence) without fearing the reactions of the involved adults. Such an approach additionally contributes to the lower levels of family and social pressure on the child, decreases the shame and facilitates the psychological recovery.</p>
<p><b>Gender-sensitive</b></p>	<p>The practice is focused solely on children. However, there are suggestions by experts working in the field of gender-based violence, that the Blue rooms should also be used for the interrogation of adult victims of violence (especially in cases of severe domestic violence and sexual violence).</p>

<sup>20</sup> The implementation of this practice in other countries will require a change in the Criminal Procedure legislation only if the use of video recordings is not already part of the Criminal Procedure Code of the country (if video testimonies are not allowed). When the video recording of the testimonies are part of the CPC, no further legislative change is needed. Additional reinforcement of this practice could be if the “room” is specifically listed/ elaborated as a tool for interviewing children or other vulnerable groups in the CPC or in other documents providing guidelines to the prosecution and judiciary (depending on the national specificities in each country).

<p><b>Technically feasible</b></p>	<p>It requires minimum financial aid to be set up and maintained. No matter what the set-up and the institutional cooperation is, the following cost-related elements should be considered when planning the implementation of a Blue room:</p> <ul style="list-style-type: none"> <li>● <b>Ensuring the correct space</b> – two rooms with a common wall between each other and with two separate entrances. Ensuring budget for rent if necessary.</li> <li>● <b>One-way mirror</b> - purchasing and installation.</li> <li>● <b>Audio-video recording system</b> – purchasing, installation and maintenance.</li> <li>● <b>Furniture for the interview room</b> (child-friendly sofa, table, chairs, soft toys, drawing kits, clay modelling kits, etc.). The walls are painted in order to provide a calming environment for the child.</li> <li>● <b>Furniture for the second room</b> (chairs, table).</li> <li>● <b>Human resources</b> – one or two psychologists, clinical social workers or social workers who are trained to conduct interviews and to work with children victims of violence.</li> <li>● <b>Maintenance costs</b> for the equipment and the furniture.</li> </ul>
<p><b>Intrinsically participatory</b></p>	<p>Other countries’ experience in the implementation of Blue rooms was used for the opening of the first rooms in Bulgaria. Knowledge from Norway, Sweden, Iceland, Poland and France was obtained. It is evident that the practice can be effectively implemented if there is an established good cooperation between the judiciary, law enforcement, social services authorities and NGOs at central (in terms of institutionalising the practice and ensuring the needed administrative and knowledge paths) and local level (in terms of practical implementation). These authorities need to be taken into consideration when planning the implementation of Blue rooms. The Blue room is mentioned as a good practice in the Bulgarian NRM, SOP 3 Social Inclusion (Reintegration), Measure 3.3. Participation in Criminal Proceedings – special measures for child victims.</p>
<p><b>Risk reduction</b></p>	<p>The practice is designed solely to support the children and to protect their rights as individuals and as victims and witnesses in the course of criminal or other court proceedings. The children have access to a sensitive and supporting environment where the official interrogation is not (re)traumatising and confusing and (in cases of abuse) does not negatively impact the recovery process of the child.</p>
<p><b>Monitoring /evaluation</b></p>	<p>There is no overall monitoring of the work of the rooms and that their set-up is a rather single action initiated at a local level, rather than a coordinated and monitored approach. However, this fact does not undermine the significance of the practice.</p>
<p><b>Expert opinion</b></p>	<p>The feedback from the professionals (interviewed and in the online resources) is extremely positive. The practice is valued for its safeguarding approach. It is beneficial for the children, and it is beneficial for the law-enforcements and court authorities. This is the correct way to approach child victims and witnesses who are participating in criminal proceedings. All interviewed experts state that this practice is the correct approach in interviewing children who are part of criminal proceedings. One of them also added that specialists from their NGO will be trained to be able to conduct interviews in the Blue room in their town. This will further support the children because they will be familiar with the person interviewing them (or in the cases when a judge is conducting the interview, the NGO worker familiar</p>

with the child will be able to be present). An expert revealed that active actions are taken in order to set up a Blue room in the Directorate General “Combating Organised Crime”, where children could be interviewed (BG3). Some experts already undergo a specialised training. In a News edition report from 2022, a judge at the Regional Court in the town of Tutrakan, and a chief investigating police officer at the Police Department in the town of Silistra, said that thanks to the Blue Room they were able to reach the children they needed to question. While using the Blue room, “... expert examination done by an expert- psychologist and an out-of-court hearing were taking place at the same time”. “It was a case of child sexual abuse. The child calmed down, drew all the time, and talked with us.” (BNR website).

**What would they change?** An essential step further would be the establishment of a monitoring and evaluation mechanism to ensure supervision over the implementation of the practice by the different authorities and NGOs, as well as introduce a learning process and improvement of the practice.

**Practice 4: Federal Law 13.431/2017 and Decree 9.603/2018, establishing guarantees to the rights of children and adolescents who are victims and witnesses of violence, including THB and CSA/E**

**Country: Brazil**

**Criminal proceedings stage: Pre-investigation, Investigation, Pre-Trial**

**Type:** Comprehensive and multi-participatory approach in adopting a legislation (Federal Law) to safeguard child victims’ rights

**Actors:** This law is the result of years of negotiations between several actors, with a major push from civil society organisations. The main implementing actors are the **municipalities**, as the law clearly refers to this level.

Division of powers in Brazil:

	Executive	Legislative	Judiciary
<b>Union</b> (federal)	President of the Republic	National Congress (Parliament)	Higher Courts of Justice
<b>States</b> (regional)	Governors	State Congress	Court of Justice and Specialised courts
<b>Municipalities</b> (local)	Mayor / Prefect	Municipal Council	<i>none</i>

**Source:** own elaboration

In the **second, and similarly important part of the law**, the inter-institutional **coordination mechanism** is described and the **main actors** are identified, depending on the stage:



<ul style="list-style-type: none"> <li>● <b>Identification/detection</b> of the case: Public Prosecution Office, Tutelary Council<sup>21</sup> and local LEA<sup>22</sup> (art.13).</li> <li>● <b>Prevention:</b> The State, the regions, the municipalities “<i>can</i>” promote awareness-raising campaigns on violence against victims (Single paragraph between art.13 and 14).</li> <li>● <b>Investigation:</b> Public Prosecution Office, LEA and judicial authorities.</li> <li>● <b>Referral:</b> municipal social, health and education systems.</li> </ul>	
<p><b>Target group: Children and adolescents’ victims or witnesses of violence</b> (physical, psychological, sexual and institutional, which also includes THB and CSA/E cases).<sup>2324</sup> Both Brazilian and non-Brazilian victims are included in the law; which is particularly important for transnational THB cases involving foreign children.</p>	
<p><b>Timeframe:</b> The law was published on <b>4<sup>th</sup> of April 2017</b> and entered into force one year later. It set a period of 180 days for the municipalities to implement it.</p>	
<p><b>Aim:</b> to provide the child victims with an inter-institutional framework for their treatment in criminal proceedings that avoids institutional violence and re-victimisation.</p>	
Item	Description
	<p>The law <b>differentiates between (a) specialised interviews and (b) special deposition</b>. They are both considered as equally valid <b>means of collecting evidence</b>, which will later be accepted in court (criminal, labour, civil or administrative courts). They constitute the <b>only legal way to interview children</b> and adolescents’ victims or witnesses of violence in the framework of a judicial proceeding and a criminal investigation. <b>Specialised interviews</b> are aimed at understanding the situation and identifying support needs within the protection network (health, social, economic, educational services and legal decisions to separate the child from the family for instance). With the <b>special deposition</b>, the child ought to be <b>interviewed only once</b><sup>25</sup> for all open judicial and administrative processes (criminal case, change of legal tutor, suspension of family power...). This support practice is not defined on the basis of the <b>child’s cooperation in the investigation or criminal proceedings</b> and should be put in place whether or not a criminal proceeding has or not started.</p>
<b>Effectiveness</b>	<p>One of the positive outcomes of the law is that the stakeholders are growing more familiar with the idea of non-revictimization and to limit the number of interviews, hearings and depositions when the victim is a minor. The system outlined in the law pre-supposes the</p>

<sup>21</sup> The **Tutelary Council** is a fairly recent institution in charge of child protection. It is a permanent, autonomous and non-jurisdictional body, entrusted by society to ensure compliance with the rights of children and adolescents, as defined by law (legal basis defined in Statute of the Child and Adolescent (ECA), law No 8.069/1990, articles 131 to 140). Its members are elected at municipal level and work directly with minors but there is **no training nor education requirements** needed for the function. They also very often lack resources as they depend on the municipalities’ budgets. There are also cases of corruption, involvement of councillors in criminal organisations and in religious groups.

<sup>22</sup> Local LEA refers mainly to the **Civil Police** (State level) but can also refer to the **Military Police** (State and municipal levels) depending on which LEA is called upon (for instance, Military police plays a role in incident reporting and direct interventions). The **Specialised Police Department for Child and Adolescent Protection** (DEPCA, at State and municipal levels) is still in development phase and would be the interlocutor for all complaints of a sexual nature involving children and adolescents as victims (Nascimento et al, 2021).

<sup>23</sup> A child in the Brazilian legislation is a person under the age of 18. This law can also be used, although not mandatorily, for persons aged 18-21.

<sup>24</sup> The Brazilian legislation, although distinguishing between children and adolescents, does not do so for the purpose of the support system nor the granted rights. The differentiation is merely towards specific needs for adolescents and depending on the cognitive level of the child. It is also important to note that the term “minor” is deemed pejorative and is not used in Brazil (although it is commonly accepted and used in Portugal and other Portuguese-speaking countries).

<sup>25</sup> Article §2 allows for a second interview or deposition only when it is deemed essential and if the victim or its legal tutor agrees.

	<p>open collaboration of a large range of actors (health, social work, LEA, judges...) that were not cooperating closely before.</p>
<p>Success</p>	<p><b>Successful adoption of the practice.</b> To this date, the majority of municipalities put in place some of the aspects of the law (either the centres of the special deposition practice), but it is very rare to witness a municipality that has implemented the entire provisions (BR2). As a result of the application of the law, federal police officers hardly ever interview child victims any longer (BR1). The questions and clarifications they might have for the victims are sent to the judicial authority in charge of the special deposition and added to the list of topics/questions to be used by the trained professional who will interview the child, in the specific setting recommended by the law (welcoming room, interviewer at same eye level as the victim, CCTV showing the interview live in the courtroom...). In case victims tell their story outside of the realm of the two described means of interviewing, then they are automatically subjected to another interview. The person who received this “<b>spontaneous disclosure</b>” (sometimes psychologists or another medical professional, police officers from the Civil Police...) will then be asked to testify in court for the narrative part to be taken into consideration as proof. The person collecting the spontaneous disclosure (likely a first-attender to the scene) is obliged to pass the information to other public authorities. Although Federal Police Officers seem to be applying the law thoroughly (BR1), it might not be the case yet for other LEA actors such as the Civil and Military Police forces (BR2 and BR3). At a less concrete level, the law did change, at least to some extent, the <b>mentalities and the culture</b> of the actors involved (especially LEA, judiciary authorities and the Tutelary Council), who are now more acquainted with the specific needs and vulnerabilities of children and adolescents, as well as the concepts of re-victimisation and active listening techniques.</p> <p><b>Positive impact.</b> With the implementation of the law in practice, the following rights of the victims are being safeguarded (article 25):</p> <p>I – to receive <b>absolute priority</b> and receive the specific attention and consideration dedicated to a person in the process of cognitive development;</p> <p>II - to receive <b>dignified and comprehensive treatment</b>;</p> <p>III - to have <b>intimacy</b> and personal conditions protected when victims or witnesses of violence;</p> <p>IV - to be protected against any type of <b>discrimination</b>, regardless of {social} class, gender, race, ethnicity, income, culture, educational level, age, religion, nationality, regional origin, migratory regularity, disability or any other condition of his or her parents or legal representatives;</p> <p>V - to receive <b>information</b> appropriate to their stage of development regarding rights, including social rights, available services, legal representation, protection measures, reparation for damages and any procedure to which they are subjected;</p> <p>VI - to be <b>heard and to express their wishes and opinions</b>, as well as to remain silent;</p> <p>VII - to receive <b>specialised legal and psychosocial assistance</b>, which facilitates their participation and protects them from inappropriate behaviour adopted by other bodies involved in the process;</p>

	<p>VIII - being <b>protected from suffering</b>, with the right to support, planning for their <b>participation</b>, priority in the proceedings, procedural promptness, the suitability of care and the limitation of interventions;</p> <p>IX - to be <b>heard at a time that is most appropriate</b> and convenient for him/her, whenever possible;</p> <p>X - to be <b>safe</b>, with ongoing evaluation of the possibilities of intimidation, threats and other forms of violence</p> <p>XI - to be <b>assisted by a trained professional</b> and to know the professionals who participate in the specialised interview and special deposition procedures;</p> <p>XII - to be <b>compensated</b> when their rights have been violated;</p> <p>XIII - to <b>live with family and community</b>;</p> <p>XIV - to have the <b>information provided treated confidentially</b>, being forbidden to use or pass on to a third party the statements made by the victimised children and adolescents, except for the purposes of health care and criminal prosecution;</p> <p>XV - to provide statements in a <b>format adapted</b> for children and adolescents with disabilities, or in a <b>language other than Portuguese</b>;</p> <p>Children and adolescents who are victims have the right to seek, through their legal representative, protective measures against the perpetrator of the violence. The right to privacy, confidentiality and data protection are indeed safeguarded. Public authorities are to manage data confidentially. As the law's objective is implementing a holistic inter-institutional support to the child victim, information must be shared between the different public actors involved. The data shared must be done only between the different focal points and must be relevant for the efficient protection of the child.</p>
<p><b>Sustainability</b></p>	<p><i>From an environmental point of view.</i> n/a</p> <p><i>From an economic point of view.</i> The municipalities are (or at least legally should be) equipped with all the public services mentioned by the law. The law does not create any new type of function or entity; its aim is to centralise and harmonise the services provided to the children and adolescents victims or witnesses of violence. The only cost involved is the actual construction of the Integrated Care Centres for children and adolescents, including establishment of specialised multidisciplinary teams aiming at accompanying the minor throughout his/her journey (health and social care, juridical support...). It determines a system of protection from the moment of the accusation (or identification of the alleged crime) and throughout all the phases of the judicial process, foreseeing the concentration of services in the same space. This cost has been estimated to be around 1 million Brazilian real (around 190.000 euros) and in some places, construction companies offer special prices or do it pro bono (BR2). However, this optimistic vision must also be balanced when it comes to some practicalities. The law intends for all the 5.570 municipalities in the country, whereas rural or urban, low, middle or high income, to have a pool of psychologists and other public servants actually trained to interview children and adolescents on their payroll. A similar expectation goes to the judiciary authorities at State level for the special deposition. The main implementers of the law are the public authorities' network: health, social, educational, juridical, judicial and LEA professionals.</p> <p><i>From a social point of view.</i> From a societal perspective, this law might support the further development of a child-focus legal system and might also help considering institutional</p>

	<p>violence, such as the revictimization of children and adolescents in criminal proceedings as a major risk society needs to prevent. The importance given to the non-revictimization and the unique interview shall change mindsets and highlight the need to pay attention to harmful institutional practices that were considered the norm during many years.</p> <p><i>The practice meets the current needs of victims of crime.</i> The fact that the interview is conducted by a trained professional reduces the risks of not believing in the children’s narratives and not understanding non-verbal forms of communication. The involvement of a network of actors also reduces the risks of being “left behind” by certain institutions and mandates a certain level of responsibility towards the child’s wellbeing and support to all authorities involved.</p>
<p><b>Gender-sensitive</b></p>	<p>The law states that the child victim or witness shall “<i>be protected against discrimination of any kind, regardless of {social} class, sex, race, ethnicity, income, culture, educational level, age, religion, nationality, regional origin, migratory status, disability or any other condition that they or their parents or legal representatives have</i>”. The fact that sexual orientation is not mentioned in the list is an important legal pitfall, especially for the LGBTQIA+ minority. This fact, with the tremendous lack of specialised shelters for members of LGBTQIA+ community in the country, is a point of attention to be highlighted (BR3). This is a segment of adolescents who are particularly at risk and should therefore be taken care of more specifically. Lastly, there is also a strong gender bias when it comes to the perception of consent for sexual acts of girls and adolescents. There are many registered harmful practices in relation to the age of the adolescent in cases of sexual abuse and exploitation. Although the legislation is very clear and states that below the age of 14 there is no discussion on consent, this is often disregarded by LEA and judges who estimate that the child consented to the sexual acts.</p>
<p><b>Technically feasible</b></p>	<p>Some aspects of the law, although state-of-the-art for child protection, do not seem feasible to implement in the Brazilian context:</p> <ul style="list-style-type: none"> <li>• For instance, article 5.XV, stating that the child ought to be able to make his/her deposition in a “<i>format that is adapted to his/her age</i>”, considering possible “<i>situations of handicap</i>” and “<i>in other languages than Portuguese</i>”. The first part means that the officer conducting the interview or the deposition is trained in special interview techniques for children and adolescents victims of violence. The second relates to the fact that the officer should also be trained to interact with children with possible mental handicaps (which per se is a different type of training and, altogether, a specific field of work). Lastly, and the least feasible, is the possibility given for children to express themselves in other languages than Portuguese. Many municipalities would not be able to have this type of multilingual and/or specialised professionals within their centres and their protection networks, because of lack of budget and adequate resources. The reality of many Public Authorities in the country is the poor level of foreign languages spoken.<sup>26</sup></li> <li>• The continental size of Brazil clearly hinders the solution of having the law implemented at each of the State capitals instead of at each municipality (which</li> </ul>

<sup>26</sup> Conclusions from the author in the framework of the ICMPD MIEUX Brazil II Action in 2019. The field visit to the border-crossing facility in Pacaraima (border with Venezuela) showed that the large majority of the personnel (LEA, military, psychologists, health and social workers, legal support...) only speak Portuguese even though they were appointed to the region.

	ultimately is the solution used for some cases that are very remote or occur in very rural places).
<b>Intrinsically participatory</b>	The law is very participatory at its core, as it organises an institutional support system around the child with the participation, referral and active communication between all public actors involved. The already in place set of municipality-based public institutions in charge of the assistance and promotion of the rights of children ought to act in an articulated/integrated manner among themselves and with the public security bodies (LEA) and the Judicial system, with a definition of roles and responsibilities, promoting the exchange of information and through periodic meetings and interdisciplinary exchanges, defining the best forms of approach and intervention in the specific cases. Additionally, the law states, in its article 5.V (and partially 5.VI), that the children themselves, depending on their developmental stage (age and cognitive abilities), should be informed about the proceedings and also asked their preference and opinion about the different procedures.
<b>Risk reduction</b>	The law reduces risks of re-victimisation and cares about the inter-institutional support of the child in an integral manner. However, it is not the panacea, and judges still hold a lot of power when it comes to the treatment of children in the legal proceedings, as they decide on restraining measures, the child's placement in shelters or with the family.
<b>Monitoring /evaluation</b>	The results and implementation of the law are unfortunately not monitored systematically at the federal level, nor are they at the municipal levels. Article 14.III only foresees the " <i>establishment of information, referral, counter-referral and monitoring mechanisms, and monitoring</i> ". However, this is not being done in practice, like for many federal laws in the country (BR2 and BR3). Some local efforts are being made to assess, evaluate and analyse the centres in the different municipalities, but they seem to remain anecdotal. Monitoring and evaluation on the impact of the interviews, the number of staff trained, the functioning of the centres could be very relevant data to better understand the overall impact of the law.
<b>Expert opinion</b>	<p>The experts (BR1, BR2 and BR3) are positive about this law, as it is a state-of-the-art procedure inspired by good practices from other countries. For some actors, and particularly LEA, the law is already implemented at its full level, and the police officers, at least from the Federal Police, have already adapted their work to it (BR1). The general impression is that the effects of the law are being implemented at a larger scale in the urban municipalities, which are less conservative and have more resources and budget to implement new actions. This law could be recommended to other countries, as it takes into account the different levels of government and already established systems. It is a cheap measure to put in place, but monitoring, evaluation and capacity-development should be budgeted.</p> <p><b><i>What they would change.</i></b> According to the interviewed experts, there is room for improvement on several aspects of the law and therefore the following is recommended:</p> <ul style="list-style-type: none"> <li>● Effective implementation of integrated workflows to complement the law, by including external partners (for instance, NGOs to directly support children during the criminal proceedings),</li> <li>● Establishing of specialised law enforcement units, trained and equipped to deal with children, as well as creation of specialised judicial courtrooms for children and adolescents;</li> </ul>

	<ul style="list-style-type: none"> <li>● Supporting the municipalities in adapting their existing systems to the law and in terms of provision of budget and adequate capacity building for the professionals<sup>27</sup>;</li> <li>● Stipulating dedicated procedures/action plan to create Integrated Care Centres for children and adolescents including specialised multidisciplinary teams in all municipalities, as well as dedicated shelters;</li> <li>● Clarifying the issue of participation of the parents during the specialised interviews and throughout the entire process (as there is a possibility that the family member is either the main perpetrator or at least involved in the case);</li> <li>● Establish monitoring and evaluation mechanisms to assess the results and the impact of the law.</li> </ul> <p><i>Would they recommend the measure to other countries?</i> Brazil has created many inter-agency structures at the different federal, State and municipal levels (forums, nuclei, committees, working groups, pacts...) to counter both CSA/E and THB and to protect children and adolescents. Whilst it can be seen as a positive practice as it gathers relevant actors and works as awareness-raising mechanisms, the question of the real efficiency of such structures in other countries (clear mandates, specific funding) needs to be analysed prior to introducing such practice.</p>
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<b>Practice 5: Appointment of special judicial investigators for THB</b>	
Country: Greece	
Criminal proceedings stage: Investigation, Pre-Trial, Trial	
Type: Institutional upgrades stipulated by law	
Actors: The Greek Ministry of Justice, Judicial Specialists, the Greek Police and the relevant NGOs, as responsible actors for the criminal proceedings	
Target group: Victims of THB	
Timeframe: The Law entered into force on 9 March 2023.	
Aim: To ensure that THB victims have access to justice and that their cases are handled by specialised investigators who have adequate knowledge and experience.	
<b>Item</b>	<b>Description</b>
	The Law 5028/2023 in the country stipulates appointing of special judicial investigators in Athens and Thessaloniki who will deal exclusively with crimes of trafficking of human beings, sexual exploitation, employment and labour exploitation of third-country nationals, as well as related crimes. The appointment

<sup>27</sup> The capacity-development efforts do not meet the amount of staff to be trained. The NGO Childhood supported the implementation of more than 600 specialised courtrooms in the country and offers online and onsite training on specialised interview techniques, in partnership with other NGOs. A number of capacity-development activities, including training sessions for LEA and judicial officers, seminars and workshops have been organised, involving a wide range of stakeholders. There are limited open-access resources online for public authorities as the training sessions, like any public sector capacity-development activity is limited in terms of number of candidates. Due to the fact that the training is not certified, different private trainers offer expensive training courses.

<p>of special judicial investigators for human trafficking is a positive development in Greece's efforts to combat human trafficking and to protect victims, as it is expected to improve the investigation and prosecution of human trafficking cases and to ensure that THB victims have access to justice.</p>	
<b>Effectiveness</b>	<p><b>Clear objective.</b> The law aims to ensure that victims have access to justice and that their cases are handled by specialised investigators who have the knowledge and experience to deal with these complex and sensitive cases.</p> <p><b>Effective ways of achieving the objectives.</b> The practice of appointing a Special Judicial Investigator on THB cases can be an effective way to achieve the specific objective of investigating and prosecuting trafficking crimes. Special Judicial Investigators typically have broad investigative powers, including the ability to compel witnesses to testify and to produce documents. This can help them to uncover evidence of trafficking crimes that might otherwise be difficult to obtain. It is expected that Special Judicial Investigators conduct thorough investigations, providing also the entitled by law support to the victims. Finally, the Special Judicial Investigator could recommend reforms to the Greek legal system to improve the protection of victims of trafficking.</p>
<b>Success</b>	<p><b>Successful adoption of the practice.</b> Although the practice has been adopted and regulated by law, there is no available feedback yet on the impact of its establishment, as the special judicial investigators are in function for several months only. Nevertheless, the appointment of a Special Judicial Investigator on THB cases in Greece is a practice with the potential to have a positive impact on the safeguarding of victims' rights.</p>
<b>Sustainability</b>	<p><b>From an environmental point of view.</b> n/a</p> <p><b>From an economic and social point of view.</b> The budget for establishing this practice is not publicly available. Nevertheless, the appointment of a Special Judicial Investigator is a relatively low-cost intervention. It is funded by the Greek government and does not require any specialised equipment or facilities. Taking into consideration that the trafficking crime can lead to economic losses, such as decreased productivity and increased crime rates, and may undermine the social cohesion and increase the social inequality, it can be concluded that the establishment of the Special Judicial Investigators could also have a positive economic and social impact in the Greek society.</p> <p><b>The practice meets the current needs of victims of crime</b> by provision of support services during the criminal proceeding and the engagement of detailed investigation or the crimes.</p>
<b>Gender-sensitive</b>	<p>This is a gender-sensitive practice. The Special Judicial Investigator has a mandate to investigate all forms of trafficking, including trafficking crimes where gender might have played a role in the targeting of victims, such as trafficking for sexual exploitation and trafficking for labour exploitation. The Special Judicial Investigator is also required to consider the gendered dimensions of trafficking when conducting its investigation and to be aware of the needs of victims of trafficking from different backgrounds, including members of the LGBTQIA+ community.</p>
<b>Technically feasible</b>	<p>The appointment of a Special Judicial Investigator is a technically feasible practice. The Special Judicial Investigator has the necessary legal authority and resources to carry out its mandate and it is compatible with the Greek legal and institutional setting.</p>

<p><b>Intrinsically participatory</b></p>	<p>The appointment of a Special Judicial Investigator is not inherently participatory. The Special Judicial Investigator is appointed by the Ministry of Justice and is not required to consult with stakeholders during its investigation. Nevertheless, the Special Judicial Investigator may work with stakeholders, including, non-profit organisations, government agencies, as well as with the victim protection and support programs, in order to provide victims of trafficking with comprehensive support and services they need to recover and rebuild their lives, as well as to support the effective investigation and prosecution of trafficking cases.</p>
<p><b>Risk reduction</b></p>	<p>If the Special Judicial Investigator is able to conduct a thorough and impartial investigation, the findings and recommendations of such investigation could lead to reforms to the Greek legal system that improve the protection of victims of trafficking. The Special Judicial Investigator could also recommend the prosecution of individuals responsible for trafficking crimes. This could deter future trafficking crimes and make it safer for victims to come forward and report their experiences.</p>
<p><b>Monitoring /evaluation</b></p>	<p>The appointment of a Special Judicial Investigator on THB cases in Greece is a promising practice that was recently implemented, but, at the time of issuing this report, it was too early to say whether it has been effective and successful. The Special Judicial Investigator has only been in office for a few months and has not yet released any reports on its work.</p>
<p><b>Expert opinion</b></p>	<p>Experts from all fields have already requested the provision of this law a certain period before its adoption. The practice can be an effective way to achieve the specific objective of investigating and prosecuting trafficking crimes and to safeguard the rights of victims of trafficking. However, the effectiveness of the Special Judicial Investigators' work will depend on a number of factors, including the independence and impartiality of the investigator, the resources available to the investigator, and the cooperation of other stakeholders.</p>



## 4. Conclusions

This paper present promising practices with regard to the treatment of victims of THB and CSA/E during criminal proceedings. This paper stems from a manual developed during the HEROES project which was aimed to provide targeted information to other HEROES components to develop training programs and e-learning courses for better treatment of victims of THB and CSA/E. In addition, the manual was aimed to support various stakeholders involved in criminal proceedings, including LEAs and practitioners providing support services to victims (e.g. health workers, social workers, psychologists etc.). Moreover,. The current paper is a shorter version of that manual and is published with the aim to inform relevant stakeholders (outside the HEROES project) about the promising practices analysed, which provide examples for designing measures to respond to these particular crimes.

The countries under study (Brazil, Bulgaria, Greece, Peru and Spain) have incorporated the international standards and developed comprehensive legal, policy and institutional framework on the criminal investigations and the treatment of victims in criminal proceedings. However, the implementation of this comprehensive legislation remains a challenge, especially at local levels, where the human, technical and financial resources are limited. In most of the countries, while relevant promising practices were identified, many are still in their pilot phases. Moreover, the promising practices identified face severe logistical and budgetary constraints, leading to deficiencies in service implementation.

Legal and policy framework in the countries under study is much more developed towards THB crimes than on the CSA/E crimes. In that sense, there is an evident gap in response to criminal investigations and treatment of victims of human trafficking and CSA/ CSE in virtual environments, in terms of absence of specific measures for cases committed through virtual media, limitations in the information available around virtual universes and cybercrime, among others. The norms and mechanisms of care for victims of human trafficking and CSA/E are organised as physically recordable and prosecutable crimes. Although the measures tend to include criminal offences committed virtually, in none of the cases this is a specific or specialised measure.

Numerous guides, handbooks, and manuals exists for criminal investigations and the treatment of victims in the criminal proceedings. These resources aim to improve victim protection, strengthen collaboration among relevant bodies, enhance victim identification, and ensure comprehensive support throughout legal proceedings. Despite the quality of these resources appears good, there is insufficient capacity among the professionals to implement the guidelines in practice. Therefore, a consistent capacity building action is required.

The majority of the identified promising practices and tools in the countries under study refer to interrogation/interviewing of the victims in the pre-investigation, investigation and trial stage of the criminal proceedings; however, the interpretation issue remains a challenge.

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- [Support dogs for children \(Spain\)](#)
- [Campaign “Orange May” \(Brazil\)](#)
- [Standard Operating Procedures for transnational \(cross border\) referrals of VoT clients to service providers in other EU Member States](#)
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- [Article: “Partnership strengthens fight against human trafficking on federal highways” \(Brazil\)](#)
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- [Centres for children and adolescents \(Brazil\)](#)
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- [ICMPD: Assistance Guide for the Referral of Trafficked Victims in Brazil](#)
- [Reference Guide for Training in Specialised Specialised Listening and Special Testimony \(Brazil\)](#)
- [Guide for the rights of hate crime victims \(Greece\)](#)
- [Manual on Specialised Deposition \(Brazil\)](#)
- [Statistics on sexual violence \(Brazil\)](#)
- [First specialised room for children deposition \(Bulgaria\)](#)
- [Guidelines for Minors’ case management \(Greece\)](#)
- [Article: “Brazil recorded 202,900 cases of sexual violence against children and adolescents from 2015 to 2021, says bulletin”](#)
- [National Reporting Mechanism for the Protection of Victims of Trafficking in Human Beings \(Greece\)](#)

## Annex A Main findings of the 1<sup>st</sup> phase of the fieldwork

### Overview of barriers, harmful practices and gaps in victims' treatment in criminal proceedings:

			Bulgaria	Greece	Spain	Brazil	Peru
Barriers to participate in criminal proceedings		THB	length of the criminal proceedings; criminal proceedings based solely on victims' testimonies; insufficient timeframe coordination of the operational steps; lack of specific knowledge and thematic competences; logistical and financial challenges	delays of judicial proceedings; low conviction rates or authorities' low effort to follow through; "culture of impunity"; lack of awareness; fear of detention; mistrust in competent authorities; deficient witness protection; lack of specialised interpretation services	general mistrust in LEAs + victims can only be (formally) identified by law enforcement agencies; fear of reprisals and the lack of security for their families; lengthy criminal proceedings; lack of knowledge about the judicial process and their own rights; lack of specialised interpretation services; lack of access to services/right to residence/right to work (due to legal requirements which cannot be met); proceedings are initiated before the victim has recovered physically and psychologically; re-victimisation that occurs during the judicial process	poverty (many victims cannot afford transportation to go to the next public office to report their case and seek help); low education levels and social and marginalisation; fear of reprisals; mistrust in authorities; long proceedings; lack of (standardised) shelters; lack of resources for basic services; lengthy criminal proceedings	burden of proof continues to be centred on the testimony of the victim; gender stereotypes; fear of reprisals + cost-benefit analysis (poverty and marginalisation); lack of victim assistance + mistreatment in early identification as a potential victim; foreign victims have difficulties in accessing care services (due to legal requirements that cannot be met); mistrust in authorities; the impact of impunity, or discriminatory treatment (particularly on victims of gender-based violence); lack of resources (e.g. Public Prosecutor's Office's Programme for the Protection and Assistance of Victims and Witnesses does not operate 24/7.



		CSA/E		deficient witness protection;	fear of not being believed	lack of procedures (to support child victims of crimes with basic services) and follow-ups; lack of specialised training	lack of adequate victim assistance; victims as objects of protection and not subjects of rights
Harmful practices in criminal proceedings		THB		deficient witness protection (witness protection laws historically for other crimes, thus not applied in THB cases; exposure of victims/witnesses in the media; special infrastructure for children victims not available outside Athens and Thessaloniki; no shelters for victims members of the LGBTQIA+ community); lack of specialised interpretation services; poor data protection; deficient implementation of formal victim identification; lack of specialised training for medical staff	the victim as central axis of the criminal justice process; initiation of criminal proceedings not coordinated with reflection period; personal data of the complainant disclosed to defence at the end of proceedings; the obligation to give the same testimony at different stages of the process and before different interlocutors	lack of resources for basic services, mainly dedicated funds; poverty; lack of procedures (there is a plurality of standards fore victim treatment and shelters); lack of specialised shelters; lack of specialised training; general lack of psychologists; corruption (i.e. no fair trail); institutional violence;	gender stereotypes; revictimisation; long criminal proceedings
		CSA/E		deficient victim protection (special infrastructure not available outside Athens and Thessaloniki)		lack of specialised training on victim treatment;	

Gaps in safeguarding victims' rights/victim protection	investigation	THB	<p>lack of specialised interpretation services;</p> <p>long and not harmonised formal identification procedures;</p> <p>delay in granting support services during criminal proceedings;</p> <p>lack of frontline officers' awareness of relevant support network</p>	<p>lack of specialised interpretation services;</p> <p>initiation of criminal proceedings not coordinated with reflection period</p>	<p>lack of specialised training on victim protection;</p> <p>corruption;</p>	
		CSA/E	<p>small cities LEAs limited capacities</p>		<p>lack of specialised training on victim protection</p>	
	pre-trial	THB	<p>lack of specialised interpretation services;</p> <p>lack of specialised investigative judges</p>	<p>lack of specialised interpretation services</p>		
		CSA/E				
	trial	THB	<p>deficient witness protection (victim and perpetrator in the same room);</p> <p>delays in judicial proceedings;</p> <p>lack of specialised interpretation services</p>	<p>lack of specialised interpretation services;</p> <p>lack of protection during trial (victim's testimony in the presence of the offender);</p> <p>victim's testimony not coordinated with victim's need for recovery</p>	<p>lack of specialised training on victim treatment;</p> <p>institutional violence;</p> <p>corruption (i.e. no fair trail)</p>	
		CSA/E	<p>deficient witness protection;</p>		<p>lack of specialised training on victim treatment;</p> <p>institutional violence (e.g. sexism)</p>	

## Annex B Stakeholders interviewed

### B.1 Bulgaria

Table 1: Stakeholders interviewed in Bulgaria during the first phase of the research.<sup>28</sup>

Organisation	Interview date	Means	Gender	Number of participants
2 LEAs, 1 NGO, 1 State protection institution	July, August, September 2023	Online	4 Female, 1 Male	6

### B.2 Greece

Table 2: Stakeholders interviewed in Greece during the first phase of the research.

Organisation	Interview date	Means	Gender	Number of participants
5 LEAs, 3 Judiciary, 3 Government Officials, 4 NGOs	May, June, July 2022	2 In-person, the rest online	9 Female, 7 Male	18

Table 3: Stakeholders interviewed in Greece during the second phase of the research.

Organisation	Interview date	Means	Gender	Number of participants
1 LEA, 1 Child psychologist, 1 NGO	2023			3

### B.3 Spain

Table 4: Stakeholders interviewed in Spain during the first phase of the research.

Organisation/role	Interview date	Means	Gender	Number of participants
3 Governmental institutions (national and regional level), 5 NGO, 4 LEAs, 2 Other institutions (national level)	June, July, August, September 2022	Online and on site	8 Female, 6 Male	14

Table 5: Stakeholders interviewed in Spain during the second phase of the research.

Organisation/role	Interview date	Means	Gender	Number of participants
LEA	2023	online	F	1

### B.4 Brazil

Table 6: Stakeholders interviewed in Brazil during the first phase of the research.

<sup>28</sup> During the first phase of the research, the country report for Bulgaria was developed based only on desk research. No fieldwork research was conducted.

Organisation	Interview date	Means	Gender	Number of participants
3 NGOs, 9 Governmental organisations, 4 LEAs, 1 Academia	July, August, September 2022	Onsite, online and in writing	15 Female, 7 male	22

Table 7: Stakeholders interviewed in Brazil during the second phase of the research.

Organisation	Interview date	Means	Gender	Number of participants
1 LEA, 2 NGOs	May, June, July 2023	Online	1 Female, 2 Male	3

## B.5 Peru

Table 8: Stakeholders interviewed in Peru during the first phase of the research.

Organisation	Interview date	Means	Gender	Number of participants
3 LEAs, 5 NGOs, 9 Governmental institutions (national and regional), 2 Ios, 1 Independent consultant	June, July, August 2022	In person and online	9 Female, 12 Male	21

Table 9: Stakeholders interviewed in Peru during the second phase of the research.

Organisation	Interview date	Means	Gender	Number of participants
3 LEAs, 1 Governmental organisation	June, July, August 2023	On-site and online	3 Female, 1 Male	4

## Annex C Summary of country reports

### C.1 Country Report Brazil

#### 1. Background

**CSA/E is a very important issue in Brazil.** Nearly 87.000 cases of violations of human rights of children and adolescents were reported in 2019 (sexual violence being the fourth more reported type of violence, after negligence, psychological violence and physical violence) and 70% of all rapes in the country are committed against children (Childhood Brazil, 2020). According to Childhood Brazil, a major NGO acting in the area of child protection, it is estimated that fewer than 10% of cases are actually reported to the authorities. Brazil is also the 7<sup>th</sup> country in South America with the highest number of childhood pregnancies and the 4<sup>th</sup> country in the world with the most child marriages. **Child labour** is very prominent in the country, with 132.000 families whose children and adolescent between 10 and 14 years of age contribute to the rent and family costs. **Domestic work** encompasses the link between child labour and internal THB cases, with thousands of young women and adolescents working in households in slave-like conditions.

Studies and official reports from 2022 show that every hour, five children are victim of **sexual violence** in Brazil and one in each seven teenagers has suffered sexual abuse. In 2021, **DISQUE 100** (call 100), one of the most important government mechanisms to track and tackle human rights violations as it is used to report crimes, has received more than 6.000 reports of sexual violence committed against children and teenagers. Brazil is, allegedly, the 2nd country in the world with most cases of child sexual exploitation (Paula, 2022). The Brazilian Association for the Defence of Women, Children and Youth (Associação Brasileira de Defesa da Mulher, Infância e Juventude – Asbrad), received **1.915 calls for child labour and seven for child sex tourism** during the year 2020 according to the United States of America Department of State TIP Report for Brazil for 2021.

Brazil is a country in which both internal and international trafficking in human beings takes place, including all forms of the crime: labour, sexual exploitation etc; and involving a wide range of victims, including children. According to the 2023 U.S Department of State report, “...*Traffickers exploit women and children from Brazil and from other South American countries, especially Paraguay, in sex trafficking in Brazil. Gangs and organized criminal groups have subjected women and girls to sex trafficking in the states of Rio Grande do Sul and Santa Catarina. Traffickers also exploit Brazilians in sex and labor trafficking abroad in Western European countries, Cambodia, the People’s Republic of China (PRC), and other countries. Traffickers lure Brazilian women abroad with false promises and exploit them in sex trafficking; traffickers also fraudulently recruit adults to travel to Southeast Asia for jobs in technology or customer service and then exploit them in forced labor in cyber scam operations. Traffickers have exploited Brazilian men and transgender women in sex trafficking in Spain and Italy. Most identified trafficking victims are people of color, and many are Afro-Brazilian or otherwise of African descent; 63 percent of trafficking victims served at NETPs in 2020 identified as Black or Brown. Many identified trafficking victims are from northeast Brazil, especially Maranhao*” (US Department of State, 2023). The use of ICT in the recruitment of victims for both THB and CSA/E has been growing in the last years, although no data is available on the topic. Whilst the authorities have made significant efforts to tackle **THB**, the 2023 U.S Department of State report still ranked Brazil as a **Tier 2 Country**, partly due to the lack of reporting and data analysis. The new anti-trafficking Law No. 13.344 passed in 2016, which implements the provisions of the Palermo Protocol, offers a new framework for investigating and prosecuting the crime in Brazil. Despite its recent implementation and still some uncertainty as to its specificities due to a lack of training, it is still a very positive development that will pave the way for a better and more suited approach to tackling THB in the country.

## Legal, Policy and Institutional Framework Related to the Criminal Proceedings of THB and CSA/E Cases

### Legal Framework

The Brazilian criminal system in cases of THB and CSA/E is standard to **civil law countries**. A notable difference is the presence of a criminal and a labour jurisdiction. Indeed, the crime of THB, as well as some instances of CSA/E (particularly labour exploitation and slave work) can be ruled in two different courts: at **criminal level and at labour law level**. The first is focused on the perpetrator and the second on the victim, including compensation. Brazil signed and ratified the **major international instruments** to fight and prevent trafficking in human beings and to protect children’s rights. The national legislation is highly **advanced** in relation to children’s rights, as the 1988 Constitution set a special recognition of the importance of protecting children and adolescents. The country adopted legislation on THB in 2016 that reaches the international standards set in the Palermo Protocol. The main legal instruments are presented here below.

Legal instrument	Comments
<b>Constitution (1988)</b>	Article 227 is particularly relevant to children’s rights.
<b>Criminal Code</b>	Title VI: crimes against sexual dignity Art. 213: definition of rape Art. 216-A: sexual harassment, which may consist of the sexting practice Chapter 2: Sexual crimes against vulnerable people (including minors). Chapter V: on pimping and trafficking in persons for purposes of prostitution or other forms of sexual exploitation Art. 149-A: definition of THB
<b>Statute of Children and Adolescents (Estatuto da Criança e do Adolescente: ECA), established by Law 8.069, of 13 July 1990</b>	Considered one of the most advanced child protection laws in the world. Relevant articles : 240, 241, 244, Section V-A
<b>Law 10.764, of 12 November 2003</b>	Modified ECA dispositions on child pornography and secrecy on cases involving children and adolescents.
<b>Law 11.577, of 22 November 2007</b>	Set as mandatory the disclosure of messages regarding sexual exploitation of children and adolescents and establishes reporting mechanisms.
<b>Law 11.829, of 25 November 2008</b>	Modified ECA to improve the fight against the production, sale and distribution of child pornography, as well as criminalising the acquisition and possession of such material and other conduct related to paedophilia, specifically on the Internet.
<b>Law 13.344, of 6 October 2016 (THB Law)</b>	It has a very similar construction to law No 11.240/06 (Lei Maria da Penha on domestic violence against women) as they both are victim-centred (article 2) and put a special emphasis on awareness-raising campaigns.
<b>Law 13.431, of 4 April 2017, (also known as law on protected listening – Lei da escuta protegida)</b>	Modified ECA substantively to extend the system of legal guarantees for children who were victims or witnesses of violence. The definition of sexual violence, sexual abuse and sexual exploitation were also addressed.
<b>General Data Protection Law, 13.709, of 14 August 2018</b>	Includes the treatment of the personal data of children and adolescents.

**Law 12.965, of 23 April 2014, known as the Internet Civil Framework (Marco Civil da Internet)**

It gives parents the exercise of their parental control of the content that they perceive as inappropriate, but the public authorities have the discretion, together with internet providers, and civil society, to promote education and information on the use of computer programmes, and for the definition of good practices for the digital inclusion of children (article 29). Article 21 also provides that the victims can ask the provider to remove nude content from his or her own person, without the need for a lawyer or to go to court.

There are no specific regulations on the THB or CSA/E crimes committed through the **Internet** in any step (either for grooming, sharing materials...). Generally, the legal instruments include the comprehensive terminology: “*any electronic means*”. The recent legislation also adopted a broad inclusion of ICT-related crime, with the use of “*in a presential manner or by electronic means*” or “*whether in person or by electronic means*”.

Overall, **the legal basis to tackle CSA/E is also very robust**, but according to findings from the first phase of the research, it lacks effective implementation, as well as the mechanisms for monitoring and evaluation (own conclusion, backed by all interviewees for the two phases of the research).

**Policy framework**

The main policy framework on THB and CSA/E at Federal level are as follows:

- National Plans on Countering THB (third plan: 2018-2022);
- National Plan on Countering Sexual Violence against Children and Adolescents (decree 10.701, of 17 May 2021).

**Institutional framework**

The Brazilian system set a clear **division between institutions investigating and prosecuting the crimes and institutions supporting the victims**. This division can bring very positive outcomes; however, it can hinder the collaboration and ultimately the victim treatment. The following table identifies the main institutions relevant to THB and CSA/E and highlights their mandate.

Stakeholder	Mandate related to THB and/or CSA/E
<b>Law Enforcement Authorities</b>	
<b>Federal Police</b>	Mandated with national-wide and international cases for CSA/E and THB. The Federal Police also has competency for cybercrimes.
<b>Civil Police</b>	Mandated with cases at local (municipal) level. They have different protocols in place for CSA/E and operate with teams of psychologists and trained interviewers for victims in vulnerable situations and minors.
<b>Military Police</b>	At state and municipal levels, the Military Police plays a role in incident reporting and direct interventions, in conjunction with the Tutelary Council for victim removal for instance or fast intervention linked to an urgent identification.
<b>Federal Highway Police</b>	It is the LEA are mandated with the inspection of vehicles, attending accidents, assisting road users, and escorting authorities, but also the fight against all types of crimes that may occur on federal roads or along their

	margins, especially drug trafficking, child prostitution, environmental crimes, smuggling and theft of cargo and vehicles
<b>The Specialised Police Department for Child and Adolescent Protection (DEPCA)</b>	Mandated both at State and municipal levels. They are still in development phase and would be the main interlocutor for all complaints of a sexual nature involving children and adolescents as victims.
<b>Judicial authorities</b>	
<b>Supreme Federal Court (STF)</b>	The highest body in the Judiciary Branch, responsible for upholding the Constitution. It is the last instance of Brazilian justice.
<b>National Council of Justice (CNJ)</b>	A public institution that aims to improve the work of the Brazilian judicial system, especially regarding administrative and procedural control and transparency.
<b>Superior Court of Justice (STJ)</b>	Court responsible for standardising the interpretation of federal law throughout Brazil. It is responsible for the definitive solution of civil and criminal cases which do not involve constitutional matters or specialised justice.
<b>Federal Justice</b>	Has jurisdiction to prosecute and judge, among others, the cases in which the Federal Government, the federal public corporation or the federal public companies are the plaintiffs: political crimes and criminal offenses committed against the Federal Government, cases related to human rights and social security. Each State, as well as the Federal District, constitutes a judicial section that will have its headquarters in the respective capital city.
<b>Federal Regional Courts</b>	Represent the Second Instance of the Federal Justice and are composed of judges recruited from the respective region and appointed by the President of the Republic.
<b>The Labour Justice System</b>	Deals with cases between workers and employers and other disputes related to labour relations. The agencies of the Labour Justice System are the Superior Labour Court (the highest court, headquartered in Brasilia), the Regional Labour Courts and the Labour Tribunals. This system is particularly relevant for child labour and exploitation, as well as trafficking in human beings as it will be analysed in this report.
<b>State Courts</b>	Try all other cases that do not fall under the jurisdiction of specialised courts (Federal, Labour, Electoral and Military Courts). Among them are most common crimes, family law suits, civil cases, etc. Thus, it is the branch of the Judiciary that receives the most cases. It is composed of judges (first instance) and appellate courts (second instance). Its detailed organisation is the responsibility of each State.
<b>Federal and State Public Defenders</b>	Support the victims in legal proceedings and defend them in criminal court. However, they cannot start the legal proceeding themselves in the cases of CSA/E (interview 1). They are composed of a Federal institution, with



representations in the different States, as well as State-based defenders' offices. It is a very common institution in South America.

**Other institutions**

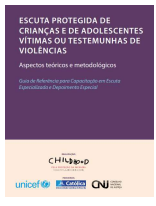

**Tutulary Council** It is a permanent, autonomous, and non-jurisdictional body, entrusted to ensure compliance with the rights of children and adolescents.

**Collegiate public bodies at Federal level**

- The National Council for the Rights of Children and Adolescents (CONANDA)
- The National Coordination for the Eradication of Slave Labour (CONAETE)
- The National Commission for the Eradication of Slave Labour (CONATRAE)
- The National Committee to Combat Human Trafficking (CONATRAP)
- The General Coordination of Tackling Trafficking in Persons and Smuggling of Migrants of the Ministry of Justice and Public Security
- The Nuclei to Combat Trafficking in Persons (NETP) and Advanced Posts of Humanised Assistance to Migrants (PAAHM)


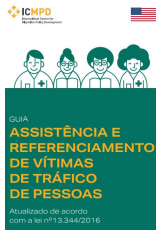
Lastly, and very relevant for both THB and CSA/E, Brazil has a very **large network of NGOs and CSOs** working on the ground and supporting the victims. Unlike in other countries, these organisations cannot support the investigation phase, but are a key element to victim support and even legal advice.

**National Guidelines, Handbooks, Manuals, etc. on the Treatment of Victims of THB and CSA/E during the Criminal Proceedings**

	<p><b>Childhood Brazil, UNICEF, Catholic University of Brasilia and National Council of Justice (2020): <i>Protected Listening for Children and Adolescents Victims or Witnesses of Violence: Theoretical and methodological aspects. Reference Guide for Training in Specialised Listening Specialised Deposition;</i></b><sup>29</sup></p>
	<p><b>Court of Justice of the State of Minas Gerais: <i>Special Deposition: A New Paradigm for Juvenile Justice, Cadernos da COINJ.</i></b> Commentary on law 13.431 on special deposition for children and adolescents.<sup>30</sup></p>

<sup>29</sup> [https://escutaespecializada.com.br/wp-content/uploads/2020/09/Guia-escuta-prottegida-de-criancas-e-de-adolescentes-vitimas-ou-testemunhas-de-violencias\\_V4\\_2020-08-21.pdf?eid=4ozfuJITjIY/K+ST7Cb+YF5FNl0bsSOFMCb/AgaZZj5Kp2qSqxakUp/059rBaxhiU3p3QeKNK2knPNuMbxL6QeXo/ICWH/qGWYegSaRgmXQdnnU](https://escutaespecializada.com.br/wp-content/uploads/2020/09/Guia-escuta-prottegida-de-criancas-e-de-adolescentes-vitimas-ou-testemunhas-de-violencias_V4_2020-08-21.pdf?eid=4ozfuJITjIY/K+ST7Cb+YF5FNl0bsSOFMCb/AgaZZj5Kp2qSqxakUp/059rBaxhiU3p3QeKNK2knPNuMbxL6QeXo/ICWH/qGWYegSaRgmXQdnnU)

<sup>30</sup> <https://www.tjmg.jus.br/data/files/4F/95/19/69/2E84561053B04356B04E08A8/Cademo%202.pdf>

	<p><b>National Council of Public Prosecutors (2019):</b> <i>Practical guide for the implementation of the policy for the care of children and adolescents victims or witnesses of violence.</i><sup>31</sup></p>
	<p><b>National Council of Justice and UNDP (2022):</b> <i>Manual for Special Deposition of Children and Adolescents Belonging to Indigenous and Traditional Communities.</i><sup>32</sup></p>
	<p><b>ICMPD, Migration and Human Rights Institute (IMDH), Ministry of Justice and Public Ministry of Justice and Public Security, the Federal Public Prosecutor's Office and the Federal Police (2020):</b> Manual for the assistance and referral guide for victims of human trafficking.<sup>33</sup></p>

**Barriers/ Challenges for Victims of THB and CSA/E to Participate in the Criminal Proceedings**

Despite the large majority of interviewees agreeing that the **Brazilian legal framework is very strong and does not need further legislative development** on either THB and CSA/E, some points of concerns still ought to be highlighted concerning implementation, monitoring and capacity-development.

**1) Implementation and monitoring of the legal framework**

There is a plurality of actors involved in the investigation, prosecution and support to the victims for THB and CSA/E crimes, and many organisations and bodies working on the rights of children and adolescents. Despite a very **structured approach** at federal level, there is a **colossal regional disparity** when it comes to the actual treatment of these crimes in the different States and municipalities of Brazil. Notwithstanding the creation of joint working groups, memoranda of understanding and networks between these institutions, **information sharing and data homogeneity and analysis remains a problem. Monitoring** on the application of the laws, frequent **evaluations** and **specific budgets** are missing, especially when transcribing the measures at the State and municipal levels.

**2) Capacity-development**

The 2016 law on THB is still fairly recent and has not been used in many occasions, leaving a **rather small jurisprudence** for future court decisions. Due to a **lack of understanding and training on the law**, LEA, prosecution and judicial authorities are still **unclear and wary** in using the law. They tend to use the correlated crimes rather than using the definition of THB and fully applying the law. The same type of reaction has been observed from LEA agencies, who rather use the criminal code article 149-A. This situation is confirmed by the latest US TIP report, analysing that there were **still no convictions under the new 2016 law**. There is

<sup>31</sup> [https://cnmp.mp.br/portal/images/Publicacoes/capas/2019/14-08\\_LIVRO\\_ESCUTA\\_PROTEGIDA.pdf](https://cnmp.mp.br/portal/images/Publicacoes/capas/2019/14-08_LIVRO_ESCUTA_PROTEGIDA.pdf)

<sup>32</sup> <https://www.enj.jus.br/wp-content/uploads/2022/02/manual-de-depoimento.pdf>

<sup>33</sup> [https://www.icmpd.org/file/download/52264/file/ATENCAO-02GUIA0ASSIST5C358ANCIA0E0REFERENCIAMENTO0DE0V5C358DTIMAS0DE0TR5C3581FICO0DE0PESSOAS0Atualiz ado0de0acordo0com0a0lei0n5C25BA13.3442016\\_FINAL.pdf](https://www.icmpd.org/file/download/52264/file/ATENCAO-02GUIA0ASSIST5C358ANCIA0E0REFERENCIAMENTO0DE0V5C358DTIMAS0DE0TR5C3581FICO0DE0PESSOAS0Atualiz ado0de0acordo0com0a0lei0n5C25BA13.3442016_FINAL.pdf)

therefore a **lack of capacity-development** on the technicality of the law. Similarly, the 2017 law on **special deposition for children victims of crimes** lack a dedicated capacity-development programme, in order to insure that the professionals in charge of interviewing children and adolescents are effectively qualified to do so. In addition to LEA and judicial authorities, training should be widened to all stakeholders working directly with children and adolescents: CSOs, health, psychologists, Tutelary counsellors.

Lastly, several interviewees<sup>34</sup> working on child protection (CSO, governmental and judicial actors) noted the need for a **change in mentality and culture**. Despite very good laws and an overall extremely protective system for children and adolescents, as well as a large number of recent legislative development, questions such as consent, sexism, domestic violence and child labour are still very much debatable in society.

### Promising practices

<b>Practice: Partnership between the Federal Police and airport institutions and airlines on identification of THB cases</b>
<b>Country: Brazil</b>
<b>Criminal proceedings stage: Pre-investigation</b>
<b>Type: mapping system</b>
<b>Actors: Federal Police, airport(s) institutions, airlines</b>
<b>Target group: Victims (potential/presumed) of THB</b>

<b>Practice: Transnational agreements on joint police investigations</b>
<b>Country: Brazil</b>
<b>Criminal proceedings stage: Investigation</b>
<b>Type: partnership agreements</b>
<b>Actors: Federal Police, relevant police stakeholders from the Latin American countries, AMERIPOL</b>
<b>Target group: Victims of THB, CSA/E and other related crimes</b>

<b>Practice: Permanent residence permit for foreign victims of THB</b>
<b>Country: Brazil</b>
<b>Criminal proceedings stage: Pre-Trial, Trial, Post-trial</b>
<b>Type: amendment of a legislative act (Law No 13.344 replaced Law 6.815, of 19 August 1980)</b>

<sup>34</sup> Fur interviewees in the first phase of the research.

<b>Actors:</b> Migration authorities
<b>Victims:</b> Foreign victims of THB

<b>Practice:</b> Federal Law 13.431/2017 and Decree 9.603/2018, establishing guarantees to the rights of children and adolescents who are victims and witnesses of violence, including THB and CSA/E
<b>Country:</b> Brazil
<b>Criminal proceedings stage:</b> Pre-investigation, Investigation, Pre-Trial
<b>Type:</b> Comprehensive and multi-participatory approach in adopting a legislation (Federal Law) to safeguard child victims’ rights
<b>Actors:</b> municipalities in Brazil as well as the members of the inter-institutional <b>coordination mechanism:</b> Public Prosecution Office, Tutelary Council, local LEA, the State, the Regions, Public Prosecution Office, judicial authorities, municipal social, health and education systems.
<b>Target group:</b> Children and adolescents’ victims or witnesses of violence (physical, psychological, sexual and institutional, which also includes THB and CSA/E cases). <sup>3536</sup> Both Brazilian and non-Brazilian victims are included in the law; which is particularly important for transnational THB cases involving foreign children.

<sup>35</sup> A child in the Brazilian legislation is a person under the age of 18. This law can also be used, although not mandatorily, for persons aged 18-21.

<sup>36</sup> The Brazilian legislation, although distinguishing between children and adolescents, does not do so for the purpose of the support system nor the granted rights. The differentiation is merely towards specific needs for adolescents and depending on the cognitive level of the child. It is also important to note that the term “minor” is deemed pejorative and is not used in Brazil (although it is commonly accepted and used in Portugal and other Portuguese-speaking countries).

## C.2 Country Report Bulgaria

### **Background**

Trafficking in human beings (THB) and child sexual abuse and exploitation (CSA/E) continue to be among the serious crimes committed in Bulgaria. The support of the victims and the prosecution of the perpetrators are the two sides of the process that lead to safeguarded human rights and implemented justice.

In relation to THB, Bulgaria is predominantly a country of origin for trafficked persons, a transit country and, to a much lesser extent, a country of destination. Most of the identified victims of trafficking are Bulgarian women and girls trafficked abroad for the purpose of sexual exploitation (Germany, Austria, the Netherlands, Belgium, Italy, and Switzerland), as well as internally, particularly in the capital city of Sofia, other large cities, Black Sea and mountain resort areas, and border towns. Isolated cases of men and boys trafficked for sexual exploitation are also reported. The second most reported form of exploitation of women is that of pregnant women trafficked for selling their newborn children in Greece and Cyprus (GRETA, 2021). Furthermore, there are criminal practices of adopting children in Bulgaria by Bulgarian citizens and bringing them abroad for exploitation (examples in France, Sweden, and Greece). A specific group at risk for trafficking are foreign citizens (adult and unaccompanied minors) who do not speak the local language. Furthermore, the national authorities report a significant increase in cases of online sexual exploitation (National Commission for Combating Trafficking in Human Beings - Bulgaria, 2021).

Most cases of online CSA/E are related to the production and dissemination of pornographic materials, grooming and blackmailing. The signals are sent to the Ministry of Interior (General Directorate for Combating Organised, Crime, Cybercrime Unit), most often by the parents after the abuse is identified. 16% (almost one in every six children and young people) report that they had experienced sexual violence in their childhood (one in every 5 girls and one in every 10 boys). Very often the perpetrators are people close to the victims. As in cases of other types of violence, children with special needs suffer more often online abuse. They also report up to eight times more incidents of sexual harassment and violence compared to the reports from children without special needs (UNICEF, 2021).

The risk groups for both THB and CSA/E continue to be children in the most vulnerable situations – children with physical and/or mental disabilities, children with unsupportive family environments – parental neglect, parental substance abuse, and low family income. In addition, children from single-parent households and adopted children are reportedly at higher risk of being exposed to violence and abuse. The most vulnerable age group for online CSE/A is 8-12 years when many children began to use more intensively mobile devices and are joining online social platforms (BG\_3).

Forms of both crimes facilitated by technology and happening online are intercepted more often. Although there is adopted dedicated legislation targeting all forms of these crimes, their seriousness and their specificities often lead to a low number of prosecutions, trials and effective sentencing. The effective prosecution of trafficking in human beings meets challenges related to, among others, the insufficient knowledge among the law enforcement and judiciary on the topic and low capacities for effective criminal proceedings ensuring the safeguarding of victims' rights (GRETA 2021). According to the data published by the Supreme Cassation Prosecutor's Office, in 2021, there were 270 monitored pre-trial proceedings for human trafficking (incl. old cases from previous years). Newly opened pre-trial proceedings were 56, while 132 proceedings were completed, and a total of 39 penalties were imposed. In 2021, 27 people were convicted of trafficking in human beings (National Commission for Combating Trafficking in Human Beings - Bulgaria, 2021).

In 2022, the State Agency for Child Protection (SACP) reported 32 cases of sexual violence against children and concluded that in most cases several types of violence are present at the same time – e.g. physical and sexual violence, neglect, etc. (SACP, 2022).

Against this background, different civil society and international bodies encourage and recommend the implementation of measures that will build a stronger response from the law enforcement authorities and will facilitate more effective support of the victims. US State Department highlights the need for implementing “qualified legal counsel and courtroom protections for victims assisting prosecutions” (US Department of State, 2023). The Council of Europe draws attention to the position of trafficking victims during the criminal proceedings and recommends that the institutions implement the existing measures to guarantee a dignifying attitude towards the victims. “Stressing that access to information on rights must not in any way depend on the victim’s willingness to act as a witness, GRETA considers that the Bulgarian authorities should strengthen the systematic provision of information to victims of trafficking regarding their rights, the services available and how to access them, as well as the implications of being identified as a victim of trafficking”. Furthermore, the Bulgarian authorities need to take further steps to facilitate access to justice by ensuring that a trained lawyer is appointed for every victim of human trafficking. (GRETA, 2021).

**Legal, Policy and Institutional Framework Related to the Criminal Proceedings of THB and CSA/E Cases**

*Legal Framework*

Bulgaria has signed and ratified the major international instruments to fight and prevent trafficking in human beings and to protect children’s rights. The national legislation spreads throughout all legislative levels – codified legislation, specialised regulatory laws and bylaws. The main ones are presented below.

<p><b>Criminal Code</b></p>	<p><b>Section 2, Chapter IX</b> Trafficking in Human Beings, Art. 159a-d, incl. use of technology and Section 3, Chapter I, Art. 182a-b</p> <p><b>Section 2, Chapter VII</b>, Art. 149-154 – sexual abuse of children</p> <p><b>Section 2, Chapter VII</b>, Art. 155 a-c – pimping, incl. use of technology</p> <p><b>Section 2, Chapter VII</b>, Art. 158 - 159 – Pornography, incl. online</p>	<p>The legal document that stipulates the measures for the prosecution of different crimes incl.:</p> <p>Human trafficking.</p> <p>Sexual abuse of children.</p> <p>Use of children in commercial sex activities incl. the online recruitment and exploitation of adults and of children.</p>
<p><b>Interpretative Decision # 2/ 16 July 2009 provided by the Supreme Court of Cassation on Chapter IX Trafficking in Human Beings of the Criminal code.</b></p>		<p>This is a methodological instruction regarding cases of human trafficking and the possible interpretation of the related Bulgarian legislation. It is uploaded on the internal website of the Supreme Prosecutor’s Office of Cassation and is available to any prosecutor who receives a THB case.</p>
<p><b>Criminal Procedure Code</b></p>	<p><b>Art. 120 – 124 Witnesses</b> (Art. 122 – Witness’ rights, Art. 123 – Witness protection).</p> <p><b>Art.139-140</b> - special measures for interviewing witnesses with special needs and child witnesses.</p>	<p>Presents instructions on all aspects of the criminal proceedings, e.g.:</p> <p>Victim protection.</p> <p>Interrogation of witnesses.</p> <p>Appointment of legal representation, etc.</p> <p>The latest update (from September 2023) introduces the mandatory presence of a</p>

		pedagogue or psychologist during the interrogation when the witness with special protection needs is a minor.
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<b>Combating Trafficking in Human Beings Act (CTHBA)</b>	2003	<p>The main anti-trafficking legal act in Bulgaria. The Act has been amended several times to correspond to the international and EU anti-trafficking legal and policy developments.</p> <p>The Act is the first legal document focused solely on the protection of the victims, while the prosecution of traffickers is addressed by the criminal legislation of Bulgaria.</p>
<b>Child Protection Act (CPA)</b>	2000	<p>This is the main specialised law in Bulgarian legislation regulating the state policy towards children, incl. those at risk. It regulates the rights, principles and measures for child protection, the responsible authorities, and their interaction in the implementation of child protection activities. It also regulates the implementation of the <b>Coordination Mechanism in Cases of Violence</b>, which constitutes the protection measures for children victims of violence or exploitation.</p>
<b>Social Assistance Act (SAA)</b>	1998	<p>This Act regulates the social relations associated with guaranteeing the rights of citizens of Bulgaria, foreigners who have been granted asylum, refugee or humanitarian status, and foreigners enjoying temporary protection to obtain social support through social assistance benefits.</p>
<b>Social Service Act (SSA)</b>	2019	<p>The Act regulates all key issues relevant to the social services sector related to the mechanisms for planning, delivery, financing, control and monitoring of social services. The aim is to improve the quality, efficiency and sustainability of the services financed by the state and to ensure equal access to them. The social services financed by the state budget are free of charge for all children, their parents or caregivers.</p>
<b>Crime Victim Assistance and Financial Compensation Act</b>	2006	<p>The law regulates the conditions and procedures for assistance and financial compensation from the state to Bulgarian citizens or citizens of EU Member States who are victims of crime.</p>
<b>Legal Assistance Act</b>	2006	<p>The Act regulates the legal aid in criminal, civil and administrative matters before courts of all instances. The legal aid under this Act is provided by lawyers and is financed by the State. The law guarantees persons equal access to justice by ensuring and granting effective legal aid.</p>

Bylaw	Related Law
Regulations for the Organisation and Functioning of the NCCTHB	CTHBA
Regulations for the Operation of the Shelters for Temporary Accommodation and the Centres for Protection and Support of Victims of Human Trafficking	CTHBA
Regulations for Implementation of the Child Protection Act	CPA
Regulations for Implementation of the Social Assistance Act	SAA
Regulations for the implementation of the Social Services Act	SSA

There is no separate legislation, targeting the online aspects of the crimes. On the contrary, definitions or articles related to the online aspect are added in the main criminal legal texts (CC and CPC), providing clarification for this specific group of victims, for specific modus operandi of traffickers, etc. The latest development that will facilitate specifically the investigation and information exchange in online cases on CSA/E is the signing of the Second Additional Protocol of the CoE Cybercrime Convention (May 2022). However, it is not yet transposed into the national legislation.

### *Policy Framework*

Bulgaria is implementing several national programmes and strategies in the areas of combating THB and CSA/E.

Document	Coordinated and issued by
National Strategy to Combat Human Trafficking 2017 – 2021. The new one is in the process of development.	Secretariat of the NCCTHB, adopted by the Council of Ministers.
Annual National Anti-Trafficking and Protection Programme.	Secretariat of the NCCTHB, adopted by the Council of Ministers.
National Plan Against Sexual Exploitation of Children.	National Council for Child Protection.

### **Institutional Framework**

The institutional framework related to the national response to THB and CSA/E in Bulgaria consists of representatives of government authorities at a central, regional and local level, led by specialised agencies on anti-trafficking actions and child protection. Civil society and international organisations are also well represented and included as partners in the overall national coordination structures.

Detailed descriptions of the roles, responsibilities, and coordination of actions of these stakeholders can be found in three coordination mechanisms related to the researched areas:

**Bulgarian National Mechanism for Referral and Support of Victims of Trafficking, NRM**, officially adopted by the Government of Bulgaria in 2016.

**Coordination Mechanism for Referral and Care of Unaccompanied and Trafficked Children Returning from Abroad** (2005, amended in 2010).

**Coordination Mechanism in Cases of Violence and for Protection of Children Victims of Violence or Exploitation** (2020).



Stakeholder	Mandate related to THB and/or CSA/E
<p>National Commission for Combating THB (NCCTHB), Council of Ministers</p> <p>10 Local Commissions for Combating THB (at the Municipality level)</p>	<p>National anti-trafficking coordination body. It organises and coordinates the interaction between separate institutions and organisations executing the Combating Trafficking in Human Beings Act.</p> <p>Coordination of the NRM.</p>
<p>State Agency for Child Protection (SACP), Council of Ministers</p>	<p>A specialised body of the Council of Ministers for guidance, coordination and control in the field of child protection.</p> <p>Together with the Ministry of Interior, coordinates the implementation of the Coordination Mechanism for the Referral and Care of Unaccompanied Children and Child Victims of Trafficking Returning from Abroad.</p>
<p>Ministry of Interior, General Directorate Combating Organised Crime, Unit “Trafficking in Persons”</p>	<p>Carry out formal identification of victims of trafficking, prevent, intercept, detect and investigate cases of trafficking in human beings.</p> <p>Together with the SACP, coordinates the implementation of the Coordination Mechanism for the Referral and Care of Unaccompanied Children and Child Victims of Trafficking Returning from Abroad.</p>
<p>Ministry of Interior, General Directorate “Border Police”</p>	<p>Carry out formal identification of victims of trafficking, prevent, intercept, detect and investigate cases of trafficking in human beings.</p> <p>Prepare reports on previous out-of-country trips of an identified (unaccompanied) child, potential victim of THB or other abuse under the Classified Information Protection Act.</p>
<p>Ministry of Interior, General Directorate Combating Organised Crime, Unit “Combating Cyber Crime”</p>	<p>Countering organised criminal groups and individuals committing production, possession and distribution of pornographic materials with minors. The Unit maintains a cybercrime website <a href="http://www.cybercrime.bg">www.cybercrime.bg</a> with information about the current challenges in cyberspace, existing threats, and ways to protect against them. Form for signals is also available.</p>
<p>Ministry of Interior, Directorate Migration</p>	<p>Identification of victims of trafficking among foreign nationals on the territory of the Republic of Bulgaria.</p>

Ministry of Foreign Affairs	Responsible for assisting and supporting Bulgarian victims of trafficking identified outside the country. Assisting with the informal identification of child and adult victims.
Ministry of Labour and Social Policy, Social Assistance Agency	Provides services to meet the social needs of the victim of trafficking in the reintegration process under the Social Assistance Act and the Child Protection Act.  Participates in the informal identification of victims of trafficking.
Ministry of Labour and Social Policy, Employment Agency, Executive Agency "General Labour Inspectorate"	Provides employment to victims of human trafficking in the reintegration process and vocational programmes for adults.
Ministry of Health	Provides medical care for emergency conditions and medical services provided outside the scope of compulsory health insurance, as well as medical care in accordance with the requirements of the Health Insurance Act. Provides free medical care for child victims.
Ministry of Education and Science	Responsible for the access of adult and child victims of violence (e.g. CSA/E and trafficking) to education programs in the process of long-term reintegration.
State Agency for Refugees	Responsible for the informal identification of victims of trafficking among non-EU citizens who have sought asylum in Bulgaria and ensures their access to specialized assistance.
Prosecutor's Office of the Republic of Bulgaria	Responsible for conducting pre-trial investigations in CSA/E and human trafficking cases and bringing cases to court.
National Council for Assistance and Compensation to Victims of Crime	Makes decisions on compensation claims submitted by victims of THB.
National Legal Aid Bureau, Ministry of Justice	Provides free legal aid in the form of legal advice and representation for victims of trafficking.
Ministry of Justice	Suggests amendments of the legal framework in order to accommodate emerging challenges and trends in the cases of THB and CSA/E.

<p>CSOs and IOs (service providers):</p>	<p>The organisations are responsible for the identification of victims of trafficking, and child victims of violence, incl. sexual abuse and exploitation. The organisations provide specialised emergency and long-term psychological, social, health and legal services to victims of trafficking and other types of violence. Some of them are specialised in the support of child victims and work towards the prevention of violence against children. Other focus particularly on topics like safe internet and online content for children, online harassment, etc.</p> <p>Animus Association Foundation; Alliance for Protection from Gender-Based Violence; IOM; Bulgarian Helsinki Committee; A21; Bulgarian Safe Internet Centre; Association Parents and others.</p>
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**National Guidelines, Handbooks, Manuals, etc. on the Treatment of Victims of THB and CSA/E during the Criminal Proceedings**



**Manual for training of specialists working with persons seeking and granted international protection. Issue: Trafficking in Human Beings, project ACTIVATE, (2020).** <https://www.activateproject.eu/>

The Manual aims to offer practical guidance on the different approaches to human trafficking, the existing legal framework, and the identification, protection and support of its victims, incl. Interview techniques, legal tools for protection, etc.



**Legal Procedures for the Protection of Victims of Trafficking - Guide for Social Workers, Animus Association Foundation (2015).**

The Guide provides general information about the THB, the international legal and policy framework, standards for the protection of victims and **victims’ rights before, during and after the criminal proceedings.**



**Attitudes towards victims of human trafficking in Bulgarian courts - Monitoring Report, Milena Kadieva, Ioana Terzieva, Emmanuil Kolarov.**

The Report presents the results of an initiative for monitoring court cases on THB in several categories: protection of personal data, victim support, security/protection, interviewing victims, victims’ compensation, legal proceedings, and court decisions.



**Methodical Guidelines for Management of Cases for Protection of a Child at Risk by the Child Protection Departments, Bulgarian State Agency for Child Protection (2021).**

The Methodology contains the official standards for social work and case management of children at risk by the state protection authorities. It specifies the direction of work, measures, actions and their sequence in the process of implementation of interventions towards the children and their families, their environment and the other relevant institutions.



### Psychological Aspects of Giving Testimonies by Minors in Pre-trial Proceedings, Institute of Psychology of the Ministry of Interior of Bulgaria.

The Guidelines provide instructions and techniques to police officers for conducting interviews and collecting information from children victims or witnesses in the course of the pre-trial proceedings.



### Guidelines for First Responders in Child Sexual Abuse and Exploitation Cases, GRACE project (Global Response Against Child Exploitation), 2022. <https://grace-fct.eu/>

The Guidelines provide standards for the daily work of police officers, equipping them with information on how best to respond to a potential case of child sexual abuse.<sup>37</sup>

## **Barriers/ Challenges for Victims of THB and CSA/E to Participate in the Criminal Proceedings**

Several barriers could be highlighted in relation to the victim's participation in the criminal proceedings. These factors constitute the main challenges identified during the desk and field research:

- 1. The length of the criminal proceedings** – very often the proceedings take a long time, in some cases several years. This fact naturally has a negative effect on the victim's motivation to participate (especially in THB and SE cases). This results in victims cancelling their participation in the pre-trial phase or even during the court proceedings. Another discouraging scenario presenting a barrier to victims' active participation is the **termination of the pre-trial proceedings** due to lack of evidence, despite the victim's testimonies or ending the trial with a **suspended sentence for the trafficker**.
- 2. Criminal proceedings based solely on victims' testimonies** pose a huge amount of stress and expectations on the victim. Gathering evidence proving TIP elements in a criminal case is difficult, therefore, witness testimonies are highly valued in the courtroom. However, the emotional toll of practices like face-to-face court hearings, or multiple interrogations (recalling painful memories, facing the abuser, etc.) sometimes makes victims change their statements or refusing to continue their participation. In the absence of other strong pieces of evidence, the trial often is terminated. This brings not only dissatisfaction for the victim but also feeling of guilt that victim's actions were not enough for the trafficker to be sentenced.
- 3. Insufficient timeframe coordination** of the operational steps that the law-enforcement and protection authorities implement. The reflection period (30 days from the time of identification) should be synchronised with the regulations and time periods for initial information gathering executed by the police and with the initiation of pre-trial proceedings by the prosecution. The law-enforcement work should not interfere with the granted reflection period. The non-aligned procedures under different legislation acts and different institutions' competencies, leads in some cases to **failure in provision of support services** (the victim does not get enough space and time to recover before being questioned by the law enforcement authorities), and therefore, often to **inefficient gathering of information**. These could result in the prosecution's refusal to initiate pre-trial proceedings due to insufficient evidence.
- 4. Lack of specific knowledge and thematic competencies** among some law enforcement officers and magistrates leads to **challenges in understanding the victim's and the victim's behaviour**, in lack of efficient approach and furthermore, impossibility to understand the nature and **correctly identify the crime**.

<sup>37</sup>The full text of the Guidelines translated into Bulgarian language are to be published.

5. A victim who participates in criminal proceedings often faces **logistical and financial challenges**. The court sits in the major cities (regional centres). This implies that in the majority of cases, in order to appear in court, the victims need to travel long-distance travel. There is no financial support provided by the state for travel and accommodation expenses. In addition, in case the victim is employed, she/he needs to take days off. NGOs who support victims tend to provide financial support if available. Facing such logistical and financial challenges often appears to be a big barrier for the victims to participate in the proceedings. There are cases (especially those prolonged for several years), where the victims become demotivated or are unable to ensure the necessary resources to travel and withdraw from the proceedings.

6. Specific challenges in **cases of child-victims** are the **close relation to the family members who are involved in the abuse**. This often manifests in the fact that the child would not give in the family to the authorities or/and the fact that often the child is heavily influenced by the family on what to say and how to behave when questioned by the authorities. In addition, a serious gap in the protection of child victims is the implementation of the measure **“taking the child out of the abusive environment”**. The child is taken out of the family and accommodated at a crisis unit. The children often understand this as punishment for the fact that they spoke to the authorities. In order to avoid this, the mother or the primary caretaker should accompany the child. Moreover, the children (and potentially their mothers) should be accommodated in shelters and centres with specialists trained to work with victims of sexual violence and/or trafficking.

Furthermore, during the various phases of the criminal proceedings, the children need to go through at least two interviews with law enforcement authorities and additional interviews with the social protection services, other service providers, etc. This causes stress and further trauma, especially in cases of CSA/E. During the interview phase, the most common challenges for the authorities are winning the trust of the child, formulating the questions in an age-adequate manner, separating the facts from the fantasy of the child, etc.

**Promising Practices**

Two outstanding practices related to the protection of child victims of violence are presented in the Manual (see Part 6) and are developed to respond to some of the listed above challenges. One addresses the repetitive interviews and official interrogations by the authorities. The other prevents potential re-trafficking and abuse of children in cases when family members are involved.

<b>Practice: Blue rooms for interviewing children in contact with the law</b>
<b>Country: Bulgaria</b>
<b>Criminal proceedings stage:</b> It is usually conducted in pre-investigation and investigation, while it can be used at all stages of the criminal proceedings.
<b>Type:</b> Approach to ensure safe hearing of children in the court.
<b>Actors:</b> CSOs, Ministry of Interior, Ministry of Justice, Municipality, etc.

<b>Practice: Special protection for children under Art. 76a Bulgarian Personal Documents Act</b>
<b>Country: Bulgaria</b>
<b>Criminal proceedings stage:</b> Can be used at all stages of the criminal proceedings. Usually, it is used during the investigation and pre-trial phase in order to ensure the safety of the child and the child will not be sent abroad during the lengthy proceedings.

**Type:** Legislation.

**Actors:** Ministry of Interior, Ministry of Foreign Affairs, State Agency for Child Protection, Ministry of Labour and Social Protection.

**Target group:** Children who were exploited abroad in order to prevent new attempts to be taken out of the country.

### C.3 Country Report Greece

#### **Background**

Greece, due to its geographical location, but also as a member of the European Union, is both an "intermediate" country (with final destination countries of Central and North Europe) and a "destination" country for victims of human trafficking.

According to the recent data released by Hellenic Police (Hellenic Ministry of Civil Protection, 2021), the primary type of human trafficking in Greece is for sexual exploitation<sup>38</sup>, followed by trafficking for labour and for begging and, finally, trafficking for the purpose of organ removal, for forced marriage and the exploitation for the commitment of criminal acts.

As it is referred in the "Strategy of the Ministry of Civil Protection for the fight against human trafficking 2021-2025", the use of physical violence reduced in 2019 compared to 2018, as it is easily detectable (visible signs) and can more easily prove the commitment of the crime, while the psychological violence increased as a mean of controlling the victims.

From the data referred to the National Serious and Organised Threat Assessment 2020 (Europol, 2020), in 2019 most traffickers are Greek and citizens of other EU Member States. In terms of gender, about 70% of the perpetrators are men. Most victims are women (about 80%), while about 50% of victims are children. It is worth noting that most perpetrators were members of transnational criminal organizations with members both Greek and foreigners.

In addition, according to the Hellenic's Police data cases, crimes committed with the use of ICT have been on the rise in recent years. Especially, in the years 2020 and 2021, with the outbreak of the COVID-19 pandemic, there was an increase of 16% and 21.7% respectively in the total number of new cases handled by the Cyber Unit in Hellenic Police.

Regarding the cases with child victims, in 2021 there was an increase in the use of chat rooms and/or applications for instant messaging groups for the exchange of CSAM. In addition, websites hosting CSAM were found to have a better structure and categorization of the offered material, comparing to previous years, in order to target more successfully the victims.

The majority of the interviewees who are involved in the investigation and prosecution of the THB and CSA/CSE crimes stated that internet and technology are enabling factors that do not affect the penal procedures. In general, as the LEAs and judiciary interviewees stated (GR04, GR11, GR13 and GR15) the legal framework used is the same for online or non-online cases, however in order to cover all possible criminal acts special provisions for ICT-facilitating crimes are foreseen in the Penal Code (GR15).

#### **Legal, Policy and Institutional Framework Related to the Criminal Proceedings of THB and CSA/E Cases**

Greece ratified the UN Convention and its supplementary Protocols (Greek Law 3875/2010), the CoE Convention (Greek Law 416/2013) and has transposed the European Directive 2011/36 (Greek Law 4198/2013), under which the Office of the National Rapporteur on Trafficking in Human Beings (ONR) was established within the Ministry of Foreign Affairs as a national coordinating authority.

#### ***Legal Framework***

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<sup>38</sup>Sexual exploitation was added to Article 323A of the Penal Code as one of the forms of exploitation, after the abolition of article 351 of the Penal Code on sex trafficking.

<p>Article 323A of Hellenic Penal Code</p>	<p>THB</p>	<p>“<b>Trafficking in persons</b>” includes the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include the conclusion of illegal profits of the exploitation of the prostitution of others or other forms of sexual exploitation (including the performance of sexual acts real or pretended or the provision of services that have the sole purpose of sexual stimulation), forced labour or services, slavery, or practices similar to slavery, servitude or the removal of organs, forced marriage, forced commitment of criminal acts.</p>
<p>Article 339 par. 1 and 3 of the Penal Code</p>	<p>sexual acts with or in front of minors</p>	<p>the act of impairing the morals of minors and forced presence before sexual acts between third persons. Anyone engaging in sexual acts with a person under the age of fifteen or misleads a person with the result of committing such an act is punished. Also, anyone who forces or misleads a minor under the age of fifteen to be present before sexual acts, without participating in it, is also punished. Indecent acts between minors under the age of fifteen are not punished, unless the age difference between them is more than three years, in which case specific measures apply.</p>
<p>Article 342 of the Penal Code</p>	<p>Abuse of minors to indecent assault</p>	<p>An adult who engages in sexual acts with a minor, whom they have been entrusted to supervise or guard, even temporarily, is punished with imprisonment.<sup>39</sup></p> <p>Furthermore, the adult, who makes gestures, proposals or narrates or depicts or presents acts of a sexual nature towards a minor that he has been entrusted for his supervision or guard, even temporarily, is punished with imprisonment of at least six (6) months</p>
<p>Article 348 of the Penal Code</p>	<p>Sex tourism with child victims</p>	<p>Anyone organizing, financing, directing, supervising, advertising, or mediating-in any way or means-in conducting trips with the purpose that the participants commit sexual acts against a minor, is punished with imprisonment of up to ten years. Anyone who participates for the above purpose in trips of the previous paragraph shall be punished with imprisonment of at least</p>

<sup>39</sup>a) with imprisonment of at least ten (10) years and a fine, in case the victim has not reached the age of fourteen (14);  
b) with imprisonment and a fine, in case the victim has reached the age of fourteen (14).



		one year, regardless of their responsibility for the commission of other criminal acts
Article 348A of Penal Code	“Child pornography”	“any person who intentionally produces, distributes, publishes, displays, imports to the Greek Territory or exports from that, transports, offers, sells or in any other way disposes, buys, is supplied with, acquires, or possesses child pornographic material or disseminates or transmits information in relation to the commission of the above acts, is punished with at least one (1) year of imprisonment and a fine.
	ICT-facilitated crimes	In the second paragraphs <b>ICT-facilitated child pornography</b> is described more explicitly with a more foreseen severe punishment, so any person who intentionally commit the above acts through information systems, is punished with at least two (2) years of imprisonment and a fine
	CSAM	In paragraph 3 the <b>child sexual abuse material (CSAM)</b> is defined as, the representation or the <b>real or virtual impression</b> in an electronic or another medium of the genital organs or the body of a minor in a manner that clearly causes sexual arousal, as well as of the real or virtual sexual act conducted by or with a minor, comprises child pornography within the meaning of the preceding paragraphs.
	Sexting	The disclosure to third parties of messages or photos of sexual content concerning minors is a very serious behavior that may, as the case may be, be subject to the legislation prohibiting the collection and processing of sensitive personal data (Law 2472/1997) or even constitute an offense related to child pornography (article 348 A of the Penal Code).
Article 348B of Penal Code	Procuring Children for sexual purposes	Any person who intentionally, through information systems, proposes to a minor who has not reached the age of fifteen, to meet themselves or a third person with the aim of committing against the minor the offences. <b>Sexual Acts with or in front of Minors</b> (articles 339 par. 1 and 2) or <b>child pornography</b> (348A), when this proposal is followed by further actions leading to such a meeting, the person will be punished by imprisonment of at least two years and a fine.”
article 346 of Penal Code	“revenge porn”	“Whoever, without the right, discloses to a third person or posts in public view, a real, altered or designed image or any kind of visual or audio-visual material, in which a

	<p>non-public act of another concerning his sexual life is recorded, shall be punished by imprisonment of at least three (3) years and a fine. Also, the threat of the commitment of the above acts is punishable, covering the so-called sextortion. <b>The punishment is more severe, 8 years in prison, if the crime is committed: a) by posting on the internet or in a social networking b) by an adult against a minor, c) at the expense of a current or former spouse or partner of the culprit or at the expense of a person who lives with him or has a work or service relationship with him or is under his custody or protection or is unable to defend himself, d) with the purpose of profit benefiting himself or another.</b> If any of the acts of the previous paragraphs led the victim to attempt suicide, imprisonment of a minimum of ten years and a fine are imposed</p>
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### *Policy Framework*

Document	Coordinated and issued by
Strategy of the Ministry of Civil Protection for the fight against human trafficking 2021-2025	Ministry of Civil Protection
National Strategy in Greece for the protection of unaccompanied minors	Implemented by the Special Secretariat for the Protection of Unaccompanied Minors implements
National Action Plan 2019-2023 for the Prevention and Combating of Trafficking in Human Beings and the Protection and Rehabilitation of Victims	Ministry of Foreign Affairs (MFA) of the Hellenic Republic

### *Institutional Framework*

In Greece there is a coordination mechanism for all the stakeholders involved in actions against trafficking of human beings. The National Referral Mechanism (NRM)<sup>40</sup> functions under the supervision and coordination of the Office of the Greek National Rapporteur and the management of the National Centre for Social Solidarity of the Ministry of Labor, Social Security and Solidarity (NCSS-EKKA). The primary aim of the NRM is to ensure the respect of the basic rights of the victims, as well as their protection, along with their access to the proper agencies for assistance and services. The NRM is the coordination tool for all national services for the protection and assistance of identified and potential victims of trafficking in human beings and the platform for the collection and processing of data on victims of trafficking seeking protection.

A greater number of stakeholders from the public sector and civil society have been engaged in the fight against THB and CSA/E through the NRM, which operates as a hub for coordinated action and partnership building. This does not merely concern law enforcement (police and prosecutors), but involves additional frontline professionals, such as labor inspectors, health providers, migration services, local administration authorities and other stakeholders who may come across vulnerable to THB populations.



<sup>40</sup>The NRM, which was officially launched on the 1st of January 2019 (according to the Ministerial Decision 3003/2016).

Stakeholder	Mandate related to THB and/or CSA/E
<p>The National Referral Mechanism (NRM) under the supervision and coordination of the Office of the Greek National Rapporteur and the management of the National Centre for Social Solidarity of the Ministry of Labor, Social Security and Solidarity (NCSS-EKKA)</p>	<ul style="list-style-type: none"> <li>- Collection of victims’ protection requests (identified by any public Actors or NGO, not necessarily officially recognized as victims).</li> <li>- Monitoring of cases</li> <li>- Creation and operation of the victims’ protection requests Registration System (reliable statistics).</li> </ul>
<p>Office of the National Rapporteur on Trafficking in Human Beings</p>	<p>It is subordinated to the Central Service of the Ministry of Foreign Affairs and is headed by the National Rapporteur on Trafficking in Human Beings, who is an official of this Ministry. The Office is designated as the national coordinating body in the fight against THB and is tasked with the coordination of the activities of the competent authorities and civil society actors as regards prevention of THB, protection of victims of trafficking and prosecution of the perpetrators, as well as representing Greece at relevant international fora.</p> <p>The National Rapporteur drafts an annual report on the fight against trafficking in human beings, including statistics, information on new trends and proposals for future action, which is submitted to the Hellenic Parliament by the Minister of Foreign Affairs. As regards the collection of data, the National Rapporteur cooperates with the police, the judicial authorities, NGOs, and IOM. The tasks of the Office of the National Rapporteur also include awareness-raising, education and training of stakeholders. The Office of the National Rapporteur is composed of three civil servants, including the National Rapporteur.</p>
<p>Hellenic Police</p>	<p>There are two specialised Anti-Trafficking Units, in Attica and Thessaloniki, within the Organised Crime and Human Trafficking Sub-directorates of the Police Security Directorate. In addition, 12 anti-trafficking divisions have been set up in regional General Police Divisions across the country. Furthermore, in Attica and Thessaloniki respectively there are two special Subdivisions for the handling of Juvenile cases and the cyber dimensions of the CSA/E.</p> <p>The Department of Public Safety of the Headquarters of the Hellenic Police monitors the evolution of THB and CSA/E at strategic level and may provide instructions, guidance, and targeted training. Recently the Strategy of the Ministry of Civil Protection for the fight against human trafficking 2021-2025” was issued and statistics are published frequently in the Hellenic’s police website.</p>

<p>National Centre for Social Solidarity (NCSS-EKKA)</p>	<p>The National Centre for Social Solidarity (NCSS-EKKA) is an agency which comes under the Ministry of Labor, Social Insurance and Social Solidarity. EKKA co-ordinates the provision of social support services to persons, families and groups of the population in crisis situations or in need of emergency social aid, including victims and potential victims of trafficking. EKKA runs two shelters for women and girls' victims of violence, which can accommodate victims of trafficking, and two emergency shelters as well as the telephone helpline for emergency social aid. EKKA also co-ordinates the provision of accommodation for unaccompanied children.</p> <p>By Government Decision 30840 of 29 June 2016, EKKA was designated to be the managing agency of the National Referral Mechanism for victims of trafficking</p>
<p>Child Protection Division</p>	<p>Within the National Centre for Social Solidarity (NCSS -EKKA) operates the Directorate for Child Protection with the following responsibilities:</p> <ul style="list-style-type: none"> <li>a) The care for the provision of organized social services in matters of child protection and in particular in matters of adoption and adoption.</li> <li>b) The observance of the correspondences provided for the Registers of minors, of adoptions, of foster care.</li> <li>c) Cooperation with the competent national, EU and international authorities and child protection bodies in the exercise of its responsibilities.</li> <li>d) The elaboration of the National Action Plan " Guarantee for Children " (ie, the recording of children in need and of institutions at local, regional and national level that provide services to children, the identification of children deprived of access to services, the recording of actions for the protection of children, etc.) Identification of children deprived of access to services.</li> <li>e) The research and monitoring of the implementation of the National Action Plan Guarantee for Children.</li> </ul>
<p>Public Prosecutor's Office</p>	<p>The Public Prosecutor's Office plays a key role in the Greek anti-trafficking system because it is the only authority that can formally identify a person as a victim of trafficking, either as part of criminal proceedings when victims agree to assist in the investigation/prosecution or through a separate identification procedure when victims do not want to or cannot cooperate in the investigation</p>
<p>Permanent Consultation Forum, NGOs, other members of civil society and international organizations</p>	<p>A Permanent Consultation Forum has been created as a framework for exchange between the Office of the National Rapporteur and representatives of 11 NGOs specialised in the field of combatting THB and CSA/E.</p>
<p>Athens Labor Centre Trade Union (EKA)</p>	<p>The Athens Labor Centre Trade Union (EKA) runs an Office of Support to Migrants, provides migrant workers with legal assistance, access to health care and assistance to receive unpaid wages, carries out on-site visits together with the Labor Inspectorate with a view to detecting cases of forced labor, contributes to research, assists in the repatriation of victims of trafficking, and</p>

	engages in international co-operation (in particular through the International Trade Union Confederation). <sup>41</sup>
Independent Offices for the Protection of Minor Victims "House of the Child in the Ministry of Justice	The Independent Offices for the Protection of Minor Victims "House of the Child" of the Ministry of Justice provide their services to the child victim, at the request of the pre-investigative, investigative, prosecutorial and judicial authorities, before whom the case is pending.

**National Guidelines, Handbooks, Manuals, etc. on the Treatment of Victims of THB and CSA/E during the Criminal Proceedings**

	<p><b>Handbook of the Greek National Referral Mechanism for the Protection of Victims of Human Trafficking, December 2021<sup>42</sup></b></p> <p>The handbook is a tool for all first-line professionals’ wishing to touch upon basic notions and subjects related to Human Trafficking and, more specifically, the protection of its victims in Greece. It mainly consists of a targeted tool of the NRM as it presents in detail its operation and its Standard Operating Procedures as well as the process for exercising the victims’ rights and the victims’ protection</p>
	<p><b>Identifying and Protecting Victims of Trafficking in Human Beings Practical Guide for First Line Professionals, issued 2021 by EKKKA National Centre for Social Solidarity</b></p> <p>The guide is intended for first line professionals who may encounter victims of human trafficking in their work, such as social workers, law enforcement officers, healthcare providers, and educators. Under “Legal Support” chapter it includes a detailed guide for all the steps of the criminal proceedings.</p>
	<p><b>Protocol of the Judicial Interview of the allegations of minor victims of violation of their sexual freedom, Ministerial Decision 7320/2019 (Government Gazette 2238 B'/10-6-19)</b></p> <p>A structured protocol for the judicial interview of minor victims of abuse, in accordance with international standards</p>
	<p><b>Protocol guide<sup>43</sup>. Case management of CSA/CSE by Eliza (NGO) and Hellenic Police</b></p> <p>Within this short guide, actions of police officers as first responders are being described, as well as the procedural actions of police during the preliminary investigation. In particular the Protocol Guide consist of 3 Chapters, First Actions of the Responder to safeguard the potential victim and the evidences, followed by</p>

<sup>41</sup><http://www.eka.org.gr/index.php/foreign-workers/753-supporting-office-for-immigrants-and-refugees>

<sup>42</sup>[https://ekka.org.gr/images/KOINONIKON-PAREMBASEON/EMA/46034\\_EMA\\_leaflet\\_ENGL.pdf](https://ekka.org.gr/images/KOINONIKON-PAREMBASEON/EMA/46034_EMA_leaflet_ENGL.pdf)

<sup>43</sup><https://eliza.org.gr/wp-content/uploads/2022/05/%CE%A0%CE%A1%CE%A9%CE%A4%CE%9F%CE%9A%CE%9F%CE%9B%CE%9B%CE%9F-%CE%9F%CE%94%CE%97%CE%93%CE%99%CE%A9%CE%9D-%CE%94%CE%99%CE%91%CE%A7%CE%95%CE%99%CE%A1%CE%99%CE%A3%CE%97%CE%A3->

the procedural actions in the preliminary investigation for cases of abuse or neglect of a minor and for cases of sexual abuse. Finally in the annex standards are given for the interviews of minor victims and witnesses.

#### **Circular of Superior Court, NO7/2022 for prosecutors**

Due to a lot of prosecutors' rejections of positively proposed identifications acts by the LEAs (including the recovery/reflection period attributed are limited period), the Special ad hoc Working Group for THB issued a Circular for Superior Court. the Circular sets the Guidelines for the characterization/identification act and for the attributed recovery and reflection period for the person concerned as a victim.

#### **No. 5/2023 Opinion of the Prosecutor's Office of the Supreme Civil and Criminal Court of Greece**

The Prosecutor's Office of the Supreme Civil and Criminal Court of Greece issued the no. 5/2023 Opinion addressing the Hellenic Labour Inspectorate<sup>44</sup>, in order to clarify: the collaboration between labour inspectors and police, drafting the complaint report by labour inspectors (considering the employer's intent), including indicators of THB in the inspection report that the Labor Inspectors prepare and share with the employer, data protection and labour inspections.

#### **Guide for Case management, approach and victim support, Ministry of public order – Hellenic Police.<sup>45</sup>**

The guide refers to the case management of sexual offences. It describes the need for support and compassion that first responders should show towards the victim, the importance of evaluating each case thoroughly and according to its special characteristics, the referral to the special corresponding units of Hellenic Police and the need for immediate help and information of the victim to avoid revictimization. The guide also describes the appropriate way to approach the victims while also provides a six-step guide for early interviews, setting the right way to build a relationship of trust with the victim, the need to be extensively informative, collect all the appropriate information, explain the future criminal proceedings and the entitled support services, co-decision for the next steps and finally the referral to the judicial authorities.

#### **Toolkit for first responders who are called upon to respond to incidents of child abuse or neglect, developed by the by the Institute of Child Health of the Center for the Study and Prevention of Child Abuse and Neglect of the Division of Mental Health and Social Welfare**

It is designed to promote a unified and multidisciplinary approach, providing actionable guidelines for professionals who come into contact with children or deal specifically with child victimization or domestic violence.

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<sup>44</sup>General Directorate of Supervision and Audits, Directorate Of Planning and Coordination Of Labour Relations Inspectorate

<sup>45</sup>Not public



### **Guide to Detecting Child Victims of Trafficking**

The SESN Tool User's Manual is issued by the Institute of Child Health of the Center for the Study and Prevention of Child Abuse and Neglect of the Division of Mental Health and Social Welfare (2015). The aim of this manual is to raise awareness and train professionals who come into contact with minors, potential victims of human trafficking, with different developmental skills and needs according to their developmental stage. Also the guide aims in the training of professionals towards recognition of psychological trauma and its effects on children and finally to the detection of indications of human trafficking



### **Standard Operating Procedures for transnational (cross border) referrals of VoT clients to service providers in other EU Member States.<sup>46</sup>**

These Standard Operating Procedures (SOPs) set out the minimum requirements for the transfer of case management, victim consent, data protection, and capacity of the receiving partner (psychosocial, case/social worker, legal) of transnational referrals of Victims of Trafficking (VoTs). They outline the required steps, responsibilities, documentation, and information necessary to successfully conclude the transfer of case management without diminishing rights and opportunities. These SOPs are set to be shared with other organizations and counselling centres supporting VoTs.

### **Guide for contact of primary social care and support for effective identification and secure referral of victims/potential victims of human trafficking and exploitation within the framework of the asylum procedure**

The guidelines, developed by ARSIS, provide a framework for supporting victims and their direct reporting to the national reporting mechanism in Greece. They include indicators of trafficking, forms of exploitation, protection processes and procedures and other information relevant for Asylum Services and authorities, front-line staff of NGOs providing support in the asylum system in Athens and Southern Greece. The guidelines are developed in Greek to best respond to the needs of service providers in Greece.

### **Guide for handling of cases of violence against LGBTQ+ citizens by Hellenic Police**

Guidelines are aimed to support police officers with regard to the identification of corresponding cases, providing indicators of prejudice for hate crimes against LGBTQ+ citizens. The guideline also contains the relevant legal framework and clarification of basic terms related to the certain type of crime.

### **Guide for the rights of hate crime victims by Ministry of Justice**

The guide<sup>47</sup> provides information to victims of hate crime. Especially refers to the characteristics of the crime, the actions that the victim could undertake, the rights they are entitled to as well as an indicative list of support services in Greece.

<sup>46</sup> [https://tiatas.net/wp-content/uploads/2022/11/20220930\\_TIATAS\\_SOPS\\_version-2-english.pdf](https://tiatas.net/wp-content/uploads/2022/11/20220930_TIATAS_SOPS_version-2-english.pdf)

<sup>47</sup> <https://moj.gov.gr/wp-content/uploads/2021/04/Odigos-el-en-fr.pdf>

**Delays on judicial proceedings**

According to lawyers representing THB victims, the slowness of judicial proceedings in Greece and the repeated adjournment of court hearings discourage victims to seek redress. There have been examples of THB cases which continued for six years and more. In some cases, the victims, who had returned to their countries of origin, travelled back to Greece to testify in court, at their own expense, to find out that a court hearing had been postponed (GRETA, 2017, p.52). Additionally, the longer the duration of the proceedings, the more the victims are exposed to the undue influence of the perpetrators (GR11).

**Discouragement due to low conviction or minimum effort of the Authorities towards detention of perpetrators**

The low number of final convictions for human trafficking offences and the near absence of final convictions for THB for the purpose of forced labour is a common phenomenon in Greece. Civil society representatives and lawyers have noted that the defendants in such cases were often acquitted, or the penalties were too small to be dissuasive (GRETA, 2017, p.8). The victim must trust that the perpetrator will be arrested, the complaint will be made, there will be an arrest, there will be pre-trial detention, and a punishment that will ensure that the culprit is in prison. If no one guarantees this to a victim, in many cases, they are reluctant to report it (GR05).

**“Culture of impunity”**

According to GR02, authorities may face difficulties to fully utilise the victims’ statements in the criminal proceedings. There is difficulty because even in occasions where the victim agrees in the cooperation and there is the ability to use them in court, then very often at a second level in the proceedings of the Court of Appeal the witnesses collapse- or withdraw their initial testimonies. This of course functions as “impunity”, because ultimately the first-instance decisions against the perpetrators usually become acquittal or in any case do not lead to prison. The European Union, the Commission and other actors not only call these issues as a “culture of impunity”, but also consequently this issue is a problem that needs to be solved in order to be more effective in the fight of the THB. This cultivated culture also acts as a factor in the decision of the victim against participation in criminal proceedings.

**Insufficient awareness campaigns**

The lack of public awareness on all aspects of trafficking in human beings for labour exploitation is an important barrier to responding to these crimes since such initiatives would inform and alert victims regarding the meaning, status and characteristics of being approached and treated as a victim of human trafficking (Internal Security Fund Police of the EU, 2019, p.51).

This **general lack of awareness and sensitization** about the situation of migrant domestic workers and the criminal side thereof appears to affect all involved actors. Migrant domestic workers are themselves often unaware of their rights and are therefore particularly vulnerable to exploitation (DemandAT, 2016, p.4).

**Fear of detention**

In Greece, the implementation of the principle of non-punishment of the victim does not appear to be satisfactory, if one takes into account that the Prosecutor's ability to abstain from criminal proceedings requires a prior complaint by the victim and its definite assessment as valid. Indicative, of the problems posed by the failure to apply in the Greek legal order the principle of non-punishment of the victim of human trafficking is the ECtHR Case L.E. v. Greece, according to which the applicant, a Nigerian national who had been forced



into prostitution in Greece, was arrested twice for breaching Laws 2734/1999 and 2910/2001, on prostitution and on the entry and residence of aliens in Greece, respectively.<sup>48</sup>

Although Greece's migration scheme offers legal channels for migrant domestic workers to enter the country and assume employment lawfully, in practice the existing procedure to recruit migrant domestic workers from abroad is highly bureaucratic and deters potential employers from registering their demand with the competent authorities. In practice, in their overwhelming majority, migrant domestic workers live and work in Greece on an **undocumented status**. The absence of legal residence is in turn associated with inferior working conditions; the employee's expectations are lower, while **fear of deportation discourages victims from reporting situations of abuse**, thus cultivating a sense of impunity among employers (DemandAT, 2016).

#### **Fear of retaliation or intimidation – Poor witness protection**

Law 2928/2001 provides for the following protection measures for witnesses: physical protection, the possibility to make a statement through audio-visual or audio means, and nondisclosure of the witness' personal details. Article 12 of Law 3064/2002 provides for specific protection measures for victims of THB and related offences, with regard to the protection of their life, physical integrity, personal and sexual freedom. Further, Article 226B of the Code of Criminal Procedure provides that a victim of THB can give written testimony or testify through audio-visual means. In practice the previously mentioned protection measures are rarely applied to victims of trafficking. The possibility to testify through audio-visual means is not used in practice as the necessary equipment is not available. Victims of trafficking wait in the same room as the accused and cross-examinations with the suspected offenders can be very intrusive. Further, although the witness protection legislation allows for anonymity of the victim, the police reportedly refuse to allow this in THB cases unless there is a charge of setting up a criminal organisation (DemandAT, 2016).

#### **Lack of procedures – Mistrusting competent authorities**

According to Amnesty International (AI) reports, there is a lack of effective mechanisms for the identification of victims at the point of entry. Independent of the official legislation and formal commitment to anti-trafficking principles, border protection prevails over the human rights of trafficking victims. The 2007, 2013 and 2014 AI reports observe that the formal procedures for the identification of victims at the point of entry are not respected, signs of trafficking are ignored and the victims' access to judicial procedures are undermined by the lack of trust for official institutions, including the police, NGOs and judicial authorities on the part of immigrants who enter the country (DemandAT, 2016).

According to labour center of Athens (EKA) as far as the field of domestic work is concerned, there have been many violations of labor rights in cleaning subcontracting companies and in domestic work, but these are not reported or taken to court. There are reports of employers and agencies that withhold payments, and personal and travel documents, and that act violently and deny food to the victims. In many cases, the victims felt threatened and refused to collaborate with the authorities and testify against the perpetrators (University of Nicosia, n.d.).

#### **Child victims' barriers connected to their age**

According to GR10 there have been several cases where the minor victim either due to the fact that they are not able to call if an action is illegal or because they are sexually or otherwise connected to the perpetrators and do not want to reveal their experience or even possibly the victims want to protect them, they do not report the relevant crimes. Mistrust of authorities can also be a factor enhancing their decision. Generally, each child is different. No doubt, victims' age is certainly causing several difficulties regarding criminal proceedings, but also, the perception of each minor on what exactly is abuse, or other problems that the victim faces, like for example kids with selective mutism.

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<sup>48</sup> Article 187B (3) CC)145. (ECtHR, *Chowdury and Others v. Greece*. Recommendations for the full compliance of the Greek State, 2018, p.38-39)

**Promising Practices**

<b>Practice:</b> Law 5028/2023 regarding the appointment of special judicial investigator for human trafficking that deal exclusively with cases involving THB victims
<b>Country:</b> Greece, in Athens and Thessaloniki
<b>Criminal proceedings stage:</b> investigation and pre-trial.
<b>Type:</b> Legislation, to be implemented.
<b>Actors:</b> Greek Ministry of Justice and the Greek Police which are responsible for the criminal processes.
<b>Target group:</b> The main target audience of this law is judicial specialists, the Greek Police, and NGOs that work with victims of THB.
<b>Timeframe:</b> Issued 09 March 2023
<b>Opinion of experts:</b> Experts from all fields have already requested the provision of this law long time before issuance. Also referred as a gap in interviews

<b>Practice:</b> House of Children (Under L. 4478/2017 amended with L.4640/2019 and the Ministerial Decision 7320/3.6.2019 (application of the juvenile court examination protocol) independent offices for the protection of child victims, “Houses of the Children” were established in the Offices of Juvenile Probation and Social Welfare of Athens, Thessaloniki, Piraeus, Patras and Heraklion of the Ministry of Justice with the responsibility of the victim’s overall support)
<b>Country:</b> Greece, Athens <sup>49</sup>
<b>Criminal proceedings stage:</b> Can be used at all stages of the criminal proceedings.
<b>Type:</b> independent office.
<b>Actors:</b> Ministry of Justice (Personnel of Independence Offices, Investigators, Judges, Prosecutor), victims of CSA/E, the Greek police, and other state and NGOs referral and support services.
<b>Target group:</b> child victims.
<b>Timeframe:</b> The practice has been used in Greece since 2021. Until 2021 special police rooms were used for the interviews. As of 2023, offices are expected to be operational in Thessaloniki
<b>Opinion of experts:</b> Experts have praised the use of this practise to improve the treatment of victims of CSA/E in Greece. They have called for more widespread use of this practice in Greece by the operation of all independence offices that are described at the Law.

<sup>49</sup> It is important to note that only the "Houses of the Children" in Athens is since December 2021 fully established and operational. The second in Thessaloniki is expected to operationally run within 2023

<b>Practice:</b> various Helplines (provide victims of THB and CSA/E with access to a confidential helplines where they can get support and information)
<b>Country:</b> Greece
<b>Criminal proceedings stage:</b> pre-investigation (early identification)
<b>Type:</b> services (telephone helplines and/or chat services available in Greek, English, Arabic, Farsi)
<b>Actors:</b> The main actors involved in this practice are victims of THB and CSA/E, NGOs and state support services (report a crime, emotional, information, referral, safety planning advocacy)
<b>Target group:</b> child victims.
<b>Timeframe:</b>
<b>Opinion of experts:</b> Experts have praised the use of helplines for their importance in providing support to victims of THB and CSA/E. LEA Experts also indicate that the capability provided from a 24/7 helpline (1109) of handling calls in almost all languages is also useful during the preliminary phases of investigation when a possible victim reaches police. In particular, in helpline 1109 specialist call operators serve in Greek and English while there is the possibility of connecting to a teleinterpretation service with access to 186 languages. For possible cases of human trafficking they forward the information, when deemed useful, to organized crime and anti-trafficking police departments, and to competent agencies throughout the country. Line 1109, through the extensive list of contacts it maintains, facilitates the communication of rescued victims of human trafficking with competent agencies, including hospitality, medical care, legal support and counselling services.

<b>Practice:</b> Special ad hoc Working Group for THB as a Policy advisory stakeholder, created under the supervision of the Ministry of Justice with the scope to resolve/ to intervene in matters of justice, for the protection of the victims, but also dealing with various issues regarding the perpetrators
<b>Country:</b> Greece
<b>Criminal proceedings stage:</b> investigation and pre-trial.
<b>Type:</b> Can be used at all stages of the criminal proceedings
<b>Actors:</b> Representatives from all relevant public sector bodies dealing with the relevant cases of THB
<b>Target group:</b> The main target audience of this law is judicial specialists, the Greek Police, and NGOs that work with victims of THB.
<b>Timeframe:</b> Established in 2021
<b>Opinion of experts:</b> Experts have praised the use of specialized working group for its potential to improve the treatment of victims of THB

## C.4 Country report Spain

### Background<sup>50</sup>

Trafficking in Human Beings (THB) and Child Sexual Abuse and Exploitation (CSA/E) are growing concerns in Spain. The country's government and civil society have been making many efforts to counter-act these crimes, but the number of detected cases has been on the rise. Below is a general overview of the current situation of these crimes in the country.

In relation to THB, the real extent of the phenomenon in Spain is unknown, which reinforces the importance of the networking of all topic-relevant professionals and entities to promote faster, reactive, and more proactive identification. The *Memoria del Ministerio Fiscal*<sup>51</sup> de 2022 collects official data and contains important data on the THB context in Spain.

**Trafficking for the purpose of sexual exploitation** is the most often detected form of the crime in Spain, with **98% of the cases affecting foreign-born women and girls**. Women and girls are also the majority of identified victims in cases of trafficking for the purposes of forced marriage and servitude, while men and boys are the majority of identified victims of labour exploitation (General Prosecutor's Office – Spain, 2022). Additionally, the US Department of State issued its TIP Report of 2022 (US State Department, 2022), based on information from governmental and non-governmental sources in Spain, found also the following critical facts and ongoing trends about THB in Spain:

- The pandemic boosted worker vulnerabilities and labour trafficking in 2020 and 2021, especially in agriculture, domestic work, and cannabis growing in Catalonia;
- The pandemic has expanded the use of private residences instead of brothels or clubs and internet recruitment, making sex trafficking victims more vulnerable;
- The pandemic pushed sex traffickers to use social media, smartphone apps, and the dark web to recruit, exploit victims, and rent apartments;
- Ukrainian refugees, mostly women and children, are vulnerable to trafficking;
- Eastern European and South and East Asian workers, especially Pakistanis, are exploited in the textile, construction, industrial, beauty, elder care, and retail sectors;
- Vietnamese and Chinese mafia gangs increasingly trade Vietnamese victims in agriculture and cannabis plantations;
- Fruit farm workers from Morocco were found vulnerable to deceit and exploitation;
- Sex traffickers exploit women from Eastern Europe, South America, Central America, Vietnam, the Dominican Republic, China, and Nigeria;
- Sex trafficking victims are mostly Colombian, Paraguayan, and Venezuelan women;
- Women and LGBTQIA+ people fleeing Venezuela's crisis are exploited by sex traffickers using fraud, assault, and debt bondage;
- Unaccompanied migrant children face sex exploitation and forced begging;
- Labour trafficking targets Spanish Roma girls.

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<sup>50</sup> The text from this section was extracted from the "Conde, C. A., Dilger, J., Petreska, E., Reyes, S. R., Santos, E. F., Shamim, I., Siso, C. B., Tejudo, R. B. (2023). *Manual for Early Identification of Potential Victims of Trafficking in Human Beings, Child Sexual Abuse and Child Sexual Exploitation* (Submitted to publication), hereinafter Conde, C. A. et al., 2023.

<sup>51</sup> The Ministerio Fiscal is the institution in Spain that concentrates and publishes yearly data about all governmental activities. The General Prosecutor's Office is responsible for presenting an annual report reflecting the work carried out during the year.

The instances of **international trafficking** involving non-Spanish citizens are **more common than domestic trafficking** involving Spanish nationals, among the identified case (General Prosecutor’s Office – Spain, 2022). In those instances, victims are usually recruited through deception, either with false promises of a good job in Spain or consented to work as prostitutes but were unaware of the conditions of exploitation in which this would take place. Traffickers abuse the situation of vulnerability, such as extreme poverty, poor education, undocumented status. The recruiters facilitate their transport to Spain, providing them with the necessary documentation (sometimes false) and paying for their journey. Once in Spain, they become tied to the trafficker due to debt accumulated during the journey. This debt is usually excessive and increases due to accommodation and food, fines, or any other items the trafficker charges from the victim. To exert full control, traffickers often use physical and sexual violence, life threats, or threats to a family member living in their country of origin. In many cases, they are held in detention or tents, their documents are withheld, or they are under constant surveillance. They are often forced to deal drugs (General Prosecutor’s Office – Spain, 2022).

Spain is a major destination to migrants within the EU. By 2022, it hosts about 7.3 million foreign-born people, mostly from Morocco, Latin America, and Eastern Europe, but with a growing population from Ukraine and Italy (R. Sanmartín, O., 2018). The number of irregular migrants is also on the rise, which makes more and more migrants vulnerable to exploitation in the country. Additionally, the Western Mediterranean route of migrants has Spain as its principal transit point onto other European countries, with arrivals in various parts of the country, particularly the Canary Islands, Ceuta, Melilla, and the Andalusian coast. To worsen the situation, some international criminal networks are based directly in Spain, playing a prominent role in the smuggling of migrants, which, in turn, increasingly intersects their activities with human trafficking. In this context, statistics reveal that most THB cases are for the sexual exploitation of foreign women (98%) (General Prosecutor’s Office – Spain, 2022).

When it comes to CSA/E, in 2021, the Public Prosecutor's Office (General Prosecutor’s Office – Spain, 2021). made a total of 2,086 indictments for sexual crimes committed against children, an increase of 15% compared to 2020 (1,791 indictments). According to the Ministry of the Interior's Statistical Crime Portal on "Victimisation of criminal offences by period, autonomous community, type of offence, age group and sex", which includes data from the State Security Forces and Corps, cases shown in the table below have been recorded.

2021	0-13 years				14-17 years			
	Male	Female	Unknown	Total sexes	Male	Female	Unknown	Total sexes
3. CRIMES AGAINST SEXUAL FREEDOM	833	2.954	18	<b>3.805</b>	583	3.925	4	<b>4.512</b>
3.1.-Sexual assault	44	219	0	263	61	579	0	640
3.2.-Penetrative sexual assault	25	125	0	150	34	434	0	468
3.3.-Corruption of children or incapacitated persons	59	128	6	193	61	139	2	202

3.4.-Pornography of children	48	36	9	93	24	46	0	70
3.5.-Others against sexual freedom and sexual indemnity	657	2.446	3	3.106	403	2.727	2	3.132

Ministry of the Interior's Statistical Crime Portal on "Victimisation of criminal offences" by period

The total extent of the issue is, however, unknown. According to some estimates, child sexual abuse and exploitation may affect one out of every five children in Spain (FAPMI-ECPAT Spain, 2022). Conversely, analysing the Ministry of Interior's official data over time reveals a 53.56 percent increase in CSA/E case reporting between 2014 and 2019, followed by a progressively lower rate until 2020. In 2020, **79.18% of the total victims of child sexual crimes were girls**, and the average age range of the victims was **between 14 and 17 years**. Considering this age group only, girls represented 82% of the victims (FAPMI-ECPAT Spain, 2022).

Against this scenario of high rates of both crimes, different governmental institutions, law enforcement agencies, and civil society organisations recommend and are attempting to put in place a range of mechanisms and procedures to detect cases as early as possible and protect victims, including during the criminal proceedings. In relation to trafficking in human beings, for example, most stakeholders involved in detection and protection have developed guides and codes of good practice to streamline their operations and maximise intervention effectiveness. However, the country would benefit from a more robust training policy at the national level for law enforcement and justice personnel. As the US State Department puts it, (it is recommended to) *“systematically train prosecutors and judges on human trafficking and a victim-centred approach to law enforcement.”*<sup>52</sup>

Additionally, the Council of Europe draws attention to the need of protecting victims against intimidation and revictimization *“during the investigation, as well as during and after the court proceedings, in particular by: a) ensuring that the Guidance on judicial proceedings regarding trafficking in human being is disseminated among all relevant agencies and the judiciary; b) increasing the availability of appropriate facilities and equipment for interviewing victims in courts and police stations; c) ensuring adequate financial and human resources to cover the costs and ensure effective protection of victims and witnesses of THB, including their relocation for security reasons”* (US Department of State, 2022).

## Legal, Policy and Institutional Framework Related to the Criminal Proceedings of THB and CSA/E Cases

### Legal Framework

Spain has signed and ratified the major international instruments to fight and prevent trafficking in human beings and to protect children’s rights. The Spanish legislation derives directly from international regulations. In this sense, all regulations contained in the Criminal Code on trafficking in human beings are rooted, first of all, in the Palermo Protocol (Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime 2000), the Warsaw Convention (Council of Europe Convention on Action against Trafficking in Human Beings, 2005) and the EU Directive 2011/36/EU.

<b>Criminal Code</b>	<p>“Article 177 bis” was introduced in 2010 to harmonize the definition of human trafficking as per the Palermo Protocol.</p> <p>“Title VII of Book II” includes the regulation of sexual aggression against minors.</p>
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<sup>52</sup> US State Department, *TIP Report 2023*.

	<p>“Article 181” states that any act of a sexual nature with a minor under the age of sixteen shall be considered sexual aggression.</p> <p>“Article 182” criminalizes forcing a minor under 16 years of age witness acts of a sexual nature for sexual purposes, even if the perpetrator does not participate in them.</p> <p>“Article 183.1” provides for specifically to punish sexual cyberstalking (grooming).</p> <p>“Article 183.2” criminalizes the request to send pornographic material (sexting).</p> <p>“Article 185” criminalizes exhibitionism in front of minors.</p> <p>“Article 186” criminalizes sexual provocation of minors.</p> <p>“Articles 188 et seq.” criminalize the prostitution of minors and child pornography (child sexual exploitation).</p>
<p><b>Ley Organica 4/2000</b> “Article 59 bis” contains protection measures for victims of trafficking irregularly in Spain.</p>	
<p><b>STS 447/2021 of 26 May</b> includes online interactions in the suitability of harming the victim's sexual freedom through violence or intimidation.</p>	
<p><b>Royal Decree 557/2011</b> sets out the formal identification of victims of trafficking and regulates the temporary residence to them.</p>	
<p><b>Royal Decree regulating the Law on Foreigners</b> provides migrants victims with rights for rehabilitation, recovery, and reflection periods (90 days).</p>	
<p><b>Organic Law 8/2021 (law for the protection of children and adolescents against violence)</b> regulates how authorities should treat victims in cases of sexual exploitation and trafficking of children subject to protection measures.</p>	
<p><b>Law 1/1996</b> grants the victims the right of free legal aid.</p>	

Spanish legislation pertaining to Trafficking in Human Beings (THB) and Child Sexual Abuse/Exploitation (CSA/E) is characterized by its fragmented nature, lacking dedicated laws exclusively addressing these offenses. Instead, pertinent provisions and clauses are dispersed throughout various legal statutes and regulations.

To rectify this fragmentation, the government has undertaken an ongoing initiative to streamline and consolidate the existing legislation and regulations. However, this endeavour remains a work in progress and has not yet reached completion. Consequently, the table above highlights the most relevant and direct components of the legislation related to THB and CSA/E.

### Policy Framework

Spain is running several national programmes and strategies in the areas of combating THB and CSA/E.

Document	Coordinated and issued by
Framework Protocol on the Protection of Victims of Human Trafficking.	Ministries of Justice, the Interior, Employment and Social Security and Health, Social Services and Equality,

	the Attorney General's Office, and the Council of the Judiciary.
National Strategic Plan against Trafficking and Exploitation of Human Beings 2021-2023.	Ministry of Interior.
National Action Plan against Forced Labour: Compulsory labour relations and other forced human activities (2021-2024).	Secretary of State for Employment and Social Economy and Council of Ministers.
Operational Plan for the protection of the Human Rights of women and girls' victims of trafficking, sexual exploitation, and women in contexts of prostitution (2022-2026).	Ministry of Equality
IV Action Plan against Sexual Exploitation of Children and Adolescents (2021-2024).	Ministry of Social Rights and Agenda 2030.
Protocol for the detection of and action in possible cases of trafficking in human beings for the purpose of sexual exploitation.	Sub-directorate General for the Integration of Immigrants.
Resolution of 7 July 2022 for the administrative accreditation of the status of victim of human trafficking and/or sexual exploitation	Secretary of State for Equality and against Gender Violence.
Instruction 6/2016 on actions of the state security forces and bodies in the fight against trafficking in human beings and in collaboration with organisations and entities with accredited experience in assisting victims.	Secretary of State for Security.

### Institutional Framework

The institutional framework related to the national response to THB and CSA/E in Spain consists of representatives of government authorities at the national, provincial, and local levels, led by a range of institutions in the entire spectrum needed to tackle those offences. However, there is no central organisation coordinating all national efforts. Civil society and international organisations are also well represented and included as partners in the overall national coordination structures.

Stakeholder	Mandate related to THB and/or CSA/E
Public Prosecutor's Office. Office of the Public Prosecutor for Aliens	Entrusted with the control of the application of art. 59 of the LE, channelling all the letters sent by the Prosecutor's Office to the governmental authority for this purpose, an activity which is part of the obligatory protection of the victims when they are foreigners.
Central Unit for Illegal Immigration Networks and Documentary	Its main role is the detection and identification of THB victims. It is responsible for the investigation of criminal activities, both national and transnational, related to human trafficking, human smuggling, illegal immigration, and false documentation in this area, as well as related crimes



Falsifications of the General Commissariat for Aliens and Borders (National Police)	
Labour and Social Security Inspectorate	Monitoring and enforcing compliance with laws, regulations, and the content of agreements and collective bargaining agreements.
Ministry of Equality. Secretary of State for Equality and against Gender Violence.	<p>It is responsible for proposing and implementing the government's policy on equality and policies aimed at making equality between women and men real and effective and eradicating all forms of discrimination.</p> <p>The proposal of standards and measures to combat trafficking in women for the purpose of sexual exploitation, as well as their coordination, monitoring, and evaluation.</p>
Centre for Intelligence against Terrorism and Organised Crime (CITCO)	It coordinates the Permanent Working Group with the participation of representatives of the constitutional bodies and ministerial agencies involved, which will draw up the appropriate monitoring and evaluation reports in accordance with the Strategic Plan against Trafficking and Exploitation of Human Beings 2021/2023.
Social Partner at national level against THB	<p>It coordinates and cooperates with the various territorial social partners, who are experts appointed by the National Police and Guardia Civil units.</p> <p>These intermediaries will oversee fostering collaboration between organisations and social entities with experience in THB, ensuring the exchange of information, trends, statistics, and promoting the respective protocols.</p>
Victim Assistance Offices	Provides comprehensive, coordinated, and specialised assistance to victims because of crime and to respond to specific needs in the legal, psychological, and social spheres. VAOs are established and run under the regional and local governments.
Juvenile Prosecutor's Office and the Spanish Data Protection Agency	They maintain a platform for requesting the removal of sexual or violent contents.
Internet Safety Centres (NGO)	The European Network for a Better Internet for Kids are, among other functions, in charge of developing awareness and training programmes for the protection of children on the Internet, as well as operating helplines and reporting lines in this field. At the national level, the Instituto Nacional de Ciberseguridad, INCIBE and Safer Internet Centre for Kids, Safer Internet for Kids stand out.
Victims' associations and specialised entities	Offer care, guidance and support programmes for the recovery of victims, development of social awareness campaigns, etc.

	<ul style="list-style-type: none"> <li>○ Federation of Associations for the Prevention of Child Abuse (FAPMI);</li> <li>○ Fundación ANAR (Ayuda a Niños y Adolescentes en Riesgo);</li> <li>○ Plataforma de Organizaciones de Infancia, an organisation that brings together more than 50 regional, national and international children's organisations specialising in children's issues.</li> <li>○ The National Center for Missing &amp; Exploited Children (NCMEC).</li> </ul>
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**National Guidelines, Handbooks, Manuals, etc. on the Treatment of Victims of THB and CSA/E during the Criminal Proceedings**



**Manual of Good Police Practices to combat violence against women, Ministry of Interior.**

This document aims to share and disseminate police practices in the prevention and investigation of crimes against women, since human trafficking is also gender-based violence.



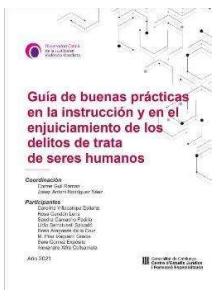
**JUNO Guide. Police Manual of Good Practices against Gender Violence, Government of the Canary Islands (2020).**

This guide provides training to police officers to act with the utmost professionalism in dealing with victims of gender-based violence.



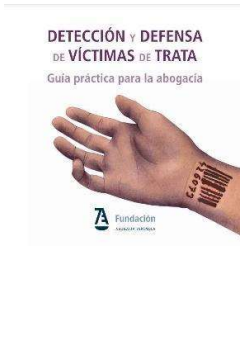
**Guide of criteria for judicial action against human trafficking, General Council of the Judiciary (2018).**

Provides a useful tool to address the police and judicial treatment of this phenomenon that requires at the same time the prosecution of the crime and the protection of victims.



**Guide of good practices in the investigation and prosecution of human trafficking crimes of the Generalitat de Catalunya, Catalan Observatory of Justice and Gender Violence (2021).**

This guide has a regional scope of application, since it is only tailored for Catalonia. The objective of this guide is to complement the instructions and observations made by the National Guide in 2018, selecting issues that are understood to deserve greater attention.



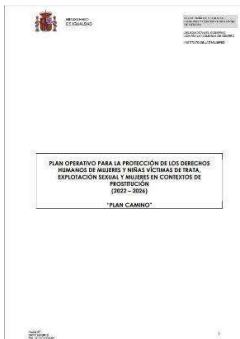
**Detection and defense of victims of trafficking. A practical guide for the legal profession, Fundación Abogacía Española (2015).**

This guide was developed to bring closer and make known certain tools that would allow a better legal intervention from the perspective of the legal profession, with the aim of complementing and improving the assistance that could be provided to persons subjected to such crime.



**Practical issues on human trafficking: an interdisciplinary vision, Gómez Acebo Foundation and Trabe Association (2021).**

provide lawyers and social entities that provide guidance and legal advice to victims of trafficking with a practical tool that would allow them to offer more effective care, thus contributing to strengthening the legal protection of victims of the crime.



**Plan Operativo para la protección de los Derechos Humanos de las mujeres y niñas víctimas de trata, explotación sexual y mujeres en contextos de prostitución, Ministry of Equality (2022).**

This plan established a series of priority objectives in terms of assistance, health, detection, and identification, etc. Regarding the pre-procedural or procedural activity, it seeks to protect and guarantee the rights of women victims of trafficking, sexual exploitation, and women in prostitution contexts, through the institutional articulation of a comprehensive and multidisciplinary nature of care and recovery measures, awareness and prevention, economic and housing autonomy, punishment of those responsible and access to other rights.



**Guide of good practices for the prevention and protection of child sexual abuse and exploitation, Ministry of Health, Social Services and Equality (2017).**

This guide contains a very exhaustive list (as of 2017) of existing regional guides with some reference to the context of child sexual abuse.



**Common action guide for the detection, notification and referral of cases of sexual exploitation of children in residential centers, with special attention to girls and adolescents, Ministry of Health, Social Services and Equality (2022).**

This guide deals with the sexual exploitation of children and adolescents who are particularly vulnerable victims, not only because of their age, but also because they come from unstructured or non-existent family contexts and are cared for in residential care centres.

### **Barriers/Challenges for Victims of THB and CSA/E to Participate in the Criminal Proceedings**

Several barriers could be highlighted in relation to the victim's participation in the criminal proceedings. These factors constitute the main challenges identified during the desk and field research on Spain:

- 1. Detection of Victims:** Victims, especially adults, may be reluctant to collaborate if identified during raids or controls, fearing persecution.
- 2. Awareness and Fear in Children:** Children may not realize they're being abused, and fear of not being believed hinders cooperation. Emotional support and protection from families are crucial.
- 3. Intimidating Environments for Minors:** The process of taking statements in intimidating settings (courts, hospitals, police stations) can lead minors to withdraw from cooperation. A child-friendly environment with specialized psychologists is recommended.
- 4. Limited Victim Identification by Law Enforcement:** The restriction to law enforcement for victim identification, particularly for migrant women victims of trafficking, can be a barrier to reporting abuse.
- 5. Fear of Reprisals and Security Concerns:** Victims often fear reprisals against themselves or their families, which deters them from participating in judicial procedures.
- 6. Lack of Knowledge about Judicial Process and Rights:** Victims often lack understanding of the judicial process and their rights, and information provided to them is not always clear or sufficient.
- 7. Inadequate Translation Services:** The lack of translators for certain languages, inadequately trained interpreters, and inconsistency in the use of the same interpreter throughout the process hinder effective communication and trust-building.
- 8. Physical and Psychological Recovery:** Proceedings often start before victims have recovered physically and psychologically, which can be detrimental to their participation.
- 9. Perception of Justice System and Police:** Victims' mistrust in the justice system and police, often fuelled by criminal networks, can discourage them from cooperating.
- 10. Re-victimization During Judicial Process:** The need to testify repeatedly, sometimes in front of abusers or their lawyers, can be traumatic and paralyzing for victims.
- 11. Difficulties in Accessing Reparation and Rights:** Non-EU victims face more difficulties in accessing reparation, and there's a disparity in the calculation of damages and reparation.
- 12. Continuation in Prostitution:** Economic challenges and difficulty in obtaining work permits can force victims to continue in prostitution, even while involved in judicial processes.
- 13. Protection of Protected Witnesses:** Current laws are deemed obsolete, offering insufficient protection for victims, especially in terms of personal data confidentiality.

**14. Challenges in Changing Identity for Protected Witnesses:** Difficulties in changing identity due to non-recognition by embassies of their countries of origin can leave them undocumented.

**15. Family Pressure:** Sometimes, family members may insist that the exploited person continue working for the criminal network for their own comfort or security.

**Promising Practices**

The research has identified a range of practices that demonstrate potential in effectively protecting victims of THB and CSA/E. While some of these practices have been prominently included in the main text of the Manual due to their significant impact, there are additional practices that also deserve recognition for their contributions.

<b>Practice: Court specialised in violence against children and adolescents</b>
<b>Region: Catalonia</b>
<b>Criminal proceedings stage:</b> Trial
<b>Type:</b> Approach to ensure special, specialised procedures catering for the needs of children
<b>Actors:</b> Justice system
<b>Target Group:</b> Children

<b>Practice: Barnhouse model</b>
<b>Region: Andalusia</b>
<b>Criminal proceedings stage:</b> Can be used at all stages. They are child-friendly spaces in which social, health, education, police, and judicial services are integrated to provide social and judicial care for child victims of sexual violence in the same place.
<b>Type:</b> Approach to ensure special, specialised procedures catering for the needs of children
<b>Actors:</b> All stakeholders working with children
<b>Target group:</b> Children

<b>Practice: No disciplinary proceedings are initiated against foreign victims on an irregular status</b>
<b>Region: Entire Spain</b>
<b>Criminal proceedings stage:</b> Should be used regardless of the proceeding stage.
<b>Type:</b> Legislation
<b>Actors:</b> All stakeholders working with children

**Target group:** Irregular migrant victims of THB or CSA/E

**Practice:** The possibility to provide distance or previously provided testimony via video or audio channels (Gesell chamber)

**Region:** Entire Spain

**Criminal proceedings stage:** Investigation, pretrial, and trial

**Type:** Procedure

**Actors:** Law enforcement, justice system, and lawyers.

**Target group:** Children and adults

**Practice:** Pre-constituted evidence

**Region:** Entire Spain

**Criminal proceedings stage:** Investigation, Pre-Trial, Trial

**Type:** Practice

**Actors:** Investigation judge, Public Prosecutor's Office, Lawyer of the defendant.

**Target group:** Victims of THB and child victims under 14 (victims of CSA/E and other crimes)

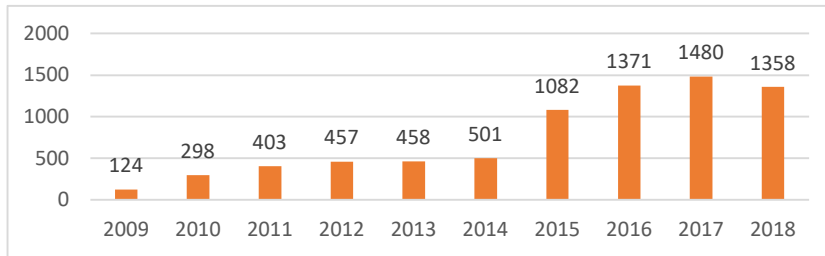
### C.5 Country Report Peru

#### Background

Data on human trafficking have been produced in Peru since 2009 (MININTER, 2021) by the Strategic Information System on Human Trafficking (SISTRA) of the Public Prosecutor's Office (MP). They are disaggregated by year and region. The National Police of Peru (PNP) also has a data registration system, which provides data about the mode of recruitment, form of exploitation, age, region, sex. Even so, there is no data available on the forms of involvement of virtual variables (recruitment, for example) in these crimes.

**Figure 1. Annual number of reported cases of human trafficking in Peru.**

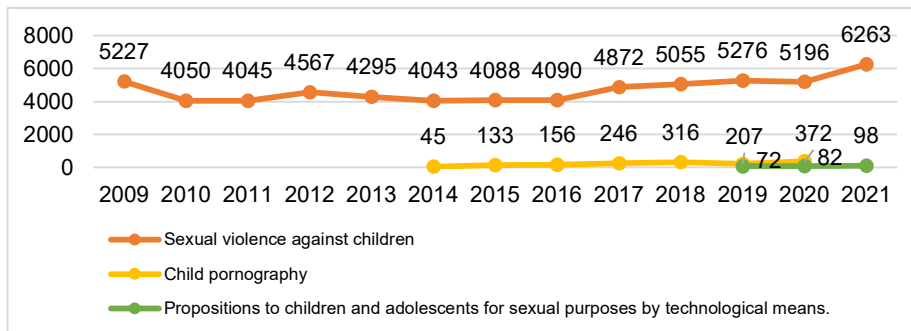
Source: MININTER (2021, p.29).



There are various data on sexual violence against children and adolescents produced by the National Police (PNP) and data on child pornography processed by the High Technology Crime Investigations Division (DIVINDAT - PNP) (MIMP, 2020, p. 74). However, the reporting underrepresents the crime. There is no clarity on how widespread the crime is, even though it is assumed that it has a high presence. In contrast, there is little information on the situation of online crime and the presence of the internet in the commission of CSA/E.

**Figure 2. Reports of sexual violence against children under 18 years of age (Peru).**

Source: MINJUS (2021), MIMP (2020), MININTER (2022 reported by INEI, 2022).



The treatment of victims of both crimes faces certain challenges. Many victims do not receive enough protection and support services, which generates reluctance or refusal to collaborate with law enforcement authorities, putting the criminal investigation at risk.

However, in the last ten years, many efforts were made by the authorities, various documents, guides and mechanisms dedicated to better policies and procedures related to the criminal proceedings of cases of THB and CSA/E have been developed and applied. Many of them are result of advances made by the Peruvian state in collaboration with international cooperation and agencies of the United Nations system. As such, many of these instruments comply with international standards. The main challenge is set in the implementation of the

documents – the standards, the budget, training, personnel and infrastructure are still to be developed and extended at the national level.

**Legal, Policy and Institutional Framework Related to the Criminal Proceedings of THB and CSA/E Cases**

*Legal Framework*

The Peruvian legal framework is aligned with the UN Convention against Transnational Organised Crime (UNTOC) and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and, therefore, with the general normative framework of the European Union. Similarities have been found between the Peruvian legal framework and the Spanish and German legal framework with regard to sexual violence against children and adolescents. With the ratification of the Convention on Cybercrime, Peru assumes the commitment to a frontal and effective fight against cybercrime and effective international cooperation in criminal matters. The main national legislation addressing THB and CSA/E is presented below.

		Associated criminal offences, year of criminalisation and regulation and/or modifications	Elements of the criminal offence explicitly related to Information Technology or Internet ICTs and/or Sex Tourism
THB	Trafficking in human beings	Penal Code Law 31146  Art. 129-A. Trafficking in persons	There is no explicit reference to the use of ICTs.
	Trafficking of Children	Article 129-B Aggravated forms of trafficking in persons	
		Supreme Decree 001-2016 regulating Law 28950 (Anti-Trafficking Law)  Art. 33 – determines the institution and their functions in regard to the assistance and support of the victims of THB.	
		Legislative Decree N° 1591 - 2023  Strengthens the penalties.	
CSA	Child sexual abuse  Penal Code, Law 28704	Art. 173.- Sexual violation of a minor.	There is no explicit reference to the use of ICTs.
		Art 175.- Rape by deception	ICT. If the offender records any of the conduct provided for in Articles 170, 171, 172, 174, 175, 176 and 176-A by any visual, audio or audio-visual means or transmits it by any information or communication technology, the penalty is increased by five years at the minimum
		Art 176-A.- Touching, acts of sexual connotation or libidinous acts against minors.	



			and maximum applicable to the offence recorded or transmitted.
	Online child sexual abuse Penal Code, Law 30962	Art. 183-B. Propositions to children and adolescents for sexual purposes.	There is no explicit reference to the use of ICTs.
	Online Propositions Computer Crimes Act, Law 30096.	Art 5.- Propositions to children and adolescents for sexual purposes through technological means.	ICT. Anyone who, through the internet or other similar means, contacts a minor under the age of fourteen to request or obtain pornographic material from him or her or to propose to carry out any act of a sexual nature with him or her or with a third party.
CSE	Child sexual exploitation Penal Code, Law 31146	Art 129-H. Sexual exploitation of children and adolescents	There is no explicit reference to the use of ICTs.
		Art 129-K. Profiting from the sexual exploitation of children and adolescents	There is no explicit reference to the use of ICTs.
		Art 129-L. Management of sexual exploitation of children and adolescents	There is no explicit reference to the use of ICTs.
		Art 129-I. Promotion and encouragement of sexual exploitation of children and adolescents	There is no explicit reference to the use of ICTs.
	Online Child sexual exploitation	Penal Code, Law 31146. Art 129-M. Child pornography	ICT. The material is disseminated through any information or communication technology or any other medium that generates mass dissemination.
	Sexual extortion. Penal Code, Law, 30096	Art 176-B.- Sexual harassment	ICT. The same penalty applies to anyone who engages in the same conduct through the use of any information or communication technology.
Art 176-C.- Sexual blackmail		ICT. In order to carry out the crime, the agent threatens the victim with the dissemination of images, audiovisual	

		materials or audio with sexual content in which the victim appears or participates.
	Art 154-B.- Dissemination of images, audiovisual materials or audios with sexual content	ICT. Whoever, without authorisation, disseminates, discloses, publishes, publishes, transfers or markets images, audiovisual materials or audios with sexual content of any person, which he obtained with his consent  ICT. 2. When the act is carried out using social networks or any other means that generates a massive dissemination.

### *Policy Framework*

Two policy instruments are central for addressing THB and CSA/E in Peru.

Document	Coordinated and issued by
National Policy against Trafficking in Persons and its Forms of Exploitation to 2023.  Includes 42 services implemented by different state agencies but does not address the online aspect of the crime.	MININTER
Multisectoral National Policy for Children and Adolescents to 2030.	Ministry of Women and Vulnerable Populations (MIMP)

Furthermore, the Peruvian authorities implement *The National Programme for the Prevention and Eradication of Violence against Women and Family Members (AURORA)*, administered by the Ministry of Women and Vulnerable Populations. The Programme deploys personnel (lawyers, psychologists, etc.) to accompany complaints (including for physical and sexual violence) against women, adolescents, boys and girls. The Programme, however, does not cover cases of online sexual crimes.

Furthermore, the Public Prosecutor’s Office implements *Programme and Victim and Witness Care Unit (UDAVIT)*. The objective is to provide legal, psychological and social assistance to victims and witnesses in legal, psychological and social matters. At the prosecutorial level, it seeks to safeguard the testimony of witnesses and victims, trying to protect them from threats and has multidisciplinary teams. This has been a relevant development and its importance in criminal proceedings and victim assistance is recognised. However, the Programme and the Unit need further efforts to be put for successful implementation.

### **Instruments for action, referral, assistance, and protection of victims**

Peru is one of the countries with the largest number of institutions with responsibilities in the referral chain, which includes the three levels of government.

Operational Guide for the Investigation of the Crime of Trafficking in Persons (MININTER,2020).

Guide for the Detection and Referral of victims of CSEC (MIMP, 2019).

Standard Operation Procedures for Assistance and Protection of Victims of Trafficking.

Guide for the Elaboration of the Individual Reintegration Plan for Persons Affected by the Crime of Trafficking in Persons (by Supreme Decree No. 009-2019), MIMP.

Protocol of the Public Prosecutor's Office for the Care of Victims of Trafficking in Persons (MP-FN, 2019).

Protocol for the Accreditation of the Situation of Vulnerability of Victims of Trafficking in Persons (MP-FN, 2019);

Intersectoral Protocol for the Care of Victims of Trafficking, published by the Ministry of Women and Vulnerable Populations (MIMP, 2014).

### **Operational Guide for the Investigation of the Crime of Trafficking in Persons**

**The criminal report:** a) A complaint filed by a third party with the Public Prosecutor's Office or the National Police is registered in SIDPOL or RETA, b) An investigation can be initiated *ex officio* at the request of the National Police or the Public Prosecutor's Office; c) Arrest in *flagrante delicto* or d) Rescue of the victim in *flagrante delicto*.

**Data protection:** The victim is registered with a unique code to protect her identity.

**Investigation:** The Public Prosecutor's Office conducts the investigation in coordination with the Police to identify the perpetrators of the crime and collect evidence. In a human trafficking case, the investigation is referred to the Specialised Police Unit and this unit communicates with the Specialised Prosecutor's Office for Human Trafficking (or vice versa).

**Coordination with protection authorities:** The case is reported to the Public Prosecutor's Office's Programme for the Protection and Assistance of Victims and Witnesses and to the Public Defence for victims of MINJUSDH. Those interviewed from the Public Prosecutor's Office, the Police and the Public Defence indicate that in the case of a victim who speaks a language other than Spanish (Quechua, Aymra, Ashaninka) they should be provided with a translator provided by the Public Defence. If the victim is under 18 years of age, the Family Prosecutor and the Special Protection Unit (UPE) of the MIMP are informed.

**Health emergencies:** If the victim has health problems that require immediate attention, the Public Prosecutor's Office coordinates with the Ministry of Health, and in the case of a foreign victim, the Ministry of Foreign Affairs will be informed.

**Preliminary proceedings:** The Prosecutor's Office schedules a **single interview** with the victim. In the case of minors, this will take place in the *Gesell Chamber*.

#### Gaps between the legal framework and the referral of victims

The national-level research indicates that the legal framework for referral is consistent and is reflected in the number of Protocols, Guides, Manuals and user-friendly documents produced by the Ministry of Women and Vulnerable Populations, the Public Prosecutor's Office and the National Police (these also have joint action protocols for inter-sectoral work and to avoid re-victimisation). They point out that the legal framework is protective and takes into account the needs of the victim from the moment of the rescue and during the investigation process. One issue not regulated in the protocols for action and referral of victims is the intervention of informal mechanisms, such as support of the NGO's victim assistance services. The authorities see these mechanisms as facilitating access to benefits and improving the speed and efficiency of some services (e.g. support for tickets, shelter, food, and clothing, etc.). This generates a certain challenge for the willingness of the NGOs to provide these services.

Although formally, the victim must be given immediate attention to avoid re-victimisation (MININTER, 2020, p.40), the severe limitations of the Victims and Witnesses Unit (UDAVIT), lack of shelters, infrastructure and personnel limitations (Mujica et al., 2016; Solari, 2016; Querol, 2017) generate a gap between the norm and practice and deficits in referral and care.

### *Institutional Framework*

The main state and CSO stakeholders involved in the response to THB and CSA/E in Peru are listed in the table below. Those competent in assistance and protection of victims of trafficking are elaborated in the Supreme Decree 01-2016 for the regulation of Law 28950.

<b>Stakeholder</b>	<b>Mandate related to THB and/or CSA/E</b>
<i>Public Prosecutor's Office and Specialised Prosecutor's Office for THB</i>	Leads the criminal investigation of THB and CSA/E with the support of the National Police (proceedings are conducted jointly, observing principles of cooperation, good faith and reciprocity).  However, there are no specialised prosecutor's offices for cybercrime in Peru.
<i>Public Prosecutor's Office Programme for the Protection and Assistance of Victims and Witnesses</i>	
<i>National Police, Directorate against Trafficking in Persons and Smuggling of Migrants</i>	Carries out the specialised work of investigation and analysis of the crime of trafficking in persons, but the PNP has specialised police personnel in all police regions (incl. The online forms of THB, together with the High Technology Crimes Division).
<i>National Police, The High Technology Crimes Division</i>	Specialised actor for the expert investigation of these cases (however, it analyses both financial crimes and other types of crimes).
<i>National Police, The Child Pornography Directorate</i>	Works with data or alerts that are provided by a report from the Public Prosecutor's Office, the police (police stations) or various formal sources (e.g. the FBI or Interpol). The investigation work of this Directorate starts with the report and is led by the prosecutor.
<i>Public Defence for victims</i>	The State is obliged to assign to victims and survivors of crime a public defence lawyer.
<i>Special Protection Unit of the Ministry of Women and Vulnerable Populations</i>	In cases of child victims of THB and CSA/E.  Through its different units, plays an important role in the shelter and immediate attention of a case of abuse or sexual exploitation of children and adolescents.  The Ministry manages several Temporary Shelter Homes for victims of trafficking and other crimes (domestic violence, sexual violence, etc.).

<i>Prosecutorial experts</i>	Expert evidence is fundamental because many judges and prosecutors are unfamiliar with the terms used by information technologies, however, both in trafficking cases and in cases of sexual violence, they do not have their own experts and must resort to institutional experts who deal with cases (of all types) on a random basis. In international cases, cooperation with EUROPOL and INTERPOL is important for reporting, search, follow-up and data analysis.
Family Prosecutor's Office	Involved in cases of minors victims of CSA/E.
<i>National Institute for Family Welfare</i>	Manages the Residential Care Centres.
<i>Ministry of Labour and Employment Promotion</i>	
<i>Regional and Local Governments</i>	
<i>Peruvian Ministry of Foreign Affairs</i>	In cases of foreign victims.
Consulate of the victim's country	
<i>NGOs and IOs</i>	The most relevant NGOs (CHS Alternativo) are based in Lima and have projects in Cusco, Iquitos and other regions. Some others (CARE, Promsex) have projects in the Amazon, focusing on the care of victims of trafficking. Several of the NGOs with a national presence are members of the National Commission of a Permanent Nature against Trafficking in Persons and Smuggling of Migrants chaired by the Ministry of Interior.

**National Guidelines, Handbooks, Manuals, etc. on the Treatment of Victims of THB and CSA/E during the Criminal Proceedings**

Peruvian legislation has generated various documents that organise and regulate the chain of treatment for victims, both during the criminal investigation period and during the care process associated with this process and after it - however, it must be considered that, although these are regulated practices, not all of them have been implemented efficiently. These documents constitute guidelines for care and action, both for victims of human trafficking and for CSA.

	<p><b>Intersectoral Protocol for the Prevention, Detection, Care and Reintegration of Persons Affected by the Crime of Trafficking in Persons (MIMP, 2022).</b></p> <p><a href="https://cdn.www.gob.pe/uploads/document/file/3476540/Anexo-PROTOCOLO-TRATA-DE-PERSONAS.pdf?v=1659885473">https://cdn.www.gob.pe/uploads/document/file/3476540/Anexo-PROTOCOLO-TRATA-DE-PERSONAS.pdf?v=1659885473</a></p> <p>Standardises processes and procedures to be developed among public institutions at the national, regional, and local government level, as well as private entities that have programmes and services for citizens affected by the crime of human trafficking and who make use of their services. It describes the actions of prevention, detection and reporting, specialised care and reintegration, as well as the monitoring and evaluation of their fulfilment (MIMP, 2022, p.3).</p>
	<p><b>Protocol for the care of foreign victims of trafficking (IOM-MININTER, 2020).</b></p> <p>Establishes early identification of victims of trafficking and a referral and care route. It also obliges any official who has information about a suspected case of trafficking to report it to the authorities.</p>
	<p><b>Operational Guide for the Investigation of the Crime of Trafficking in Persons (MININTER, 2020).</b></p> <p>Aims to i) separate victims in safe environments away from detainees; ii) in the case of minor victims, inform the family or mixed prosecutor to go to the scene; iii) inform the victim of their rights and the procedures to be carried out; iv) arrange and supervise that the National Police carry out identification procedures in a brief manner and in clear language; v) arrange for medical-legal expertise to be carried out on the victims.</p>
	<p><b>Protocol of the Public Prosecutor's Office for the care of victims of human trafficking (Public Prosecutor's Office, 2019).</b></p> <p>Regulates the mechanisms to i) grant protection measures by the DIRCTPTIM-PNP; ii) guarantee free legal assistance and defence to victims; iii) provide comprehensive care to contribute to the protection, recovery and access to justice of victims by the National Programme against Family and Sexual Violence (adults); iv) activate the procedure for the removal of family protection of children and adolescents without parental care or at risk of losing it, by the Special Protection Unit of the MIMP (minors); v) provide health and psychological care to victims and dependent family members, by the MINSA (Public Prosecutor's Office, 2019, pp.71-76):</p>
	<p><b>Guidelines for incorporating an intercultural approach in the prevention, care and protection against sexual violence against children, adolescents and indigenous or native women (Supreme Decree N°009-2019-MC)</b></p>

	<p>Contribute to access to public services for prevention, care and protection against sexual violence with cultural and linguistic relevance, in a framework of recognition and appreciation of cultural and linguistic diversity, without ethnic-racial discrimination and with respect for the fundamental rights of the individual.</p>
	<p><b>Procedural Guide for the Single Interview with alleged victims in the framework of the law to prevent, punish and eradicate violence against women and members of the family group and children and adolescent male victims of sexual abuse, sexual exploitation and trafficking for sexual exploitation (Public Prosecutor's Office., 2016).</b></p> <p>Regulates the single interview (<i>Gesell Chamber</i>) in two phases. i) <i>Preliminary phase</i>: entry of the victim's personal data in a reserved register, medico-legal evaluations (physical evaluation, examination of sexual integrity, examination of approximate age and others), consent and that of their parents or guardians, obtaining the medico-legal certificate. ii) <i>Single interview</i>: taking of statement with the presence of the prosecutor, the psychologist and the victim's relatives, audio or video recording, and exploration of the event with a guide of open questions and free narration. Administrative Resolution 277-2019-CE-PJ approves the Single Interview Protocol for Children in Gesell Chamber.</p>
	<p><b>Intersectoral Protocol for the Care of Victims of Trafficking published by the Ministry of Women and Vulnerable Populations (MIMP, 2014)</b></p> <p>Contributes to the services stipulated in the National Policy. The MIMP functionally updated those services linked to criminal prosecution and victim care that have the following objectives: capacity building of operators and officials at the national level; capacity building of operators linked to the care and reintegration of children and adolescents affected by the crime of human trafficking; the care service for victims of trafficking for the purpose of sexual exploitation through the CEMs.</p>
	<p><b>Guide to care for child and adolescent victims of CSEC (MIMP, 2019)</b></p> <p>An instrument through which the process of care for a victim of sexual exploitation is established - from detection to recovery. It defines the role of the operators who participate in the process and their coordination and articulation with other institutions and public and private organisations.</p>
	<p><b>Guidelines for the Detection and Referral of CSEC victims (MIMP, 2019).</b></p> <p>In the case of a victim of <i>Sexual Exploitation of Children and Adolescents (SEACA)</i> "health services, legal care and family counselling should consider the needs of the victim at the referral stage and prioritise the most urgent needs" (MIMP, 2019).</p>
	<p><b>Individual Reintegration Plan for persons affected by the crime of trafficking in persons (MIMP, 2019).</b></p>

The Reintegration Plan aims to reintegrate the person affected by the crime of trafficking into society and their family environment in a safe, dignified and sustainable manner.

**Barriers/ Challenges for Victims of THB and CSA/E to Participate in the Criminal Proceedings**

Victims of THB, CSEC or sexual abuse in person or online are approached differently if they are minors or adults, but the online element does not generate a differential treatment of the victims. The most relevant difference is in the handling of evidence and the difficulties of the different expertise in the investigation of a case. The interviewees pointed out that the barriers have different origins.

The major barriers for victims and witnesses to participate in criminal proceedings are:

The **design of the criminal process** is centred on achieving the conviction of the accused, minimising compensation and reintegration of the victims.

The burden of proof is given predominantly to the **testimonies of the victim**.

**Gender stereotypes** persist among administration and justice officials and the protection system, which shift the responsibility to the victim and her family members. The gender debate focuses on the victim rather than the perpetrator and that gender stereotypes rooted in society continue to be naturalised among public servants and in judicial sentences: men need sex and women serve this purpose (MIMP, 2021-a).

**Victim's fear** that their family members have been seriously threatened, that their court statements will be made public (causing them shame), that their statements will be known by the traffickers, or that their statements will harm their traffickers, particularly because they feel gratitude towards them for having given them work. Victims who are migrants are often afraid of being deported.

**Victims do not receive enough support** to take care of themselves and their children. The State does not develop work-inclusion programmes and initiatives. Generating income is a priority over the conditions of work. Getting out of this situation, no matter how violent it may be, could be perceived by some as a loss of income. This context, added to the mistreatment some victims may suffer after their rescue, adds to the distrust towards the official authorities and the unwillingness to cooperate.

The COVID-19 pandemic increased the cases of trafficking and sexual exploitation through emotional manipulation and the development of an affectionate relationship with the victim. This type of bonding and manipulation poses new challenges to the justice and protection systems in Peru.

**Promising Practices**

<b>Practice: Implementation of Temporary Shelters for Victims of Trafficking and Other Crimes</b>
<b>Country: Peru</b>
<b>Criminal proceedings stage:</b> Throughout the criminal proceedings.
<b>Type:</b> Activity
<b>Actors:</b> Ministry of Women and Vulnerable Populations
<b>Target group:</b> Victims of human trafficking, domestic violence, sexual violence and other crimes that are in the criminal proceedings.



<b>Practice: Implementation of the single interview in Gesell Chamber</b>
<b>Country: Peru</b>
<b>Criminal proceedings stage:</b> Investigation, pre-trial and trial phases.
<b>Type:</b> Activity
<b>Actors:</b> Public Prosecutor's Office
<b>Target group:</b> Victims of human trafficking, domestic violence, sexual violence and other crimes undergoing criminal proceedings.

<b>Practice: The Programme and the Victims and Witnesses Unit</b>
<b>Country: Peru</b>
<b>Criminal proceedings stage:</b> Pre-trial and trial phases.
<b>Type:</b> Programme
<b>Actors:</b> Public Prosecutor's Office
<b>Target group:</b> Victims and witnesses of prosecuted cases of human trafficking, domestic violence, sexual violence and other crimes.

<b>Practice: National Programme for the Prevention and Eradication of Violence against Women and Family Members</b>
<b>Country: Peru</b>
<b>Criminal proceedings stage:</b> Throughout the criminal proceedings and outside of them.
<b>Type:</b> Programme
<b>Actors:</b> Public Prosecutor's Office
<b>Target group:</b> Children, adolescents and women victims of sexual exploitation and other crimes.

<b>Practice: Women's Emergency Centres</b>
<b>Country: Peru</b>
<b>Criminal proceedings stage:</b> Early phases of the criminal proceedings (pre-investigation, investigation). Potentially, can be used throughout all phases of the proceedings.

<b>Type:</b> Programme
<b>Actors:</b> Ministry of Women and Vulnerable Populations
<b>Target group:</b> Children, adolescents and women victims of sexual exploitation and other crimes.

<b>Practice:</b> Separation of victims in safe environments away from detainees
<b>Country:</b> Peru
<b>Criminal proceedings stage:</b> Investigation, pre-trial and trial phases.
<b>Type:</b> Action
<b>Actors:</b> National Police and the Public Prosecutor's Office.
<b>Target group:</b> Children, adolescents and women victims of sexual exploitation and other crimes

## **Annex D Working definitions**

### **Child**

The term “child” includes any person who is under the age of 18 years.

**Child exploitation** is the act of using a child for profit, labour, sexual gratification, or some other personal or financial advantage. Child exploitation often results in cruel or harmful treatment of the child, as the activities he or she may be forced to take part in are detrimental to their mental health, development, physical health and education (ECPAT).

### **Child sexual abuse (CSA)**

Child sexual abuse includes the fact of causing a child to witness sexual activities or sexual abuse, engaging in sexual activities with a child, and coercing, forcing, or threatening a child into sexual activities with a third party. The sexual abuse of children requires no element of exchange (see below on CSE), and can occur for the mere purpose of the sexual gratification of the person committing the act. Such abuse can be committed without explicit force, with other elements, such as authority, power, or manipulation being determining factors. Moreover, it is noteworthy that, when the child has not reached the age of sexual consent, there is no legal requirement to establish any of these elements. The mere fact of the sexual activity taking place is sufficient to constitute abuse. Furthermore, child sexual abuse can take the form of both contact and non-contact abuse. Child sexual abuse is a broad category that, at its core, defines the harm caused to children by forcing or coercing them to engage in sexual activity, whether they are aware of what is happening or not. As such, it is an appropriate umbrella term for many of the other terms referred to in this document. The terms “child sexual abuse” and “sexual abuse of children” are used interchangeably in English and pose no particular problem. Both “child sexual abuse” and “sexual abuse of children” clearly refer to the fact that someone else is subjecting the child to the abuse.

### **Online child sexual abuse**

The term “online child sexual abuse” has become a widely used term to refer both to the sexual abuse of children that is facilitated by ICTs (e.g. online grooming) and to sexual abuse of children that is committed elsewhere and then repeated by sharing it online through, for instance, images and videos (which is where it becomes exploitation). The preferred term in the case of the former is “online-facilitated child sexual abuse”.

### **Child sexual exploitation (CSE)**

A child is a victim of sexual exploitation when she/he takes part in a sexual activity in exchange for something (e.g. gain or benefit, or even the promise of such) from a third party, the perpetrator, or by the child her/himself. A child may be coerced into a situation of sexual exploitation through physical force or threats. However, she/he may also be persuaded to engage in such sexual activity as a result of more complex and nuanced factors, either human or situational, including a power imbalance between the victim and the perpetrator. “Exploitation” in this context is thus a key term, the meaning of which marks its difference from sexual violence and sexual abuse of children. The main distinction lies in the notion of exchange involved in exploitation, which is lacking from the concepts of abuse and/or violence. According to major dictionaries, “exploitation” is the use of something or someone else (unfairly) for one’s own advantage, the action of taking advantage of a person or situation, especially unethically or unjustly for one’s own ends, or treating others unfairly in order to gain an advantage or benefit. This idea of extracting or incurring a benefit, advantage, or gain from the sexual act involved in exploitation does not necessarily, as the meaning of the word clearly shows, have anything to do with a monetary gain, but can be any type of benefit.

In the context of child sexual abuse material (CSAM), the notion of exchange often involves CSAM being exchanged for other child sexual abuse material or for monetary gain, and thus also amounts to child sexual

exploitation. At the same time, the abuse depicted in the material may not originally have been committed for monetary gain. In this sense, the acts committed against the child, as well as the image of the child, can be both abusive and exploitative simultaneously.

What distinguishes the concept of child sexual exploitation from other forms of child sexual abuse is the underlying notion of exchange present in exploitation. While these two phenomena must be distinguished, it is also important to acknowledge that there is considerable overlap between them, and that, semantically, the distinction will probably never be completely clear. For example, many cases of child sexual abuse also involve some kind of benefit to the child or exchange—often to win trust or ensure silence (especially non-tangible benefits like small gifts, attention, and affection). Similarly, the idea of exploitation is arguably applicable to all victims of abuse in the sense of exploiting the vulnerability of a child.

### **Human rights**

They are the fundamental and universal rights and freedoms all human beings are entitled to. They consist of civil, political, economic, social and cultural rights all states are obliged to fully respect according to common standards ratified by national and international legislation.

### **Identification**

The identification stage is the first phase of a local, national or transnational mechanism through which a trafficked person is identified as such. This stage can be divided in three main parts:

- **Initial screening/assessment** (first-level identification), conducted by frontline responders (anyone who comes into contact with the presumed victim) and results in referral to appropriate authorities. An initial screening or assessment may suggest that a person might be a victim of trafficking. It may be based on conversations and interactions with the individual, observation of the person (his/her behaviour, appearance or circumstances), and/or an interview guided by indicators or previous allegations and can lead to detection of signs of trafficking to be further explored in a formal interview. It may also be triggered by victims who self-report and present themselves for identification.
- **Initial/preliminary/early interview** (preliminary identification): An initial interview is conducted by referral authority with the aim of ascertaining whether there are reasonable grounds to believe that the person has been trafficked. When appropriate authorities find that there are sufficient indicators that the person may be a victim of trafficking, this should lead to the presumed victim being given access to initial assistance and protection.
- **Formal identification process:** Formal identification is conducted by official identification authorities tasked by law or procedure with victim identification. Competent authorities may include law enforcement, social services and, in some countries, NGOs. Formal identification may be based on verification of the information obtained as a result of the initial interview and other evidence. This may result in the person being entitled to more comprehensive assistance and protection services. It may also coincide with the investigation and prosecution of alleged traffickers.

### **Identified victim of trafficking**

A person who has been identified as a victim of trafficking according to a formal or informal identification mechanism (also referred to as “identified trafficked person”).

### **Individual assistance plan**

It is a written agreement jointly developed by the responsible professionals and the victim where goals, activities and services – tailored to the individual’s needs – are clearly defined.

**Informed consent**

Any free, voluntary permission or approval to something proposed or requested based on full exposure of all facts to make fully informed decisions, including awareness of any risks involved (to the extent they can be known) and any available options. Information sharing is an essential component of “informed consent”.

**Integration**

It refers to the process that ensures that those at risk of poverty and social exclusion have the opportunities and resources necessary to participate in economic and social life, securing a standard of living that is considered acceptable in the society in which they live. It also ensures that such people have greater participation in decision-making on issues that affects their lives and access to their fundamental rights. Through such a process vulnerable groups (here specifically victims of trafficking) are granted access to education, training, employment, accommodation, collective services, and health assistance. A social inclusion programme can take place either in the country of origin or in that of destination.

**National referral mechanism or system (NRM or NRS)**

“It is a co-operative framework through which state actors fulfil their obligations to protect and promote the human rights of trafficked persons, co-ordinating their efforts in a strategic partnership with civil society. The basic aims of an NRM are to ensure that the human rights of trafficked persons are respected and provide an effective way to refer victims of trafficking to services. In addition, NRMs can work to help to improve national policy and procedures on a broad range of victim-related issues such as residence and return regulations, victim compensation, and witness protection. NRMs can establish national plans of action and can set benchmarks to assess whether goals are being met. The structure of an NRM will vary in each country; however, NRMs should be designed to formalise co-operation among government agencies and non-governmental groups dealing with trafficked persons” (Kroger, T, Malkoc, B.H. Uhl, 2004, p.15).

**(Legal) Guardian**

The individual who acquires the primary (legal) responsibility for the well-being of a child and coordinates the efforts of all involved agencies to ensure the best interests of the child. This individual also serves as the case manager in the cases of referral of child victims of trafficking.

**Online child sexual exploitation**

The line between child sexual exploitation online and offline is often blurred and, with the rapid evolution of ICTs, child sexual exploitation with some online component is increasingly common. While the term “online child sexual exploitation” can be used as an umbrella-term to indicate such forms of sexual exploitation that have an online component or a relation to the Internet, it should be recalled that the Internet is a means, albeit very potent, to exploit children sexually; it is not, in and by itself, a distinct type of sexual exploitation.

- sexual exploitation that is carried out while the victim is online (such as enticing/manipulating/threatening a child into performing sexual acts in front of a webcam)
- identifying and/or grooming potential child victims online with a view to exploiting them sexually (whether the acts that follow are then carried out online or offline)
- the distribution, dissemination, importing, exporting, offering, selling, possession of, or knowingly obtaining access to child sexual exploitation material online (even if the sexual abuse that is depicted in the material was carried out offline)

**Trafficking of Children**

Trafficking of children has a clear and consistent international legal definition. Trafficking can be committed for many different purposes (see definition of “Trafficking in human beings (THB)” below), an important one of which is related to sexual exploitation. Moreover, children trafficked for other purposes, such as child labour

and/or to perform criminal activities, are often sexually abused even when this was not the initial purpose of their trafficking.

What has been designated as “sex trafficking” is sometimes conflated with the term “sexual exploitation of children”. While sexual exploitation of children can (and often does) amount to trafficking for sexual purposes, it must be recalled that adults can also be victims of trafficking, and that trafficking has, as mentioned above, four constitutive elements (three in the case of children). Moreover, although the sexual exploitation of children through prostitution is often related to trafficking, it is important to note that there are many other forms of child sexual exploitation that occur without the child having been trafficked.

### **Sexual extortion**

Sexual extortion, also called “sextortion”, is the blackmailing of a person with the help of self-generated images of that person in order to extort sexual favours, money, or other benefits from her/him under the threat of sharing the material beyond the consent of the depicted person (e.g. posting images on social media).

### **Sexual exploitation of children in the context of travel and tourism (SECTT)**

The term “sexual exploitation of children in (the context of) travel and tourism” refers to sexual exploitation of children that is embedded in a context of travel, tourism, or both. The offence can be committed by either foreign or domestic tourists and travellers and longer-term visitors. Sometimes “child sex tourism” is used to refer to this phenomenon, however the term SECTT is the most adequate manner of referring to this practice.

### **Online Grooming**

“Online grooming” in the context of CSA/E refers to the process of establishing/building a relationship with a child either in person or through the use of the Internet or other digital technologies to facilitate *either online or offline* sexual contact with that person.

### **Potential victim of trafficking**

An individual identified before being exploited that shows strong signs of being in the trafficking process. This differs from a presumed victim, the definition for which appears below (also referred to as “potential trafficked person”).

### **Presumed victim of trafficking**

A person who is presumed to be a victim of trafficking but who has not been formally identified by the relevant authorities or has declined to be formally or legally identified (also referred to as “presumed trafficked person”). Presumed victims are entitled to the same treatment as identified victims from the beginning of the identification process. In some countries, this category of persons is referred to as “potential victim”; however, in this document, potential victim has a different meaning. Please see its definition above.[1]

### **Recovery**

The process by which victims of trafficking and CSA/E are stabilised and their well-being restored psychologically, socially and physically.

### **Reflection period**

A sound period of time to allow the presumed victim of trafficking to recover, escape the influence of traffickers/exploiters and take an informed decision about her/his future in full compliance with the respect of the human rights regulations. No expulsion order should be enforced against the presumed trafficked person during this period. The length of the reflection period varies from country to country and is subject to definition by national legislation.

### **Trafficker/Perpetrator/Exploiter**

A person committing or being complicit in or directing another person to commit the trafficking/exploitation of another human being (or human beings) for any form of exploitation.

**Trafficking in human beings (THB)**

The definition of human trafficking<sup>53</sup> involves three main elements:

- ACT: of recruitment, transportation, transfer, harbouring, receipt of a person
- MEANS: by the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person
- PURPOSE: for sexual exploitation, labour exploitation, forced begging, domestic servitude, forced marriage, among other forms of exploitation (UNOTC, 2000, article 3).

The use of the element “means”, as described above, is irrelevant for the existence of child trafficking (UNOTC, 2000).

Table 1: Trafficking in human beings: the act, the means and purpose explained

The Act	
Recruitment	Recruitment occurs in the place of origin, transit or destination, when a physical person or the representative of a legal person seeks to persuade a potential victim to take a trip or to take up employment, with the purpose of exploiting them.
Transportation	Transportation covers various methods of travel and the facilitation of entry to the place of destination.
Transfer	Transfer is the act of facilitating transit between countries, regions, cities or places.
Harbouring	Harbouring indicates the physical space where trafficked people are accommodated during the journey or at the places of transit, destination or exploitation.
Receipt	The receipt of persons is the act of receiving trafficked people at the final destination or at the place of exploitation.
The Means (not relevant for children)	
Threat/ Use of Force or other Form of Coercion	When the trafficker uses force, threat or another form of physical, moral or psychological coercion in order to obtain the consent of the trafficked person to the transportation and/or the exploitation. Consent obtained in this manner is called invalidated consent.
Abduction/ False Imprisonment	When the trafficker abducts the trafficked person or falsely imprisons them with the intention of transporting them and/or exploiting them.
Abuse of Power or of a Position of Vulnerability	When the trafficker uses their power (for example, in a hierarchical relationship) or the position of vulnerability of the person to be trafficked (e.g. financial or familial difficulty) to force them or obtain their consent to the transportation.

<sup>53</sup> Trafficking in human beings (THB) is synonymous with human trafficking and trafficking in persons (TIP).

Fraud/ Deception	When the trafficker uses fraudulent means, such as false employment contracts, or makes deceptive promises like that of a decent salary, or marriage, in order to obtain the consent to the transportation from the person to be trafficked.
Giving or Receiving of Payments or Benefits to Achieve the Consent of a Person Having Control Over Another Person	When the trafficker pays or receives benefits for convincing the person to be trafficked or a person with control over them, for example, by means of an advance payment.
<b>Purpose</b>	
Exploitation	for sexual exploitation, labour exploitation, forced begging, domestic servitude, forced marriage, among other forms of exploitation.

### Trafficked person/Victim of trafficking<sup>54</sup>

A person who is subject to the crime of Trafficking in Human Beings (see above). While the use of the term “victim” may somehow suggest that person’s diminished agency, it does designate the serious crime and human rights violations that person has been subjected to – irrespective of whether a trafficker is identified, apprehended, prosecuted or convicted, and regardless of any family or other relationship between the victim and the alleged trafficker. An alternative formulation – that we will use interchangeably in this Manual– is “trafficked person” (as well as “trafficked people”, “trafficked adults”, “trafficked children”, etc.).

### Victim-Centred Approach

According to UNHCR, it is a way of engaging with victims that prioritises listening, avoids re-traumatization, and systematically focuses on their safety, rights, well-being, expressed needs and choices. The purpose is to give back as much control to victims as feasible and ensure empathetic delivery of services in a non-judgmental manner (UNHCR, 2020).

### Witness protection

The range of security measures employed to assure the safety of a witness involved in legal proceedings. Witness protection may be offered before, during and/or after the legal proceedings and may include any single or combination of measures that are geared toward assuring the safety and security of the witness and his/her family.

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<sup>54</sup> Various countries have different terminology for trafficked persons, particularly those considered ‘at-risk’ of trafficking and those considered to be trafficked but not formally identified as such by authorities. In addition, different organisations also often employ different terms for these categories.



## Annex E Main international instruments reflecting the human rights dimension of the criminal proceedings

### Human rights dimension of the UN Anti-Trafficking Protocol

The human rights dimension of combating the trafficking crime is reflected already in the main anti-trafficking international instrument, the *UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol)*. The Article 6 of the Protocol, inter alia, states that each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking. The following table presents several of the standards enshrined in the protocol which are relevant for the criminal proceedings' stages.

*Each State Party shall...*

*Art. 6 (1) ...protect the privacy and identity of victims of trafficking in persons, including, inter alia, by making legal proceedings relating to such trafficking confidential.*

*Art. 6 (2) ...ensure that 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.*

*Art.6 (3b) ... provide counselling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand.*

*Art. 6 (4) ... take into account 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.*

*Art.6 (5) ... endeavour to provide for the physical safety of victims of trafficking in persons while they are within its territory.*

*Art. 6 (6) ... ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered.*

*Art. 7 (1)... 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.*

### Principles for safeguarding the rights of children in the UN Convention on the Rights of the Child

In reference to child victims of trafficking or CSA/E, there are different principles that must be applied. Firstly, a basic principle is the application of the principles of the *UN Convention on the Rights of the Child* (1989) of the United Nations in which the **best interests of the child always prevail**. In addition, governments must ensure that a legal guardian or equivalent authority is immediately appointed to always represent the best interests of the child. Second, ensure the immediate care and protection of child victims under the criteria of minimum intervention, celerity, and specialisation to guarantee their safety and attention to their basic needs in each case. Thirdly, to adapt the assistance and protection mechanisms to certain factors such as age, disability, or gender, among others. Fourth, the identity and privacy of child victims must be protected; fifth, secondary victimisation must be prevented, both during and after the identification procedure. In this sense,

interviews should be carried out without delay, in suitable premises and avoiding visual contact with the aggressor. Sixth, establish appropriate protection measures for minors, such as care in specialised assistance and protection centres (Observatorio de la Infancia, 2017, pp. 9-11).

**Recommended Principles of the Office of the United Nations High Commissioner for Human Rights (OHCHR)**

The UN Human Rights Office provides extensive efforts to promote a human rights-based approach in response to the trafficking and CSA/E crime. Its *Recommended Principles and Guidelines on Human Rights and Human Trafficking* (UN Office of the High Commissioner for Human Rights - OHCHR, 2002) aim to help all stakeholders involved in anti-trafficking efforts to fully integrate human rights and victim centred approach into their responses to trafficking. The document includes seventeen recommended principles that address the following core areas: (a) the primacy of human rights; (b) preventing trafficking; (c) protection and assistance and (d) criminalization, punishment and redress. Additionally, there are recommended guidelines that provide practical measures for implementing the principles, several of them relevant for the treatment of the trafficking and CSA/E victims. The principles relevant for the criminal proceedings’ stages are summarised in the table below.

<p>Principle 7 <b>Non-punishment</b></p>	<p>Many trafficked persons are implicated in committing offences of some sort, albeit under duress. This principle details developments in international law and policy that point to a growing <b>rejection of the idea of arresting or prosecuting trafficked persons for offences committed as a direct consequence of their having been trafficked</b>; and a similar rejection of the idea of routinely detaining victims in welfare or immigration facilities.</p>
<p>Principles 8 and 9 <b>Right to protection and support</b></p>	<p>Identify, more specifically, the right of victims of trafficking to <b>protection and support, including legal assistance</b>. All victims, irrespective of their involvement in any legal process, have an enforceable right to immediate support and protection.<sup>55</sup> Victims have the legal right to have their immediate <b>physical safety ensured and to be protected from further harm</b>. In most cases, this will require <b>victim privacy</b> to be respected. Victims should also be given <b>information and legal advice</b> on the options that are available to them, including their rights and options as witnesses under the criminal justice system of the country in which they are currently located.</p>
<p>Principle 10 <b>Rights of the child victims</b></p>	<p>Details the special rights of child victims of trafficking. <b>The best interests of the child</b> are to be at all times paramount. This overriding principle should be formally integrated into a State’s procedures and guidelines for dealing with child victims.</p>
<p>Principle 11 <b>Safe and Voluntary Return</b></p>	<p>Acknowledge the central importance, to victims and their rights, of safe and voluntary – return. The forced, unplanned and unsupported repatriation of victims of trafficking deprives them of access to rights and remedies to which they are legally entitled and may compromise their safety. Key issues in repatriation are explored, including: <b>the concept of safe and preferably voluntary return; entitlement to return; due process and the principle of non-refoulement; the right to remain during legal proceedings; the relationship between return and access to remedies</b>; alternatives to repatriation; and supported reintegration.</p>

<sup>55</sup> According to OHCHR, States that accord victim status and assistance only to those who agree to get involved in the criminal justice process are not meeting the international standards.

## Victims' rights in the European Union instruments

“The *2012/29/EU Directive*<sup>56</sup> *on the rights, support and protection of victims of crime* establishes minimum standards on the rights, support and protection of victims of crime and ensures that persons who have fallen victim to crime are recognised and treated with respect. They must also receive proper protection, support and access to justice. The *Victims' Rights Directive* “...aims to strengthen the rights of victims of crime so that any victim can rely on the same basic level of rights, whatever their nationality and wherever in the EU the crime takes place.” (EC DG Justice, 2013, p. 3). The Directive considerably strengthens the rights of victims and their family members to information, support and protection. It further strengthens the victims' procedural rights in criminal proceedings. The Directive also requires that EU countries ensure appropriate training on victims' needs for those officials who are likely to come into contact with victims.

For victims of certain crimes, the EU adopted specific rules. These rules build on the Victims' Rights Directive but respond more directly to the specific needs of victims of particular crimes, including victims of human trafficking and child victims of sexual exploitation and “child pornography” (child sexual abuse material).

In 2020, the European Commission adopted its first-ever *EU Strategy on victims' rights* (European Commission, 2020), to ensure that all victims of all crime in the EU can fully benefit from their rights. The Strategy provides for actions for the European Commission, Member States and civil society for a period of 5 years (2020 – 2025).

The strategy presents five key priorities:

- effective communication with victims and a safe environment for victims to report crime;
- improving support and protection to the most vulnerable victims;
- facilitating victims' access to compensation;
- strengthening cooperation and coordination among all relevant actors; and
- strengthening the international dimension of victims' rights.

On 28 June 2022, the European Commission adopted its evaluation of the Victims' Rights Directive (European Commission, 2022). The evaluation is one of the Commission's key actions set out in the EU Strategy on Victims' Rights. The evaluation shows that over the past ten years, the Victims' Rights Directive has greatly contributed to improving the lives of victims across the EU. It has enhanced victims' safety and reduced the risk of negative effect from the participation in criminal proceedings and from the contacts with the offender. However, the evaluation also points that there are still situations where not all victims can fully rely on their rights due to a lack of clarity and precision in the drafting of some of the rights in the Directive. In particular, shortcomings were identified in relation to victims' access to information, victims' access to support services and to protection in accordance with each victim individual needs. Victims should be able to take more active role in the criminal proceedings and have easier access to compensation – so they can see that justice is done for them.

On 12 July 2023, the Commission proposed amendments to the Victims' Rights Directive. The revision of the Victims' Rights Directive addresses problems identified in the Evaluation of the Directive adopted in June 2022. The amendments relate to five main victims' rights: access to information, improved support and protection, improved participation in criminal proceedings and facilitated access to compensation. The overall objective of the revision is to contribute to a well-functioning area of freedom, security and justice based on:

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<sup>56</sup> “Improving the rights, support, protection and participation of victims in criminal proceedings is a Commission priority. Thus, the Directive forms an essential part of a horizontal package of measures, launched by the European Commission in May 2011” (EC DG Justice, 2013, p. 3)

- an efficient recognition of judgments and judicial decisions in criminal matters;
- a high level of security due to improved crime reporting;
- victim-centred justice, where victims are recognised and can rely on their rights.

In particular, the Commission aims to ensure that:

1. victims have the information they need to be able to exercise their rights;
2. victims' needs for protection are met accordingly - via strengthened individual assessment of victims' needs,
3. victims are better supported – via strengthened support for the most vulnerable victims, including children,
4. victims can more effectively participate in a criminal proceeding – with the right to assistance at court and to the right to legal remedies,
5. victims have more adequate access to compensation from the offender - thanks to improved state support in executing compensation from the offender.

### **The benchmarks stipulated in the EU Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims**

Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims is the benchmark legislation on the fight against trafficking in human beings at EU level. It is part of a broader policy framework that entails a range of measures aimed at the prevention and prosecution of trafficking in human beings, as well as protection from and establishment of partnerships against this practice.

The Directive is victims-centred, gender- and child-sensitive, and is anchored in fundamental rights. According to its Article 1, it establishes minimum rules concerning the definition of criminal offences and sanctions, as well as introducing common provisions to strengthen victim's protection and support and common provisions to foster prevention.

Member States are required to provide **protection measures for victims before, during and after criminal proceedings**. As soon as 'there is a reasonable ground-indications for believing a person might have been trafficked', this person would benefit from the **non-punishment clause**<sup>57</sup> 6 and not be obliged to cooperate in investigations. **Assistance and protection are to be provided unconditionally** (Article 9), covering basic needs (Article 11(5)). Information would cover rights guaranteed in other EU instruments, in particular the **right to a reflection and recovery period** to recover and escape the perpetrators' influence. That way, they might be able to take an informed decision as to whether to cooperate with the authorities. During criminal investigations, victims would further benefit from **protection measures and legal support** and would be protected from re-victimisation (Article 12(4)). Once the proceedings are completed, victims may benefit from assistance in some cases (recital 18). **The specific needs of children are subject to particular and individualised measures seeking to ensure their best interest as a whole** (Article 13 and 14) and during criminal investigations in particular (Article 15). Such measures must be implemented for unaccompanied minors as well (Article 16). Member States are required to take measures to strengthen their investigative and prosecutorial capacities (Article 9).

The Commission reviewed the implementation of the Directive and proposed actions to respond to the identified challenges. In terms of the criminal proceedings, measures to foster assistance before and during criminal proceedings in order to avoid re-victimisation and lack of implementation of the non-punishment

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<sup>57</sup> They shall not be prosecuted or penalised for their involvement in criminal activities that they have been compelled to commit as a direct consequence of being trafficked (Article 8). See also ICAT (2020).

clause were endorsed, as well as measures to effectively compensate victims (European Parliamentary Research Service, 2023).

### Minimum standards in the Council of Europe Convention on Action against Trafficking in Human Beings (CoE Convention)

The *CoE Convention on Action against THB (2005)* is a comprehensive treaty mainly focused on the protection of victims of trafficking and safeguarding of their rights. Among the listed **purposes of the Convention** is the following:

*“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” (Council of Europe, 2005).*

The below table summarises the Articles in the Convention that are relevant for safeguarding the trafficked adults and children in the criminal proceedings’ phases.

Article number	What should be foreseen/provided by the authorities
10 Identification of the victims	<ul style="list-style-type: none"> <li>• If the competent authorities have reasonable grounds to believe that a person has been victim of trafficking, that <b>person shall not be removed from its territory until the identification process has been completed</b> and shall likewise ensure that that person receives the assistance provided;</li> <li>• When the age of the victim is uncertain and there are reasons to believe that the victim is a child, it <b>shall be presumed to be a child and shall be accorded special protection measures</b> pending verification of his/her age;</li> <li>• In cases of unaccompanied child victim of THB, <b>representation of the child by a legal guardian</b> should be provided that shall act in the <b>best interests of that child</b>, take the necessary steps to establish his/her identity and nationality and make every effort to locate the family when this is in the best interests of the child.</li> </ul>
11 Protection of private life	<p><b>Personal data of victims shall be stored</b> and used in conformity with the conditions provided for by the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108). The identity, or details allowing the identification, of a child victim of trafficking are not made publicly known, through the media or by any other means, except, in exceptional circumstances, in order to facilitate the tracing of family members or otherwise secure the well-being and protection of the child.</p>
12 Assistance to victims	<ul style="list-style-type: none"> <li>• Adopting legislative or other measures as may be necessary to assist victims in their physical, psychological and social recovery. Such assistance shall include at least: <b>translation and interpretation services, counselling and information (in particular as regards their legal rights and the services available to them) in a language that they can understand; assistance to enable victims’ rights and interests to be presented and considered at appropriate stages of criminal proceedings against offenders;</b></li> <li>• Adopting legislative or other measures as may be necessary to <b>ensure that assistance to a victim is not made conditional on his or her willingness to act as a witness or otherwise cooperate with competent authorities in the investigations and criminal proceedings.</b></li> </ul>
13	<p>Provision in the law of <b>recovery and reflection period of at least 30 days</b>, when there are reasonable grounds to believe that the person concerned is a victim of trafficking. Such a period shall be sufficient for the person concerned to recover and escape the influence of traffickers and/or to take an informed decision on cooperating with the competent authorities. During this period it</p>

<b>Recovery and reflection period</b>	shall not be possible to enforce any expulsion order against him or her. This provision is without prejudice to the activities carried out by the competent authorities in all phases of the relevant national proceedings, and in particular when investigating and prosecuting the offences concerned.
<b>14 Residence permit</b>	Ensuring <b>renewable residence permit to victims</b> , in situations when the competent authority considers that their stay is necessary for the purpose of their co-operation with the competent authorities in investigation or criminal proceedings. <b>The residence permit for child victims, when legally necessary, shall be issued in accordance with the best interests of the child</b> and, where appropriate, renewed under the same conditions.
<b>15 Compensation and legal redress</b>	<ul style="list-style-type: none"> <li>• Ensuring that victims have <b>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.</b></li> <li>• Ensuring right to <b>legal assistance and to free legal aid</b> for victims;</li> <li>• Ensuring the <b>right of victims to compensation from the perpetrators</b>, for instance through the establishment of a fund for victim compensation or measures or programmes aimed at social assistance and social integration of victims.</li> </ul>
<b>26 Non-punishment</b>	Possibility of <b>not imposing penalties on victims for their involvement in unlawful activities</b> , to the extent that they have been compelled to do so.
<b>27 Ex parte and ex officio applications</b>	<ul style="list-style-type: none"> <li>• Ensuring that <b>investigations into or prosecution of offences shall not be dependent upon the report or accusation made by a victim;</b></li> <li>• Ensuring that victims identified abroad may make <b>a complaint</b> before the competent authorities of their State of residence.</li> </ul>
<b>28 Protection of victims, witnesses and collaborators with the judicial authorities</b>	<ul style="list-style-type: none"> <li>• Adopting legislative or other measures as may be necessary to provide <b>effective and appropriate protection from potential retaliation or intimidation during and after investigation and prosecution of perpetrators</b>, for: (a) Victims; (b) those who report the criminal offences established or co-operate with the investigating or prosecuting authorities; (c) witnesses who give testimony concerning criminal offences; and (d) when necessary, members of the family of persons;</li> <li>• Ensure to victims of trafficking <b>physical protection, relocation, identity change and assistance in obtaining jobs;</b></li> <li>• <b>Child victims should be afforded special protection measures</b> taking into account their best interests.</li> </ul>
<b>30 Court proceedings</b>	<ul style="list-style-type: none"> <li>• Adopt legislative or other measures as may be necessary to ensure in the course of judicial proceedings: (a) <b>the protection of victims' private life and, where appropriate, identity;</b> (b) <b>victims' safety and protection from intimidation</b>, in accordance with the conditions under its internal law and, in the case of child victims, by taking special care of children's needs and ensuring their right to special protection measures.</li> </ul>

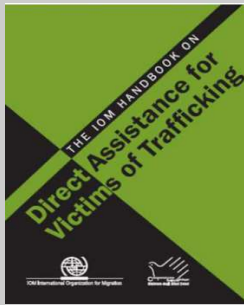
The above instruments do not exhaust the long list of international standards stipulated in the international conventions, protocols, strategies and other relevant documents. The *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*, adopted by UN General Assembly resolution 40/34 (UN General Assembly, 1985), for instance, proclaims that victims should be treated with compassion and respect for their dignity. They are entitled to access to the mechanisms of justice and to prompt redress, as provided for by national legislation, for the harm that they have suffered.

Over the time, the human rights engagement has contributed to improving the victims’ protection environment in various countries worldwide. The international community developed numerous guidebooks for authorities and practitioners on how to implement these standards, while states have established legal, policy and institutional frameworks and practices in order to translate the international commitments into concrete actions and safeguard the rights of trafficking and CSA/E victims at the national levels.

**International guidelines, manuals, handbooks and other relevant documents on safeguarding victims’ rights in criminal proceedings**

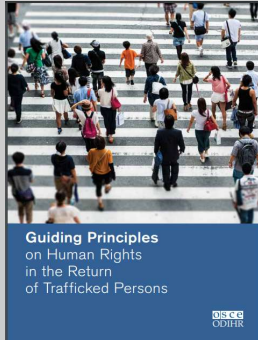
A variety of soft law instruments, as well as manuals, guidelines and handbooks aimed at safeguarding victims’ rights during criminal proceedings have been developed by the international organisations, human-rights organisations and non-governmental organisations in order to support the states to implement the international standards. The below table provides an overview of some of the available international guidebooks dedicated to **protection of the victims’ rights during the criminal proceedings**.

	<p><b>Online and technology-facilitated trafficking in human beings. Council of Europe (2022)</b></p> <p>At the core of this study is an exploration of the operational and legal challenges that state parties – and to some extent NGOs – face in detecting, investigating and prosecuting online and ICT-facilitated human trafficking, as well as identifying victims and raising awareness.</p>
	<p><b>Guidance Note on the entitlement of victims of trafficking, and persons at risk of being trafficked, to international protection. GRETA (2020)</b></p> <p>GRETA has adopted this guidance note to further strengthen the implementation of the obligation to provide international protection to victims of trafficking. The guidance note highlights the criteria that may entitle victims of trafficking, as well as those at risk of being trafficked, to international protection, including complementary protection.</p>
	<p><b>Remediation Guidelines for Victims of Exploitation in Extended Mineral Supply Chains. IOM (2018)</b></p> <p>Provides concrete, operational guidance to downstream companies and their business partners to ensure victims of exploitation are adequately protected and assisted when harm has occurred.</p>
	<p><b>Model Guidelines for the Effective Prosecution of Crimes Against Children. International Association of Prosecutors; International Centre for Criminal Law Reform and Criminal Justice Policy (2017)</b></p> <p>The Model Guidelines seek to implement and build upon international human rights norms and standards that address the issues of children as victims and witnesses in the criminal justice system and specifically to ensure the practical application of these standards by prosecutors.</p>



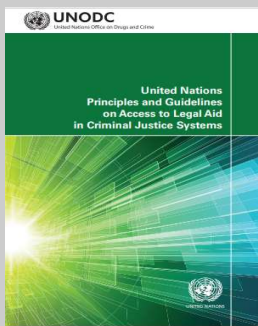
**The IOM Handbook on Direct Assistance for Victims of Trafficking. IOM (2015)**

The Handbook provides guidance and advice necessary to effectively deliver a full range of assistance to victims of trafficking from the point of initial contact and screening up to the effective social reintegration of the individuals concerned.



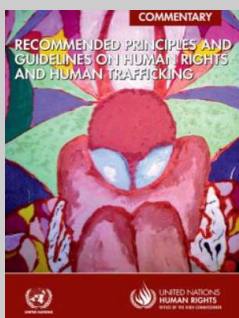
**Guiding Principles on Human Rights in the Return of Trafficked Persons. OSCE/ODIHR (2014)**

These principles are intended for use by state authorities and civil society bodies, as well as inter-governmental organisations in the OSCE region involved in developing, applying, evaluating and reforming national laws, policies and practices related to trafficking, in particular to the return of trafficked persons. They provide guidance that can be used to direct policies, procedures and practices on the return process, as well as an overview of relevant international standards. The guiding principles can also serve as an advocacy tool for civil society organisations that support a rights-based approach to combating trafficking.



**[The UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems. United Nations General Assembly \(2012\)](#)**

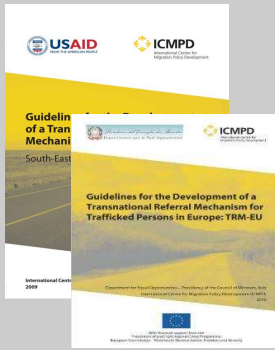
The Principles and Guidelines set forth that states should ensure a comprehensive legal aid system that is accessible, effective, sustainable and credible, as duty and responsibility of the state and that sufficient resources should be allocated for it.



**Commentary on the Recommended Principles and Guidelines on Human Rights and Human Trafficking. United Nations Human Rights Office of the High Commissioner (2010)**

Provides concrete guidance on the prevention of human trafficking and the protection of victims of trafficking.

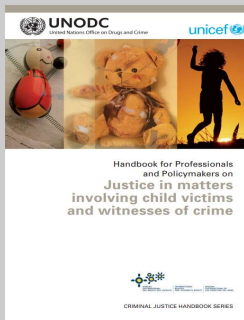




**Guidelines for the Development of a Transnational Referral Mechanism for Trafficked Persons in Europe: TRM -EU. ICMPD (2010)**

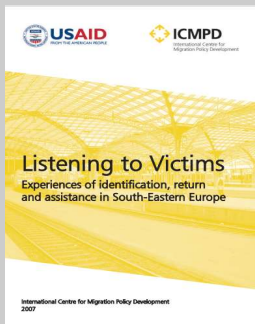
**Guidelines for the Development of a Transnational Referral Mechanism for Trafficked Persons South-Eastern Europe. ICMPD (2009)**

The Guidelines contain a comprehensive set of measures to be taken by the anti-trafficking stakeholders to ensure effective and safe transnational referral of trafficked persons in a range of necessary services. In addition, the Guidelines promote the concepts of government ownership, civil society participation and multi-disciplinary approach as a prerequisite for a sustainable and comprehensive national anti-trafficking response.



**Handbook for Professionals and Policymakers on the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime. UNODC (2009)**

The Handbook is based on international best practices in the treatment of child victims and witnesses of crime by the criminal justice system. It is intended to serve as guidance for policymakers and professionals dealing with child victims and witnesses of crime, such as judges, medical and support staff, law enforcement officials, prosecutors, social workers, staff of non-governmental organisations and teachers.



**Listening to Victims Experiences of identification, return and assistance in South-Eastern Europe. ICMPD (2007)**

This report maps — from the victim’s perspective — the full trajectory of intervention by anti-trafficking actors — from identification, through return and referral and during various phases of assistance and protection. While anti-trafficking interventions are clearly vital in the recovery of trafficked persons, victims reported both positive and negative experiences in these various stages, information which is vital for on-going efforts in transnational referral and assistance systems for trafficked persons.