The EU Mutual Learning Programme in Gender Equality

Combatting trafficking in women and girls for the purpose of sexual exploitation
Spain, 29-30 October 2018

Summary Report

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Introduction

The Mutual Learning Seminar on Combatting Trafficking in women and girls for the purpose of sexual exploitation took place in Madrid on 29-30 October 2018. Host country Spain presented its activities aimed at reducing demand and promoting multi-agency coordination and communication in the fight against trafficking. The peer countries taking part were Cyprus, Denmark, Estonia, Finland, France, Greece, Ireland, Malta, Poland, Portugal, Romania, Slovakia, Slovenia, Sweden and the United Kingdom. The European Commission (DG JUST and DG HOME) and the European Institute for Gender Equality were also represented.

EU and Member State policy in the field is framed by, in particular, the Anti-Trafficking Directive 2011/36/EU, the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime, the Council of Europe’s Convention on Action against Trafficking in Human Beings and the Council of Europe’s Istanbul Convention on preventing and combating violence against women and domestic violence.

Trafficking in human beings is a criminal activity and a grave violation of fundamental rights: it means the buying and selling of human beings like commodities. The European Commission has recognised trafficking as a structural form of violence against women and girls and has stressed that gender shapes the whole cycle of trafficking in human beings. The European Commission’s first progress report¹ (2016) confirmed that the vast majority of victims are women and girls, trafficked for sexual exploitation. According to the EU Anti-Trafficking Directive, Member States have a legal obligation to address the gender-specific aspects of trafficking, which takes place because it is profitable, and fuelled by the interplay of supply and demand. There are estimates of profits of €29.5 billion a year.

A Europol report² issued on the EU Anti-Trafficking Day (18 October) found criminal groups are more and more active, with a growing demand for girls aged 11-16, since clients are eager to pay more for children. Article 18 of the Anti-Trafficking Directive obliges Member States to take steps to reduce demand, but this is not happening in many countries. Only 10 Member States have criminalised using services exacted by victims of trafficking. Fourteen have no measures in place for all forms of exploitation. The Commission’s priority is to end impunity in line with the Communication adopted in December 2017. Reference was also made to the Report adopted by EIGE on the occasion of the EU Anti-Trafficking Day in 2018 entitled ‘Gender specific measures in anti-trafficking actions’.


Spain, 29-30 October 2018 1
New forms of exploitation include forced marriage, pornography, and the live streaming of sexual abuse of children. Most women registered in the EU are EU citizens. The Commission will report on updates of Directive 2004/81/EC on residence permits for third-country nationals who are victims of trafficking and who cooperate with the competent authorities, which remains underutilised.

The role of civil society was stressed and the EU’s Civil Society Platform against Trafficking brings together more than 100 NGOs working on the issue. Together with the European Institute for Gender Equality (EIGE), the European Commission has published a report on gender-specific actions in anti-trafficking actions3 a deliverable of the Communication of December 2017.

1. The good practice of the host country

1.1. Background

Spain is a country of transit and destination for trafficked women and girls, as well as a country of origin for child victims. The highest proportions of trafficked women come from Nigeria and Romania. Since the election of a new government in June 2018, equality policy has come under the Ministry of the Presidency, which proposes and coordinates policy to combat violence against women and fosters cooperation between other ministries (Labour, Equality, Justice and the Interior) and regional administrations.

The current Comprehensive Plan to Fight against Trafficking in Women and Girls for Sexual Exploitation (2015-2018) is coordinated by the Government Delegation against Gender-based Violence (GBV) and aims to mainstream policies as trafficking is not gender-neutral. The Plan has five priorities: strengthening prevention and detection, identifying and protecting victims, analysing data, prosecuting crime and increasing coordination between agencies.

Since 2009, Spain has modified its legal framework to criminalise trafficking and protect victims (VoT), under the 2011 Framework Protocol for the Protection of VoT, e.g. offering free legal aid. The approach is victim-centred and gender-specific. The autonomy of Spanish regions makes policy coordination more complicated. Measures must be coordinated at all levels. The National Rapporteur thus plays a key role in monitoring and liaising with civil society.

1.2 Reducing demand and aiding victims

According to the EU's Strategy for the Eradication of Trafficking in Human Beings (2012-2016), the demand for sexual services is a main incentive for traffickers. A European Parliament resolution in 2014 called for criminal responsibility to be placed


Spain, 29-30 October 2018
on purchasers, not sellers. In this context, Spain takes steps to reduce demand by campaigns to make men aware that by buying sex they may support trafficking. Some 32% of Spanish men report having paid for sex at least once.

Early detection of trafficked victims is carried out by different professional bodies with specific protocols (police, health services, labour inspectorates, social services, refugee centres etc.). Identification and protection are not conditional on cooperation with the authorities but based on “reasonable grounds”. Following identification, victims should receive residence and work permits. NGOs are involved in offering services and protection across Spain, with some state funding, but there is no direct financial assistance.

Obtaining data is a major challenge and the GBV delegation uses different sources including intelligence agencies combatting crime and terrorism, refugee centres, NGOs, and women themselves in clubs etc.

After a complaint is received, the pre-trial investigation phase is led by judges and special prosecutors. Gathering evidence takes six months to two years on average, or longer for complex cases. It may involve, for example, surveillance, wire-tapping, analysis of internet data, search warrants and witness statements. Financial investigations to dismantle criminal organisations are complex and take time. Judges assess the protection needs of victims/witnesses which may be for an indefinite period, but they cannot guarantee protection for families in countries of origin.

The case itself is heard by three judges. Some 40% of convictions rely partly on pre-constituted (pre-recorded) evidence. However, the law requires a justification for the complainant/witness’s absence from court, so it tends to be used for minors or when the victim cannot be found. Amending the law so as to make pre-constituted evidence admissible as proof could avoid secondary victimisation. Sometimes acquittals happen because of the victims’ alleged lack of credibility, so judges need to be more aware of the difficulties victims face.

The strong point of Spanish policy is the effort to reduce demand through awareness-raising among men, challenging their idea that prostitutes are free to choose rather than being forced into selling sex by trafficking or poverty. It recognises that trafficking of women and girls is a social issue and a violation of human rights. However, the lack of specific legislation on prostitution regarding demand and pimping is a weakness. Action to reduce demand must also address sex education, advertising of sexual services and pornography, and sex tourism.

1.3. Film presentation

Participants watched the film *El Proxeneta, Paso corto, mala leche* (*The Pimp, Slow gait, bad blood*) directed by Mabel Lozano, featuring a former pimp and trafficker describing how he lured young women from countries like Colombia and Romania into prostitution in a network of Spanish clubs, with false promises of work and residence papers. The women were regarded as ‘materials’ and were controlled by a
combination of psychological and physical violence, coupled with threats against family members. Most were worn out after three years and discarded, to survive as they could or be deported.

Introducing the film, Mabel Lozano pointed out that this man exploited 1,700 women over a period of 12 years, including 200 minors. She insisted that Spanish legislation is too lenient and stronger measures are needed to punish pimps and those who use services by victims of trafficking.

2. The situation in the other participating countries

Cyprus is a destination country for trafficked people, with the majority of victims forced in false marriages, although labour and sexual exploitation are also common, and instances are underreported. The Prevention and Combatting of Trafficking and Exploitation of Persons and the Protection of Victims law (60(I)/2014) outlaws all forms of trafficking and imposes severe sanctions. Service users may be punished, but only if there are ‘reasonable grounds’ to believe that the victim has been trafficked, making prosecution difficult. A National Coordinator in the Ministry of the Interior and the Multidisciplinary Coordinating Group, set up on 2007, coordinate policies. One of the group’s duties is to cooperate with other countries of origin, transit or destination. The fourth National Action Plan for the Coordination of Actions to Combat Trafficking in Human Beings in Cyprus (2016-2018) is currently in force. A debate is underway on amending law 60(I) 2014 to criminalise users. Regarding good practice, Cyprus has developed a manual to help police, social and judicial services to recognise and support victims.

Denmark has been committed to fighting human trafficking since 2000 and launched its first national Action Plan to Combat Trafficking in Women in 2002. However, since 2007 the country has adopted a more gender-neutral stance covering wider forms of forced work, even though most victims are women trafficked into sexual exploitation. Sale and purchase of sexual services is not a criminal offence. While demand has not increased, more foreign women are now offering sexual services. Denmark has not taken steps to reduce demand for sexual services but has launched awareness programmes on sex trafficking. The fifth Action Plan (2019-2021) covers five priority areas: preventing trafficking, identifying and offering tailored support to victims, prosecuting traffickers, and policy coordination. A Danish Centre against Human Trafficking was set up in 2007. However, the country’s strict immigration rules mean that victims are being deported without protection.

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4 For more information on the situation in the participating countries, please refer to the country papers for this seminar, published on the Programme’s website: https://ec.europa.eu/info/publications/mlp-gender-equality-seminar-combatting-trafficking-women-and-girls-purpose-sexual-exploitation_en
In **Estonia**, trafficking of human beings has been illegal under the Criminal Code since 2012. The Victim Support Act frames state support for victims including housing, catering and health services, even if no criminal proceedings are foreseen. Temporary residence permits are granted to victims and/or witnesses, with a ‘reflection’ period of up to 60 days. Prevention measures include awareness raising campaigns such as 1ELU and ‘Naine ei ole kaup!’ (A woman is not a product). Two NGOs offer an anti-trafficking hotline and counselling and rehabilitation services and are involved in identification and referral of victims. Estonia has criminalised some forms of buying of sex and a debate is underway on banning prostitution as a means to counter trafficking and pimping. Estonia’s Victim Support Service provides support and assistance and liaises between NGOs and government services.

Legislation in **Finland** prohibits purchasing sex from human trafficking victims or people under 18. Buying and selling sex in public is prohibited. Human trafficking entered the Criminal Code in 2004. However, there are few convictions, and no educational or information campaigns to reduce demand. Human trafficking tends to be treated separately from prostitution and Finland, like Denmark, adopts gender-neutral policies. However, since the 1990s the government has regarded prostitution as harmful to society. In a 2018 report, the independent Non-Discrimination Ombudsperson, who acts as National Rapporteur on Trafficking in Human Beings, found that the close link between seeking support from authorities/services and criminal proceedings discourages many victims from coming forward. In October, an initiative was launched to remove sale of sexual services as grounds for deportation.

**France’s** Penal Code (Art 225-4-1) defines the crime of human trafficking, under internal security measures. In 2016, the country passed a new law on prostitution designed to attack sex trade networks. Women leaving prostitution have the right to a six-month residence and work permit. During a 30-day reflection period, they can decide whether to prosecute and give evidence against their trafficker. A 2015 Court decision granting refugee status to a women trafficked into sexual exploitation opens the door to further applications. In 2014, France adopted a National Action Plan against Human Trafficking aimed at identifying victims and dismantling networks. A joint government/NGO publicity campaign informs men that buying sex means participating in the trafficking of human beings, but its impact has not been assessed.

**Greece** is largely a transit and destination country, serving as an entry point for women trafficked into the western European sex trade. The first criminal legislation was introduced in 2002 and further measures defining victims’ rights have followed. Adult victims have a three-month reflection period, extended to six months for minors, and victims who do not wish to cooperate with police can be certified by two experts. But lack of data and underreporting are major challenges. Policy is coordinated by the office of the National Rapporteur. Prostitution is legal, for adults, in regulated brothels, and men are not prosecuted for sex with minors if they ‘believed’ they were over 18. A working group report in 2017 found prostitution to be an abuse of human rights and proposed adopting the Nordic approach of punishing buyers and protecting sellers, initiating a wider debate on the issue. Efforts to raise awareness have been launched through radio, TV and public campaigns.
Ireland’s legislation to combat trafficking dates from 2008. The second National Action Plan to Prevent and Combat Human Trafficking was published in 2016. However, the 2017 Council of Europe expert evaluation report (GRETA) called for measures to strengthen victims’ rights. In 2012, the government launched a consultation on Ireland’s prostitution legislation, followed by a recommendation from a cross-parliamentary committee that purchasing of sex should be criminalised. In 2017, the Criminal Law (Sexual Offences) Act came into force, subject to a three-year review clause.

Malta set up an Anti-Human Trafficking Monitoring Committee and Stakeholder Task Force in 2011 to monitor policy. Prevention measures have included 30-second TV clips and training for police, health professionals etc. The country is witnessing a growing demand for prostitution, including sex tourism, found in unregulated brothels, and is a country of destination for traffickers. Prostitution is not illegal, but soliciting, running premises and living off the profits of prostitution are criminal offences. Trafficked victims cannot claim compensation because prostitution is not seen as employment, and access to justice is difficult. A policy debate is underway, with the option of tightening penalties for buying sex.

In Poland, prostitutes are not criminally liable, but procuring is an offence punishable by up to five years imprisonment (10 years for procuring minors). Using threats, deception or violence to force a person into prostitution is also outlawed. Since 2010, sexual exploitation has been defined as one form of human trafficking. The anti-trafficking foundation La Strada carries out prevention activities targeting forced labour as well as sexual exploitation, including a number of video clips: the first – ‘You have the Right to Dream’ – was in 1998. Taboos surrounding sexuality mean that prostitution is not discussed. Underage victims seldom receive the support and help they need, and buyers escape prosecution. Since 2010, Poland has started to provide training for key workers including police and border guards.

In Portugal, trafficking has been a crime against personal liberty since 2007, and covers labour and organ trafficking as well as sexual exploitation. Begging, slavery and other criminal activities have since been added. A Network for Support and Protection of Victims of Trafficking establishes multi-agency coordination. Prevention activities include raising awareness through the media, strengthening identification procedures and training for relevant professionals, but this could be broadened. Prostitution is more widely tolerated than trafficking. Portuguese law criminalises pimps but not prostitutes themselves.

Romania is a major source country for trafficked women and girls. In 2017, 51% of identified victims were minors. Adult women are more likely to be trafficked abroad, to other European countries. The first law against trafficking was introduced in 2001. In 2007, a National Agency against Trafficking in Persons was set up to coordinate and monitor activities and research trends. The National Identification and Referral Mechanism detects victims and assesses needs. Support is victim-centred and personalised. Public-civic campaigns are aimed at potential victims, but international
efforts are needed to reduce demand in other countries. The National Agency manages the safe repatriation of victims identified abroad.

In terms of legislation, **Slovakia** complies with international standards for the elimination of trafficking. However, light or suspended sentences for convicted traffickers fail to protect victims, and Romani women are especially vulnerable. The 2015-2018 National Programme for Combatting Human Trafficking coordinates activities and assistance to victims, in cooperation with civil society organisations which offer shelter, healthcare, psycho-social and other services. Sham marriages are an area of growing concern. Prostitution is not criminalised, but pimping is. The Expert Group in the Field of Combating Human Trafficking brings together government and NGO representatives, and a National Unit of border police investigates trafficking by international criminal groups. A national helpline offers advice to victims, and a mobile app called **SAFE**, developed with the International Organisation for Migration (IOM), is an innovative way to inform young travellers about avoiding danger.

**Slovenia** is mainly a country of transit for traffickers, but also of origin and destination. Trafficking is outlawed, together with enslavement, forced marriage and undeclared employment. In-depth research is needed into the extent of trafficking on the Balkan route, where young boys are also vulnerable, to underpin more coherent measures to assist and empower individual victims. Alongside the National Coordinator, the National Working Group on Combatting Trafficking in Human Beings involves government, NGO and trade union representatives. Current discussion focuses on residence and reintegration for survivors and the relationship between trafficking and prostitution. Regarding good practice, the Telesnica project organised 60 information workshops for young people in schools and colleges.

**Sweden** focuses action against human trafficking on prostitution, with the aim of promoting gender equality and ending violence against women. Sweden was the first country to pass legislation prohibiting the purchase of sexual services (not the selling), and other countries have since followed suit. In 2018 the government published a new national action plan to combat trafficking and prostitution, but civil society felt it lacks funding and a victim-oriented approach and urges that victims should be granted automatic asylum. Formal identification through the National Referral Mechanism requires a police report, but convictions are rare. Police can offer a reflection period of 30 days, or a temporary residence permit of up to six months. A hotline exists for notifications. Assistance is provided directly by Sweden’s 290 municipalities, with the support of Regional Coordinators. The National Support Programme offers aid to victims who do not want to report to the police.

In the **United Kingdom**, legislation was amended in 2004 and 2008 to penalise those who purchase sex from a victim of violence or exploitation. In 2015, purchasing sex was criminalised in Northern Ireland only. The Modern Slavery Act 2015 targets all forms of modern slavery. The National Referral Mechanism is designed to identify victims or potential victims of human trafficking and ensure they receive appropriate support. It collects data on modern slavery but not on convictions for sex trafficking.
3. Key issues discussed during the seminar

Participants agreed strongly that measures to combat trafficking must adopt a gender perspective, since women and girls make up the majority of victims. They should centre on the welfare of the victims, who should not be punished for crimes they have been forced to commit, or for immigration related offences.

A victim-centred approach means listening to individual women and the professionals working with them. It is important to understand that some women are more vulnerable than others due to race, poverty, conflict, class, lack of education or family support, or other discrimination factors. Victims are often pregnant or have dependent children.

Several participants endorsed the view that prostitution provides the major incentive for traffickers, while at the same time destroying women’s human dignity, objectifying them and putting them at the service of men. They felt therefore that trafficking could not be separated from prostitution. There was some support for buying sex to be criminalised, as the most effective way to curb demand and reduce trafficking in human beings, although there was not an overall consensus.

Different EU Member States have different laws on prostitution, ranging from a ban on buying sex to legalised prostitution in regulated brothels. In some countries where prostitution is not legal, it is nonetheless tolerated within certain limits. Child sexual exploitation and trafficking are criminal offences (see country reports). The question many posed was how to reduce demand when the sex trade is legal. They regarded legalisation as making it easier for criminals to import trafficked women into existing clubs and networks, and contributing to the ‘normalisation’ of sexual exploitation.

Participants highlighted the role of pimps. In several countries where prostitution is permitted, pimping or living off the profits of selling sex is not. Pimps and procurers use various methods to imprison women in the sex trade including fake promises of residence and work permits in the destination country, physical violence, and threats to families in the country of origin. Debt-binding is another technique: forcing women to continue working to pay off their transport to Europe, accommodation, health checks, documents or other services they are compelled to use. Migration restrictions encourage potential victims to take risks in order to gain access to European countries. But they also punish them, since it is easy for pimps to threaten and discard trafficked women to be deported as illegal immigrants.

There was concern that more men are buying sex through new kinds of clubs that target young men through disco nights and events such as stag parties. Advertising and pornography create new demand and also spread the idea that buying sex is an acceptable activity for young men. Pornography was described as the “anti-chamber” of prostitution, sexually exploiting women and children while at the same time increasing demand for abusive forms of sexual activity, and there was concern that this is increasingly available online to young people. Stereotypical images contribute to a general impression that women are available for sex. Spain punishes possession of violent porn but cannot reach the countries where it is produced.
The need to raise awareness about trafficking for sexual exploitation was emphasised. Ultimately, education and culture are stronger than prohibition, so a new profile of masculinity needs to be encouraged.

Participants highlighted other phenomena related to trafficking, including organ trading, begging and forced labour, and sham marriages – for example, young Roma women in Slovakia forced to marry men from third countries. Visa exemption policies make it easier to import women from e.g. Ukraine.

The links between trafficking and migration were raised. Identification of victims becomes more difficult in this context. But there are organisations like Médecins du Monde that have developed indicators on exploitation. Immigration controls must not take precedence over human rights.

Re-trafficking of former victims was identified as a major problem. Participants expressed frustration that women who are helped to escape from sexual exploitation cannot be protected once they return ‘home’ to their country of origin. If there were legal immigration routes there would be fewer trafficking opportunities. Recommendations included providing victims and their families with micro-financing and relocation to a country of their choice. The IOM operates a voluntary return programme. But women should not be returned to countries where they are likely to face social stigma and domestic violence.

Many questions focused on identification of victims. Spain carries out proactive identification in clubs and workplaces by police, labour inspectors etc. One quarter of victims are detected during administrative inspections. It is very important to work closely with civil society organisations in exchanging information. Portugal has experts in the border services, but NGOs should also be present to ensure women victims of trafficking are identified on entry, and not deported as illegal immigrants. It should also be possible to find victims online: if men can access these services then police should be able to as well.

In Spain, it is not necessary for a victim to be officially identified before receiving help. As soon as police suspect trafficking, they contact a specialised NGO which will intervene. However, measures may not be standard across the country. Involvement of NGOs at all stages is very important. Sweden’s NGO Platform, involving 20 different organisations offering specialist services, was cited as an example of good practice. Multi-agency cooperation means bringing together and consulting all service providers including health, childcare, housing, welfare and more.

Protection of victims was a major concern. The principle of non-punishment is not respected. They should not be criminalised, but different Member States adopt different procedures. For example, Sweden, Malta, Ireland, Greece, Slovenia and Denmark do not prosecute victims of trafficking. But problems arise when the victims do not collaborate with police and authorities and are not formally identified – hence immigration rules may lead to deportation. Some other Member States have no laws on prosecution (Portugal, Poland). In Malta and Greece, women victims of trafficking in brothels may still be charged with living off illegal earnings. Charges are suspended if criminal proceedings against traffickers take place, but if they are acquitted the
victims can be prosecuted instead. Further conditions for support and protection may be imposed, such as exiting the sex trade. It was agreed that such conditions should be lifted, and assistance separated from criminal prosecutions. Victims should receive free legal aid.

**Compensation** is very important. Many victims act in search of a better life, so the value of money should not be underestimated. When pimps or traffickers have no funds – or they cannot be found – women often receive nothing, and in some countries compensation is so low that it is not worth applying for. In Spain, the average compensation is around €150. Polish law does not allow for confiscation of criminals’ goods. In Sweden, Denmark and Slovenia all convicted offenders must pay into a fund for victims, while Sweden also has a special authority responsible for making payments. Obtaining compensation is a major challenge, but important for victims for starting a new life.

Victims may also be protected or compensated as witnesses. However, the small number of convictions is a widespread problem, together with the length of court proceedings (up to 14 years in some countries). During that time, victims in some countries are barred from travelling or receiving benefits. There are difficulties in accessing compensation especially for victims of trafficking trafficked in the prostitution sector.

Some research shows that **judges’ personal attitudes influence trial outcomes**, and cultural differences can be significant. Some judges are still influenced by patriarchal and stereotypical attitudes towards women. Judges, the police, prosecutors and labour inspectors need special training, as also included in the Istanbul Convention and the EU Directive, yet many members of the judiciary feel they are infallible and have nothing to learn. Independent NGOs are best placed to provide training because they are sensitive to the needs of victims. In Poland, judges are invited to be peer educators because other judges trust them.

Better **research/data** are needed from a range of sources including NGOs. Participants raised the challenge posed by online technologies and how to monitor and control social media. Spain has a specialist police unit dealing with online crime such as recruitment through social networks.

**Multi-agency cooperation** is vital. Sweden, for instance, has regional coordinators against prostitution and trafficking who work with municipalities and support agencies.

**Better cross-border cooperation** and exchange of experience are needed, with prevention as the top priority. More should be done to support countries of origin so that women are not forced to flee from poverty and war. It is important to understand the factors increasing risks for women being trafficked. Trafficking is a global phenomenon and cooperation between countries of origin, transit and destination is crucial.
5. Conclusions

In summary, the following main messages and policy priorities emerged from the discussions:

- Measures to combat trafficking must be gender specific, as women and girls make up the majority of victims.
- A victim-centred approach needs to be adopted which takes account of intersectional vulnerabilities (e.g. inequality factors such as race, sexual orientation and age). This includes listening to the voices of victims and those who work with them. The focus should be on the welfare of the victims.
- There is a need for more holistic policies (short, medium and long-germ) and to attend to the extended needs of victims (e.g. including also their children).
- Adequate compensation for victims of trafficking is very important for them to be able to start a new life.
- More research and data on human trafficking and its gender dimension are necessary from a range of sources, including NGOs.
- Enhanced cooperation between agencies at all levels as well as relevant NGOs and other stakeholders is vital. Appointing a national rapporteur may facilitate the process.
- Raising awareness about trafficking for sexual exploitation among the general public, potential buyers of sex as well as law enforcement officers is important. Targeted education is furthermore vital for combatting stereotypical images of women and promoting new profiles of masculinity for men.
- Judges, police and prosecutors need special training to adequately handle cases of trafficking for the purpose of sexual exploitation. This could be delivered e.g. by independent NGOs or peer educators.
- There is a need for enhanced international collaboration between countries of origin, transit and destination – Member States and third countries, in prevention, identification and service provision.