



Legal and Policy Context Document Draft Paper

Stop Traffick! Project

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1. Introduction

This report sets out the legal and policy measures that have been introduced to tackle demand in the context of trafficking for sexual exploitation. The report draws on official reports and from a survey of the five *Stop Traffick!* Partner countries (Ireland, Bulgaria, Cyprus, Lithuania and Finland). It describes the various ways in which demand reduction has been approached, how demand reduction is dealt with in international instruments, and how it has been implemented in the five partner countries.

There is no doubt that there is an awareness in the international community and amongst partner countries about the need to tackle and reduce demand as part of a coordinated approach to preventing trafficking through legal, policy and awareness raising measures. In practice many of the measures to address demand arise from specific government policies and responsibility is placed on governments to prevent trafficking and address demand in multi-faceted ways. For example, the 2013 Trafficking in Persons (TIP) report calls on governments to address demand for commercial sex through zero tolerance policies and by raising awareness about the practice trafficking in their respective countries:

If there were no demand for commercial sex, sex trafficking would not exist in the form it does today. This reality underscores the need for continued strong efforts to enact policies and promote cultural norms that disallow paying for sex.¹

Allied to this is the need to change culture and practice, including changing the awareness and behavior of men and boys. In particular, a combination of laws, policies and partnerships are needed to tackle the demand for trafficking, including:

Rejecting long-held notions such as “boys will be boys” and sending the clear message that buying sex is wrong is not just a task for governments, but will require partnerships throughout society, including the faith and business communities. Business leaders can adopt codes of conduct that prohibit purchasing sex. And leaders in civil society—from teachers to parents to ministers—must foster the belief that it is everyone’s responsibility to do their part to reduce the demand for commercial sex. It is especially important to reach young men with a strong message of demand reduction to help them understand the exploitation that permeates the commercial sex trade.²

¹ See 2013 TIP report *Topics of Special Interest*. Available at: <http://www.state.gov/j/tip/rls/tiprpt/2013/210544.htm>

² *Ibid*

2. Demand reduction strategies

2.1 Relevant international legal framework on demand

Addressing demand has been specifically referred to in a number of EU policies and UN human rights instruments, most notably under the United Nation's Palermo Protocol on the Prevention and Suppression of Trafficking in Human Beings, especially Women and Children; the Council of Europe's Convention on Action against Trafficking in Human Beings; and EU Directive 2011/36/EU on Preventing and Combating Trafficking in Human Beings and Protecting its Victims, and Replacing Council Framework Decision 2002/629/JHA. Under the Palermo Protocol legal and policy based interventions are highlighted in a somewhat generalised approach, while the Council of Europe's Trafficking Convention and EU Directive 2011/36/EU have departed from this generalised approach by addressing specific legal measures aimed at demand reduction, namely through the criminalisation of those who knowingly use the service of trafficked persons. These measures do not extend to criminalisation of the buyers of sex or address demand in the context of understanding the interconnectedness between trafficking for sexual exploitation and prostitution more generally.

Combined, these measures place a number of binding and non-binding obligations on contracting parties and Member States to implement measures aimed at reducing the demand that fosters trafficking in human beings. These obligations, however, only bind States in so far as they have assumed them through ratification, accession or membership. In regards to this, each of the UN Palermo Protocol, CEDAW and the Council of Europe Trafficking Convention, have been signed, ratified or acceded to by the partner countries.³ Member States of the European Union are also required to transpose the provisions of Directive 2011/36/EU into national legislation two years after publication in the Official Journal of the EU. As a result, each of the partner countries has assumed a number of obligations contained in the international and European legal framework to tackle demand.

UN Palermo Protocol and CEDAW provisions

The call for a combination of legal and other measures to reduce demand can be found in Article 9(5) of the Palermo Protocol, which stresses the importance of tackling demand through bilateral and multilateral cooperation:

³Council of Europe, Chart of Signatures and Ratifications to the Convention on Action against Trafficking in Human Beings,
<http://www.conventions.coe.int/Treaty/Commun/ChercheSig.asp?CL=ENG&CM=&NT=197&DF=&VL=>
United Nations, Signatures to the Palermo Protocol,
http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12&chapter=18&lang=en,
and United Nations, Signatures to CEDAW,
http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&lang=en

States Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children that leads to trafficking.

Whilst the Palermo Protocol and ensuing legislation in Member States attempt to create a clear demarcation between voluntary illegal migration, smuggling and trafficking, the reality is far more blurred and complex. Of importance is that the Convention recognises that the exploitation of prostitution and human trafficking cannot be separated and that the demand for sexual services needs to be addressed. This approach is also reiterated in Article 6 of the United Nations Convention on the Elimination of Discrimination against Women (CEDAW), where trafficking is specifically referred to in relation to gender based violence and gender equality. It recommends that:

States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

Council of Europe Trafficking Convention

The Council of Europe Convention on Action against Trafficking in Human Beings and its Explanatory Report (Warsaw, 16.V.2005) provides a more detailed focus on preventing and tackling trafficking through a combination of legal and other measures. This is provided for under Section 6 of the Convention on Measures to discourage demand, and "underline[s] the importance of tackling demand in order to prevent and combat the traffic itself." Section 6 provides for a range of legal, administrative, educational, social and cultural measures, and makes specific reference to gender equality:

To discourage the demand that fosters all forms of sexual exploitation of persons, especially women and children, that leads to trafficking, each Party shall adopt or strengthen legislative, administrative, educational, social, cultural, or other measures including: a) research on best practices, methods, and strategies; b) raising awareness of the responsibility and important role of media and civil society in identifying the demand as one of the root causes of trafficking in human beings; c) target information campaigns involving, as appropriate, inter alia, public authorities and policy makers; and d) preventative measures, including educational programs for boys and girls during their schooling, which stress the unacceptable nature of discrimination based on sex, and its disastrous consequences, the importance of gender equality and the dignity and integrity of every human being.

In relation to specific measures on criminalisation, Article 19 states that:

Each Party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offences under its internal law, the use of services which are the object of exploitation as referred to in Article 4 paragraph a of this Convention, with the knowledge that the person is a victim of trafficking in human beings.

EU Directive 2011/36/EU

The definition of trafficking in the Palermo Protocol has formed the basis for legislation and policy in EU member states. Article 18 (1) of Directive 2011/36/EU has a specific focus on reducing demand through education and training to discourage demand:

Member States shall take appropriate measures, such as education and training, to discourage and reduce the demand that fosters all forms of exploitation related to trafficking in human beings.

Specific reference is made to preventative measures through training of public officials, public information and awareness raising, research and education and “where appropriate in cooperation with relevant civil society organisations and other stakeholders, aimed at raising awareness and reducing the risk of people, especially children, becoming victims of trafficking in human beings” (Article 18(2)).

Article 18 (4) of Directive 2011/36/EU contains a provision on criminalisation in order to reduce demand:

In order to make the preventing and combating of trafficking in human beings more effective by discouraging demand, Member States shall consider taking measures to establish as a criminal offence the use of services which are the objects of exploitation as referred to in Article 2, with the knowledge that the person is a victim of an offence referred to in Article 2.

In 2010, the European Parliament adopted a Resolution on preventing trafficking in human beings which, while acknowledging the significant increase in trafficking in Europe, fails to clearly tackle the issue of demand, unlike the UN Protocol and the Council of Europe Trafficking Convention. There is no specific reference to demand in relation to sexual exploitation. The resolution states that "more research must be done on how trafficking takes place, who commits it, how demand drives the supply of services from victims and who falls victim to it and why, and on ways to discourage demand." It goes on to state that "if the demand from potential buyers of the services and products supplied by victims of trafficking is reduced, thereby also reducing profits from trafficking in human beings, the supply of such services and goods by victims will in turn decrease".⁴

⁴ Available at: <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P7-TA-2010-0018&language=HR>

2.2 Implementation in partner countries

In addition to feedback from the *Stop Traffic!* project partners, two official sources are presented on the measures to reduce and prevent demand, notably the Council of Europe GRETA reports and the US State Department's annual Trafficking in Persons reports.

GRETA reports in relation to implementation of demand measures

As parties to the Council of Europe Trafficking Convention, each Member State will have a report compiled by the convention's monitoring mechanism, the Group of Experts on Action against Trafficking in Human Beings (GRETA). As of yet, only two reports have been released in respect of partner countries: Cyprus and Bulgaria. Below is a synopsis of the comments made by the GRETA on demand reduction strategies in Cyprus and Bulgaria.

In their visit to **Cyprus**, the GRETA notes an overall lack of measures aimed at discouraging the demand for trafficking victims through awareness raising and training for public officials and recommended that the Cypriot government, "take specific measures to discourage demand for the services of trafficked persons, targeting in particular the most common forms of THB in the country".⁵ GRETA also noted that, within the Cypriot National Action Plan 2010-2012, an information campaign on demand and how it affects growth in trafficking was planned. It is unclear from the GRETA report whether this transpired into action. Nor did the Cypriot Government confirm whether this had occurred in their response to the GRETA report.⁶ However, feedback from the project partner in Cyprus does confirm that this measure has not been implemented.

In their visit to **Bulgaria**, the GRETA noted that while there were a host of informative campaigns aimed at preventing human trafficking, these were principally aimed at potential victims rather than the demand which fosters human trafficking. The Bulgarian government is commended, however, for enacting a law penalising the use of services of trafficking victims.⁷ GRETA stated that it "invites the Bulgarian authorities to continue

⁵ Committee of the Parties to the Council of Europe Convention on Action against Trafficking in Human Beings Recommendation CP(2011)2 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Cyprus, adopted at the 6th meeting of the Committee of the Parties on 26 September 2011. Available at:

http://www.coe.int/t/dghl/monitoring/trafficking/Docs/CommitteeParties/Recommendations/CP_2011_2_en.pdf

⁶ GRETA, Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings By Cyprus, available at <http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Reports/GRETA_2011_8_FGR_CYP_en_final.pdf> accessed 24 January 2013, p.22

⁷ GRETA, Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings By Bulgaria, available at <http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Reports/GRETA_2011_19_FGR_BGR_en.pdf> accessed 24 January 2013, p.32

their efforts to discourage demand for services from trafficked persons, targeting in particular the most common forms of THB in the country”.⁸

United States Trafficking In Persons Report

Efforts to address demand reduction are also monitored by the annual Trafficking in Persons (TIP) Report, compiled by the U.S. State Department. While the TIP system has been running for a number of years, demand reduction was included in the assessment of countries under the Trafficking Victims Protection Reauthorization Act 2008. Through this, a number of demand reduction strategies, which have been adopted by governments, can be identified. The following is a summary of measures implemented in the partner countries:

A number of demand reduction strategies are noted in **Ireland**. The 2009 TIP report refers to the production of a short film and advertisement, aimed at highlighting the dangers of human trafficking and the criminal liability of those who use the services of trafficked persons.⁹ The 2011 report notes the production of an informative website,¹⁰ and the launch of an informative campaign, the Blue Blindfold initiative¹¹ (both of which were partly aimed at potential clients of trafficked persons in order to reduce demand). The re-launch of the Blue Blindfold initiative was commended in the 2012 TIP report, in respect of Ireland’s efforts at reducing the demand for trafficked persons.¹² The 2013 report noted the government’s review of the National Action Plan Against Trafficking and consultations carried out to consider amending the 1993 prostitution law to criminalised purchasers of commercial sex acts. However, it noted that the government “did not demonstrate additional efforts to reduce the demand for commercial sex acts or forced labor”¹³.

The measures implemented in **Bulgaria** include the launch of an awareness campaign targeting the consumers of commercial sex in 2007,¹⁴ the distribution of information cards to prevent trafficking in clubs and bars aimed at potential clients of trafficked

⁸ Committee of the Parties to the Council of Europe Convention on Action against Trafficking in Human Beings Recommendation CP(2012)2 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Bulgaria, adopted at the 7th meeting of the Committee of the Parties on 30 January 2012. Available at: http://www.coe.int/t/dghl/monitoring/trafficking/Docs/CommitteeParties/Recommendations/CP_2012_2_BGR_en.pdf

⁹ U.S. State Department, Trafficking in persons Report 2009, available at <<http://www.state.gov/documents/organization/123357.pdf>> accessed 24 January 2013, p.165

¹⁰ U.S. State Department, Trafficking in persons Report 2010, available at <<http://www.state.gov/documents/organization/142979.pdf>> accessed 24 January 2013, p.184

¹¹ U.S. State Department, Trafficking in persons Report 2011, available at <<http://www.state.gov/documents/organization/164454.pdf>> accessed 24 January 2013, p.200

¹² U.S. State Department, Trafficking in persons Report 2012, available at <<http://www.state.gov/documents/organization/192595.pdf>> accessed 24 January 2013, p.193

¹³ U.S State Department Trafficking in Persons Report 2013, p. 206. Available at: <http://www.state.gov/documents/organization/210739.pdf>

¹⁴ U.S. State Department, Trafficking in persons Report 2008, available at <<http://www.state.gov/documents/organization/105501.pdf>> accessed 24 January 2013, p.78

persons.¹⁵ The 2011 TIP report also detailed the conviction of several offenders for exploiting sex trafficking victims. In the 2012 TIP report, it was noted that a recent campaign of the Bulgarian government has highlighted penalties for offenders. It is not clear from the TIP Report what offence this relates to, though considering the context it is likely the offence of using the services of a trafficked person.¹⁶ The 2013 TIP report noted that the government “demonstrated efforts to reduce the demand for commercial sex by publishing outdoor and print advertisements emphasizing the punishments for offenders”.¹⁷

Throughout the period since the TIP reports included demand reduction strategies in their content, the **Cypriot** authorities have been generally criticised for failing to implement measures in this area. This includes the failure of the Cypriot authorities to commence a demand reduction strategy, despite allotting \$60,000 for this purpose,¹⁸ and the fact that Cypriot experts identified that the failure to address demand was driving sex trafficking on the island.¹⁹ Recently, however, the Cypriot authorities have commenced actions in this area, as noted in the 2012 TIP report. An interagency group, with the assistance of an NGO, included the issue of demand for trafficked persons within the commercial sex industry in training on trafficking, delivered at universities and military installations.²⁰

The 2008 TIP report refers to strategies in **Lithuania** to reduce demand through the production of posters containing slogans such as “it is a shame to buy women” and “Would you buy me?” which are aimed primarily at demand in the commercial sex industry.²¹ In 2009 reference was made to an educational campaign aimed at children and adolescents, which looked not only to target potential victims of trafficking in human beings, but also potential future clients of trafficked persons.²² In the 2012 TIP report, specific reference was made to Lithuanian efforts to reduce the demand for trafficked persons through the introduction of fines penalising the purchasing of sexual services with these persons.²³

In the majority of TIP reports, **Finland** is commended for efforts to reduce child sex tourism, and the harm it creates, through leaflets that were distributed at a major travel

¹⁵ U.S. State Department, Trafficking in persons Report 2011, available at <http://www.state.gov/documents/organization/164453.pdf> accessed 24 January 2013, p.102

¹⁶ U.S. State Department, Trafficking in persons Report 2012, available at <http://www.state.gov/documents/organization/192594.pdf> accessed 24 January 2013, p.101

¹⁷ U.S. State Department, Trafficking in persons Report 2013, p. 109. Available at: <http://www.state.gov/documents/organization/210738.pdf>

¹⁸ U.S. State Department, Trafficking in persons Report 2008, available at <http://www.state.gov/documents/organization/105501.pdf> accessed 24 January 2013, p.104

¹⁹ U.S. State Department, Trafficking in persons Report 2011, available at <http://www.state.gov/documents/organization/192594.pdf> accessed 24 January 2013, p.140

²⁰ U.S. State Department, Trafficking in persons Report 2012, available at <http://www.state.gov/documents/organization/192594.pdf> accessed 24 January 2013, p.137

²¹ U.S. State Department, Trafficking in persons Report 2008, available at <http://www.state.gov/documents/organization/105501.pdf> accessed 24 January 2013, p.166

²² U.S. State Department, Trafficking in persons Report 2009, available at <http://www.state.gov/documents/organization/123357.pdf> accessed 24 January 2013, p.190

²³ U.S. State Department, Trafficking in persons Report 2012, available at <http://www.state.gov/documents/organization/192596.pdf> accessed 24 January 2013, p.227

show.²⁴ The 2010 TIP report noted that the Finnish authorities had prosecuted 35 men for purchasing sexual services from a trafficked person.²⁵ The 2013 report noted that the government “also demonstrated efforts to reduce demand for commercial sex acts by issuing fines to individuals attempting to purchase commercial sex”²⁶.

2.3 Legal Measures to Reduce Demand

While the majority of the provisions noted above relate to policies aimed at tackling the demand for trafficked persons, laws have been enacted in four of the five partner countries aimed at reducing demand.

In **Ireland**, under Section 5 of the Criminal Law (Human Trafficking) Act 2008 it is an offence to purchase sex from a trafficked person. Anyone found guilty of this offence may face up to 12 months in prison and/or a fine not exceeding €5,000. Where the offender is convicted on indictment, the maximum penalty goes up to five years imprisonment and/or a fine of any amount. Conviction is made difficult as the mens rea, or knowledge required, for a conviction is subjective in that it will be a defence for a person to have been unaware of the trafficked person’s status. There is yet to be any case in Ireland relating to Section 5 of the 2008 Human Trafficking Act.

In 2009 the **Bulgarian** Criminal Code was amended so as to create a new offence under s159 (c), using the services of a trafficked person for “debauched activities, forceful labor or the removal of bodily organs is guilty of an offense”. Anyone found guilty of this offence can face between 3 and 10 years imprisonment, and a fine of up to €10,000. It is unclear from the available information what level of knowledge is required under s159 (c) or whether there have been any legal proceedings in relation to this.

There are no legal measures in **Cyprus** aimed at tackling demand.

Article 147 of the **Lithuanian** Criminal Code details penalties for human trafficking, including in cases where an individual uses the services of a trafficked person. Penalties range from between two and twelve years’ imprisonment, while if the trafficked person is a minor the sentence is between three and fifteen years (Article 157). The offense of purchasing sexual services is set out in a 2005 amendment to the Administrative Violations Code (Articles 182-1), under which a fine (between 300 to 1000 LTL) may be imposed. This was introduced as one of several measures to reduce the demand for prostitution services in Lithuania.

Earning from the sale of sexual services, and use of paid prostitution services, are both criminalized in Lithuania. However, this legislation excludes people engaged in

²⁴ U.S. State Department, Trafficking in persons Report 2012, available at <<http://www.state.gov/documents/organization/192595.pdf>> accessed 24 January 2013, p.158

²⁵ U.S. State Department, Trafficking in persons Report 2010, available at <<http://www.state.gov/documents/organization/142979.pdf>> accessed 24 January 2013, p.149

²⁶ U.S. State Department, Trafficking in persons Report 2013, 107. Available at: <http://www.state.gov/documents/organization/210739.pdf>

prostitution who are minors, or victims of human trafficking, or were coerced through physical or psychological violence and/or deception.

In **Finland** the prosecution of persons who use the services of a trafficked person can be found in the Finnish Criminal Code for Penalties for Convictions. This provides a fine or up to 6 month's imprisonment. Similar to Ireland, the required knowledge for this offence is subjective, so it will suffice for a defendant to show that they were unaware of the person's status as having been trafficked. The 2010 report by the Finnish National Rapporteur on Trafficking in Human Beings, states that this provision has resulted in a number of cases, and, in their interpretation of the provision, the Courts have accepted constructive knowledge as sufficient for a prosecution.²⁷ This means that if they can impute from the circumstances surrounding the defence that the defendant ought to have known that the person from whom sex was being purchased was trafficked, procured or controlled, this will be enough to satisfy the mens rea of the offence.²⁸ In doing this, it is noted, the Court has used, on occasion, sweeping generalisations, such as that all persons in prostitution from the Baltic are procured, as sufficient evidence to impute subjective knowledge.²⁹

3. Trafficking and prostitution: general measures

3.1 Partner country classifications – TIP report

With regards the classification of the five partner countries, under the tier system of the Trafficking Victims Protection Act (TVPA) of the United States, three states are classified as Tier 1 (Finland, Ireland and Lithuania), in that the anti-trafficking efforts within that country are deemed to meet the minimum standards required by the TVPA. The classification of Bulgaria under the TVPA system is Tier 2, meaning that it does not comply with the minimum standards required by the TVPA, but the Bulgarian government is making efforts towards compliance with the minimum standards. Cyprus is classified as a Tier 2 watch list country. This means that Cyprus does not comply with the minimum standards required by the TVPA and while the Cypriot government are

²⁷ Finnish National Rapporteur on Trafficking in Human Beings, Report 2010: Trafficking in human beings, phenomena related to it, and implementation of the rights of human trafficking victims in Finland, available at <http://ec.europa.eu/anti-trafficking/download.action;jsessionid=yMsHT8qQLbKWIVx3QpcrNs7hcVGQXlpxz4FCBsbydT9j2hLk b44!-180460424?nodeId=3b47457e-5360-4ee4-886a-e85bb745bc80&fileName=The+Finnish+National+Rapporteur+on+Trafficking+in+Human+Beings_2010_en.pdf&fileType=pdf> accessed 24 January 2013, pp.156-159

²⁸ *ibid*

²⁹ Finnish National Rapporteur on Trafficking in Human Beings, Report 2010: Trafficking in human beings, phenomena related to it, and implementation of the rights of human trafficking victims in Finland, available at <http://ec.europa.eu/anti-trafficking/download.action;jsessionid=yMsHT8qQLbKWIVx3QpcrNs7hcVGQXlpxz4FCBsbydT9j2hLk b44!-180460424?nodeId=3b47457e-5360-4ee4-886a-e85bb745bc80&fileName=The+Finnish+National+Rapporteur+on+Trafficking+in+Human+Beings_2010_en.pdf&fileType=pdf> accessed 24 January 2013, pp.156-159

making efforts to bring themselves in compliance with the required standards, there is still much to be done.³⁰

3.2 Anti-Trafficking Legislation

Specific legislation and/or laws have been enacted in all five countries dealing with human trafficking.

In **Ireland**, trafficking in human beings was included as an offence under the Criminal Law (Human Trafficking) Act 2008 and the Child Trafficking and Pornography Act 1998 (as amended by the 2008 Act). The definition of trafficking under the 2008 Act aligns with the definition under international law. Trafficking for the purpose of sexual and labour exploitation and the removal of organs are all proscribed activity under the 2008 Act. The maximum penalty for trafficking under the 2008 Act is life imprisonment, both in terms of the trafficking of children and adults.

Trafficking in human beings was included as a criminal offence in **Bulgaria** in 2002. In 2009, this was amended so as to include harsher penalties for traffickers. The definition given to trafficking in human beings under Bulgarian law is in line with international standards, covering trafficking for sexual exploitation, forced labour, removal of organs, holding in subjugation and the trafficking of pregnant women for the purpose of selling their babies.

Human trafficking is a criminal offence in **Cyprus** under the Law for Combating Human Trafficking, Exploitation of Human Beings and the Protection of Victims (2007), which entered into force on 13 July 2007. The law aligns with international standards, and all forms of trafficking are prohibited. Different penalties are in place depending on the form of trafficking. Trafficking for forced labour is punished with up to six years imprisonment where the trafficked person is an adult, and 10 years in the case of trafficking of children. Trafficking for the purpose of sexual exploitation is punishable by up to 10 years imprisonment where the trafficked person is an adult, and 20 years in the case of trafficking of children. Trafficking for the removal of organs is punishable by up to 25 years imprisonment.

In **Lithuania**, human trafficking was included in the Criminal Code of the Republic of Lithuania in 2000. A number of changes to implement international requirements were made between 2005 and 2009 (under Articles 147 and 157). All forms of trafficking are prohibited. Penalties for human trafficking range from between two and twelve years. The Criminal Code covers a number of aggravating factors, including when there are two or more victims, trafficking for the removal of organs, and participation in the offence by organised groups. This legislation is far less detailed than that in other participating countries, with no distinction made between child and adult trafficking in terms of the severity of convictions.

³⁰ Above information provided by partner countries

In **Finland**, the 2004 Law no. 1889-39 introduced the specific offences of trafficking in human beings and aggravated trafficking in human beings. These have been included under the Finnish Criminal Code. The penalties for each offence differ; with trafficking in human beings having a maximum sentence of six years and aggravated trafficking in human beings having a penalty of 10 years. The term aggravated has been defined as including where “violence, threats or deceitfulness is used”; “grievous bodily harm, a serious illness or a state of mortal danger or comparable particularly grave suffering is intentionally or through gross negligence inflicted on another person”; “the offence has been committed against a child younger than 18 years of age or against a person whose capacity to defend himself or herself has been substantially diminished”; “the offence has been committed within the framework of a criminal organisation”; or when a “person...enslaves or keeps another person in servitude, transports or trades in slaves”.

3.3 National Legislation and the Determination of a Victim

In **Ireland**, a trafficked person is defined, under S 5 2008 Criminal Law (Human Trafficking) Act as: either “a person in respect of whom an offence under subsection (1) or (3) of section 4 has been committed” or “a child who has been trafficked for the purpose of his or her exploitation”.

A similar approach has been adopted in **Bulgaria**. The definition of “victim of THB” is provided in Paragraph 1, subparagraph 5, of the Additional Provisions of the Anti-Trafficking Law, pursuant to which a “victim” is any person who has been subject to trafficking in human beings. This definition is in conformity with the Council of Europe Trafficking Convention.

The **Cypriot** definition of a victim is different than the above. Article 2 of Law 87 defines a “victim of THB” as “a natural person who has sustained damage, including physical and psychological damage or financial loss which is directly caused by the commission of the offences established in this Law”. As a result, harm is a necessary prerequisite to identification as a trafficking victim. This has been criticised by the GRETA as not being in conformity with the definition under the Trafficking Convention.

In **Lithuania**, according to the IOM depersonalized database the definition of a trafficking victim is no different than that contained under the Palermo Protocol.³¹

According to the results in the surveys completed by each of the five partner countries, the issue of consent of trafficking victims to enter prostitution is generally not seen as an impediment to identification, though in Finland and Ireland, it is treated as such.³²

3.4 Prostitution Laws

³¹ E-Notes Observatory, Country Information: Lithuania, available at <http://www.e-notes-observatory.org/legislation/lithuania/2/> accessed 24 January 2013.

³² Information provided by partner countries

The current legislation covering prostitution in **Ireland** does not criminalise the purchasing of sex, but covers a host of activities connected to prostitution. Under the Criminal Law (Sexual Offences) Act 1993 it is illegal to solicit or importune for the purpose of prostitution; to loiter for the purpose of prostitution; to organise prostitution; to live off the earnings of prostitution; or to keep brothels. Under the Criminal Justice (Public Order) Act 1994, it is also illegal to advertise brothels and/or prostitution.

There is no specific legislation on prostitution in **Bulgaria**. As a result, it is not illegal to solicit on the street, to kerb crawl or to buy sex indoors. It is, however, illegal to own or operate a brothel. It is not explicitly illegal to live off the earnings of prostitution or to advertise prostitution in the media; however, in respect of the latter there is a general prohibition on such advertisements. It is not illegal to purchase sex from a controlled person, though it is illegal to buy sex from a trafficking victim. Despite this lack of regulation, there are still a number of women penalised in prostitution in Bulgaria. Further, it is not regulated as a job, and there are no migrant visas for those involved.³³

In **Cyprus**, the law on prostitution makes it legal for Cypriot women to engage in prostitution. There are no references within the law made to on-street solicitation or kerb crawling. Advertising and promoting prostitution in the media is not prohibited. Solicitation indoors is legal if a Cypriot woman is involved. However, the visa system for ‘performing artists’, ‘creative artists’ and ‘barmaids’ is, strictly speaking, a form of migrant visa for women in prostitution. Migrant women involved in prostitution, however, are not treated equally to their Cypriot counterparts. They face the danger of penalisation, unlike Cypriot women, and their work is not regulated as a job, unlike Cypriot women. There is a number of criminal offences, however, relating to prostitution, in that the running of a brothel is illegal, only women involved may live off the earnings, not any other person (i.e. pimp), and purchasing sex indirectly via a person in control (i.e. a pimp) is illegal. There is no reference in the law to purchasing a ‘sex service’ from a trafficked person as being a crime.³⁴

Under **Finnish** law, soliciting for prostitution outdoors and kerb crawling are illegal, while indoor solicitation is legal. However, it is not permitted to advertise prostitution in the media. Purchasing sexual services from either a controlled or trafficked person is illegal, as is running a brothel. Living off the earnings of prostitution is not illegal, although prostitution is not regulated as a job. Further, there are no types of visas for migrant women who become involved in prostitution. It is uncommon for women involved in prostitution to be penalised.³⁵

In **Lithuania**, the law states that prostitution is illegal. As a result, solicitation on or off street, kerb crawling, brothel keeping, living off the earnings of prostitution and advertising prostitution in the media are all illegal. Prostitution is not regulated as a job, and women involved in it can be penalised. However, this does not include those are forced into prostitution. It is also illegal to purchase sexual services from such

³³ Information provided by partner country

³⁴ Information provided by partner country

³⁵ Information provided by partner country

individuals, whether they are trafficked or controlled. While there are no visas for women to go to Lithuania so as to work in prostitution, visas for ‘household’ workers or ‘waitresses’ are commonly used in order to traffic women and minors into the country.³⁶

4. Assistance and services available to trafficked persons and women in prostitution

4.1 Identification of victims of trafficking

With regards to the identification of trafficking victims, there are a number of agencies across the partner countries involved in the identification process.

In **Ireland**, the identification of victim of trafficking can only be carried out by a member of the police, the Garda National Immigration Bureau, not below the rank of Superintendent.³⁷

In **Bulgaria**, identification is guided by the working methods of the National Referral Mechanism and the National Commission for Combating Trafficking in Human Beings. Both the Police and NGOs are empowered to identify trafficking victims.³⁸

In **Cyprus**, identification is carried out only by the Police and, usually the Police Office for Combating Trafficking in Human Beings. NGOs assist only in so far as they may refer potential or presumed trafficked persons to the police. These referrals are not based on any contract or official cooperation between the two parties.³⁹

4.2 Recovery and Reflection Period and Temporary Residency Permit

The duration of the recovery and reflection period granted to trafficking victims differs amongst the partner countries. In **Bulgaria, Cyprus and Lithuania** the duration is 30 days, in **Ireland** it is 60 days and in Finland it is between 30 days and 6 months. The 30 days allowed by Bulgaria and Lithuania is, however, flexible. In Ireland, Finland and Bulgaria, this permit may be renewed.

In each country the recovery and reflection period is followed by a temporary residency permit. The length of this ranges from one month in **Bulgaria**, six months in **Lithuania and Ireland**, to twelve months in **Finland**. In **Cyprus** the duration of the temporary residency permit is undefined. In some partner countries, the granting of this period,

³⁶ Information provided by partner country

³⁶ Information provided by partner State

³⁷ Department of Justice, Equality and Law Reform, National Action Plan 2009-2012 <<http://www.justice.ie/en/JELR/Final%20National%20Action%20Plan2.pdf/Files/Final%20National%20Action%20Plan2.pdf>> accessed 24 January 2013, p.133

³⁸ Information provided by partner State

³⁹ E-Notes Observatory, Country Information: Cyprus, available at <<http://www.e-notes-observatory.org/legislation/cyprus/2/>> accessed 24 January 2013

however, is not automatic. In Ireland, Bulgaria, Lithuania and Finland the granting of a temporary residency permit is dependent on the cooperation of trafficked persons with the authorities. In each of the partner countries, once this period has been granted, it is renewable.⁴⁰

4.3 Services Available to victims of human trafficking for sexual exploitation

The level and type of services available to victims of trafficking under the recovery and reflection period and under the temporary residents permit differ across the five partner countries. Finland, Lithuania and Cyprus have a wider range of service available, in contrast to a much lower level of services Ireland and Bulgaria.

In **Ireland**, there is no dedicated government-provided emergency shelters for the victims of sex trafficking. There is an absence of material assistance, and no access to training/ education or employment during the initial recovery and reflection period. The only assistance available to victims of trafficking is provided through the asylum process, which is generally regarded as being in appropriate for victims of trafficking. Additional services for victims of trafficking are provided by the NGOs Ruhama and the Women's Health Project (see below). During the temporary residency permit there is no access to legal representation when seeking either compensation or legal representation.

In **Lithuania and Cyprus**, a wide range of services is provided to victims of trafficking, both during their recovery and reflection period, and under the terms of their temporary residency permit. These services during the recovery and reflection period include access to safe housing or shelters for victims of sex trafficking, material assistance, medical/ psychological assistance, legal advice and legal representation. **Lithuania** provides training/ education and employment, but this is not the case in **Cyprus**. During the temporary residency permit services include safe housing; material assistance; medical and psychological assistance; legal advice in relation to criminal investigations and trials, non prosecution, compensation, immigration and asylum, and family reunification; training and education; and employment.

In **Bulgaria**, a lower level of services is available to trafficking victims within the period of the recovery and reflection period and the temporary residence permit. During the period of the temporary residency permit victims of trafficking only have access to safe housing and medical and psychological assistance. A wider range of services is available during the recovery and reflection period, including provision of emergency accommodation, medical and psychological assistance, forensics and training and education.

In **Finland**, a wide range of assistance is provided under the Finnish recovery and reflection period covering all areas, with the exception of employment. For victims of trafficking under the temporary residency permit, there is access to all services, with the exception of legal assistance with family reunification and access to employment.⁴¹

⁴⁰ Information provided by partner countries

⁴¹ Information provided by partner countries

4.4 Services Available to Women in Prostitution

There are variations in the type and level of services provided by statutory and NGO services to women in prostitution across the five partner countries.

In **Ireland**, an exit strategy for women in prostitution is provided by an NGO, Ruhama, which is part-funded by the State. Services provided include short-term emergency accommodation, assistance in finding long-term accommodation and accessing social welfare, education and training, counselling, case worker support and assistance in finding employment. Medical assistance and sexual health screening is provided by the State, through the Women's Health Project.⁴²

In **Bulgaria**, programmes for women in prostitution are only run by NGOs, which include free emergency medical treatment. Emergency shelters, however, are not accessible unless the prostituted person had been trafficked.

There are no exit programmes for women involved in prostitution in **Cyprus**, although emergency shelters are available to them. There is no information in regards the availability of medical services, though, owing to the regulation of the sex industry in Cyprus, they are (in theory) entitled to all the benefits and assistance Cypriot employees are.

No exit programmes are available for women involved in prostitution in **Finland**. However, emergency shelters are available to those involved in prostitution. Medical treatment is paid for by one NGO, Paperless People in Helsinki. However, this is dependent on the residence permit that an individual has. In addition, there are some programmes for women involved in prostitution run by NGOs.

In **Lithuania**, services are only provided for women who have been involved in forced prostitution. There are a range of statutory and NGO service providers who offer services such as counselling and psycho-social support, information and advice.

⁴² Information provided by partner countries