



Identification of victims of trafficking in human beings in international protection and forced return procedures in Poland

Report produced by
the National Contact Point
to the European Migration Network in Poland

October 2013



Ministerstwo
Spraw Wewnętrznych

Co-financed by
the European Union



EMN
European Migration Network



Identification of victims of trafficking in human beings in international protection and forced return procedures in Poland

Report produced by
the National Contact Point
to the European Migration Network in Poland

October 2013

This National Report was prepared by the Ministry of the Interior acting as the coordinator of the National Contact Point to the European Migration Network in Poland (PL NCP EMN). The Report follows the common specifications and methodology prepared by the European Migration Network (EMN).

Compiled by: *Joanna Sosnowska*

The European Migration Network was established by Council Decision 2008/381/EC in order to provide up-to-date objective, reliable and comparable information on migration and asylum to Community institutions, Member States authorities and to general public, with a view to supporting policy-making in the EU. The EMN is financed and co-ordinated by the European Commission with National Contact Points (EMN NCPs) established in each EU Member State plus Norway.

The electronic version of the National Report is available from www.emn.gov.pl under “EMN Poland Publications”.

Disclaimer

This Report has been produced by the National Contact Point to the European Migration Network in Poland (PL NCP EMN). This report does not necessarily reflect the opinions and views of the institutions – members of the PL NCP EMN, or the European Commission, nor are they bound by its conclusions.

ISBN: 978-83-64955-04-4

Contact

National Contact Point to the European Migration Network in Poland
Ministry of the Interior – Migration Policy Department
5, Stefana Batorego St.
02-591 Warsaw, Poland
Email: esm@msw.gov.pl
Web site: www.emn.gov.pl

Graphic design, composition, prepress: *Czarny Mat*, www.czarnymat.com

Photo at the cover: ©*kbuntu* - Fotolia.com

Preface

This National Report constitutes a compilation of replies to the questions specified in the EMN Questionnaire, which have been provided – on the request of the Migration Policy Department (Ministry of Interior) – by the staff of respective institutions, the Unit for Combating Trafficking in Human Beings of the Migration Policy Department at the Ministry of the Interior, the Border Guard Headquarters and the Office for Foreigners.



Identification of victims of trafficking in human beings in international protection and forced return procedures in Poland

Table of contents

Preface.....	5
Top-line “Factsheet”.....	8
Executive Summary.....	10
1. Residence permits, protection statuses and national programmes available to victims of trafficking in Poland.....	13
2. Detection, identification and referral of victims in international protection procedures.....	15
2.1. Legislative framework.....	15
2.2. Detection and identification of victims.....	15
2.3. Referral.....	17
2.4. Detection and identification and referral in relation to Dublin procedures.....	19
2.5. Future measures.....	20
3. Detection, identification and referral of victims in forced return procedures.....	21
3.1. Legislative framework.....	21
3.2. Detection of victims.....	21
3.3. Referral.....	23
3.4. Future measures.....	24
4. Detection, identification and referral of victims by other related actors.....	25
4.1. Detection and identification of victims in reception centres/ detention facilities.....	25
4.2. Referral of (potential) victims in reception centres/ detention facilities.....	27
4.3. Role of other actors.....	27
5. Training.....	29
Conclusions.....	31
Annex.....	32

Top-line “Factsheet”



The purpose of this study is to summarize the major challenges faced by national entities responsible for combating trafficking in human beings, especially in the context of new threats and problems to be dealt with by the system of preventing and combating the phenomenon of trafficking in human beings, which has been in place in Poland since the mid-1990s. The report submitted by the National Contact Point to the European Migration Network in Poland has been prepared in close cooperation with the Unit against Trafficking in Human Beings of the Migration Policy Department at the Ministry of the Interior, the Border Guard and the Office for Foreigners – the main institutions in charge of identifying potential victims of human trafficking under the procedure of granting refugee status and the execution of decisions on expulsion of foreigners from the territory of the Republic of Poland.

The issues regarding the provision of assistance to victims of trafficking in human beings within the territory of the Republic of Poland are now regulated by the *Act of 13 June 2003¹ on Foreigners* and the *Act of 12 March 2004 on Social Assistance*.² Pursuant to the provisions of these two acts, the responsibility of improving the system of protection and assistance for victims of

trafficking has been imposed on several units of public administration. Activities of public institutions in this regard are based on the implementation of the ‘National Action Plan against Trafficking in Human Beings’, which is adopted and accepted by the Council of Ministers on a regular basis. The current document covers the period between 2013 and 2015³ and its content stems directly from the ‘National Programme for Combating and Preventing Trafficking in Human Beings’, in place since early 2003.⁴ The objective of the ‘National Action Plan against Trafficking in Human Beings’ is to create the conditions necessary for the effective prevention and combating of the phenomenon of trafficking in human beings. In its framework, state administration entities and non-governmental organizations perform tasks aimed at preventing and combating human trafficking in Poland. One of the important elements of this system of support and assistance to victims of human trafficking in Poland was the ‘Programme of Support and Protection of victims/witnesses of human trafficking’. Since 1 January 2010, the Pro-

1. Dz. U. (Journal of Laws) of 2011 No 264, item 1573, consolidated text, as amended.

2. Dz. U. (Journal of Laws) of 2013, item 182, consolidated text.

3. The document has been approved by the Council of Ministers on 20 May 2013.

4. Measures implemented within its framework were part of the programme aimed at improving the security of Polish citizens ‘Bezpieczna Polska’ adopted by the Council of Ministers on 28 August 2002. The need to implement the programme stemmed from Poland’s international obligations, in particular following the signing and ratification of the UN Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (the Palermo Protocol).

gramme operates within the framework of a new public task relating to the operation of the National Consulting and Intervention Center for Victims of Trafficking,⁵ commissioned by the Minister of the Interior to an NGO selected in an open tender. Any foreigner, regardless of his/her decision to cooperate or not with law enforcement authorities can benefit from this form of assistance. In addition, an important element of the system of victim identification and countering the phenomenon of trafficking is so-called 'Algorithm of Conduct of Law Enforcement Officers in the Case of Revealing a Crime of Trafficking in Human Beings',⁶ implemented in 2007, as well as the training system⁷ for i.a. officers of the Border Guard who receive applications for refugee status and execute decisions on expulsion, as well as for the staff of the Office for Foreigners interviewing applicants for refugee status and working in refugee centres.

The above tasks are carried out in the framework of the National Action Plan and coordinated by the Ministry of the Interior

(Unit against Trafficking in Human Beings of the Migration Policy Department). The ongoing exchange of information between the parties is ensured by the Working Group of the interministerial Committee for Combating and Preventing Trafficking in Human Beings, as well as expert groups specializing in the following issues: trafficking of children, prevention, support for victims of human trafficking. On the basis of experience gained so far, national experts continuously monitor and carry out evaluation of the conducted activities, indicating areas that need improvement. In this way, a loophole was identified in the national system of preventing human trafficking, namely the insufficient identification of victims of human trafficking in the procedures for granting international protection as well as forced returns.

It should be noted that in mid-2013, the Unit against Trafficking in Human Beings began to work in cooperation with relevant entities on the preparation and implementation of corrective actions. It has resulted inter alia in appointing a consultant to trafficking in human beings issues at the Office for Foreigners, the development of a set of indicators for identification victims of trafficking among foreigners seeking international protection in Poland, and the development of a procedure of conduct in the case of revealing a potential victim of trafficking in human beings for the staff of the office for foreigners responsible for granting refugee status.

5. The main tasks of the National Center are: (1) (unofficial) identification of victims of trafficking, (2) providing assistance in the frame of crisis intervention, (3) running a shelter for victims of trafficking, (4) assistance to the foreign nationals participating in the Programme of support and protection of victims/witnesses of trafficking in human beings, (5) preventive counselling and consultation services for institutions.
6. 'Algorithm of Conduct of Law Enforcement Officers in the Case of Revealing a Crime of Trafficking in Human Beings' is a set of guidelines to be used by the Police and the Border Guard in the event of disclosure or suspicion of trafficking in human beings. Taking into account both the specific nature of this type of criminal activity and the need to respect national and international standards, the document provides recommendations focusing primarily on the description of the mode of conduct of law enforcement officers in relation to victims of trafficking in human beings.
7. In the framework of the National Action Plan against Trafficking in Human Beings, training aimed at the officers of the Border Guard and the Police has been organized for several years. Relevant actions are also carried out by non-governmental organizations, for instance the project 'Improving the identification and legal assistance to victims of trafficking residing in detention centres for foreigners' of Halina Nieć Legal Aid Centre in Krakow, financed by the Organization for Security and Cooperation in Europe.

Executive Summary



Identification of potential victims of trafficking in human beings in the procedure of granting refugee status on the territory of the Republic of Poland and the execution of decisions obliging foreigners to leave the country has yet to be the subject of a national debate in Poland. However, the situation is changing.

According to the 'Algorithm of Conduct of Law Enforcement Officers in the Case of Revealing a Crime of Trafficking in Human Beings' adopted in 2007, when a representative of a law enforcement agency (i.e. an officer of the Border Guard, the Police or the prosecution) finds that a foreigner has been a victim of trafficking in human beings, he/she shall immediately inform a foreigner about the possibilities of assistance offered in Poland to victims of trafficking. Having the permission of a foreigner to do it he/she shall fill in an application form regarding the granting of support for a victim of trafficking, which is sent to the coordinator responsible for its implementation in the Ministry of the Interior; the information shall also be imparted to the relevant coordinators of combating trafficking in human beings in the Police, the Border Guard and the prosecution.

If the authority competent to conduct proceedings on combating trafficking in human beings states that a foreign national staying on the territory of the Republic

of Poland illegally is likely to be a victim of trafficking in human beings, in the light of the legislation in force (i.e. the *Act on Foreigners of 2003*)⁸, such foreigner may be granted a residence permit for a fixed period.⁹ This provision allows for the so-called 'reflection period'¹⁰ in Poland in relation to third-country nationals who reside illegally in Poland and who, at the time of their identification as victims of trafficking in human beings, do not decide immediately to give evidence and cooperate with law enforcement authorities. Upon the entry into force of the amendment of this provision (1 January 2009), the reflection period was extended (from two to three months) and a residence visa issued for a period of two months in order to allow a third-country national to coop-

8. Article 53a. 2 The residence permit for a specified period of time shall be granted to an alien residing on Polish territory illegally, if (...) 4) the authority competent to conduct proceedings on combating trafficking in human beings states that the alien is likely to be a victim of trafficking in human beings, as defined in the within the meaning of Council Framework Decision of 19 July 2002 on combating trafficking in human beings (O. J. EC L 203 of 1 August 2002).
9. The permit is issued by the Voivode on the basis of a law enforcement certificate confirming that a third-country national has been identified as victims of human trafficking.
10. It is a three-month period during which a foreigner identified as a victim of trafficking in human beings can legalize his/her stay by submitting to the voivode an application for a residence permit for a fixed period. During this period, the victim remains under the care of an NGO and, at the same time, must make a decision on his/her cooperation with law enforcement authorities. Cf. Article 56 paragraph 7 point 7 of the Act of 2003 on Aliens.

erate with law enforcement agencies was replaced with a temporary residence permit. Pursuant to the currently applicable provisions, this three-month permit cannot be renewed and following its expiry, a foreigner shall leave.

However, if a foreigner decides to cooperate with law enforcement bodies competent to conduct proceedings on combating trafficking in human beings, has cut any ties with persons suspected of committing criminal offenses related to trafficking in human beings, he/she is entitled to obtain

So far, no victim of trafficking has been identified in the course of asylum procedure.

a residence permit for a specified period of time. Pursuant to the provisions of Article 53 paragraph 1 point 15¹¹ of the *Act on Foreigners*, the victim of trafficking can submit to the Voivode an application for a residence permit for a specified period of time (i.e. the period of six months, which may be extended up to two years).¹² This is the

11. Article 53: 1. The residence permit for a specified period of time shall be granted to an alien, who: (...) 15) is a victim of trafficking in human beings within the meaning of Council Framework Decision of 19 July 2002 on combating trafficking in human beings (O.J. EC L 203 of. 1.08.2002), and fulfills jointly the following conditions: a) resides on the territory of the Republic of Poland; b) has undertaken cooperation with an authority competent with respect to conduct procedure on combating trafficking in human beings; c) has terminated contacts with persons suspected of committing related to trafficking in human beings.

12. Article 56: 1. The residence permit for a fixed period shall be any time granted for a period necessary to realize the purpose of an alien's residence on

situation of foreigners who decide to cooperate immediately or if they express their willingness to do so during the reflection period. In any case, the identified victims of trafficking are entitled to receive assistance in the framework of the National Consulting and Intervention Center for Victims of Trafficking (KCIK), financed within the state budget.

Here should it be noted that in accordance with draft law of foreigners (which is expected to enter into force in 2014) victims of trafficking in human beings will also be entitled to obtain a permanent residence permit. However, it will be given only under following conditions: they stay in Poland on the temporary residence permit granted as victims of trafficking for at least 2 years beforehand, cooperate with the law enforcement agencies competent to conduct proceedings on combating trafficking and finally have justifiable fears against returning the country of origin verified by the prosecutor conducting the proceeding.

In addition to the above mentioned National Consulting and Intervention Centre (KCIK) run by the La Strada Foundation. in Poland victims of trafficking are provided with assistance also by the International Organization for Migration, the PoMOC Association, the Centre for Missing People – Itaka, and the Nobody's Children Foundation.

So far, no victim of trafficking has been identified in Poland in the course of processing applications for refugee status, and no suspicion of human trafficking among foreigners lodged in refugee centres has been reported. It should also be noted that in recent years, Police or Border Guard officers referred on several occasions foreign nationals identified as victims of trafficking in human beings who

the territory of the Republic of Poland, not exceeding 2 years. 2 The residence permit for a fixed period shall be granted to: 4) an alien referred to in Article 53 paragraph 1 point 15, for the period of 6 months.

had applied for refugee status (some of whom were accommodated in refugee centres) to the 'Programme of support and protection of victims/witnesses of trafficking in human beings'. None of the foreigners had been recognized as a victim of trafficking by the staff of the Office for Foreigners in the course of the refugee procedure and, consequently, none of them had been informed of their rights and the possibility of obtaining additional assistance, which is provided to victims (and potential victims as well) of trafficking in human beings. A small number of third-country nationals has been referred to the Programme of support and protection of victims of trafficking after former detection by the authorities responsible for the management of guarded centres for foreigners, that is the Border Guard. Therefore, it can be assumed that a number of victims of trafficking in human beings has remained unidentified among the large number of foreigners applying for refugee status or (rarely) those who have received a decision of expulsion.

In the context of these proceedings, it is possible to identify potential victims of trafficking: in the course of receiving the applications for refugee status or during the interview carried out in the framework of the procedure of granting refugee status (or, more broadly, the data collection procedure) or during a foreigner's stay in a reception centre for refugees or a guarded centre for foreigners. The lack of response from the staff of the Office for Foreigners is probably due to their insufficient knowledge of the phenomenon of trafficking in human beings and the functioning of the victim support system, as well as the absence of a uniform procedure for addressing such situations.

For several years, in the framework of the 'National Action Plan against Trafficking in Human Beings', the staff of the Office for Foreigners interviewing applicants for refugee status and working in refugee centres

have been trained to identify victims of trafficking in human beings.

Also, the monitoring of the tasks entrusted to NGOs (in this aspect to the La Strada Foundation) showed that no specific actions have been undertaken in cooperation with the Office for Foreigners in relation to the identification of potential victims of trafficking in human beings and the administration of sufficient consultation to the staff of the Office for Foreigners. However, no objective information regarding the quality of training is available, in particular its scope, quality of training materials and, above all, no assessment has been carried out regarding the relevance of knowledge gained in training to the performed tasks.

Given the above, the Ministry of the Interior has undertaken to develop tools necessary for the identification of victims of trafficking in human beings and guidelines for addressing the suspected trafficking offenses in relation to foreign nationals applying for refugee status, or those who have received a forced return decision. The scope of the training programme organized for the staff of the Office for Foreigners is to be verified in order to increase the involvement of the Office in the national referral mechanism. Moreover, the 'Algorithm of Conduct of Law Enforcement Officers in the Case of Revealing a Crime of Trafficking in Human Beings' from 2007 needs updating and a uniform mechanism for dealing with suspected trafficking offenses is to be developed.

1

Residence permits, protection statuses and national programmes available to victims of trafficking in Poland



1) What residence permit(s) specifically for victims of trafficking in human beings are available in Poland?

In accordance with the provisions of the Act on Foreigners of 13 June 2003, victims of trafficking in human beings are entitled to:

1. *residence permit for a specified period of time (i.e. up to than 3 months as part of the so-called reflection period) – Article 53a paragraph 2 point 4 of the Act on Foreigners of 13 June 2003,*
2. *residence permit for a specified period of time (i.e. up to 6 months with the possibility of re-applying) – Article 53 paragraph 1 point 15 of the Act on Foreigners of 13 June 2003.*

In accordance with the new draft law on foreigners (which is expected to enter into force in 2014), victims of trafficking in human beings will be granted a certificate of legal stay for potential victims lasting 3 months (in case of minor victims lasting 4 months) instead of the above mentioned residence permit for a specified period of time (as part of the reflection period).

Moreover, victims of trafficking of human beings will also be entitled to the permanent residence permit. It will be given under following con-

ditions: they stay in Poland on the temporary residence permit granted as victims of trafficking for at least 2 years beforehand, they cooperate with the law enforcement agencies competent to conduct proceedings on combating trafficking and finally they have justifiable fears against returning the country of origin verified by the prosecutor conducting the proceeding.

a) Are they conditional on cooperation with the authorities?

The permit referred to in point 1 is issued regardless of the foreigner's cooperation with authorities, provided that he/she is identified by law enforcement authorities as a victim of trafficking in human beings (is formally identified).

In the case of the permit referred to in point 2, its issue depends inter alia on the foreigner's cooperation with the authorities competent to conduct proceedings relating to combating trafficking in human beings.

b) In which year was it/were they introduced?

The above provisions were introduced in 2005 and subsequently amended in 2008 (amendments en-

*tered into force on 1 January 2009).
At first (until 2009), victims of traf-
ficking received a visa and not the
permit referred to in point 2.*

2) Are international protection status(es) granted to third-country nationals for the reason of being a victim of trafficking in human beings in Poland?

No.

3) Does Poland have a national referral mechanism?

Yes.

2

Detection, identification and referral of victims in international protection procedures



2.1. Legislative framework

1) Are there established mechanisms for detecting and identifying victims of trafficking in human beings in the procedure for international protection?

No.

2) Are there different protocols and/or practices for children and adults?

No.

3) Are there different protocols and/or practices for men and women?

No.

2.2. Detection and identification of victims

1) How are (potential) victims of trafficking in human beings detected in procedures for international protection? Does one

of the scenarios below or a combination thereof is applicable to Poland:

a) The competent authority¹³ proactively screens all applicants for indications of trafficking in human beings

No.

b) The competent authority proactively screens applicants with a particular profile¹⁴ for indications of trafficking in human beings

No.

c) Victims self-report

Yes. In the application as well as in the later stages of the refugee status procedure, third-country nationals can inform the competent authority (the Office for Foreigners) that they have been victims of trafficking in human beings. This is particularly justified if the offense took place in their country of origin and, therefore, their return is not recommended.

13. Here, 'competent authority' refers to the authority competent for examining the merit of the third-country national's case for international protection. In many (Member) States, this is a 'case worker'.

14. E.g. unaccompanied minors; children; women from particular geographical regions; women or children who, for example, when describing the route from their country to origin to the EU Member State, refer to a known route used by traffickers.

d) Another actor in contact with the victim draws attention to the potential victimisation

Yes. Representatives of NGOs who work with refugees and assist foreigners in the procedure of granting refugee status. The most important are: the IOM, La Strada Foundation, the PoMOC Association, Association for Legal Intervention, Halina Nieć Legal Aid Centre.

e) Other

The officers of the Border Guard who are in charge of foreigners staying in guarded centres or in detention centres for foreigners awaiting expulsion.

2) Is there a stage the applicant for international protection can no longer be screened (e.g. after the first negative decision)?

Yes – if a negative decision is issued in the first instance (and the foreigner does not appeal against it), or if a negative decision is issued in the second instance.

3) If the competent authority detects that an applicant may be a victim of trafficking in human beings, what are the next steps in terms of assessment? Does Poland apply a standard set of indicators to assess whether the person is a (potential) victim?

No. Work on the implementation of a set of indicators for identification of victims of trafficking to be used by the staff of the Office for Foreigners responsible for granting refugee status is currently underway. These indicators will be similar in content and structure to those that have been developed for the Police and the Border Guard.

4) Are other mechanisms (e.g. interviews) used by the competent authority to assess whether a person detected as a (potential) victim should be identified as such (or referred onto formal identification procedures)?

No. Work on the development of a Procedure of Conduct in the Case of Revealing a Potential Victims of trafficking for the Staff of the Office for Foreigners Responsible for Granting Refugee Status is currently underway. Employees of the Office for Foreigners are to be provided with indicators and an appropriate procedure allowing them to proceed with the National Consulting and Intervention Centre for Victims of Trafficking (detection of potential victims) and the coordinator of combating trafficking in human beings appointed at the Border Guard (identification of potential victims) if they suspect trafficking in human beings. Should their suspicion be confirmed, they are required to inform thereof the Border Guard (the authority competent to carry out the formal identification).

5) If, following detection, the third-country national concerned is not assessed as a (potential) victim, what happens? Can the third-country national seek an alternative assessment elsewhere?

Yes. The third-country national concerned can independently contact the National Consulting and Intervention Centre for Victims of Trafficking, which also unofficially detect and identify whether trafficking in human beings has taken place. If yes, the Centre refers the third-country national to the appropriate authority in charge of formal identification, for instance the operation and investigation division of the Border Guard (the coordinator of combating trafficking in human beings).

6) Have methods for the detection and/ or identification of victims in international protection procedures been evaluated in Poland?

No. No potential victims have been detected at the stage of processing refugee status applications, which suggests that identifying victims of trafficking within this procedure proves problematic.

2.3. Referral

1) If an applicant is identified as a (potential) victim, can s/he access tailored statutory assistance and support whilst remaining in the international protection procedure (i.e. without referral to other procedures)?

Yes. Assistance is provided by the National Consulting and Intervention Centre for Victims of Trafficking, which is run by an NGO on behalf of the Ministry of the Interior and financed from the state budget. The National Consulting and Intervention Centre for Victims of Trafficking provides assistance to both formally identified victims and detected or identified potential victims.

a) Under what conditions the assistance can be provided (without referral to other procedures) – specifically, does the (potential) victim have to be formally identified by a competent authority (e.g. law enforcement) in order to access the assistance?

A person seeking assistance from the National Consulting and Intervention Centre for Victims of Trafficking should contact the NGO running the centre. He/she is under no obligation to contact law enforcement authorities and does not have to be officially identified as a victim of human trafficking.

b) What mechanisms are in place to facilitate this type of referral (to assistance, whilst remaining in international protection procedures)? Are there any agreements in place? Does it form part of a National Referral Mechanism?

Currently, no mechanisms are in place to facilitate this kind of referral. However, this kind of mechanism is to form part of the procedure for the staff of the Office for Foreigners. An employee of the Office will be entitled to consult the National Consulting and Intervention Centre for Victims of Trafficking and to refer a foreigner thereto. Following its implementation, the procedure will ensure the complementary character of the national referral mechanism.

c) Are there any obstacles to this type of referral?

Currently, the obstacle is the lack of clear and uniform procedures for the staff of the Office for Foreigners in the case of dealing with a potential victim of trafficking in human beings.

2) If an applicant is identified as a (potential) victim and there is the possibility to change to (or participate in parallel in) procedures as foreseen under Directive 2004/81/EC or national equivalent measures how does this work in practice? Does the applicant have to withdraw from the procedure for international protection in order to do so?

No. A foreigner wishing to legalize his/her stay as a victim of trafficking in human beings has to be previously officially identified as a victim of trafficking by a body authorized to conduct proceedings on combating trafficking in human beings, i.e. the Border Guard, the Police or the prosecution. It is only after this condition has been fulfilled that the foreigner can apply for a residence

permit for a specified period of time. The authority receiving and processing his/her application is the Voivodship Office having jurisdiction over the place of residence of the foreign national.

A foreigner who is a victim of trafficking in human beings and has submitted an application for international protection is authorized to apply for a residence permit for a specified period of time as a victim of trafficking in human beings. The voivode having jurisdiction over the place of residence of the foreigner should, however, suspend the proceedings until a decision on the granting of international protection is issued. In this case, the procedure for granting international protection has the priority. In case of refusal to grant international protection, proceedings for the granting of residence permit for a specified period of time shall be continued.

3) How is referral to the procedure as foreseen under Directive 2004/81/EC organised? Please highlight which one option, or a combination thereof, is applicable in your Member State:

a) The victim is given information on his/her rights and possibilities, but has to initiate the procedure on his/her own (where applicable with the help of his/her legal representative)

Yes. A foreigner who is initially detected (not identified) as a victim of trafficking in human beings by the authority e.g. the Office for Foreigners should be informed of his/her rights by this authority. It should be specified that he/she is entitled to regulate his/her residence status only after he/she has been formally identified as a victim of trafficking in human beings by the competent law enforcement authority (the police, the Border Guard or the prosecutor). Any other forms of assistance are provided

regardless of obtaining the status of a victim of trafficking in human beings.

This course of action forms part of the single procedure to be followed by the staff of the Office for Foreigners in charge of examining applications for refugee status.

b) The competent authority contacts the authorities responsible for issuing a reflection period or residence permit

In certain cases, the body detecting and informally identifying a foreigner as a victim of trafficking in human beings, for instance the Office for Foreigners, contacts the competent law enforcement authority in charge of formal identification. This law enforcement authority can refer the foreigner to the National Consulting and Intervention Centre for Victims of Trafficking, which provides further assistance to the victim, including help in relation to his/her status of residence. However, the referral to the various bodies and institutions (the referral mechanism) can only take place at the consent and knowledge of the foreigner in question.

c) There is a national referral/cooperation mechanism that helps him/her

See above – points a) and b).

4) Can the applicant's dossier/evidence gathered to date in the procedure for international protection (e.g. personal interview) be transferred to and used in the new procedure for a reflection period or residence permit as foreseen under Directive 2004/81/EC?

No. These are separate proceedings conducted by various authorities. Proceedings relating to granting international protection are conducted by the Office for Foreigners, while the pro-

cedure for granting a temporary residence permit to victims of trafficking is conducted by the Voivodeship Office.

nism for the victims of trafficking in human beings.

5) If an applicant is identified as a victim and there is the possibility to change to obtain a residence permit (other than that described in question 2) or international protection status on grounds of being a victim of trafficking in human beings, how does this work in practice?

Not applicable. Neither the Act of 13 June 2003 on Foreigners nor the Act of 13 June 2003 on granting protection to foreigners on the Polish territory provide for a residence legalization procedure in relation to victims of trafficking in human beings other than the procedure described in point 2.

Identification of an applicant as a victim of trafficking may, but does not have to influence the decision on the granting of international protection. Obtaining the status of a victim of trafficking is not a prerequisite for obtaining international protection. Granting of one of the forms of international protection depends on many factors, which are examined under the refugee procedure. First of all, risk assessment is carried out in the country of origin.

6) Have systems of referral of (potential) victims of trafficking in human beings from international protection procedures to other procedures been evaluated in Poland?¹⁵

No. No victims of trafficking in human beings have been identified in the procedure for determining refugee status, and therefore it is impossible to assess the effectiveness of the referral mecha-

15. For example, if a national referral mechanism or (other) coordination mechanism exists, has this been evaluated?

2.4. Detection and identification and referral in relation to Dublin procedures

1) If, in accordance with Council Regulation 343/2003, the competent authority decides that another Member State is responsible for examining the application for international protection (i.e. Dublin procedures apply) and the applicant is detected as a (potential) victim of trafficking in human beings, does this trigger Article 3(2)¹⁶ and/or Article 15¹⁷ of the Regulation – i.e. can the Dublin transfer be suspended?

No.

2) If a (potential) victim is detected, what are the next steps in terms of assessment and identification? Is there a specific level of evidence needed to suspend a Dublin II transfer?

No specific level of evidence to be collected has been defined. Each case is examined and assessed individually.

16. Article 3(2) states that 'each Member State may examine an application for asylum lodged with it by a third-country national, even if such examination is not its responsibility under the criteria laid down in this Regulation.'

17. Article 15(1) states that, 'Any Member State, even where it is not responsible under the criteria set out in this Regulation, may bring together family members, as well as other dependent relatives, on humanitarian grounds based in particular on family or cultural considerations. In this case that Member State shall, at the request of another Member State, examine the application for asylum of the person concerned. The persons concerned must consent.' Article 15(3) refers specifically to Unaccompanied Minors and states, 'If the asylum seeker is an unaccompanied minor who has a relative or relatives in another Member State who can take care of him or her, Member States shall if possible unite the minor with his or her relative or relatives, unless this is not in the best interests of the minor.'

3) If being a victim of trafficking in human beings does not trigger Article 3(2) or Article 15 in Poland can Dublin II transfers be suspended anyway?

No. Detection of a (potential) victim of trafficking does not automatically suspend the implementation of the Dublin II procedure. However, each case of transfer is examined individually and the transfer of such a foreigner might be suspended for reasons referred to in Article 15 of Council Regulation 343/2003, for example if it is proven that the transfer may result in further victimization.

4) Are third-country nationals subject to Dublin procedures informed of possibilities offered under Directive 2004/81/EC or national equivalent measures, or other residence possibilities?

Yes. This is the case when third-country nationals are identified as (potential) victims of trafficking in human beings.

human beings for the staff of the Office for Foreigners. In addition, an expert/coordinator/consultant to trafficking in human beings issues shall be appointed among the staff of the Office. He/she shall be consulted in relation to the potential victims of trafficking in human beings and remain in contact with the coordinator of combating trafficking in human beings at the Border Guard.

The above activities are designed to increase the efficiency of detection measures in relation to potential victims of trafficking who apply for international protection in Poland, as well as – more broadly – to improve the national referral mechanism.

2.5. Future measures

1) Are any future measures anticipated in relation to improving or facilitating the detection and identification of victims of trafficking in human beings in procedures for international protection?

Yes. It is planned to implement a Procedure of Conduct in the Case of Revealing a Potential Victims of trafficking for the Staff of the Office for Foreigners Responsible for Granting Refugee Status and to introduce a set of indicators for identification of victims of trafficking in human beings. Consultation work in relation to these documents is currently underway. Their implementation will coincide with the organization of training on the phenomenon of trafficking in

3

Detection, identification and referral of victims in forced return procedures



3.1. Legislative framework

1) Are there established mechanisms for detecting and identifying victims of trafficking in human beings in forced return procedures?

No.

2) Are there different protocols and/or practices for children and adults?

No.

3) Are there different protocols and/or practices for men and women?

No.

3.2. Detection of victims

1) How are (potential) victims of trafficking in human beings detected, amongst rejected applicants, in forced return procedures? Is

one of the scenarios below or a combination thereof applicable to Poland:

a) The competent authority¹⁸ proactively screens all rejected applicants for indications of trafficking in human beings

No.

b) The competent authority proactively screens all rejected applicants with a particular profile¹⁹ for indications of trafficking in human beings (please provide information on the type of profile)

No.

c) Victims self-report

Yes. Victims of trafficking in human beings can – at any stage – notify the competent authority (such as the coordinator of combating trafficking in human beings at the Border Guard) of trafficking offences committed against them.

18. Here, 'competent authority' refers to the law enforcement official or other authority competent to supervise and enforce forced return process of applicants for international protection who are subject to a return order.

19. E.g. unaccompanied minors; children; women; women from particular geographical regions; women or children who, for example, when describing the route from their country of origin to the EU Member State, refer to a known route used by traffickers.

d) Another actor in contact with the victim draws attention to the potential victimisation

Yes. Representatives of NGOs and international organizations that remain in contact with third-country nationals, in particular the IOM.

e) Other

If a third-country national is detained in a guarded centre for foreigners or a detention centre prior to expulsion, he/she can be recognized as a victim of trafficking in human beings by an officer of the Border Guard.

Similarly, if a third-country national is lodged in a reception refugee centre, he/she can be recognized as a victim of trafficking in human beings by the employees of the centre.

2) If the competent authority detects that a rejected applicant may be a victim of trafficking in human beings, what are the next steps in terms of assessment?

a) Does Poland apply a standard set of indicators to assess whether the person is a (potential) victim?

No, but an uniform set of indicators used to identify victims of trafficking in human beings, to be used by the Border Guard and the Police, is soon to be implemented.

b) Are other mechanisms²⁰ used by the competent authority to assess whether a person detected as a (potential) victim should be identified as such (or referred onto formal identification procedures)?

Yes. If a third-country national is detained in a guarded centre for foreign-

ers or a detention centre prior to expulsion, he/she can be interviewed by the officers of the division of the Border Guard in charge of foreigners. The information obtained is confronted with the definition of trafficking in human beings contained in the Polish penal code²¹ - this procedure allows preliminary (unofficial) identification of potential victims of trafficking.

c) What happens if, following the assessment, the competent authority decides that the third-country national concerned is not a (potential) victim? Can s/he seek an alternative assessment elsewhere?

Yes. A foreigner can contact the National Consulting and Intervention Centre for Victims of Trafficking, which carries out an unofficial assessment to establish whether trafficking in human being has taken place (detection and informal identification) and, in the case of a positive diagnosis and with the consent of the foreigner, it refers the latter to the appropriate authority for formal identification – for example, to the operation and investigation division of the Border Guard (to the coordinator of combating trafficking in human beings).

21. Article 115 § 22 of the Act of 6 June 1997 the Penal Code states that human trafficking means recruitment, transportation, transfer, harbouring or receipt of persons with the use of the following:

1. Violence or unlawful threat,
2. Recruitment,
3. Deception,
4. Use of a deceit or taking advantage of inability for proper understanding of taken actions,
5. Abuse of dependence in the relationship, abuse of critical situation or a state of helplessness,
6. Provision or acceptance of material or personal benefit or promise thereof to a person taking care or having custody of another person- in order to abuse such person even if such abuse is performed upon the consent of such abused person, specifically in prostitution, pornography or other forms of sexual abuse, in forced labour or services, begging, slavery or other forms of abuse of human dignity or for the purpose of acquiring cells, tissues or organs in violation of the provisions of this law. If the conduct of the perpetrator is directed against a juvenile, it constitutes human trafficking, even if methods or measures mentioned in sections 1-6 have not been applied.

20. E.g. interviews.

3) Have methods for the detection and/ or identification of victims in forced return procedures been evaluated in Poland?

No. Third-country nationals who have received a decision on refusal to grant refugee status, and in relation to whom a decision on expulsion has been issued, shall be subject to the same procedures as the foreigners who have received a decision on expulsion. Their situations are therefore very different (they are lodged in refugee centres, detention centres for foreigners or other facilities specified in the decision on expulsion). Consequently, it is not possible to introduce a uniform procedure to identify potential victims of trafficking that would apply to this group of foreigners and to assess the method of action and its effectiveness.

3.3. Referral

1) If a rejected applicant is identified as a (potential) victim and there is the possibility to open up a procedure as foreseen under Directive 2004/81/EC, how does this work in practice? Can the rejected applicant (where relevant, with the support of his/her legal representative) decide whether or not s/he wishes to access the provisions of Directive 2004/81/EC or national equivalent measures?

Yes.

2) How is referral to the procedure as foreseen under Directive 2004/81/EC organised? Which one option, or a combination thereof, is applicable in Poland:

a) The (potential) victim is given information on his/her rights and possibilities, but has to initiate alternative procedures on

his/her own (where applicable with the help of his/her legal representative)

Yes. A foreigner identified as a victim of trafficking is informed of his/her rights, but must apply for a residence permit for a fixed period on his/her own (during the reflection period or following his/her decision to cooperate with law enforcement authorities).

b) The authorities competent for implementing the forced return procedure contact the authorities responsible for issuing a reflection period or residence permit

No.

c) There is a national referral/cooperation mechanism that helps him/her

Yes. A foreign national identified as a victim of trafficking in human beings is informed of his/her rights, including those deriving from the provisions of Directive 2004/81/EC, i.e. regarding residence permit. He/she is also informed of the activities of the National Consulting and Intervention Centre for Victims of Trafficking and can decide to either act alone (point a) scenario), or benefit from the assistance of the National Consulting and Intervention Centre for Victims of Trafficking. The Centre refers the third-country national (with his/her consent) to the appropriate authority in charge of formal identification, for example the operation and investigation division of the Border Guard, and helps the foreigner to organize their residence in accordance with legal provisions under the procedure provided for in the Act on Foreigners and in accordance with the provisions of the above Directive.

d) Can the applicant's dossier/evidence gathered to date by the law enforcement authorities be transferred to and used in



the new procedure for a reflection period or residence permit as foreseen under Directive 2004/81/EC?

No. Such practice is not in place.

3) Have systems of referral of (potential) victims from forced return procedures to other procedures been evaluated in Poland?

No. Third-country nationals who have received a decision on refusal to grant refugee status, and in relation to whom a decision on expulsion has been issued, shall be subject to the same procedures as the foreigners who have received a decision on expulsion. Their situations are therefore very different (they are lodged in refugee centres, detention centres or other facilities specified in the decision on expulsion). Consequently, it is not possible to introduce a uniform procedure to identify potential victims of trafficking that would apply to this group of foreigners and to assess the method of action and its effectiveness.

3.4. Future measures

1) Are any future measures anticipated in relation to improving or facilitating the detection and identification of victims of trafficking in human beings in procedures for forced return?

Yes. It is planned to implement a set of indicators for identification of victims of trafficking, to be used by the Border Guard, the Police and the Office for Foreigners. Training in the identification of potential victims of trafficking organized for the officers of the Border Guard and the employees of the Office for Foreigners shall be pursued.

4

Detection, identification and referral of victims by other related actors



4.1. Detection and identification of victims in reception centres/detention facilities

1) How are (potential) victims of trafficking in human beings detected in the following situations: whilst residing in reception centres for applicants of international protection or whilst detained in detention facilities for irregular migrants awaiting return²²? Is one of the scenarios below or a combination thereof is applicable to Poland:

a) All residents/detainees are screened for indications of trafficking in human beings

No.

b) All residents/detainees with a particular profile²³ for indications of trafficking in human beings

No.

22. In some (Member) States, third-country nationals awaiting return are not detained at all, whereas in some (Member) States, returnees are detained in regular prisons or in migration reception centres. These cases fall outside of the scope of this Study, and only detention facilities will be covered.

23. E.g. unaccompanied minors; children; women; women from particular geographical regions; women or children who, for example, when describing the route from their country to origin to the

c) Victims self-report

Yes. A victim can, at any stage, notify the competent authority (such as a coordinator of combating trafficking in human beings at the Border Guard) of the trafficking crime committed against him/her.

d) Another actor in contact with the victim draws attention to the potential victimisation

Yes. Representatives of non-governmental and international organizations who remain in contact with foreigners, such as the IOM.

e) Other

If a third-country national is lodged in a guarded centre for foreigners or a detention centre prior to expulsion, he/she can be identified as victims of trafficking in human beings by an officer of the Border Guard. Similarly, a foreigner living in reception centre for foreigners seeking for a refugee status may be recognized as a victim of trafficking by the employees of the centre.

EU Member State, refer to a known route used by traffickers.

2) Is the practice described above based on established guidelines/protocol

No, but a new²⁴ Algorithm of Conduct of Law Enforcement Officers in the Case of Revealing a Crime of Trafficking in Human Beings is currently being prepared; it is to outline the rules of procedure for the Border Guard in the event of identifying victims of trafficking in a detention centres for foreigners.

3) Are there different protocols and/or practices for children and adults?

No.

4) Are there different protocols and/or practices for men and women?

No.

5) What are the next steps in terms of assessment and identification? Is there a standard set of indicators used to assess whether the suspected victim should be identified as a victim?

Yes. It is planned to implement a standardized set of indicators to be used for the identification of potential victims of trafficking by the Border Guard, the Police and the Office for Foreigners.

Two levels of indicators used to identify potential victims of trafficking ex-

ist: level one (general indicators) is intended for the prevention division of the Police, the division in charge of foreigners of the Border Guard and the staff of the Office for Foreigners. They include questions that an officer/ employee of the Office for Foreigners should ask a potential victim in order to pre-identify victims of trafficking (unofficial identification); level two (specific indicators) is to be used by operational officers of the Police and the Border Guards who carry out operations aimed at detecting trafficking in human beings, competent to formally identify a foreigner as a victim of trafficking (co-ordinators of combating trafficking in human beings in Police and Border Guards).

6) Are other mechanisms²⁵ used to assess whether a suspected victim should be identified as such?

Yes. Among the existing mechanisms, the interview with a third-country national by an officer of the Border Guard should be emphasized. Information obtained in the course of the interview is confronted with the definition of trafficking in human beings in the provisions of Polish criminal law or with the general indicators.²⁶ This procedure constitutes the preliminary (unofficial) identification of potential victims of trafficking.

24. Algorithm of Conduct of Law Enforcement Officers in the Case of Revealing a Crime of Trafficking in Human Beings was developed in 2007 and constitutes a set of guidelines to be used by the Police and the Border Guard in the event of disclosure or suspicion of trafficking in human beings. Taking into account both the specific nature of this type of crime and the need to comply with national and international standards, the document has the form of recommendations, focusing primarily on outlining the mode of conduct of law enforcement officers with respect to victims of trafficking in human beings.

25. E.g. interviews.

26. See footnote 48.

4.2. Referral of (potential) victim-sin reception centres/detention facilities

1) What are the next steps in terms of referral?

a) The (potential) victim is provided information on his/her rights and possibilities, but s/he has to initiate alternative procedures on his/her own (where applicable with the help of his/her legal representative)

Yes. A foreigner identified as a victim of trafficking is informed of his/her rights, but must apply for a residence permit for a specified period of time on his/her own (in the reflection period or following his/her decision to cooperate with a law enforcement authority).

b) The reception centre/detention facility manager or other contact point in these institutions contacts the authorities responsible for issuing a reflection period or residence permit. There is a centralised national referral/coordination mechanism/contact point that helps him/her

Yes. A foreign national identified as a victim of trafficking in human beings is informed of his/her rights, including those deriving from the provisions of Directive 2004/81/EC, i.e. regarding residence permit. He/she is also informed of the activities of the National Consulting and Intervention Centre for Victims of Trafficking and can decide to either act alone (point a) scenario), or benefit from the assistance of the National Consulting and Intervention Centre for Victims of Trafficking. The Centre refers the third-country national (with his/her consent) to the appropriate authority

in charge of formal identification, for example the operation and investigation division of the Border Guard, and helps the foreigner to organize their residence in accordance with legal provisions under the procedure provided for in the Act on Foreigners and in accordance with the provisions of the above Directive.

2) Have systems of detection and referral by actors in reception centres or detention facilities to procedures for victims of trafficking in human beings been evaluated in Poland?²⁷

No. On the basis of past practice (limited number of reported cases), it can be stated that the mechanism of detection of victims by the Border Guard and their referral to competent entities who provide them with the necessary assistance has been operating adequately with respect to foreigners residing in detention centres.

4.3. Role of other actors

1) Do other actors coming into contact with applicants and rejected applicants – e.g. legal representatives, civil society organisations, medical staff – formally detect detection (potential) victims amongst third-country nationals in international protection and/or forced return procedures and refer them onto other authorities competent to identify and assist?

Yes. Representatives of NGOs working with refugees and international organizations, such as the IOM, who remain in direct contact with a foreigner, can report to the competent

27. For example, if a national referral mechanism or (other) coordination mechanism exists, has this been evaluated?

authority that he/she is a potential victim of trafficking in human beings, i.e. the coordinator for the fight against trafficking in human beings at the operation and investigation division of the Border Guard and refer him/her to the National Consulting and Intervention Centre for Victims of Trafficking in order to provide the victim with the necessary assistance.

The staff of the centre can also carry out an unofficial identification through their direct contact with third-country nationals. Should they suspect that the foreigner is a victim of trafficking, they report it to the coordinator of combating of trafficking in human beings at the Border Guard or the Police.

5

Training



1) What guidance and training do competent authorities (and optionally other actors) receive regarding the detection and identification of victims?

Trainings regarding the detection and identification of victims are provided to Border Guard officers of the division in charge of foreigners (from the guarded centres for foreigners or a detention centres prior to expulsion) and of the operation and investigation division (competent to formal identification of a victim and to carry out the proceedings), to the staff of the Office for Foreigners who are responsible for granting refugee status, and to the staff of the non-governmental organisations who assist foreigners in the procedure of granting refugee status. The trainings cover inter alia:

- *indicators for detecting/identifying victims,*
- *profiling techniques,*
- *gender-sensitive approaches for engaging with victims,*
- *building trust and engaging with (potential) victim,*
- *definition of trafficking in human beings,*

- *operation methods used by traffickers,*
- *rights of victims of trafficking in human beings,*
- *system of support and protection of victims of trafficking in Poland,*
- *trafficking of children.*

2) Which stakeholders are trained?

Stakeholders are officers of the Border Guard, the staff of the Office for Foreigners and the staff of NGOs working with refugees.

3) What is the type of training/guidance (e.g. Training module, Training workshop, Examination, Guidelines, Brochure, Other)?

One or two-day training sessions are usually organized. The programme provides for thematic presentations in the form of lectures and workshops; participants receive information materials.

4) Which authority/organisation provides the training?

Unit against Trafficking in Human Beings at the Migration Policy Department of the Ministry of the Interior in cooperation with the Border Guard Headquarters and non-governmental organizations.

5) How often the trainings are organised (e.g. annually, one-off, induction training, etc.)?

Annually.

6) Is the training obligatory?

Yes.

7) Have joint training sessions of trainees from different backgrounds been organised – e.g. personnel involved in procedures for international protection, forced return and those for victims of trafficking in human beings?

No.

8) Have multi-disciplinary trainings been organised – i.e.as provided by a range of experts?

Yes. Training sessions are usually led by several experts representing a number of institutions (law enforcement authorities, state administration, non-governmental organizations).

Conclusions



The following list outlines the most important tasks concerned improving the identification of potential victims of trafficking in human beings among third-country nationals seeking refugee status and those in relation to whom a forced removal decision has been issued:

1. preparation and implementation of a set of indicators for identification of victims of trafficking among foreigners seeking international protection in Poland;
2. preparation and implementation of a uniform mechanism in relation to the suspected trafficking in human beings;
3. carrying out trainings for institutions and staff involved in the procedure of granting international protection and forced return;
4. continuous monitoring of the implemented actions with the aim of enhancing the effectiveness of the national referral mechanism.

first half of 2013 activities aiming at implementation of the above-mentioned tasks.

It should be noted that, following the recognition of shortcomings in identification of potential victims of trafficking, the Unit against Trafficking in Human Beings at the Migration Policy Department of the Ministry of the Interior has undertaken in the

Table 1. Statistics on third-country national victims of trafficking in human beings identified in procedures for international protection and forced return

	2008	2009	2010	2011	2012 r.	Source/further information
Third-country nationals identified as (potential) victims and who have withdrawn from or stopped procedures for international protection						
Number of third-country nationals who have withdrawn from or stopped (EU harmonised) international protection procedures (or – where relevant – have stayed in international protection procedures) and who have (later) been granted a reflection period as a (potential) victim of trafficking in human beings (e.g. under procedures outlined in Directive 2004/81/EC, Directive 2011/36/EU or other national provisions).	0	0	0	0	0	No statistical data available
Where possible, please disaggregate for: Gender, age, nationality of the person identified						
Number of third-country nationals who have withdrawn from or stopped (EU harmonised) international protection procedures and who have (later) applied for a (temporary or permanent) residence permit as a victim of trafficking in human beings cooperating with the authorities (i.e. under procedures outlined in Directive 2004/81/EC or alternative procedures where your (Member) State does not implement this Directive).	0	0	0	0	0	No statistical data available
Where possible, please disaggregate for: Gender, age, nationality of the person identified						
Number of third-country nationals who have withdrawn from or stopped (EU harmonised) international protection procedures and who have (later) been granted a (temporary or permanent) residence permit as a victim of trafficking in human beings (i.e. under procedures outlined in Directive 2004/81/EC or alternative procedures where your (Member) State does not implement this Directive).	0	0	0	0	0	No statistical data available
Where possible, please disaggregate for: Gender, age, nationality of the person identified						

Table 1. Statistics on third-country national victims of trafficking in human beings identified in procedures for international protection and forced return (continued)

	2008	2009	2010	2011	2012 r.	Source/further information
Third-country nationals identified as (potential) victims and who have been rejected from procedures for international protection following a (final) negative decision						
Number of third-country nationals who have been rejected from (EU harmonised) international protection procedures following a (final) negative decision on their application and who have (later) been granted a (non-EU harmonised) protection status or residence permit (e.g. on humanitarian grounds) as a victim of trafficking in human beings (e.g. due to humanitarian reasons).	Not applicable					Applications for international protection are assessed in relations to all the categories of protection in the framework of a single refugee status procedure.
Where possible, please disaggregate for: Gender, age, nationality of the person identified						
Number of third-country nationals who have been rejected from (EU harmonised) international protection procedures following a negative decision and who have – following official identification procedures – (later) been granted a reflection period as a (potential) victim of trafficking in human beings (e.g. under procedures outlined in Directive 2004/81/EC or Directive 2011/36/EU or other national provisions).	0	0	0	0	0	No statistical data available
Where possible, please disaggregate for: Gender, age, nationality of the person identified						
Number of third-country nationals who have been rejected from (EU harmonised) international protection procedures following a negative decision and who have – following official identification procedures – (later) been granted a residence permit as a victim of trafficking in human beings (i.e. under procedures outlined in Directive 2004/81/EC or alternative procedures where your (Member) State does not implement this Directive).	0	0	0	0	0	No statistical data available
Where possible, please disaggregate for: Gender, age, nationality of the person identified						

Table 1. Statistics on third-country national victims of trafficking in human beings identified in procedures for international protection and forced return (continued)

	2008	2009	2010	2011	2012 r.	Source/further information
Statistics on referrals to national referral mechanisms (where existing)						
- Number of third-country nationals referred by the authorities responsible for examining and deciding upon applications for international protection to the NRM	0	0	0	0	0	Data generated within the Programme of support and protection of victims/witnesses of trafficking in human beings (third-country nationals) carried out in the framework of the National Consulting and Intervention Center for Victims of Trafficking
- Number of third-country nationals referred by the authorities responsible for enforcing forced returns to the NRM	0	0	0	0	0	No statistical data available
- Number of third-country nationals referred by the authorities responsible for managing reception centres to the NRM	0	0	0	0	0	No statistical data available
- Number of third-country nationals referred by the authorities responsible for managing detention facilities to the NRM	4 (Mongolia, women aged 22 - 37)	1 (Nigeria, women aged 22)	6 (5 Nepal, 1 Belarus, women aged 27 - 36)	1 (Cameroon, woman aged 27)	0	Data generated within the Programme of support and protection of victims/witnesses of trafficking in human beings (third-country nationals) carried out in the framework of the National Consulting and Intervention Center for Victims of Trafficking

Table 1. Statistics on third-country national victims of trafficking in human beings identified in procedures for international protection and forced return (continued)

	2008	2009	2010	2011	2012 r.	Source/further information
- Number of third-country nationals referred by legal representatives to the NRM	0	0	0	0	0	No statistical data available
- Number of third-country nationals referred by civil society to the NRM	0	0	0	0	0	No statistical data available
- Number of third-country nationals referred by other actors to the NRM	0	0	0	0	0	No statistical data available
Where possible, please disaggregate for: Gender, age, nationality of the person identified						
General statistics						
Number of third-country nationals who have been granted a (non-EU harmonised) protection status or residence permit as a victim of trafficking in human beings (e.g. due to humanitarian reasons).	2	1	0	0	0	Data generated from the Programme of support and protection of victims/witnesses of trafficking in human beings (third-country nationals) carried out in the framework of the National Consulting and Intervention Center for Victims of Trafficking
Number of third-country nationals who have been granted a residence permit as a victim of trafficking in human beings (e.g. under procedures outlined in Directive 2004/81/EC or Directive 2011/36/EU).	0	1	3	3	10	

Table 1. Statistics on third-country national victims of trafficking in human beings identified in procedures for international protection and forced return (continued)

	2008	2009	2010	2011	2012 r.	Source/further information
Number of third-country nationals referred to procedures for victims of trafficking in human beings through the NRM	8	92	131	29	56	Data generated from the annual reports of the National Consulting and Intervention Center for Victims of Trafficking, 2009 - 2012; 2008 data regarding the implementation of the Programme of support and protection of victims/witnesses of trafficking in human beings (third-country nationals)

The phenomenon of trafficking in human beings is often referred to as “the slavery of our times”. The key issue in counteracting this practice is, doubtlessly, the appropriate identification of potential victims.

Neither the identification of potential victims of human trafficking within the procedure of granting the refugee status in Poland nor the execution of the decision obliging the foreigner to leave the country have been subjects of many debates at the national forum in Poland. Nevertheless, national experts claim that the insufficient identification of victims of human trafficking in the procedures for granting international protection as well as forced returns is a loophole in the national system of preventing human trafficking.

This study presents urgent challenges that Polish national authorities responsible for preventing the trafficking in human beings have to respond to, in particular in the context of new, identifiable threats and problems faced by the system of preventing trafficking in human beings (in place since the mid 1990s). Reference to the ways of implementing recovery actions was also made.

ISBN: 978-83-64955-04-4

Ministry of the Interior - Migration Policy Department
National Contact Point to the European Migration Network in Poland
5, Stefana Batorego St.
02-591 Warsaw, Poland
esm@msw.gov.pl
www.emn.gov.pl