



EMN Ad-Hoc Query on Ad-Hoc Query on protection of victims of human trafficking (ONLY for AT, DK, FI, FR, DE, IE, LU, NL, SE, UK and NO)

Requested by Adolfo SOMMARRIBAS on 4th May 2016

Trafficking

Responses from Austria, Belgium, Blocked / Unknown, Finland, Germany, Ireland, Luxembourg, Netherlands, Slovenia, Sweden, United Kingdom, Norway (12 in total)

Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.



Background information:

Article 5 of the amended Law of 8 May 2009 on assistance, protection and the security of victims of human trafficking establishes that the assistance services must guarantee that their activities have to be carried on in collaboration with the Grand Ducal police, the judiciary authorities and any other competent public institution. Also article 8 guarantees the collaboration between the Police and the assistance services in order to assure an adequate and effective protection of the victims against any reprisals or possible intimidation, mainly during the reflection period, during the investigation, prosecution and judicial procedures against the authors of the trafficking.

The size of Luxembourg and the proximity to its neighboring countries makes the practical implementation of the protection of the victim, who is a witness against the presumed authors of the trafficking, very difficult. The Luxembourgish authorities and more precisely the national committee to monitor trafficking in human beings, are reflecting on the possibility of a temporary placement of the victim in need of protection in a residence or facility in another neighboring Member State. This issue does not carry a major problem for victims who are European Union or EEA citizens. However, when the victim is a third-country national this possibility is hard to implement because the temporary residence permit issued to the victim under article 92 (1) of the amended Law of 29 August 2008 on free movement of persons and immigration only allows to reside on the territory of the Grand-Duchy of Luxembourg.



Questions

1. What kind of residence permit is allocated to an identified victim of THB who is a third country national?
2. Is the residence permit issued to the victims by your MS based upon the directive 2004/81/EC Is the residence permit issued to the victims by your MS based upon the directive n° 2004/81/EC on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities or on national law? If it is based on national law can you please indicate the text.?
3. Does the residence permit you allocate (temporary or not) allow the victim to travel and/or stay in another European country?
4. Can the victims who are detected during their application for international protection in your MS travel to another MS?
5. Does your MS have been confronted with cases of third country national THB victims who need placement in another MS in order guarantee their protection? If yes, how did your MS manage to transfer them to another MS if the residence permit did not allow them to reside in the other MS?
6. If you answer yes to question 5:
 - a) how is the communication between the police and the NGO(s) managed after the victim is placed in another MS?

b) how is the communication between the police and the public prosecutor office managed when the victim is placed in another MS?

c) Does your MS covers the costs of the transfer and the placement?

Responses

	Country	Wider Dissemination	Response
	Austria	Yes	<p>1. It is a renewable, one-year, per application or ex officio granted residence permit according to sect. 57 Asylum Act, as the Federal Office of Asylum and Immigration is responsible for it. Source: Federal Ministry of the Interior.</p> <p>2. Please find above. It is based on national law, but in accordance with the directive n° 2004/81/EC. Source: Federal Ministry of the Interior.</p> <p>3. This residence permit does not allow to travel or stay in another European country. Source: Federal Ministry of the Interior.</p> <p>4. No, the asylum applicant has a right to stay in Austria, but not for another EU member state that would have to grant a temporary visa or a kind of “tolerated stay” in cooperation with Austria. Source: Federal Ministry of the Interior.</p> <p>5. No, there are no known cases up to now. Source: Federal Ministry of the Interior.</p> <p>6. N/A.</p>
	Belgium	Yes	<p>1. Preliminary remarks: • According to the territoriality principle (article 3 of the Penal Code), cases of trafficking which took place in Belgium or which are connected to Belgium (through facts,</p>

			<p>perpetrators...) can be subject to investigation and prosecution in Belgium. If the facts of THB have been committed abroad, a specific provision on the extraterritorial jurisdiction can be applied (Art. 10ter Code of the Preliminary Title of the Code of Criminal Procedure) by which either a Belgian national or a foreigner involved abroad in trafficking in human beings can be prosecuted in Belgium. No condition of nationality or residence of the author or of the victim is required. The jurisdiction is not subordinated to the condition that the acts are criminalised at the place where they were performed, and is not subordinated to the condition that the prosecution can only be initiated following a report from the victim or a denunciation from the State of the place where the offence was committed. The suspect must yet be found in Belgium before the beginning of the prosecution (Art.12). In these cases, the victim can enter the procedure of victim of trafficking in human beings. In practice it concerns victims who have been trafficked at least in Belgium. • Belgium was involved in the RAVOT-EU - Referral and assistance for victims of human trafficking in Europe – project, together with Hungary and the Netherlands. The project aimed at developing a transnational referral mechanism among Hungary, Belgium and the Netherlands, for referral, assistance and safe return of victims trafficked for the purpose of sexual and labour exploitation. It resulted in a manual and a website : http://www.ravot-eur.eu/en/. Answer to question 1: The following residence permits are granted during the procedure: a. The presumed victim, who has broken off contacts with exploiters and has accepted the support of a specialized reception center, is allowed a 45 day reflection period during which he/she is granted an order to leave the territory. Please note that minors of age do not receive an order to leave the territory and they are immediately granted a registration certificate (see b. below). The issuance of an order to leave the territory to presumed adult victims will be replaced by a “temporary residence permit”. A proposal of law has been approved on 3 June 2016. b. Once the presumed victim has made a statement or filed a complaint, he/she is granted a registration certificate valid for three months. The registration certificate (attestation d’immatriculation – A.I.) attests the temporary right to stay in the territory in order to apply for asylum or for another residence permit. c. If (a) the Prosecutor is of the opinion that the person concerned is a victim of THB (or of aggravated forms of human smuggling), (b) legal proceedings are still ongoing, (c) the victim is clearly willing to cooperate and has broken all ties with exploiters and (d) is not considered as a threat to public order or national security, he/she is granted a limited residence permit (carte A). The permit A can be renewed every six months until the end of legal proceedings. d. If the above mentioned complaint or statements of the victim result in the conviction of perpetrators on the basis of the law on THB or</p>
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other legislation where the Prosecutor withheld the prevention of THB in the requisitions, the victim can be granted an unlimited residence permit (carte B). The victim has to try to prove his/her identity, by presenting a passport/ travel document or national identity card. The permit B is valid for 5 years and is renewable.

2. Since the early 1990s, victims of THB can be granted specific residence permits (temporary stay permits which, subject to certain conditions, result in unlimited residence permit). Conditions for requesting and issuing such permits were determined in ministerial guidelines in 1994 and 1997. These ministerial guidelines were replaced by the ministerial circular of 26 September 2008 on the introduction of a multidisciplinary cooperation regarding victims of trafficking in human beings and/or of certain aggravated forms of smuggling in human beings. The Directive 2004/81/EC has been transposed in national legislation by the law of 15 September 2006 (art . 61/2 – 61/5 of the law of 15 December 1980 concerning access to the territory, stay, residence and the removal of foreigners). The previous model has been inserted with some modifications.



3. The registration certificate (attestation d'immatriculation – A.I.) does not allow the entry without visa in Schengen Member States. The holder of an A.I. must be granted a visa in his/her passport in order to be authorized to enter the territory of other Member States. The limited residence permit (carte A) and the unlimited residence permit (carte B) allow the entry without visa in Schengen Member States, provided that the holder has a valid passport or equivalent travel document and that he/she satisfies the conditions to access the territory of that State.


4. The applicant for international protection is issued a registration certificate (attestation d'immatriculation – A.I.). The beneficiary of subsidiary protection is issued a limited residence permit (carte A). After five years, the beneficiary of subsidiary protection can be issued an unlimited residence permit (carte B). The beneficiary of refugee status is issued an unlimited residence permit (carte B)


5. Belgian stakeholders who are responsible for the assistance to and protection of victims of human trafficking in Belgium have not experienced yet cases of temporary placement of victims in need of protection in a residence or facility in another neighboring Member State. However it is worth noting that: • Some victims of THB had to be transferred within Belgium from one specialized reception


			<p>center to another for security reasons. In fact there are three specialized reception centers for victims of THB in Belgium (in Brussels, Antwerp and Liège) and it happened that a victim, who had for example been exploited in the area of Brussels, was transferred in another reception center in Antwerp or Liege. • Some victims of THB, who had been exploited in the Netherlands, arrived and submitted their case in Belgium. As there was no link with Belgium and the case could not be investigated here, the person who could not apply for a status in Belgium, was referred to Dutch counterparts. The victim concerned was accompanied to the border to be taken care of by the Dutch services. • Some victims of THB, who were in the Netherlands, but whose exploitation or exploitation network was linked to Belgium, were referred to Belgium. The case could be investigated in Belgium and the person was taken care of by Belgian services. • Some Hungarian victims of THB, who were in Belgium, were willing to go back to Hungary to join the family for example. In the framework of the cooperation developed through RAVOT-EUR, the victims could be referred to Hungary where they were taken care of by the competent services.</p> <p>6. N/A Please see above – Belgium has experience with referrals to other EU countries (NL, HU) for reasons of competence or family ties, also in the framework of the RAVOT-EUR project . However Belgian stakeholders have no experience with the temporary placement of victims in need of protection in a residence or facility in another neighboring Member State.</p>
	Blocked / Unknown	Yes	<p>1. • If the victim files a complaint or acts as a witness in a criminal proceeding related to human trafficking facts or pandering, a temporary residence permit “Private and family life” is issued. This residence permit has a minimum period of validity of 6 months (art L 316-1 of the Code of Entry and stay of foreigners and asylum law, CESEDA) and allows to carry out a professional activity. The temporary residence permit is renewed during the whole proceeding period if the conditions are still met. • If the perpetrator(s) of trafficking is (are) condemned, the victim is given a 10-year residence permit. • Before the application for staying, the person can obtain a provisional receipt for 30 days if he/she asks for a reflection period before accepting to collaborate or not with Justice. (Art R. 316-1 et R. 316-2 du CESEDA) • A victim of human trafficking can also obtain an international protection under asylum Law (refugee status or subsidiary protection)</p> <p>2. This directive has been completely transposed into national law by Decree 2007-1352 of 13</p>

			<p>September 2007 on the admission, stay, protection, reception and accommodation of foreign victims of human trafficking and pandering and amending the Code of Entry and stay of foreigners and asylum law.</p> <p>3. Yes. Every foreigner staying legally in France is allowed to travel within the Schengen area. However, they cannot stay in these countries for a period exceeding 3 months.</p> <p>4. No. The attestation delivered by the prefecture to the person applying for asylum does not allow for travelling within another Member State.</p> <p>5. We are still waiting for an answer from the competent services. We will let you know as soon as we get information from them.</p> <p>6. We are still waiting for an answer from the competent services. We will let you know as soon as we get information from them.</p>
+	Finland	Yes	<p>1. According to Aliens Act Section 52a, a victim of trafficking in human beings staying in Finland is issued with a temporary residence permit if: 1) the residence of the victim of trafficking in human beings in Finland is justified on account of the pre-trial investigation or court proceedings concerning trafficking in human beings; 2) the victim of trafficking in human beings is prepared to cooperate with the authorities so that those suspected of trafficking in human beings can be caught; and 3) the victim of trafficking in human beings no longer has any ties with those suspected of trafficking in human beings. If the victim of trafficking in human beings is in a particularly vulnerable position, the residence permit may be issued on a continuous basis regardless of whether the requirements laid down in subsection 1(1) and (2) are met. According to section 52b, before issuing a residence permit laid down in section 52a, a reflection period of at least thirty days and a maximum of six months may be granted to a victim of trafficking in human beings.</p> <p>2. Finland implements directive 2004/81/EC. National law see question 1.</p> <p>3. If a person has been granted a residence permit in Finland, they may travel in the Schengen area</p>

			<p>without a visa for up to 90 days in any 180 days period.</p> <p>4. If a person has applied for asylum in Finland, and wants to have their asylum claim examined in Finland, the person cannot leave the country. If a person travels abroad, the authorities may decide that the application is no longer valid.</p> <p>5. No.</p> <p>6. N/A</p>
	Germany	Yes	<p>1. 1. A residence permit (for a temporary stay) can be granted to victims of trafficking in human beings (section 25 subsection (4a) of the German Residence Act [Aufenthaltsgesetz – AufenthG]).</p> <p>2. 2. Residence permits are granted on provision of the need to reside in order to ascertain the facts relating to the criminal offence, and of a willingness to testify, as well as of the cessation of any connection with the persons who are accused of the offence.</p> <p>3. 3. The residence permit is a residence title within the meaning of Art. 5 para 1 (b) of Regulation (EC) No 562/2006 (Schengen Borders Code) and Art. 21 of the Schengen Convention.</p> <p>4. 4. Once the asylum process has been completed, during which time residence in Germany is permitted, those concerned receive an appropriate residence permit in accordance with section 25 subsection (2) of the Residence Act if international protection is granted. In other cases, a residence permit is granted on the basis of section 25 subsection (4a) of the Residence Act if the preconditions are met as listed in the answer to Question 2.</p> <p>5. 5. No information is available on this, but it cannot be presumed to be the case.</p> <p>6. n/a</p>
	Ireland	Yes	<p>1. Administrative Arrangements for the Protection of Victims of Human Trafficking provide for a 60 day Recovery and Reflection period and for a period of 6 months temporary residence permission</p>


			<p>(renewable) if a victim wishes to cooperate with the criminal investigation.</p> <p>2. Ireland is not a party to Directive 2004/81/.EC but the provisions in the Administrative Immigration Arrangements for the Protection of Victims of Human Trafficking for a recovery and reflection period and a temporary residence permission are similar to the provisions of this Directive</p> <p>3. No, a specific permission of the Minister for Justice and Equality would be needed to travel outside of the country.</p> <p>4. Question answered as worded in template attached: What about victims who are detected during their application for international protection or if they are already beneficiaries of international protection? Answer: Victims who are detected during their application for international protection receive a residence permission under the Refugee Act 1996 (as amended) and would also require a specific permission of the Minister for Justice and Equality to travel outside of the country. Beneficiaries of international protection may to travel to another European country.</p> <p>5. No, not to our knowledge.</p> <p>6. N/A.</p>
	Luxembourg	Yes	<p>1. In accordance with articles 92 (1) and 95 of the amended law of 29 August 2008 on free movement of persons and immigration, after the expiration of the reflection period, the Minister in charge of Immigration shall grant the victim a residence permit valid for six months, provided the following conditions are fulfilled: (1) he/she has lodged a complaint or has made statements concerning the persons or networks alleged to be guilty of offences of trafficking, or (2) his/her presence on the territory is necessary for the purposes of the investigation or the procedure or by reason of his/her personal circumstances; (3) he/she has severed all relations with those suspected of committing the offences referred to above; (4) he/she is not considered to be a threat to public policy or national security. The residence permit referred can also be issued prior to the expiration of the reflection period. It shall be renewable for a further period of six months, provided that conditions for issuing it continue to be fulfilled.</p>


			<p>2. 2. Yes.</p> <p>3. 3. In principle, the residence permit entitles the victim to travel in the Schengen area but it does not allow s/he to establish residence in another Member State.</p> <p>4. 4. No. According to article 7 (1) of the law of 18 December 2015 on international protection and temporary protection, the victims who are detected during the international protection procedure are entitled to remain in the territory but they cannot travel abroad.</p> <p>5. 5. Yes. The Luxembourgish authorities are trying to find a possible solution to make a temporary placement in a neighbouring Member State in order to guarantee an effective protection for the third country national victims of human trafficking.</p> <p>6. 6. a. N/A. b. N/A. c. N/A.</p>
	Netherlands	Yes	<p>1. A regulation applies for foreign nationals reporting human trafficking as either a victim or a witness which enables them to temporarily stay in the Netherlands legally during the investigation and prosecution of the human trafficker. This regulation also applies to victims of human trafficking who are cooperative in the criminal investigation or prosecution other than by reporting it to the police. This regulation is laid down in Chapter B8(3) of the Aliens Act Implementation Guidelines (B8/3 Vc). The residency regulation means in short that the victim or the witness of human trafficking can report the human trafficking to the police (or can cooperate otherwise in the criminal investigation or prosecution by police and Public Prosecution) after which the Immigration service (ND) grants the victim or witness reporting it a temporary residence permit for the duration of the criminal investigation and prosecution. This concerns a residence permit on temporary humanitarian grounds. The residence permit is granted on the condition that the human trafficking is reported to the police and that there is a criminal investigation against the perpetrator. In this stage we therefore speak of 'presumed' victims of human trafficking. Victims do not have to report the human trafficking to the police immediately. In case of a small indication of human trafficking, the police or the Royal Netherlands Marechaussee at Schiphol Airport should offer a presumed victim of human trafficking time to think (max. three months). In that period the person involved is allowed time to recover and to carefully think over the decision whether to report the human trafficking to the police or to cooperate</p>

			<p>in the investigation in another way. During this time the IND suspends the removal of the illegal foreign national from the Netherlands and the presumed victim therefore has legal residence in the Netherlands. Witnesses of human trafficking reporting it to the police do not first get time to think. The residency regulation also applies to victims who cannot or don't want to report it to the police because of a serious threat or medical problems.</p> <p>2. The residence regulation is based upon the directive 2004/81EC.</p> <p>3. A temporary residence permit allows the holder to travel to other Schengen-countries without a visa and to stay there for up to 3 months.</p> <p>4. That is possible, but the applicant will in that case (if he/she is awaiting a procedure) need a return visa to re-enter the Netherlands.</p> <p>5. No, (as far as I know) but in that case I suppose that the most efficient solution would be to contact the authorities of the country of destination in order to facilitate granting a (temporary) residence permit in the destination country.</p> <p>6. n/a</p>
	Slovenia	Yes	<p>1. Provisions regarding identified victims of THB are the following: (1) The police shall provide a victim of the trafficking of human beings who resides illegally in the Republic of Slovenia, ex officio or upon the victim's request, with an opportunity to remain in the country for a period of three months in order to decide whether he shall participate as a witness in criminal proceedings concerning the trafficking of human beings. The same period of reflection shall be granted ex officio by the police to an alien or upon his request to a victim of illegal employment in order to decide whether he shall participate as a witness in criminal proceedings against the employer regarding a criminal offence of illegal employment or provided that he lodges an action for the enforcement of employment rights. The period of stay of a victim of the trafficking of human beings or a victim of illegal employment may be extended, for valid reasons, for a period of up to three months. (2) Stay may be denied if the residence of a victim of the trafficking of human beings or a victim of illegal employment in the Republic of Slovenia poses a threat to the public order, security or international relations of the</p>

			<p>Republic of Slovenia or if it is suspected that his residence in the country will be connected with the commission of terrorist or other violent actions, illegal intelligence activities, the possession of illicit drugs or the commission of other criminal acts, or if the alien comes from a region where infectious diseases with epidemic potential are prevalent and listed in the international health rules of the World Health Organization or from regions where there exist infectious diseases which could pose a threat to the health of people and which require the prescribed measures to be adopted pursuant to the Act governing infectious diseases. (3) During the period of stay permitted, a victim of the trafficking of human beings and a victim of illegal employment shall enjoy the rights guaranteed by this Act to aliens who are permitted temporary stay and the right to free translation and interpretation. The police and nongovernmental organisations shall inform a victim of the trafficking of human beings or a victim of illegal employment who is an unaccompanied alien minor of the possibility of acquiring a residence permit and the requirements related to it and shall make every effort to establish contact with his family. (4) A temporary residence permit may be issued to the victims of the trafficking of human beings or illegal employment regardless of the other conditions defined by this Act regarding the issuing of a residence permit, if the victim is willing to cooperate as a witness in criminal proceedings and his testimony is important, which is confirmed by the authority competent for the criminal prosecution, while the victim of illegal employment may also be issued with a temporary residence permit if he has lodged an action to enforce employment rights and his presence is required in the territory of the Republic of Slovenia for the purposes of court proceedings which are confirmed by the competent court. (5) Temporary residence permits shall not be issued to a victim of the trafficking of human beings or a victim of illegal employment in the following circumstances: – if he has not fulfilled the conditions for the issuing of a permit as defined in the preceding paragraph; – if his residence in the Republic of Slovenia would represent a threat to the public order, security or international relations of the Republic of Slovenia, or if there is suspicion that his residence in the country might be associated with terrorist or other violent acts, illegal intelligence activities, drug trafficking or the commission of any other criminal acts; – if during the procedure for the issuing of a permit it is determined that the victim comes from regions where infectious diseases with epidemic potential are prevalent and listed in the international health rules of the World Health Organization or from regions where there exist infectious diseases which could pose a threat to the health of people and which require the prescribed measures to be adopted pursuant to the Act governing infectious diseases; – if during the permit granting procedure it is determined that a victim of the trafficking of</p>
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			<p>human beings has contacted the suspect, the defendant or the accused voluntarily, or that a victim of illegal employment has voluntarily contacted the employer who is suspected, charged with or accused of a criminal offence of illegal employment. (6) A victim of the trafficking of human beings and a victim of illegal employment shall lodge an application for the issue of a temporary residence permit with the competent authority in the Republic of Slovenia prior to the expiry of the period of allowed stay in the Republic of Slovenia or prior to the expiry of allowed residence if the victim resides in the Republic of Slovenia legally on another basis. The competent state authority shall issue a certificate attesting to the prompt filing of the application, which shall serve as a temporary residence permit until a final decision is reached regarding the application. A victim of the trafficking of human beings or a victim of illegal employment who does not have his own means of subsistence shall be exempt from administrative charges and the cost of printed material in the procedure of the issuing of a temporary residence permit and the costs of interpretation and translation. (7) A temporary residence permit shall be issued to a victim of the trafficking of human beings or a victim of illegal employment for the foreseen duration of the criminal proceedings, but for not less than six months or for more than one year. The temporary residence permit may be extended upon the victim's request, each time for a period of up to one year, until the criminal proceedings are concluded and provided that the conditions defined in this Article are fulfilled. The temporary residence status of a victim of illegal employment whose back payment of remuneration has not been paid by the employer may be also renewed, at his own request, for up to a maximum period of one year after the criminal proceedings have conclude provided that the conditions of this Article apply and that the victim has submitted evidence that an action has been filed with the competent court to recover any outstanding remuneration. In the event that the any outstanding remuneration is recovered prior to the expiry of a residence permit, the victim of illegal employment shall notify the administrative unit that issued the permit or the administrative unit of his residence. (8) A victim of the trafficking of human beings or a victim of illegal employment who has been issued a temporary residence permit and has no means of subsistence shall be entitled to emergency healthcare pursuant to the Act regulating healthcare as well as health insurance and basic care in the same way as aliens who are allowed to temporarily stay in the Republic of Slovenia. A victim of the trafficking of human beings may obtain employment or other work in the Republic of Slovenia during the period of validity of the temporary residence permit under the conditions defined by the Act regulating the employment and other work of aliens whereas a victim of illegal employment may, under the same conditions, obtain employment or other</p>
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			<p>work with another employer during the period of validity of the temporary residence permit. (9) A subsequent temporary residence permit may be issued to a victim of the trafficking of human beings and to a victim of illegal employment for another purpose for residence in the Republic of Slovenia if he fulfils the conditions for the issuing of such a permit. An application for a subsequent permit must be lodged prior to the expiry of the previous permit.</p> <p>2. see above</p> <p>3. yes</p> <p>4. yes</p> <p>5. no</p> <p>6. n.a.</p>
	Sweden	Yes	<p>1. A person that is believed to be a victim of human trafficking can according to the Aliens Act 5 chapter, 15§ be granted a temporary residence permit for six months if he/she is willing to cooperate with the police and prosecutor as a witness. A temporary residence permit for 30 days can be granted in order for the person to make up his/her mind. It is the responsible investigator that applies for this permit at the Swedish Migration Agency. To be an identified victim of human trafficking is not in itself a reason to be granted asylum in Sweden. But circumstances such as trauma and threats in the home country can mean that a residence permit under certain circumstances can be granted based on exceptionally distressing circumstances.</p> <p>2. Not completely based on the directive but according to the Aliens Act a victim of human trafficking can be granted residence permit based on the circumstances in the individual case. Most often section 5:6 about exceptionally distressing circumstances is the base for the residence permit, although Aliens Act chapter 4, 1-2§§ also means a safeguard against abuse.</p> <p>3. Yes</p>

			<p>4. To be an identified victim of human trafficking is not a reason in itself to be granted asylum. But circumstances such as trauma and threats in the home country can mean that it might be possible to grant residence permit based on exceptionally distressing circumstances.</p> <p>5. No, not yet.</p> <p>6. NA</p>
	<p>United Kingdom</p>	<p>Yes</p>	<p>1. Discretionary leave to remain granted outside the UK Immigration Rules. A person who is accepted as a victim of modern slavery by any Competent Authority in the UK (which includes human trafficking in the UK and slavery, servitude and forced or compulsory labour in England and Wales) will not be granted leave solely as a direct result of that decision unless they meet the relevant criteria. The UK's current policy is to consider whether a grant of leave to remain is appropriate in the particular circumstances of the individual case. There must be compelling reasons based on the victim's individual circumstances to justify a grant of discretionary leave to remain where they do not qualify for leave on any other basis, such as asylum or humanitarian protection. A grant of discretionary leave will be considered in respect of victims of modern slavery where a confirmed victim has particularly compelling personal circumstances, needs to stay in the UK in order to pursue a claim for compensation against their traffickers or needs to stay in the UK to assist with police enquiries. Each case must be considered on its individual merits and in full compliance with the UK's obligations under EU Directive 2011/36 on preventing and combating trafficking and the Council of Europe Convention on Action against Trafficking in Human Beings. Where they continue to meet the relevant criteria under the policy further leave may be granted. Where someone is granted an initial period of discretionary leave this does not necessarily mean they are entitled to further leave or settlement. (See https://www.gov.uk/government/publications/granting-discretionary-leave and https://www.gov.uk/government/publications/victims-of-trafficking-guidance-for-competent-bodies). Leave to remain granted under the UK Immigration Rules to overseas domestic workers. Section 53(1) of the Modern Slavery Act 2015 provides that the Immigration Rules must make provision for leave to remain in the UK to be granted to an overseas domestic worker who has been determined to be a victim of slavery or human trafficking. These Immigration Rules in paragraphs 159I to 159K came into force on 18 October 2015 and amendments to them come into force on 6 April 2016. (See</p>


<https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-5-working-in-the-uk>) The purpose of these provisions is to enable overseas domestic workers who have been determined to be a victim of slavery or human trafficking to continue to work as a domestic worker, and to change employer, for a period of time in order to be able to earn some money to assist in rebuilding their lives when they return overseas.

2. No. The UK is not a signatory of COUNCIL DIRECTIVE 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities. The Secretary of State has the power to grant leave on a discretionary basis outside the Rules from her residual discretion under the Immigration Act 1971(see <http://www.legislation.gov.uk/ukpga/1971/77>). Discretionary Leave is a form of leave to remain that is granted outside the Immigration Rules in accordance with this policy. Our discretionary leave policy for victims which is set out in published guidance fully complies with the UK's obligations under EU Directive 2011/36 on preventing and combating trafficking and the Council of Europe Convention on Action against Trafficking in Human Beings. Our Immigration Rules regarding victims who are overseas domestic workers is a matter of national law arising from the Modern Slavery Act and the UK Immigration Rules.

3. A grant of discretionary leave to remain in the UK or a grant of leave to remain under the UK Immigration Rules does not provide a person with the right to travel to or stay in another European country. A person granted a form of leave to remain in the UK would need to meet entry requirements of another European country in order to travel to or stay there.

4. Where a potential victim of trafficking or slavery is detected during their application for asylum in the UK their asylum claim will normally be considered as withdrawn if they leave the UK without first seeking the agreement of the UK authorities.

5. This is not a scenario that the UK is familiar with. We are not aware of cases of third country nationals who were potential victims of trafficking or slavery who were identified in the UK who then needed placement in another EU member state in order to guarantee their protection in cases where they are going to testify in the UK against their traffickers. As indicated above victims can be

			<p>granted discretionary leave to remain in the UK to assist the police which could involve testifying against their traffickers. Some victims may wish to return home to their country of origin whilst still assisting the police with their enquiries.</p> <p>6. N/A</p>
	<p>Norway</p>	<p>Yes</p>	<p>1. In Norway, practice is based on national law (NO not member of EU)</p> <p>2. Residence permits specifically for victims of trafficking in human beings In Norway, the following residence permits are available specifically for victims of trafficking in human beings: (i) Reflection period of six months which cannot be renewed and does not form the basis for a permanent residence permit (Immigration Regulations, section 8-3 first paragraph) (ii) Limited residence permit for up to 12 months, with possible renewal if the specified requirements are still fulfilled, but which does not form the basis for a permanent residence permit (Immigration Regulations, section 8-3 second paragraph) (iii) Residence permit for witnesses in cases concerning human trafficking with a possibility for renewal, which does form the basis for a permanent residence permit (Immigration Regulations, section 8-4). This permit is being considered in the international protection procedure. The residence permits were introduced in 2006 (alternative (i) and (ii) and in 2008 alternative (iii). Conditions for the residence permits When granting a reflection period for six months (alternative (i) above), the responsible authority should take into consideration whether there exist facts pointing to trafficking, and whether the individual in question is prepared to accept help and follow up measures offered. The threshold is low to grant such a permit. As long as facts do not exist to indicate that the person is not a victim, The Norwegian Directorate of Immigration (UDI) usually grants a permit on the basis of facts provided by the foreign national, the lawyer, an assistance agency or a non-governmental organisation (NGO). There is no condition on cooperation with the police. In order to be granted a limited residence permit for up to 12 months (alternative (ii) above), the following cumulative criteria are utilised: whether the individual has broken all contacts with the trafficking environment, whether the individual has filed a police complaint against the traffickers, whether the police investigate the case, and whether the police or prosecution consider the individual's presence in the country necessary for the investigation or for criminal proceedings. The information given by the individual must be verified by the police. A temporary residence permit for witnesses (alternative</p>

(iii) above) is granted to individuals who have testified as an aggrieved party in a criminal case relating to human trafficking (Criminal Code, section 224). A residence permit may also be granted to a victim who has given testimony to the court or to the police, including a case of procurement (Criminal Code, section 202). The permit may form the basis for a permanent residence. To grant this permit, UDI needs a statement from the police. The assessment shall be done according to the international protection procedure and the person must register him-/herself as an asylum seeker. Types of status granted to third-country nationals for the reason of being a victim of trafficking in human beings in the international protection procedure The following residence permits are available specifically for victims of trafficking in human beings: (i) Protection: If a person applies for protection (asylum), UDI considers the application in conformity with the criteria of the United Nations Refugee Convention and other conventions on human rights, and the Norwegian Immigration Act, section 28. A concrete assessment of the protection need is done. Risk of future persecution upon return, in the form of e.g. re-trafficking and/or assaults from exploiters may cause the individual to be recognised as a refugee. A former victim of trafficking in human beings can be considered as a member of a special social group in accordance with the Refugee Convention. (ii) Residence permit on the grounds of strong humanitarian considerations: Subsidiary to the protection assessment, UDI assesses if the person may be granted a residence permit on grounds of strong humanitarian considerations or a special affiliation to Norway (Immigration Act, section 38). This also applies to former victims of trafficking in human beings. Residence permit for witnesses in cases concerning human trafficking is considered in this procedure.

3. If the foreign national has been granted either the reflection permit (cf. Immigration Regulations, section 8-3 first paragraph or limited residence permit cf. Immigration Regulations, section 8-3 second paragraph), this requires the foreign national to stay in the realm (cf. Immigration regulation, section 8-3 third paragraph first punctuation). The permit does not entitle the holder to re-enter the realm, unless otherwise specially stipulated in the permit, or the right to re-entry has been granted in advance upon application (cf. Immigration regulation, section 8-3 third paragraph second punctuation). If the foreign national has exited the realm without having been granted a re-entry permit, the residence permit may be revoked (cf. Immigration regulation, section 8-3 third paragraph third punctuation). The foreign national may be granted the right to re-entry if compelling reasons exist (cf. Immigration regulation section 8-3, third paragraph).

			<p>4. No, normally they will not be allowed back into Norway should they leave the country during the application process.</p> <p>5. no response available.</p> <p>6. no response available.</p>
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