

Training Related to Combating Human Trafficking in Selected Countries

February 2016



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Introduction

Luis Acosta
Chief, Foreign, Comparative, and
International Law Division II

This report, prepared by foreign law specialists, analysts, and consultants of the Law Library of Congress, describes the programs of eighteen countries and the European Union involving combating human trafficking, with a special focus on the training of personnel.

Each survey provides a brief introduction to the jurisdiction's legal framework on human trafficking, describes the roles and responsibilities of particular government agencies in enforcing laws against human trafficking, and provides a description of training programs or initiatives that are conducted by and provided to government personnel.

Some common threads are apparent across the surveyed jurisdictions. A majority of the surveyed countries have laws specifically targeting the problem of human trafficking. Almost all the surveyed countries are parties to relevant international instruments addressing human trafficking, particularly the United Nations' 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. (While Japan has not ratified the Protocol, it has enacted domestic legislation providing for prosecution, protection, and prevention mechanisms similar to those in the Protocol.)

All of the surveyed jurisdictions have multiple agencies with specifically identified responsibilities to address human trafficking; these usually include police forces, labor agencies, border control authorities, and immigration bureaus. Some countries, including Argentina, Brazil, Canada, China, Egypt, Germany, Italy, Japan, Mexico, Malaysia, and the Netherlands, have national interministerial or interagency councils, task forces, or committees responsible for coordinating anti-trafficking efforts across governmental agencies.

The surveys highlight the diverse approaches taken by the covered jurisdictions to the training of government officials with respect to combating human trafficking. Information on training programs is identified for each of the surveyed countries. In several instances, training programs provided by nongovernmental organizations are identified.

A bibliography on recent resources on international and comparative treatments of human trafficking is also provided.

Argentina

*Graciela Rodriguez-Ferrand
Senior Foreign Law Specialist*

SUMMARY Argentina is a party to the major international agreements on human trafficking and has enacted comprehensive legislation at the domestic level as well. The Ministry of Justice and Human Rights is the authority in charge of the coordination of all agencies and institutions involved in human trafficking issues. There is a special unit on the Office of the National Prosecutor on Human Trafficking and Kidnappings that assists in the prosecution of the crime throughout the country. Training for staff of the Municipal, Provincial, and National Administration as well as social, cultural, political, and labor unions throughout the country is provided by the Instituto Nacional para la Administración Pública. Special training is also provided to members of the judiciary as well as all agents involved in the investigation of the crime of human trafficking.

I. Legal Framework

In 1957, Argentina ratified the UN Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others.¹ In 2002, Argentina ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children,² which complements the UN Convention Against Organized Transnational Crime (the Palermo Protocol).³

In 2008, Law 26364 on the Prevention and Punishment of Trafficking in Persons was adopted to prevent, punish, and fight human trafficking of any form as well as to assist and protect its victims.⁴ Law 26364 adds human trafficking as a federal crime in the Penal Code.⁵

¹ Decreto-Ley 11.925, Sept. 30, 1957, BOLETÍN OFICIAL [B.O.], Oct. 30, 1957, <http://infoleg.mecon.gov.ar/infolegInternet/anexos/200000-204999/201859/norma.htm>, archived at <https://perma.cc/UBB4-UECN>.

² Ley 25.632, Aug. 29, 2002, B.O., Aug. 30, 2002, <http://www.infoleg.gob.ar/infolegInternet/anexos/75000-79999/77329/norma.htm>, archived at <https://perma.cc/UE8F-L4XC>, and Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime Nov. 15, 2000, United Nations Office of Drugs and Crime, <http://www.unodc.org/unodc/en/treaties/CTOC/countrylist-traffickingprotocol.html>, archived at <https://perma.cc/6VNM-DK2F>.

³ Protocol to Prevent, Suppress and Punish Trafficking in Persons, *supra* note 2.

⁴ Ley 26.364 Prevención y Sanción de la Trata de Personas y Asistencia a sus Víctimas art. 1, B.O., Apr. 29, 2008, <http://www.infoleg.gob.ar/infolegInternet/anexos/140000-144999/140100/textact.htm>, archived at <https://perma.cc/VS66-26XD>, as amended by Ley 26842, B.O., Dec. 27, 2012, <http://www.infoleg.gob.ar/infolegInternet/anexos/205000-209999/206554/norma.htm>, archived at <https://perma.cc/Z8WL-Z62T>.

⁵ Código Penal, Ley 11.179 (Revised text 1984) arts. 140–149 *ter*, <http://www.infoleg.gob.ar/infolegInternet/anexos/15000-19999/16546/textact.htm#19>, archived at <https://perma.cc/3FJT-7MQB>; Código Procesal Penal Ley 23.984, B.O., Sept. 9, 1981, <http://www.infoleg.gob.ar/infolegInternet/anexos/0-4999/383/textact.htm#4>, archived at <https://perma.cc/XEP6-3828>.

In addition, Resolution 731/12 of the Ministry of Justice and Human Rights created the Programa Nacional de Rescate y Acompañamiento a las Personas Damnificadas por el Delito de trata (National Program for the Rescue and Accompaniment of Victims of Human Trafficking) to provide human trafficking victims with psychological, social, medical, and legal support through the participation of an interdisciplinary team of security forces, psychologists, social workers, and lawyers to prevent and investigate human trafficking as well as to provide support to trafficking victims and their families.⁶ The National Program is the continuation of the former Office of Rescue and Accompaniment of People Affected by Human Trafficking created on August 2008 within the Ministry of Justice, Security and Human Rights by Resolution 2149/2008.⁷

Within the Office of the National Prosecutor, there is a Special Unit (Procuraduría de Trata de Personas y Secuestros Extorsivos, PROTEX) (Office of the Prosecutor of Human Trafficking and Kidnappings) to assist prosecutors throughout the country with the investigation of crimes of kidnapping and trafficking in persons.⁸

II. Enforcement Authorities

Law 26364 created the Consejo Federal para la Lucha contra la Trata y Explotación de Personas y para la Protección y Asistencia de las Víctimas (Federal Council on the Fight Against Human Trafficking and Exploitation and for the Protection and Assistance of Victims) within the Jefatura de Gabinete de Ministros (Chief of Cabinet of Ministries) as the permanent authority in charge of action and coordination plans on human trafficking and to implement the law.⁹ The Federal Council has the following powers:

- Set up the strategic planning in the fight against human trafficking
- Recommend and approve the legal framework applicable to the crime of human trafficking
- Promote the adoption of standards and best practices to all those intervening in the fight against human trafficking and the protection of its victims
- Oversee the Executive Committee's activities

⁶ ZAIDA GATTI ET AL., INFOJUS, TRATA DE PERSONAS: POLÍTICAS DE ESTADO PARA SU PREVENCIÓN Y SANCIÓN, SISTEMA ARGENTINO DE INFORMACIÓN JURÍDICA 15 (June 2013), http://www.jus.gob.ar/media/1008426/Trata_de_personas.pdf, archived at <https://perma.cc/QCR6-LJ6F>.

⁷ Resolución 2149/08 of the Ministerio de Justicia, Seguridad y Derechos Humanos de la Nación, Crea la Oficina de Rescate y Acompañamiento [Creates the Office of Rescue and Accompaniment of People Affected by Human Trafficking] arts. 1–2, B.O., Aug. 12, 2008, <http://www.infoleg.gob.ar/infolegInternet/anexos/140000-144999/143388/norma.htm>, archived at <https://perma.cc/VPE8-VH2T>; see also *Trata de Personas Oficina de Rescate y Acompañamiento*, MINISTERIO DE JUSTICIA (official website), <http://www.jus.gob.ar/areas-tematicas/trata-de-personas/oficina-de-rescate-y-acompanamiento.aspx> (last visited Feb. 10, 2016), archived at <https://perma.cc/QE8D-OBME>.

⁸ *Acerca de Procuraduría de Trata y Explotación de Personas (Protex)*, PROCURACIÓN GENERAL DE LA NACIÓN [NATIONAL PROSECUTOR], <https://www.mpf.gob.ar/protex/> (last visited Feb. 10, 2016), archived at <https://perma.cc/7DNZ-UH6T>.

⁹ Ley 26364, as amended by Law 26842 art. 20.

- Disseminate statistics and reports prepared by the Executive Committee
- Promote studies and research on human trafficking
- Publicize a guide of assistance services available to human trafficking victims
- Promote international cooperation in the fight against human trafficking
- Prepare an Annual report that must be approved by the Argentine Congress and, once approved is submitted before international and regional organizations involved in human trafficking
- Approve the biannual action plan prepared by the Executive Committee
- Issue its internal regulation¹⁰

Law 26842 amending Law 26364 created the Comité Ejecutivo para la Lucha contra la trata y Explotación de Personas y para la Protección y Asistencia a las Víctimas (Executive Committee for the Fight against Human Trafficking and Exploitation and the Protection and Assistance of Victims) within the Jefatura de Gabinete de Ministros (Chief of Cabinet of Ministries).¹¹ It is headed by representatives of the Ministry of Justice and Human Rights; the Ministry of Security; the Ministry of Labor, Employment and Social Security; and the Ministry of Social Development.¹² The Executive Committee has the following responsibilities:

- Draft procedural protocols and standards to prevent and fight human trafficking as well as to protect trafficking victims and their families
- Develop action plans to enhance capabilities to detect, prosecute, and dismantle human trafficking networks
- Safeguard the rights of the victims while providing them access to free, comprehensive assistance
- Provide job-search training and assistance for victims
- Prevent the revictimization of trafficking victims and their families
- Keep a National Database Registry of human trafficking crimes data
- Organize activities aimed at the dissemination of information, awareness, and training on human trafficking-related issues
- Promote information on human trafficking at the educational-system level in coordination with the Ministry of Education
- Devote public and private resources to the prevention of trafficking and assistance of victims, providing them with needed housing for their protection according to the law

¹⁰ *Id.*

¹¹ *Id.* art. 21.

¹² *Id.*

- Provide training and specialization to public officers of all institutions related to the protection and assistance of victims, as well as to the police, security institutions, and public officers in charge of criminal prosecution and judgment of the crime of human trafficking
- Coordinate with public and private institutions providing training to air pilots, flight attendants, and all crew members of air and land transportation, both domestic and international, for setting up a mandatory training course aimed at detecting among the passengers possible victims of human trafficking
- Coordinate with provinces and the Autonomous City of Buenos Aires, the implementation of the Synchronized Reporting System on Human Trafficking and Exploitation¹³

The Executive Committee prepares a two-year work plan that is submitted to the Federal Council for its approval.¹⁴

III. Training Programs

As part of a joint strategy and to coordinate the standards of best practices in the prevention and treatment of human trafficking crimes, the Executive Committee offers an online training course to staff of the Municipal, Provincial and National Administration as well as to social, cultural, political, and labor unions throughout the country.¹⁵

The Instituto Nacional para la Administración Pública (INAP, the National Institute for Public Administration) provides a five-week course on human trafficking¹⁶ that includes four modules: (1) Human Trafficking in General; (2) Human Trafficking for Sex Exploitations; (3) Human Trafficking for Labor Exploitation; and (4) Human Trafficking: Prevention, Detection and Assistance.¹⁷

One of the main goals of the National Program is the prevention of the crime through awareness and training campaigns for all those interested and involved in combatting human trafficking.¹⁸ From 2008 to 2013, 4,602 people have been trained in human trafficking under the National Program.¹⁹

¹³ *Id.* art. 12.

¹⁴ *Id.*

¹⁵ *Recurso On Line, Capacitaciones: Paremos la Trata*, COMITÉ EJECUTIVO PARA LA LUCHA CONTRA LA TRATA DE PERSONAS, JEFATURA DE GABINETE DE MINISTROS DE LA PRESIDENCIA DE LA NACIÓN, https://www.comitecontra latrata.gob.ar/capacitaciones_p333 (last visited Feb. 10, 2016), archived at <https://perma.cc/R5SB-3667>.

¹⁶ *Conceptos Básicos sobre Trata de Personas IN-ES-11790*, INAP, <https://capacitacion.inap.gob.ar/?cursos=conceptos-basicos-sobre-trata-de-personas-in-es-11790> (last visited Feb. 10, 2016), archived at <https://perma.cc/6N7H-XSE3>.

¹⁷ *Id.*; Sistema Nacional de Capacitación, *Conceptos Básicos sobre Trata de Personas-2014*, at 2–3, https://sai.inap.gob.ar/download_pdf.dhtml?contenido=diseño&formact_codigo=1&act_codigo=18202&tipoact_codigo=1, archived at <https://perma.cc/6JHD-VPH5>.

¹⁸ GATTI ET AL., *supra* 6, at 15.

¹⁹ *Id.* at 16.

According to Resolution PGN 805/2013, PROTEX is in charge of providing training for members of the judiciary and all agents involved in the investigation of the crime of human trafficking.²⁰ In its 2014 Annual Report, PROTEX reported the drafting of a training program designed for the staff of the Ministerio Público (Government Attorney) involved in the investigation and prosecution of human trafficking. The program would require staff to spend a brief period of time, such as two weeks, in PROTEX to participate in the different assignments of investigation and institutional intervention on human trafficking carried out by PROTEX in order to acquire expertise in the specific issues involved in the crime.²¹

²⁰ *Id.* at 118; Resolución 805/2013 Procuración General de la Nación, <http://www.mpf.gov.ar/resoluciones/pgn/2013/pgn-0805-2013-001.pdf>, archived at <https://perma.cc/JWZ3-ZJVH>.

²¹ PROTEX INFORME ANUAL 2014, at 44, <http://www.mpf.gov.ar/protex/files/2015/02/INFORME-ANUAL-2014.pdf>, archived at <https://perma.cc/A4YX-DAPA>.

Brazil

Eduardo Soares
Senior Foreign Law Specialist

SUMMARY The Brazilian Constitution provides several principles for the protection of human rights. Many federal laws can be used to combat human trafficking, including the Penal Code, the Alien’s Statute, and the Child and Adolescent Statute. Brazil has also incorporated into its domestic legislation the United Nations Convention Against Transnational Organized Crime; the Protocol Against the Smuggling of Migrants by Land, Sea and Air; and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

A decree enacted in 2006 approved a national policy to establish principles, guidelines, and actions to prevent and suppress human trafficking and provide assistance to victims, and also created the First National Plan to Combat Human Trafficking. This plan, covering the period of 2008–2010, established the priorities of the national policy, which included setting short-, medium-, and long-term goals, and defining the bodies and entities partnering to achieve these goals.

The Second National Plan to Combat Human Trafficking, covering the period of 2013–2016, proposed the preparation and implementation of a National Training Matrix, which is a technical reference manual for the preparation of organized, integrated, and continuous actions designed to combat human trafficking and training courses for personnel involved in combating human trafficking.

I. Legal Framework

A. Constitutional Principle

The Brazilian Constitution establishes human dignity as one of the fundamental principles of the country.¹ Similarly, a fundamental constitutional principle governing Brazil’s international relations is that human rights must “prevail” in Brazil’s relations with other countries.² The Constitution also states that all Brazilians and resident foreigners are equal under the law, and guarantees their inviolable right to life, liberty, equality, security, and property.³ Brazil’s Constitution further protects against torture and inhuman or degrading treatment,⁴ providing that the law must severely punish those who abuse, perpetrate violence against, and sexually exploit children and adolescents.⁵ The Constitution thus makes clear that Brazilians and foreigners residing in the country should be protected against the degradations of human trafficking.

¹ CONSTITUIÇÃO FEDERAL [C.F.] art. 1(III), http://www.planalto.gov.br/ccivil_03/Constituicao/Constituicao.htm, archived at <https://perma.cc/NP4G-WV55>.

² *Id.* art. 4(II).

³ *Id.* art. 5.

⁴ *Id.* art. 5(III).

⁵ *Id.* art. 227(§4).

B. Penal Code

The Brazilian Penal Code defines and punishes with imprisonment and fines many acts that may be associated with human trafficking, including, but not limited to,

- depriving persons of their freedom through kidnapping or false imprisonment;⁶
- reducing persons to a condition analogous to slavery, either by submitting them to hard labor or exhausting journeys, or subjecting them to degrading working conditions, or restricting, by any means, their movement because of a debt contracted with the employer or agent;⁷
- recruiting workers by fraud in order to take them to a foreign country;⁸
- enticing workers, in order to take them from one place to another within the national territory, by fraud, by demanding the payment of their debt, or without guaranteeing the conditions for their return to their place of origin;⁹
- promoting or facilitating the entry of persons into the national territory to practice prostitution or other forms of sexual exploitation, or the departure of persons to practice prostitution abroad;¹⁰
- negotiating, enticing, or purchasing trafficked persons and transporting, transferring, or harboring them while being aware of their condition;¹¹
- promoting or facilitating the movement of persons within the country for prostitution or other forms of sexual exploitation;¹²
- negotiating, enticing, selling, or purchasing trafficked persons and transporting, transferring, or harboring them while being aware of their condition;¹³
- delivering children under eighteen years of age to persons in whose company the deliverer knows or should know that the minors are morally or materially in danger,¹⁴ with the punishment for such acts increased if the acts are performed for the sake of a profit or if the minors are sent abroad;¹⁵ and
- three or more persons associating for the purpose of committing crimes.¹⁶

⁶ CÓDIGO PENAL, Decreto-Lei No. 2.848, de 7 de Dezembro de 1940, art. 148, http://www.planalto.gov.br/ccivil_03/Decreto-Lei/Del2848compilado.htm, archived at <https://perma.cc/B67S-LNJU>.

⁷ *Id.* art. 149.

⁸ *Id.* art. 206.

⁹ *Id.* art. 207.

¹⁰ *Id.* art. 231.

¹¹ *Id.* art. 231(§1).

¹² *Id.* art. 231-A.

¹³ *Id.* art. 231-A(§1).

¹⁴ *Id.* art. 245.

¹⁵ *Id.* art. 245(§1).

¹⁶ *Id.* art. 288.

C. Alien's Statute

The Alien's Statute (*Estatuto do Estrangeiro*) defines the legal situation of aliens in Brazil and the punishments for particular acts that may be associated with human trafficking, such as transporting to Brazil aliens who do not have appropriate documentation,¹⁷ employing or keeping at a person's service aliens who are in an irregular situation or who are not allowed to work in the country,¹⁸ and smuggling aliens into the country or hiding them in an illegal or irregular manner.¹⁹

D. Child and Adolescent Statute

Many articles of the Child and Adolescent Statute (*Estatuto da Criança e do Adolescente*) may also apply to the fight against human trafficking. Article 82 prohibits the lodging of children or adolescents in hotels, motels, hostels, or similar places without authorization or the company of a parent or guardian.²⁰ Article 83 determines that no child may travel outside the district where the child resides when not accompanied by a parent or guardian, without express judicial authorization (except in certain situations).²¹ Without prior judicial authorization, no child or adolescent born in the national territory may leave the country in the company of an alien who resides or is domiciled abroad.²²

The statute lists several crimes that may be associated with human trafficking and their respective punishments. These crimes include removing children or adolescents from those who are their custodians by reason of law or a court order in order to place them in a foster home, which is punishable by imprisonment for two to six years and a fine;²³ promising to deliver or delivering a Brazilian child or adolescent or a protégé to a third party for money or a reward, which is punishable by imprisonment for one to four years and a fine;²⁴ and offering or providing payment or a reward for such delivery, which is also punishable by imprisonment for one to four years and a fine.²⁵

The statute also punishes with up to six years in prison anyone promoting or helping in the process of sending a child or adolescent abroad illegally or for profit.²⁶ If violence, a serious threat, or

¹⁷ ESTATUTO DO ESTRANGEIRO, Lei No. 6.815, de 19 de Agosto de 1980, art. 125(VI), http://www.planalto.gov.br/ccivil_03/Leis/L6815compilado.htm, archived at <https://perma.cc/ZJ9J-RY4D>.

¹⁸ *Id.* art. 125(VII).

¹⁹ *Id.* art. 125(XII).

²⁰ ESTATUTO DA CRIANÇA E DO ADOLESCENTE, Lei No. 8.069 de 13 de Julho de 1990, art. 82, http://www.planalto.gov.br/ccivil_03/LEIS/L8069.htm, archived at <https://perma.cc/UB27-KV2G>.

²¹ *Id.* arts. 83, 84.

²² *Id.* art. 85.

²³ *Id.* art. 237.

²⁴ *Id.* art. 238.

²⁵ *Id.* art. 238(sole para.).

²⁶ *Id.* art. 239.

fraud is used, the punishment increases to up to eight years' imprisonment plus the corresponding punishment for the violent acts.²⁷

E. United Nations Convention Against Transnational Organized Crime

On March 12, 2014, Brazil enacted Decree No. 5,015, which promulgated the United Nations Convention Against Transnational Organized Crime;²⁸ Decree No. 5,016, which promulgated the Protocol Against the Smuggling of Migrants by Land, Sea and Air;²⁹ and Decree No. 5,017, which promulgated the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.³⁰ Both Protocols supplement the United Nations Convention Against Transnational Organized Crime.

II. National Policy to Combat Human Trafficking

In an effort to curb trafficking in persons, on October 26, 2006, Brazil enacted Decree No. 5,948, which approved a National Policy to Combat Human Trafficking and established the Interministerial Working Group for the purpose of elaborating a proposal for a National Plan to Combat Human Trafficking.³¹ The purpose of the national policy is to establish principles, guidelines, and actions to prevent and suppress trafficking in persons and provide assistance to victims, in accordance with domestic and international human rights norms and Brazilian law.³²

The national policy adopts, *inter alia*, the expression “trafficking in persons,” which the Additional Protocol to the United Nations Convention Against Transnational Organized Crime to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, defines as

the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or the situation of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude, or the removal of organs.³³

²⁷ *Id.* 239(§1).

²⁸ Decreto No. 5.015, de 12 de Março de 2014, http://www.planalto.gov.br/ccivil_03/_ato2004-2006/2004/Decreto/D5015.htm, archived at <https://perma.cc/6V63-J24F>.

²⁹ Decreto No. 5.016, de 12 de Março de 2014, http://www.planalto.gov.br/ccivil_03/_Ato2004-2006/2004/Decreto/D5016.htm, archived at <https://perma.cc/632V-JR8Y>.

³⁰ Decreto No. 5.017, de 12 de Março de 2014, https://www.planalto.gov.br/ccivil_03/_Ato2004-2006/2004/Decreto/D5017.htm, archived at <https://perma.cc/NQH7-OT2V>.

³¹ Decreto No. 5.948, de 26 de Outubro de 2006, http://www.planalto.gov.br/ccivil_03/_Ato2004-2006/2006/Decreto/D5948.htm, archived at <https://perma.cc/P5YM-BG8C>.

³² *Id.* art. 1.

³³ *Id.* art. 2.

Article 3 of Decree No. 5,948 defines the guiding principles of the national policy, article 4 determines the general guidelines, and articles 5 to 7 establish specific guidelines.

To implement the national policy, Decree No. 5,948 determines, among other things, that it is the responsibility of the public bodies and entities, within their respective powers and conditions, to adopt the following judicial and public security measures:

- a) provide initial humane care to victims of human trafficking who return to the country after being deported or not admitted at airports, ports and entry points on land routes;
- b) prepare an intergovernmental proposal to improve Brazilian legislation addressing human trafficking and related crimes;
- c) foster cooperation among federal, state and local public safety agencies to coordinate action to prevent and suppress trafficking in persons and hold perpetrators accountable;
- d) propose and encourage the adoption of the theme of human trafficking and human rights in federal, state and municipal training curricula for public safety professionals and legal professionals who are admitted to such institutions and their continuous training thereafter to combat this type of crime;
- e) strengthen existing budget items and create other items focused on the training of law enforcement professionals and justice professionals in the area of confronting human trafficking;
- f) include in the specific structures of police intelligence the investigation and suppression of trafficking in persons;
- g) create in the Regional Superintendence of the Federal Police and the Federal Highway Police specific structures to combat human trafficking and other crimes against human rights;
- h) promote the interaction of public safety professionals and legal professionals with civil society;
- i) enter into cooperation agreements with civil society organizations working to prevent human trafficking and assisting victims;
- j) promote and encourage, on an ongoing basis, refresher courses on trafficking in persons, to members of the justice system and to public safety servants, preferably through their training institutions;
- l) coordinate the various branches of the Public Prosecutor's Office [Ministério Público] of the states and the federal government, the state and federal judiciary, and the organs of the justice and public security systems;
- m) organize and integrate existing databases concerning the combating of human trafficking and related areas;
- n) enter into technical cooperation agreements with public and private entities to support judicial and extrajudicial actions;
- o) include the topic of trafficking in persons in courses on combating money laundering, trafficking in drugs and arms, and other related crimes;

- p) develop at the national level mechanisms for preventing, investigating and prosecuting human trafficking perpetrated through the use of the Internet, and for consequently [holding] the perpetrators accountable; and
- q) include the possible link between the disappearance of persons and human trafficking in research and police investigations.³⁴

Decree No. 5,948 further establishes actions to be taken in the areas of foreign relations, education, health, social assistance, the promotion of racial equality, labor, agricultural development, human rights, the protection and promotion of women's rights, tourism, and culture.³⁵

III. National Plan to Combat Human Trafficking

A. First National Plan to Combat Human Trafficking

The First National Plan to Combat Human Trafficking was established by Decree No. 6,347, of January 8, 2008, to cover the period of 2008–2010. The plan was prepared by representatives of several federal agencies, nongovernmental organizations, and international organs. Its objective was to prevent and suppress human trafficking, prosecute perpetrators, and ensure assistance to victims, under the domestic legislation in force and international human rights instruments.³⁶

The priorities established by the plan were to

- collect, organize, prepare, and publish studies, research, information, and experience on human trafficking;
- train agents directly or indirectly involved with combating human trafficking [to approach the problem] from a human rights perspective;
- mobilize and sensitize specific groups and the community in general with regard to human trafficking;
- reduce the vulnerability of specific social groups to human trafficking;
- articulate, organize, and consolidate from existing services and networks a national reference system and a system for providing assistance to trafficking victims;
- improve the Brazilian legislation addressing human trafficking and related crimes;
- expand and improve knowledge about combating human trafficking among bodies involved in the suppression of crime and prosecution of the perpetrators;

³⁴ *Id.* art. 8(I) (translation by author).

³⁵ *Id.* art. 8(II–XII).

³⁶ Decreto No. 6.347, de 8 de Janeiro de 2008, art. 1, http://www.planalto.gov.br/ccivil_03/_Ato2007-2010/2008/Decreto/D6347.htm, archived at <https://perma.cc/MSU2-Q5Y2>.

- promote cooperation among federal, state, and municipal agencies involved in combating human trafficking in coordinating measures to suppress human trafficking and prosecute the perpetrators;
- create and improve tools for combating human trafficking;
- organize agencies in charge of combating human trafficking and prosecuting the perpetrators; and
- promote international cooperation in combating human trafficking.³⁷

B. Network to Combat Human Trafficking

As a result of the First National Plan, a Network to Combat Human Trafficking was created. The network is the generic name given to the collective institutional efforts of the different powers and levels of government in partnership with organs of civil society, research institutes, and international organizations to combat human trafficking in an articulated and decentralized manner.³⁸

The Network to Combat Human Trafficking consists of the Network of Centers to Combat Human Trafficking (Rede de Núcleos de Enfrentamento ao Tráfico de Pessoas), Outposts of Humane Care for Migrants (Postos Avançados de Atendimento Humanizado ao Migrante), and State Committees to Combat Human Trafficking (Comitês Estaduais de Enfrentamento ao Tráfico de Pessoas). These institutions are responsible for putting the principles of the National Policy to Combat Human Trafficking into practice in the states and municipalities.³⁹

On August 20, 2009, the National Secretary of Justice issued an Administrative Act (*Portaria*), which established the guidelines for the functioning of the centers and outposts.⁴⁰ According to article 1 of the Administrative Act, the main function of the Network of Centers is to plan actions to combat human trafficking at the state level that are to be implemented in partnership with the federal government, through the National Secretariat of Justice and state governments.⁴¹ Article 2 of the Act defines the competence of the centers. Article 3 determines that the main function of the outposts is to receive nonadmitted or deported Brazilians at entry points, while article 4 defines the competence of the outposts.

³⁷ *Id.* Decreto No. 6.347, Anexo.

³⁸ *Rede de Enfrentamento ao Tráfico de Pessoas*, MINISTÉRIO DA JUSTIÇA, <http://www.justica.gov.br/sua-protecao/trafico-de-pessoas/redes-de-enfrentamento>, archived at <https://perma.cc/9B6Q-SBB2> (last visited Jan. 14, 2016).

³⁹ *Id.*

⁴⁰ Portaria SNJ No. 31, 20 de Agosto de 2009, <https://www.legisweb.com.br/legislacao/?id=213493>, archived at <https://perma.cc/5GX9-5Z85>, as amended by Portaria SNJ No. 41, de 6 de Novembro de 2009, <https://www.legisweb.com.br/legislacao/?id=213656>, archived at <https://perma.cc/B76Z-38X9>.

⁴¹ *Id.* art. 1.

C. Second National Plan and National Training Matrix to Combat Human Trafficking

On February 4, 2013, a new decree approved the Second National Plan to Combat Human Trafficking, to cover the period of 2013–2016.⁴² The purpose of the second plan is, among other things, to expand and improve the fight against human trafficking in a coordinated and interdependent manner among the bodies and agencies involved in the prevention and suppression of crime. Measures to be taken include presenting criminal charges against the perpetrators of human trafficking, caring for the victims, and protecting victims' rights.⁴³

One of the proposals mentioned in the Second National Plan to Combat Human Trafficking makes reference to training guidelines, including the preparation and implementation of the *National Training Matrix to Combat Human Trafficking (Matriz Nacional de Formação para o Enfrentamento ao Tráfico de Pessoas)*.⁴⁴ The National Matrix is a technical reference manual for the preparation of organized, integrated, and continuous actions designed to combat human trafficking and training courses for agency personnel involved in combating human trafficking.⁴⁵

The political-pedagogical guidelines of the Matrix to Combat Human Trafficking are contextualized in a process of interdisciplinary and cross-learning programs oriented toward the development of cognitive, procedural, and personal skills.⁴⁶

Concerning cognitive skills, the training and education courses should promote recognizing the different human rights violations connected with human trafficking; understanding the concept of human trafficking; recognizing the modalities of human trafficking; identifying the differences between human trafficking, migrant smuggling, and irregular migration; and becoming familiar with the political, national, and international legal framework for combating human trafficking.⁴⁷

With regard to procedural skills, the courses should provide information on the measures available for combating human trafficking; explain the interrelationships of poverty, migration, illegal immigrant smuggling, human trafficking, sexual exploitation, and prostitution; and present measures to prevent and crack down on human trafficking.⁴⁸

⁴² Decreto No. 7.901, de 4 de Fevereiro de 2013, art. 3, http://www.planalto.gov.br/ccivil_03/_Ato2011-2014/2013/Decreto/D7901.htm#art10, archived at <https://perma.cc/N45E-K7GV>.

⁴³ *Id.* art. 3(§1)(I).

⁴⁴ *Formação em Enfrentamento ao Tráfico de Pessoas*, MINISTÉRIO DA JUSTIÇA, <http://www.justica.gov.br/sua-protecao/trafico-de-pessoas/formacao-em-etp>, archived at <https://perma.cc/3HV4-PZU6> (last visited Feb. 11, 2016).

⁴⁵ *Id.*

⁴⁶ SECRETARIA NACIONAL DE JUSTIÇA ET AL., *MATRIZ NACIONAL DE FORMAÇÃO EM ENFRENTAMENTO AO TRÁFICO DE PESSOAS* (2013), <http://www.justica.gov.br/sua-protecao/trafico-de-pessoas/formacao-em-etp/anexos/matriz-formacao.pdf>, archived at <https://perma.cc/JD4Q-YBKG>.

⁴⁷ *Id.* at 53, 54.

⁴⁸ *Id.* at 54.

As for personal skills, the courses must inculcate in agency personnel a commitment to tackling human trafficking, professional ethics, and the capability to act with balance and common sense.⁴⁹

The Matrix also details the modules and content for the training courses to combat human trafficking, which are divided into five areas: the ethical and conceptual dimension of human trafficking, human mobility and human trafficking, public policies and human trafficking, the criminal justice system and human trafficking, and the Network to Combat Human Trafficking and assistance and protection provided to victims.⁵⁰

⁴⁹ *Id.*

⁵⁰ *Id.* at 66–68.

Canada

Tariq Ahmad
Foreign Law Specialist

SUMMARY In Canada, the legal framework related to combatting human trafficking consists primarily of provisions in the Criminal Code and the Immigration and Refugee Protection Act. Public Safety Canada leads a Human Trafficking Taskforce, made up of ten federal departments, that is responsible for overseeing the implementation of the commitments made under the National Action Plan to Combat Human Trafficking, coordinating the federal anti-human-trafficking response, and reporting to the public annually on progress.

Training programs, courses, and tools have been established for law enforcement at the federal and provincial levels. The Royal Canadian Mounted Police's Human Trafficking National Coordination Centre has developed an online training course for law enforcement that is available through the Canadian Police Knowledge Network. British Columbia's Office to Combat Trafficking in Persons has developed an online training course for front-line service providers called Human Trafficking: Canada is Not Immune.

I. Legal Framework on Human Trafficking

In Canada, the criminal legal framework¹ related to combatting human trafficking consists primarily of provisions in the Criminal Code² and the Immigration and Refugee Protection Act (IRPA).³ According to Public Safety Canada, which is responsible for national security and the safety of Canadians, the Criminal Code “contains the tools to hold traffickers accountable and includes four specific indictable offences to address human trafficking,”⁴ namely, sections 279.01 (Trafficking in persons),⁵ 279.011 (Trafficking of a person under the age of eighteen years),⁶ 279.02 (Material benefit),⁷ and 279.03 (Withholding or destroying documents).⁸

¹ For core criminal legislation (including specific provisions), see *Human Trafficking: Legislation*, DEPARTMENT OF JUSTICE, <http://www.justice.gc.ca/eng/cj-jp/tp/legis-loi.html> (last modified May 21, 2015), archived at <https://perma.cc/M4TQ-JDG3>.

² Criminal Code, R.S.C., 1985, c. C-46, <http://laws-lois.justice.gc.ca/PDF/C-46.pdf>, archived at <https://perma.cc/43FV-54NA>.

³ Immigration and Refugee Protection Act, S.C. 2001, c. 27, <http://laws.justice.gc.ca/PDF/I-2.5.pdf>, archived at <https://perma.cc/7PZ9-PTAS>.

⁴ PUBLIC SAFETY CANADA, NATIONAL ACTION PLAN TO COMBAT HUMAN TRAFFICKING 7 (2012), <http://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/ntnl-ctn-pln-cmbt/ntnl-ctn-pln-cmbt-eng.pdf>, archived at <https://perma.cc/2FWT-WTU3>.

⁵ Trafficking in Persons (section 279.01) “carries a maximum penalty of life imprisonment and a mandatory minimum penalty of 5 years where the offence involved kidnapping, aggravated assault, aggravated sexual assault or death, and a maximum penalty of 14 years and a mandatory minimum penalty of 4 years in all other cases.” *Human Trafficking: Legislation*, DEPARTMENT OF JUSTICE, *supra* note 1.

⁶ Trafficking of a person under the age of eighteen years (section 279.011) “carries a maximum penalty of life imprisonment and a mandatory minimum penalty of 6 years where the offence involved kidnapping, aggravated

The Criminal Code includes other offenses that can also apply to human trafficking cases including kidnapping, forcible confinement, uttering threats, extortion, assault, sexual assault, prostitution-related offenses, and criminal organization offenses.⁹

According to Public Safety Canada:

The *Criminal Code* also contains measures designed to make testifying less traumatic for victims and other vulnerable witnesses. Testimonial aids, such as a screen that prevents the witness from seeing the accused, the use of closed-circuit television that permits the witness to testify from outside the courtroom or the presence of support persons may be made available in appropriate circumstances. Other measures that may be available are publication bans on information that would identify a complainant or witness and, in some cases, orders excluding the public from the courtroom.¹⁰

Section 118 of the Immigration and Refugee Protection Act (IRPA) defines the crime of trafficking in persons, providing that “[n]o person shall knowingly organize the coming into Canada of one or more persons by means of abduction, fraud, deception or use or threat of force or coercion.”¹¹ A person who commits the offense of trafficking in persons is liable, taking into account certain aggravating factors,¹² to a fine of up to Can\$1 million (about US\$722,139) and/or up to life imprisonment.¹³

II. Roles and Responsibilities of Government

A. Public Safety Canada

Public Safety Canada leads a Human Trafficking Taskforce, made up of representatives from ten federal departments,¹⁴ that “is responsible for overseeing the implementation of the National

assault, aggravated sexual assault or death, and a maximum penalty of 14 years and a mandatory minimum penalty of 5 years in all other cases”. *Id.*

⁷ Receiving a Financial or Other Material Benefit for the purpose of committing or facilitating trafficking in persons – Adult Victim (subsection 279.02(1)) “carries a maximum penalty of 10 years imprisonment.” *Id.*

⁸ Withholding or Destroying a Person’s Identity Documents (for example, a passport) for the purpose of committing or facilitating trafficking of that person – Adult Victim (subsection 279.03(1)) “carries a maximum penalty of five years imprisonment” and Withholding or Destroying a Person’s Identity Documents (for example, a passport) for the purpose of committing or facilitating trafficking of that person – Child Victim (subsection 279.03(2)) “carries a maximum penalty of 10 years imprisonment and a mandatory minimum penalty of 1 year.” *Id.*

⁹ *Id.* at 8.

¹⁰ *Id.*

¹¹ Immigration and Refugee Protection Act § 118(1)(2).

¹² *Id.* § 121(1).

¹³ *Id.* § 120.

¹⁴ NATIONAL ACTION PLAN TO COMBAT HUMAN TRAFFICKING, *supra* note 4.

Action Plan commitments and for coordinating the federal anti-human trafficking response and reporting annually on progress to the public.”¹⁵

The National Action Plan to Combat Human Trafficking was launched by the Government of Canada on June 6, 2012, in order to consolidate “ongoing efforts of the federal government to combat human trafficking and introduces aggressive new initiatives to prevent human trafficking, identify victims, protect the most vulnerable, and prosecute perpetrators.”¹⁶ The Plan includes agency-specific commitments related to training, outreach, and intelligence activities, with the objectives of preventing human trafficking, identifying victims, protecting the most vulnerable, and prosecuting perpetrators.

B. Royal Canadian Mounted Police

The Royal Canadian Mounted Police (RCMP) is the Canadian national police service and an agency of Public Safety Canada. Apart from enforcing the laws enumerated above, Canada’s law enforcement officials have the following responsibilities:

- identify children and adults at risk
- inform potential victims of their rights
- identify and investigate criminal elements of circumstances and seek to prosecute individuals involved in human trafficking
- refer potential victims who are not Canadian citizens or permanent residents to Citizenship and Immigration Canada to learn of their options regarding immigration status
- identify support services and refer victims/potential victims to specialist non-government organizations that may assist with finding safe accommodation, and various needs including medical, psychological, legal assistance, education, and work placement
- conduct interviews, seek intelligence, undertake investigations with immigration officials and any other appropriate parties, and ensure that links are made with other agencies and national/international policing organizations
- provide protection to victims and staff supporting them
- work closely with Citizenship and Immigration Canada, Canada Border Services Agency, provincial/territorial and municipal agencies, social services, child welfare authorities and any non-government organizations involved in service delivery to provide protection to victims, including children
- conduct a continuous risk assessment with respect to the safety and welfare of the victims and their families at every stage of the investigation and judicial process and beyond¹⁷

¹⁵ *Human Trafficking*, PUBLIC SAFETY CANADA, <http://www.publicsafety.gc.ca/cnt/cntrng-crm/hmn-trffckng/index-en.aspx> (last updated Dec. 16, 2015), archived at <https://perma.cc/2E9C-NJHZ>.

¹⁶ *Id.*; NATIONAL ACTION PLAN TO COMBAT HUMAN TRAFFICKING, *supra* note 4.

¹⁷ *Frequently Asked Questions on Human Trafficking*, RCMP, <http://www.rcmp-grc.gc.ca/ht-tp/q-a-trafficking-traite-eng.htm#q10> (last updated Mar. 13, 2014), archived at <https://perma.cc/TF9A-ZJR5>.

The RCMP has established a Human Trafficking National Coordination Centre (HTNCC)¹⁸ at RCMP Headquarters in Ottawa. According to the RCMP, “[t]he Centre provides a focal point for law enforcement in their efforts to combat and disrupt individuals and criminal organizations involved in Human Trafficking activities.”¹⁹

C. Citizenship and Immigration Canada

Citizenship and Immigration Canada (CIC) can help protect victims of trafficking by securing their immigration status with a special temporary resident permit (TRP).²⁰

D. Canada Border Services Agency

The Canada Border Services Agency (CBSA) combats human trafficking as part of its function to manage Canada’s borders and fighting cross-border crime.²¹ The CBSA

- identifies instances of cross-border human trafficking;
- helps potential victims by referring them to appropriate government services; and
- supports the investigation and prosecution of human trafficking offenders.²²

The CBSA has been working with other federal partners in the implementation of the National Action Plan to Combat Human Trafficking. According to the Plan, the CBSA “will undertake efforts to raise awareness with vulnerable foreign nationals at ports of entry.”²³

The CBSA is also part of an RCMP-led integrated enforcement team dedicated to human trafficking.²⁴

III. Training Programs for Law Enforcement

According to a 2014 study prepared for Public Safety Canada, “[t]raining for police officers on human trafficking varies depending on the region and the police service.”²⁵ Interviews in the

¹⁸ *Human Trafficking National Coordination Centre*, RCMP, <http://www.rcmp-grc.gc.ca/ht-tp/index-eng.htm> (last updated March 13, 2014), archived at <https://perma.cc/93AX-TKA9>.

¹⁹ *Id.*

²⁰ *Protection and Assistance for Victims of Human Trafficking*, CIC, <http://www.cic.gc.ca/english/information/applications/trp.asp> (last updated Sept. 18, 2013), archived at <https://perma.cc/CWA3-CY9T>.

²¹ *Human Trafficking*, CBSA, <http://www.cbsa-asfc.gc.ca/security-secure/ht-tp-eng.html> (last updated Sept. 24, 2014), archived at <https://perma.cc/496U-G8N3>.

²² *Id.*

²³ NATIONAL ACTION PLAN TO COMBAT HUMAN TRAFFICKING, *supra* note 4, at 15.

²⁴ *Human Trafficking*, *supra* note 22.

²⁵ RED WILLOW CONSULTING INC., DR. YVONNE BOYER, PEGGY KAMPOURIS, TRAFFICKING OF ABORIGINAL WOMEN AND GIRLS 42 (May 2014) (prepared for the Research and Analysis Division, Community Safety and Countering Crime Branch, Public Safety Canada), http://publications.gc.ca/collections/collection_2015/sp-ps/PS18-8-2014-eng.pdf, archived at <https://perma.cc/3DK2-NKAN>.

study showed that available training can range from three hours to several days, “while some police services have no formal training on human trafficking at all.”²⁶

The Government of Canada has stated that, under the National Action Plan, “efforts will continue to focus on targeted training for first responders and service providers because they are often the first point of contact and provide victims with essential care and emergency relief.”²⁷ When the Plan was introduced, emphasis was placed on increasing “front-line training to identify and respond to human trafficking and enhance prevention in vulnerable communities.”²⁸ The Plan also calls for stepping up the training of prosecutors, border guards, and judges.²⁹

A. Human Trafficking National Coordination Centre

One of the priorities of the HTNCC is to “develop tools, protocols and guidelines to facilitate Human Trafficking investigations” and “coordinate national awareness/training and anti-trafficking initiatives.”³⁰ According to the National Action Plan,

[t]he Royal Canadian Mounted Police will develop and coordinate specialized training for police officers through the Canadian Police College and will add human trafficking awareness to its cadet training curriculum. In addition, the Royal Canadian Mounted Police will develop a victim-centred guidebook for investigators to assist them in working with victims and will finalise the on-line human trafficking course for all Canadian law enforcement.³¹

According to a 2014-15 departmental report, a human trafficking course component has been added to RCMP’s cadet training curriculum at the RCMP Academy, “Depot” Division in Regina, Saskatchewan, and at the Canadian Police College.³²

The HTNCC has developed an online training course for law enforcement that is available through the Canadian Police Knowledge Network (CPKN)³³ as well as the RCMP’s online training tool, AGORA.³⁴

²⁶ *Id.*

²⁷ NATIONAL ACTION PLAN TO COMBAT HUMAN TRAFFICKING, *supra* note 4, at 11.

²⁸ *The Harper Government Launches Canada’s National Action Plan to Combat Human Trafficking*, PUBLIC SAFETY CANADA (June 6, 2012), available at <https://web.archive.org/web/20130703001948/https://www.publicsafety.gc.ca/media/nr/2012/nr20120606-eng.aspx>, archived at <https://perma.cc/G5GS-PQGV>.

²⁹ Bethany Hastie, *Canada’s National Action Plan to Combat Human Trafficking: Initial Reflections*, HANS AND TAMAR OPPENHEIMER CHAIR IN PUBLIC INTERNATIONAL LAW (June 15, 2012), <http://oppenheimer.mcgill.ca/Canada-s-National-Action-Plan-to>, archived at <https://perma.cc/R3RW-6L6E>.

³⁰ Human Trafficking National Coordination Centre, *supra* note 19.

³¹ NATIONAL ACTION PLAN TO COMBAT HUMAN TRAFFICKING, *supra* note 4, at 18.

³² RCMP, ROYAL CANADIAN MOUNTED POLICE 2014–15 DEPARTMENTAL PERFORMANCE REPORT (2015), <http://www.rcmp-grc.gc.ca/en/royal-canadian-mounted-police-2014-15-departmental-performance-report>, archived at <https://perma.cc/A8RU-7XZT>.

³³ *Introduction to Human Trafficking*, CPKN, (2016) http://www.cpkn.ca/course_human_trafficking, archived at <https://perma.cc/WNY6-RLJD>.

In partnership with the Canadian Police College, the HTNCC has also developed a Human Trafficking Investigator's Course³⁵ for Canadian law enforcement.³⁶ According to the US State Department's 2015 *Trafficking in Persons Report*, "[t]he federal Royal Canadian Mounted Police (RCMP) included trafficking in the national academy training for all new recruits;[and] trained 55 police officers in an in-depth human trafficking investigator's course."³⁷

In addition, the HTNCC has produced a "Human Trafficking Tool Kit available to all law enforcement officers across Canada" with a primary objective of "inform[ing] investigators of the human trafficking legislation."³⁸

B. Other Federal Programs

According to the National Action Plan, Status of Women Canada has collaborated with the RCMP to "deliver training on human trafficking to officials in law enforcement, the justice system, and border and immigration services."³⁹

The National Action Plan also states that "[t]he Victims Fund has supported trafficking in persons projects including, in partnership with Public Safety Canada's *Contribution Program to Combat Child Exploitation and Human Trafficking*, the development and delivery of a training curriculum and toolkit on human trafficking for first responders."⁴⁰

According to the RCMP, "[i]nformation pertinent to training for police regarding cases of missing persons/children can be obtained through the National Centre for Missing Persons and Unidentified Remains (NCMPUR)."⁴¹

³⁴ *Publications and Resources*, RCMP, <http://www.rcmp-grc.gc.ca/ht-tp/publications/index-eng.htm#17> (last updated Apr. 15, 2014), archived at <https://perma.cc/AUZ4-XN6M>.

³⁵ *Human Trafficking Investigator's Course (HTIC)*, CANADIAN POLICE COLLEGE, <https://www.cpc.gc.ca/en/htic> (last updated Jan. 26, 2016), archived at <https://perma.cc/LG5W-39L7>.

³⁶ *Frequently Asked Questions on Human Trafficking*, *supra* note 18.

³⁷ U.S. DEPARTMENT OF STATE, OFFICE TO MONITOR AND COMBAT TRAFFICKING IN PERSONS, 2015 TRAFFICKING IN PERSONS REPORT: CANADA, <http://www.state.gov/j/tip/rls/tiprpt/countries/2015/243411.htm>, archived at <https://perma.cc/9FR6-DBC9>.

³⁸ *Frequently Asked Questions on Human Trafficking*, *supra* note 18.

³⁹ NATIONAL ACTION PLAN TO COMBAT HUMAN TRAFFICKING, *supra* note 4, at 24.

⁴⁰ *Id.*

⁴¹ *Id.*

C. Provincial-level Initiatives

1. Ontario Online Training Initiative to Address Human Trafficking

A nonprofit organization, MCIS Language Services, with funding from the Province of Ontario and working through the Ministry of the Attorney General's Ontario Victim Services, has developed the Online Training Initiative to Address Human Trafficking,⁴² which provides a free online training program (available both in English and French) "for service providers who support victims of human trafficking across Ontario."⁴³ This is for persons in the "legal and law enforcement communities, as well as the labour, licensing enforcement, child support, health, welfare, social and victim services sectors."⁴⁴

The online training program⁴⁵ consists of a series of modules built around the following curriculum:

- An overview of human trafficking
- Human trafficking in Canada and Ontario
- Dynamics of human trafficking
- Human trafficking indicators
- Service needs of trafficked persons
- Unique needs of Aboriginal clients
- Unique needs of Francophone clients
- First response practices
- Medium and long-term support.⁴⁶

2. British Columbia's Office to Combat Trafficking in Persons Online Training Course

The province of British Columbia established the Office to Combat Trafficking in Persons (OCTIP)⁴⁷ in order to develop and coordinate British Columbia's strategy to combat human

⁴² *Online Training Initiative to Address Human Trafficking*, MCIS LANGUAGE SERVICES, <http://helpingtraffickedpersons.org/> (last visited Feb. 16, 2016), archived at <https://perma.cc/BL3B-TD3Q>.

⁴³ *Human Trafficking – Online Training for Service Providers*, ONTARIO'S MINISTRY OF THE ATTORNEY GENERAL, https://www.attorneygeneral.jus.gov.on.ca/english/ovss/human_trafficking/, archived at <https://perma.cc/82VV-BTE4>.

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Online Training Initiative to Address Human Trafficking: Curriculum*, MCIS LANGUAGE SERVICES, <http://helpingtraffickedpersons.org/curriculum/> (last visited Feb. 12, 2016), archived at <https://perma.cc/B6XL-HHKZ>.

⁴⁷ *About Us*, OCTIP, <http://www2.gov.bc.ca/gov/content/justice/criminal-justice/victims-of-crime/human-trafficking/about-us> (last visited Feb. 12, 2016), archived at <https://perma.cc/6ZA5-UTRR>.

trafficking.⁴⁸ In 2011, the OCTIP, with federal funding and partnership, created Canada's first online training course for front-line service providers called "Human Trafficking: Canada Is Not Immune"⁴⁹ In 2012 the online training course was made available in French.⁵⁰ The online training course consists of four modules, which provide "information on how to recognize, protect, and assist a person who may have been trafficked in Canada."⁵¹ The course modules consist of: Defining human trafficking; Canada's response to human trafficking; How to recognize a trafficked person; and How to help a trafficked person.⁵² Throughout the four modules and resource section of this training, participants will find the following resources:

- Case studies, each of which presents a unique situation drawn from recorded cases.
- Reality Checks that ask [participants] to reflect on the material in the context of [their] own area of practice.
- Quotes from service providers and other subject matter experts.
- A national list and map of organizations working on human trafficking issues in Canada.
- Glossary terms (identified throughout the course by bolded words . . .).
- Printable PDFs of resources or specific sections of the training.
- A comprehensive listing of web and print resources on human trafficking and related topics.⁵³

⁴⁸ BRITISH COLUMBIA MINISTRY OF JUSTICE, BC'S ACTION PLAN TO COMBAT HUMAN TRAFFICKING 14 (2013–2016) (Mar. 2013), <http://www2.gov.bc.ca/assets/gov/law-crime-and-justice/criminal-justice/victims-of-crime/human-trafficking/about-us/action-plan.pdf>, archived at <https://perma.cc/4J5J-PZS9>.

⁴⁹ *Welcome to the Online Training Human Trafficking: Canada is Not Immune 2nd Edition – 2014*, OCTIP, <http://www.pssg.gov.bc.ca/octiptraining/index.html>, archived at <https://perma.cc/FGW9-DMS7>.

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *How the Course is Set Up*, OCTIP, <http://www.pssg.gov.bc.ca/octiptraining/>, archived at <https://perma.cc/AU23-TL53>.

⁵³ *Features of This Course*, OCTIP, <http://www.pssg.gov.bc.ca/octiptraining/overview/002.html> (last visited Feb. 16, 2016), archived at <https://perma.cc/DJT2-3B37>.

China

Laney Zhang
Senior Foreign Law Specialist

SUMMARY Article 240 of China’s Criminal Law prohibits abducting and trafficking women or children and provides harsher punishments if forced prostitution is involved. The Criminal Law also prohibits buying abducted women or children, forced labor, forced prostitution, and luring girls under fourteen into prostitution.

The Ministry of Public Security (MPS) is primarily responsible for combating crimes of trafficking. Led by the MPS, the Inter-Ministerial Joint Conference for Anti-Trafficking in Women and Children is tasked with overall anti-human-trafficking activities. It has a number of central government departments and agencies as its member units, including the Central Office for Comprehensive Management of Public Security and the Ministry of Justice.

The national anti-trafficking action plan requires training programs on anti-trafficking laws, regulations, and policies to be provided to anti-trafficking personnel at various levels nationwide, in order to enhance their abilities with regard to anti-trafficking law enforcement. References have also been found to various training programs related to COMMIT, an anti-trafficking initiative involving Cambodia, China, Lao PDR, Myanmar, Thailand, and Vietnam.

I. Legal Framework on Human Trafficking

The Criminal Law of the People’s Republic of China prohibits many trafficking activities, including abducting and trafficking women or children, buying abducted women or children, forced labor, forced prostitution, and luring girls under fourteen into prostitution.¹ The Criminal Law was recently amended on August 29, 2015, effective November 1, 2015, to revise some of the Law’s trafficking provisions.²

A. Abducting and Trafficking Women or Children

Article 240 of the Criminal Law prohibits abducting and trafficking women or children, which is punishable by five to ten years’ imprisonment and a fine.

¹ Zhonghua Renmin Gongheguo Xingfa [Criminal Law of the People’s Republic of China (PRC)] (Criminal Law) (adopted by the National People’s Congress (NPC), Mar. 14, 1997, effective Oct. 1, 1997, as last amended Feb. 25, 2011), XINBIAN ZHONGHUA RENMIN GONGHEGUO CHANGYONG FALÜ FAGUI QUANSHU 6-1 (2014), English translation *available at* WESTLAWCHINA.COM (by subscription).

² Zhonghua Renmin Gongheguo Xingfa Xiuzheng An (Jiu) [Ninth Amendment to the Criminal Law of the People’s Republic of China] (Ninth Amendment) (adopted by the NPC Standing Committee, Aug. 29, 2015, effective Nov. 1, 2015), 9 XIN FAGUI HUIBIAN 1 (2015), English translation *available at* WESTLAWCHINA.COM (by subscription).

Under prescribed conditions, including forced prostitution, the penalties are much harsher: no less than ten years' or life imprisonment and a fine or confiscation of property, and if the circumstances are particularly serious, the death penalty and confiscation of property.³ Such conditions prescribed by article 240 are as follows:

- (1) being a ringleader of a gang engaged in abducting and trafficking in women and children;
- (2) abducting and trafficking in three or more women and/or children;
- (3) raping the woman who is abducted and trafficked;
- (4) enticing or forcing the woman who is abducted and trafficked to engage in prostitution, or selling such woman to any other person who would force her to engage in prostitution;
- (5) kidnapping a woman or child by means of violence, coercion, or anesthesia for the purpose of selling the victim;
- (6) stealing a baby or an infant for the purpose of selling the victim;
- (7) causing serious injury or death to the woman or child who is abducted and trafficked or to her or his relatives or any other serious consequences; or
- (8) selling a woman or a child out of the territory of China.⁴

Prohibiting the abduction and trafficking of women or children, article 240 does not apply to the trafficking of men.

B. Buying Abducted Women or Children

According to article 241 of the Criminal Law, buying an abducted woman or child subjects the buyer to no more than three years' imprisonment, criminal detention, or public surveillance.⁵

Under the Criminal Law as it existed before the Ninth Amendment, the buyer of an abducted woman or child might be exempt from criminal punishment if the buyer did not obstruct the woman from returning home of her own will, or maltreat the child or obstruct the child's rescue.⁶ The Ninth Amendment abolished this exemption, providing that such a buyer is criminally punishable but may receive a lighter sentence.⁷

³ Criminal Law art. 240.

⁴ *Id.* art. 240.

⁵ *Id.* art. 241.

⁶ *Id.*

⁷ Ninth Amendment art. 241.

C. Forced Labor

Article 244 of the Criminal Law prohibits forced labor, which is punishable by no more than three years' imprisonment or criminal detention and a fine. When the circumstances are serious, it is punishable by three to ten years' imprisonment and a fine. The provision also applies to those who facilitate recruiting or transport, or assist by other means in forced labor.⁸

D. Organizing Prostitution or Forced Prostitution

According to paragraph 1 of article 358 as newly revised by the Ninth Amendment, organizing prostitution or forced prostitution is punishable by five to ten years' imprisonment and a fine. Under serious circumstances, the punishment is no less than ten years' or life imprisonment and a fine or confiscation of property.⁹ A heavier penalty within the scope of paragraph 1 will be imposed on those organizing or forcing minors to engage in prostitution, according to the new paragraph 2 of the article.¹⁰

E. Luring Others into Prostitution

Article 359 prohibits luring others into prostitution. In particular, paragraph 2 of the article provides that luring girls under the age of fourteen into prostitution is subject to over five years' imprisonment and a fine.¹¹

II. Roles and Responsibilities of Government Agencies in Enforcing Laws Against Human Trafficking

A. Inter-Ministerial Joint Conference for Anti-Trafficking in Women and Children

The Inter-Ministerial Joint Conference for Anti-Trafficking in Women and Children (Joint Conference) is tasked with drafting the national action plan, coordinating relevant government departments, and directing provinces in carrying out anti-trafficking activities in China, as well as coordinating and promoting international anti-trafficking cooperation.¹²

⁸ Criminal Law art. 244.

⁹ Ninth Amendment art. 358.

¹⁰ *Id.*

¹¹ *Id.* art. 359.

¹² ZHONGGUO FANDUI GUAIMAI FUNÜ ERTONG XINGDONG JIHUA (2008–2012) [CHINA NATIONAL PLAN OF ACTION ON COMBATING TRAFFICKING IN WOMEN AND CHILDREN (2008–2012)] (2008–2012 National Action Plan), CENTRAL PEOPLE'S GOVERNMENT, http://www.gov.cn/zwggk/2007-12/20/content_839479.htm, archived at <https://perma.cc/L8TV-NPXV>, English translation at http://www.humantrafficking.org/uploads/publications/China_National_Plan_of_Action_on_Combating_Trafficking_in_Women_and_Children_December_2007.pdf, archived at <https://perma.cc/UQ89-5PBJ>.

The Joint Conference is led by the Ministry of Public Security (MPS) and has a number of central government departments and agencies as its member units, including the Central Office for Comprehensive Management of Public Security and the Ministry of Justice (MOJ).¹³

The office of the Joint Conference is located in the Criminal Investigation Bureau of the MPS, and the Director-General of the Bureau is in charge of the office.¹⁴

B. Ministry of Public Security

The MPS is primarily responsible for combating trafficking crimes in China. The Supreme People's Court (SPC), the Supreme People's Procuratorate (SPP), the All-China Women's Federation (ACWF), and several other central government departments and agencies are required to support the MPS in this regard.¹⁵

III. Training Programs for Law Enforcement

A. National Anti-Trafficking Workshops

According to the 2013–2020 China National Plan of Action on Combating Trafficking in Women and Children (2013–2020 National Action Plan), training programs are to be provided to anti-trafficking personnel nationwide. Specifically:

- The MPS, SPP, and the SPC are responsible for providing training programs on anti-trafficking laws, regulations, and policies to anti-trafficking personnel at various levels, in order to enhance their ability with regard to anti-trafficking investigation, prosecution, and adjudication.
- The MPS, SPC, SPP, and MOJ are responsible for providing training programs to law-enforcement personnel on the country's borders, in order to enhance their awareness and ability in preventing and combating cross-border trafficking in persons.¹⁶

In addition, the Ministry of Foreign Affairs, the MPS, the Ministry of Commerce, and the ACWF are tasked by the 2013–2020 National Action Plan to coordinate with international organizations and foreign countries in providing joint anti-trafficking training programs.¹⁷

National anti-trafficking workshops have reportedly been held in various places in China, including the following:

¹³ *Id.*

¹⁴ *Id.*

¹⁵ ZHONGGUO FANDUI GUAIMAI RENKOU XINGDONG JIHUA (2013–2020) [CHINA NATIONAL PLAN OF ACTION ON COMBATING TRAFFICKING IN PERSONS (2013–2020)] (2013–2020 National Action Plan), http://www.gov.cn/zwgk/2013-03/08/content_2349019.htm, archived at <https://perma.cc/V4KZ-MF4J>.

¹⁶ *Id.*

¹⁷ *Id.*

- August 2007, in Lijiang, Yunan Province¹⁸
- August 2009, in Huangshan, Anhui Province¹⁹
- July 2010, in Hulunbei'er, Inter Mongolia²⁰
- March 2012, in Zhangjiajie, Hunan Province²¹

B. COMMIT Training Workshops

The Coordinated Mekong Ministerial Initiative Against Trafficking (COMMIT) has had their training workshops financially supported by the Chinese government, according to the *Annual Progress Report of the United Nations Action for Cooperation Against Trafficking in Persons 2014*.²² Through the COMMIT, the six governments of the Greater Mekong Sub-region (Cambodia, China, Lao PDR, Myanmar, Thailand, and Vietnam) are committed to a response to human trafficking, highlighting the need for multilateral, bilateral, and government-NGO cooperation to fight human trafficking.²³

References have been found to various training programs related to the COMMIT:

- Around 2004, the public security organs of China and Vietnam jointly held training programs for personnel of the two countries' law-enforcement agencies and women's protection organizations.²⁴
- In June 2007, the COMMIT China working group developed an anti-trafficking training brochure.²⁵

¹⁸ *Report on the National Anti-Trafficking Workshop in China*, HUMANTRAFFICKING.ORG (Oct. 4, 2007), <http://www.humantrafficking.org/updates/712>, archived at <https://perma.cc/4RRQ-GRC8>.

¹⁹ *Guowuyuan Fanguai Buji Lianxi Huiyi Bangongshi Juban Fanguai Peixunban [The State Council Anti-Trafficking Inter-Ministerial Joint Conference Held Workshop]*, PEOPLE.COM (Aug. 25, 2009), <http://politics.people.com.cn/GB/1027/9923194.html>, archived at <https://perma.cc/9W5U-SZZY>.

²⁰ *Quanguo Daguai Fanguai Peixunban Zai Hulunbei'er Juban [National Combating-and-Anti-Trafficking Workshop Held in Hulunbei'er]*, SUPREME PEOPLE'S COURT OF THE PRC (July 28, 2010), <http://courttapp.chinacourt.org/shenpan-xiangqing-1357.html>, archived at <https://perma.cc/BE3F-26SU>.

²¹ *Quanguo Daguai Fanguai Gongzuo Peixunban Kaiban [National Combating-and-Anti-Trafficking Workshop Held]*, UN-ACT CHINA (Mar. 31, 2012), <http://www.notip.org.cn/article/Details.asp?LanFlag=1&NewsId=7382&classid=20&BID=>, archived at <https://perma.cc/UN8T-D8FW>.

²² UNITED NATIONS ACTION FOR COOPERATION AGAINST TRAFFICKING IN PERSONS ANNUAL PROGRESS REPORT 2014, at 13, <http://un-act.org/publication/view/un-act-2014-annual-report/>, archived at <https://perma.cc/8ZUJ-HKRV>.

²³ *COMMIT: The Coordinated Mekong Ministerial Initiative Against Trafficking*, UNITED NATIONS INTER-AGENCY PROJECT ON HUMAN TRAFFICKING, <http://www.no-trafficking.org/commit.html> (last visited Feb. 5, 2016), archived at <https://perma.cc/F4NW-V93F>.

²⁴ Gong'anbu Xingzhen Ju Du Hangwei Juzhang Zai Meigonghe Ciquyu Hezuo Fanguai Diwuci Gaoguan Huiyi Shang de Fayan [Speech of Du Hangwei, Director-General of the MPS Criminal Investigation Bureau on the Fifth Meeting of the Greater Mekong Sub-region Anti-Trafficking Cooperation], MPS, <http://www.mps.gov.cn/n16/n983040/n1294479/n1294540/1718652.html> (last visited Feb. 5, 2016), archived at <https://perma.cc/MK66-3AH8>.

²⁵ *Id.*

Egypt

George Sadek
Senior Legal Analyst

SUMMARY There are three legal instruments in Egypt that prohibit human trafficking for the purpose of sexual exploitation and forced labor: the Egyptian Constitution of 2014, Law No. 64 of 2010, and Law No. 126 of 2008. In July 2007, the National Coordinating Committee on Preventing and Combating Human Trafficking was established through Prime Ministerial Decree No. 1584 of 2007. Government officials, including members of law enforcement agencies, have received a series of training courses on combating human trafficking. Those training programs are delivered by experts appointed by the National Coordinating Committee on Preventing and Combating Human Trafficking, which has also coordinated with international organizations.

I. Legal Framework

There are three legal instruments in Egypt prohibiting the trafficking of women and children for the purpose of sexual exploitation and forced labor: the Egyptian Constitution of 2014, Law No. 64 of 2010 on Combating and Preventing Trafficking in Persons, and Law No. 126 of 2008 on Child Protection. In 2015, a bill was also drafted to combat human smuggling.

Articles 80 and 89 of the Egyptian Constitution of 2014 prohibit trafficking in persons and exploiting women and children. Article 80 requires the state to “provide children with care and protection from all forms of violence, abuse, mistreatment, and commercial and sexual exploitation.”¹ Article 89 prohibits “all forms of slavery, oppression, [the] forced exploitation of human beings, [the] sex trade, and other forms of human trafficking.”²

Law No. 64 of 2010 prohibits all forms of human trafficking and exploitation that are prohibited in the UN’s 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, which was ratified by Egypt in March 2004.³ Article 2 of the Law prohibits both domestic and international trafficking of persons, and defines human trafficking to cover all forms of exploitation, including the sexual exploitation of women, forced labor,

¹ CONSTITUTION OF 2014, art. 80, unofficial English translation available at <http://www.sis.gov.eg/Newvr/Dustor-en001.pdf>, archived at <https://perma.cc/Y4J8-Y6DD>.

² *Id.* art. 89.

³ Law No. 64 of 2010, 18 AL-JARIDA AL-RASMIYYA (Duplicate), 9 May 2010, p. 5, English translation available at http://www.protectionproject.org/wp-content/uploads/2010/09/Law_regarding_Combating_Human_Trafficking_FINAL.pdf, archived at <https://perma.cc/DC6N-JKJY>; Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime, Nov. 15, 2000, 2237 U.N.T.S. 343, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-a&chapter=18&lang=en (click “vol. 2237” under “Text”), archived at <https://perma.cc/W3M3-THJ9>; Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children: Status, UNITED NATIONS TREATY COLLECTION, https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XVIII-12-a&chapter=18&lang=en (last visited Feb. 11, 2016), archived at <https://perma.cc/MW6H-FUC8>.

slavery, servitude, and the removal of human organs.⁴ Article 16 extends the Law’s jurisdiction to non-Egyptian citizens if

- the crime was committed on board any means of transportation that was registered in Egypt;
- one or more of the victims was Egyptian;
- the preparation for the crime or its planning, direction, supervision, or financing occurred in Egypt;
- the crime was committed by an organized criminal group engaged in a criminal activities in more than one state, including Egypt;
- the crime caused the harm of any Egyptian citizen or resident, or to the security or the interests of the Egyptian state; or
- the individual who committed the crime in Egypt was located by foreign law enforcement authorities and not extradited.⁵

Article 1 of the Law also defines the trafficking victim as “a natural person who suffered any material or moral harm, in particular bodily, psychological or mental harm, or economic loss if the harm or loss was caused directly by one of the crimes stipulated in [Law No. 64].”⁶ Article 23 of the Law protects the rights of trafficking victims, including the right to safety and legal assistance during all stages of evidence collection, investigation, or trial proceedings.⁷ It is not clear whether the Law provides protection to foreign victims of trafficking. According to article 26, the Egyptian authorities must provide care, education, training, and rehabilitation to Egyptian victims, with no mention being made of foreign victims.⁸

Law No. 126 of 2008 on child protection punishes individuals who violate the right of a child to be protected from trafficking and sexual, commercial, or economic exploitation.⁹ The Law penalizes individuals who buy or sell a child; offer a child for sale; deliver, accept, or transfer a child as a slave; exploit a child sexually, commercially, or through forced labor; or use the child for other illegal purposes, even if the crime is committed transnationally. Such offenses are punishable by hard labor for a period of not less than five years and a fine of E£50,000–200,000 (approximately US\$6,365–25,470).¹⁰

⁴ Law No. 64 of 2010, art.2.

⁵ *Id.* art.16.

⁶ *Id.* art.1

⁷ *Id.* art. 23.

⁸ *Id.* art. 26.

⁹ Law No. 126 of 2008 Amending Penal Code No. 85 of 1937, art. 291, 24 AL-JARIDA AL-RASMIYYA (Duplicate), 15 June 2008, unofficial English translation available at http://www.africanchildforum.org/clr/Legislation%20Per%20Country/Egypt/egypt_children_2008_en.pdf, archived at <https://perma.cc/S372-5JQ2>.

¹⁰ *Id.*

On September 6, 2015, an anti-human-smuggling bill was approved by the Egyptian National Security Committee (it has yet to become law). The bill, drafted by the National Coordinating Committee on Preventing and Combatting Illegal Migration, calls for the punishment of smugglers facilitating undocumented migration into or out of Egypt with life imprisonment and fines of up to E£500,000 (approximately US\$63,670). The bill proposes a fund to assist refugees, asylum seekers, and migrants, while holding the state responsible for protecting them.¹¹

With respect to the implementation of the government's anti-trafficking plan under Law No. 64 of 2010, the US State Department reports that in 2014 the Egyptian government did not comply with the minimum standards for the elimination of trafficking or adequately address the needs of foreign trafficking victims. Because many officials failed to systematically identify victims among vulnerable groups, victims were "routinely treated as criminals and punished for unlawful acts committed as a direct result of being subject to human trafficking."¹² In addition, the Egyptian authorities collected data in 2014 from district courts nationwide to gather information on trafficking cases over the previous five-year period to properly allocate training and prioritize anti-trafficking efforts. As a result of this collection, twenty-seven potential trafficking investigations were conducted. However, only fifteen prosecutions were initiated in 2014 under the 2010 anti-trafficking law, and no suspects were convicted. Instead, according to the State Department, "many trafficking cases were settled out of court, failing to adequately punish offenders or serve as a sufficient deterrent to the commission of trafficking crimes."¹³

II. Roles and Responsibilities of Government Agencies in Combating Human Trafficking

In July 2007, the National Coordinating Committee on Preventing and Combatting Human Trafficking was established through Prime Ministerial Decree No. 1584 of 2007.¹⁴ The Committee, composed of representatives from a number of government agencies,¹⁵ focuses on four areas in its fight against human trafficking: the prevention of the crime, protection of victims, prosecution of offenders, and cooperation with international organizations and academic institutions. In addition, the Committee is charged with preparing an annual report for the

¹¹ Tom Rollins, *Smugglers Could Face Life Sentence Under New Migration Bill*, MADA MASR (Sept. 6, 2015), <http://www.madamasr.com/news/smugglers-could-face-life-sentence-under-new-migration-bill>, archived at <https://perma.cc/X24A-9PCS>.

¹² *Egypt*, in U.S. DEPARTMENT OF STATE, 2015 TRAFFICKING IN PERSONS REPORT 148 (July 2015), <http://www.state.gov/documents/organization/245365.pdf>, archived at <https://perma.cc/WN3U-2YEN>.

¹³ *Id.*

¹⁴ Prime Ministerial Decree No. 1584 of 15 July 2007, available on the website of the Ministry of Foreign Affairs, at <http://www.mfa.gov.eg/Arabic/Ministry/TraffickinginPersons/report/Documents/Unnamed.doc> (in Arabic), archived at <https://perma.cc/VU25-2JF6>.

¹⁵ The Ministry of Foreign Affairs, Ministry of Justice, Ministry of Interior (agency responsible for domestic security), Ministry of Defense, General Intelligence Service, Ministry of Health, Ministry of Tourism, Ministry of Social Solidarity, Ministry of Labor, Ministry of Education, General Prosecution, National Council for Human Rights, National Council for Mother and Childhood, and National Council for Women. *Id.*

Council of Ministers concerning efforts to combat trafficking in persons and ensuring cooperation with the specialized office of the United Nations.¹⁶

After the passage of Law No. 64 of 2010, the National Coordinating Committee was reestablished by a new Prime Ministerial Decree, No. 2353 of 2010.¹⁷ In December 2010, the Committee created an action plan for January 2011–January 2013 to combat human trafficking.¹⁸ The action plan consists of four chapters that

- discuss methods of raising public awareness, building law enforcement capacity, and combating the root causes of human trafficking;
- deal with the personal safety of human trafficking victims and educate law enforcement officials on how to identify victims of trafficking;
- describe measures that contribute to effective criminal prosecution of traffickers and build the capacity of law enforcement agencies to combat trafficking efficiently; and
- discuss the strengthening of cooperation with international organizations and academic institutions on bilateral and multilateral levels.¹⁹

Prime Ministerial Resolution No. 239 of 2013 repealed Prime Ministerial Decree No. 2353 of 2010 and renamed the Committee as the National Coordinating Committee on Preventing and Combating Human Trafficking and Illegal Migration.²⁰ Article 2 of the Resolution granted the Committee the authority to develop plans and coordinate efforts to combat not only human trafficking but also illegal migration.²¹

In March 2014, a new independent committee was established by Prime Ministerial Resolution No. 380 of 2014 to focus only on combating and preventing illegal migration. Thus, the objectives of the new committee are different from those of the anti-human-trafficking committee.²²

¹⁶ *Id.*

¹⁷ Prime Ministerial Decree No. 2353 of 23 August 2010, <http://www.mfa.gov.eg/Arabic/Ministry/TraffickinginPersons/committee/Documents/resource.doc> (in Arabic), archived at <https://perma.cc/AJD8-DPYC>.

¹⁸ NATIONAL COORDINATING COMMITTEE ON PREVENTING AND COMBATING HUMAN TRAFFICKING, NATIONAL PLAN OF ACTION AGAINST HUMAN TRAFFICKING (JANUARY 2011–JANUARY 2013) (Dec. 2, 2010), available at http://www.ungift.org/doc/knowledgehub/resource-centre/Governments/Egypt_National_Action_Plan_2011-2013-en.pdf, archived at <https://perma.cc/CT8F-NWKS>.

¹⁹ *Id.*

²⁰ Prime Ministerial Resolution No. 239 of 12 March 2013, available at <http://www.vetogate.com/387107> (in Arabic), archived at <https://perma.cc/KXQ4-E769>.

²¹ *Id.* art. 2.

²² Prime Ministerial Resolution No. 380 of 9 March 2014, <http://www.mfa.gov.eg/Arabic/InsideEgypt/economyindicator/Documents/New%20Doc%207%20%282%29.pdf> (in Arabic), archived at <https://perma.cc/VV4D-ZY2Z>.

III. Training Programs Provided to Law Enforcement Agencies and Other Government Agencies

Since the passage of Law No. 64 of 2010, government officials, including members of law enforcement agencies, have received a series of training courses on combating human trafficking offered by experts appointed by the National Coordinating Committee on Preventing and Combating Human Trafficking, including in coordination with international organizations, such as the International Organization of Migrations (IOM). US nonprofit organizations, such as the International Research and Exchanges Board (IREX), and foreign academic institutions, such as the Protection Project of Johns Hopkins University, have also provided training to groups in Egypt.

Workshops and training programs organized by the National Coordinating Committee have focused on enhancing victim protection, trafficking prevention, and criminal prosecution. The Committee coordinates with other government agencies to provide the training programs at their facilities, and also hires field experts to provide training sessions.²³

In collaboration with the National Committee on Preventing and Combating Human Trafficking, the IOM has sponsored a number of training programs over the past five years. The purpose of the training programs has been to raise awareness of the problem of human trafficking among risk communities, enhance victim identification, and strengthen the investigation and prosecution capacities of law enforcement agencies and the Prosecutor's Office. The programs have targeted law enforcement officials, including representatives from the Ministry of Justice and Interior (responsible for domestic security), and community and religious leaders. The IOM staff has also trained diplomats and army officers in combating human trafficking in peace-keeping missions.²⁴

In 2010, the International Research and Exchanges Board initiated a training program targeting journalists and editors to educate them about reporting on human trafficking in order to strengthen public awareness and protect potential victims. The program was funded by the Bureau of Educational and Cultural Affairs of the US Department of State.²⁵

Despite the ongoing training programs, the National Committee on Combating Human Trafficking has stated that those programs have not been sufficient, especially the programs targeting law enforcement officials.²⁶ The State Department's *2015 Trafficking in Persons*

²³ THE PROTECTION PROJECT, A HUMAN RIGHTS REPORT ON TRAFFICKING IN PERSONS, ESPECIALLY WOMEN AND CHILDREN: EGYPT, <http://www.protectionproject.org/wp-content/uploads/2010/09/Egypt.pdf> (last visited Feb. 12, 2016), archived at <https://perma.cc/6495-57F6>.

²⁴ INTERNATIONAL ORGANIZATION FOR MIGRATION (IOM) CAIRO, COMBATING HUMAN TRAFFICKING IN EGYPT: 2012 FACT SHEET, <http://www.egypt.iom.int/Doc/Counter%20Trafficking%20Fact%20Sheet%20Egypt%20%282012%29.pdf>, archived at <https://perma.cc/96RM-35E3>.

²⁵ IREX, REPORTING ON HUMAN TRAFFICKING: A MANUAL FOR TRAINING JOURNALISTS AND EDITORS IN EGYPT (Apr. 2010), <https://www.irex.org/system/files/TOT.Reporting%20on%20TIP.Eng...pdf>, archived at <https://perma.cc/ETX2-YUB7>.

²⁶ NATIONAL COORDINATING COMMITTEE ON COMBATING AND PREVENTING HUMAN TRAFFICKING, EVALUATING THE EXECUTION OF THE NATIONAL PLAN OF ACTION AGAINST HUMAN TRAFFICKING (JANUARY 2011–DECEMBER

Report also reached the same conclusion after evaluating the current anti-human-trafficking programs in the country. It stated that law enforcement officers lacked an understanding of Law No. 64 of 2010 and that they also need more training in effective investigations.²⁷

2013) 1 (Dec. 31, 2012), [http://www.mfa.gov.eg/Arabic/InsideEgypt/economyindicator/Documents/Evaluating%20the%20Execution%20of%20the%20National%20Plan%20of%20Action%20Against%20Human%20Trafficking%20\(January%202011-%20December%202013\)\[1\].doc](http://www.mfa.gov.eg/Arabic/InsideEgypt/economyindicator/Documents/Evaluating%20the%20Execution%20of%20the%20National%20Plan%20of%20Action%20Against%20Human%20Trafficking%20(January%202011-%20December%202013)[1].doc), archived at <https://perma.cc/F4Q4-K8UC>.

²⁷ U.S. DEPARTMENT OF STATE, *supra* note 12, at 148.

England and Wales

Clare Feikert-Ahalt
Senior Foreign Law Specialist

SUMMARY England and Wales is taking a robust approach to tackle human trafficking. It introduced the Modern Slavery Act in 2015 to consolidate provisions relating to human trafficking, forced labor, and sexual exploitation, and significantly increased the penalties for these offenses, as well as providing police with a way to seize the proceeds of these crimes and provide reparations to the victims. A national referral mechanism is in place to put potential victims in contact with one of two agencies that are specialized in dealing with these types of crime. There are statutory guidelines in place to help train the police and other first responders who are the victims' first point of contact with authorities. These guidelines train these first responders to see the indicators of modern slavery and take appropriate action to carefully interview such victims and meet their needs.

I. Introduction

Human trafficking increasingly has become a priority on the government agenda in England and Wales. England is considered to be a destination country, with the majority of trafficking victims originating from Eastern Europe, the Baltic States, the Balkans, and the Far East.¹ The Home Office has acknowledged that there is no reliable total available of the number of adults and children brought into the UK for the purposes of exploitation. It is estimated that 2014 saw an overall increase of 21% in human trafficking victims, and an increase of over 50% for British national victims of human trafficking,² although the rise could be attributed to an increased detection of the victims of this crime rather than an increase in incidences.

II. Laws

The UK adopted the term “modern slavery” in 2013 to cover offenses that were previously described as human trafficking, forced labor, slavery, sexual exploitation, and domestic servitude.³ The Modern Slavery Act entered into force on July 31, 2015, and served to consolidate previous legislation, creating a single offense of human trafficking that covers both

¹ UK Human Trafficking Centre, NATIONAL CRIME AGENCY, <http://www.nationalcrimeagency.gov.uk/about-us/what-we-do/specialist-capabilities/uk-human-trafficking-centre> (last visited Feb. 10, 2016), archived at <https://perma.cc/27PQ-TCRW>.

² NATIONAL CRIME AGENCY, NCA STRATEGIC ASSESSMENT THE NATURE AND SCALE OF HUMAN TRAFFICKING IN 2014 (Sept. 12, 2015), <http://www.nationalcrimeagency.gov.uk/publications/656-nca-strategic-assessment-the-nature-and-scale-of-human-trafficking-in-2014/file>, archived at <https://perma.cc/HG84-4RLH>. This report notes that the statistics “should be considered an indication of the nature and scale of human trafficking. This is because trafficking and slavery are hidden crimes, and statistics and analysis can only be provided on what is already known, and cannot be exhaustive.” *Id.* para. 3. See also Press Association, *Number of British Trafficking Victims More Than Doubles*, GUARDIAN (London) (Dec. 15, 2015), <http://www.theguardian.com/law/2015/dec/16/british-victims-human-trafficking-increase-2014-nca-report>, archived at <https://perma.cc/34XA-AZQD>.

³ NATIONAL CRIME AGENCY, *supra* note 2, ¶ 6.

sexual and nonsexual exploitation. It further simplified previous legislation and increased the maximum sentence to life imprisonment on a number of offenses. The Act enables the courts to issue “prevention and risk orders,” which restrict the activity of the individuals named in the order if they present a risk to others.⁴

The Modern Slavery Act introduced a number of provisions to help victims of modern slavery. It provides statutory defenses to victims of modern slavery who are forced to commit crimes as a direct consequence of their slavery and enables the court to compensate victims if their assets have been confiscated from the perpetrators through reparation orders.⁵ The Act requires the Secretary of State to issue statutory guidance to help frontline workers identify and support victims of modern slavery.⁶

The Modern Slavery Act provides that trafficking is facilitating or arranging the travel of another person with a view to that person being exploited.⁷ Any consent to travel from the victim is irrelevant in this offense.⁸ The offense is extraterritorial, so it applies to UK nationals wherever the offense is committed.⁹ Exploitation covers a number of areas including slavery, servitude, forced or compulsory labor, sexual exploitation, moving a person for the purposes of organ removal or the sale of human tissue, or any type of behavior that would provide an advantage to the trafficker.¹⁰ The maximum penalty for this offense is up to life imprisonment for a conviction on indictment.¹¹ Any assets generated during the course of modern slavery may be confiscated after conviction.¹² In addition to confiscating the proceeds of crime, the Modern Slavery Act provides the court with the ability to provide reparations to the victim of the crime upon the conviction of the defendant. This order allows the court to take into account the exploitation and degradation the victim has suffered.¹³

To further help protect victims of modern slavery, the Act provides for a system of prevention orders, which enables the court to prohibit an individual subject to an order from doing certain activities. These orders can be made against people who are involved in slavery or trafficking, regardless of whether they have been convicted of an offense.¹⁴ The prohibitions in these orders may vary and are in accordance with the wishes of the court, but may include such things as a prohibition on foreign travel and restrictions on individuals visiting certain businesses or places.

⁴ Modern Slavery Act 2015, c. 30, http://www.legislation.gov.uk/ukpga/2015/30/pdfs/ukpga_20150030_en.pdf, archived at <https://perma.cc/2879-MFK7>; NATIONAL CRIME AGENCY, *supra* note 2, ¶ 8.

⁵ Modern Slavery Act 2015, c. 30, § 45.

⁶ *Id.* § 49.

⁷ *Id.* § 2.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.* § 3.

¹¹ *Id.* § 5.

¹² *Id.* § 7.

¹³ *Id.* § 8.

¹⁴ *Id.* §§ 13–22.

The Modern Slavery Act further empowers magistrate's courts to issue slavery and trafficking risk orders.¹⁵ These orders are issued upon application from a chief officer of police, an immigration officer, or the Director General of the National Crime Agency (NCA). These orders are issued in cases where the court is satisfied there is a risk that the defendant may commit a slavery or human trafficking offense and that the order is necessary to protect individuals from harm.¹⁶ The prohibitions contained in this order are similar to those contained in preventive orders, and the magistrate's courts have discretion in determining what prohibitions are necessary.

The Modern Slavery Act 2015 established an Independent Anti-Slavery Commissioner, who is responsible for encouraging good practices to prevent, detect, investigate, and prosecute slavery and human trafficking offenses and for identifying victims of these offenses. The Commissioner has a wide variety of activities that he or she may undertake to support this role, including making recommendations to public authorities about the exercise of his or her functions; financially supporting research into modern slavery; providing information, education, or training; and issuing reports on matters of modern slavery to the Secretary of State.¹⁷

III. Roles and Responsibilities of Government Agencies and the National Referral Mechanism

A number of agencies tasked with tackling modern-day slavery are organized under the National Referral Mechanism (NRM). This mechanism was introduced in 2009 to meet the UK's obligation under the Convention on Action Against Trafficking in Human Beings. It aims to locate and identify potential victims of trafficking and ensure they receive appropriate support.¹⁸ To be referred to the NRM, the potential victim must be referred to one of two competent authorities by one of a number of agencies or organizations. The two competent authorities are the UK Human Trafficking Center, which handles referrals from the police, local authorities, and nongovernmental organizations (NGOs), and the Home Office's Immigration and Visas, which handles referrals that include part of the immigration process. These authorities, known as first responders, must make the initial referral to the two competent authorities and include a mixture of government agencies and NGOs. The statutory first responder agencies include the following:

- The forty-three police forces of England and Wales
- British Transport Police
- Police Service of Northern Ireland (PSNI)
- Police Scotland
- Border Force

¹⁵ *Id.* § 23.

¹⁶ *Id.* §§ 25–29.

¹⁷ *Id.* pt. 4.

¹⁸ *National Referral Mechanism*, NATIONAL CRIME AGENCY, <http://www.nationalcrimeagency.gov.uk/about-us/what-we-do/specialist-capabilities/uk-human-trafficking-centre/national-referral-mechanism> (last visited Feb. 14, 2016), archived at <https://perma.cc/GYS7-3VD9>.

- HM Revenue and Customs (HMRC)
- National Crime Agency (NCA)
- Home Office UK Visas and Immigration Directorate (UKVI)
- Home Office Immigration Compliance and Enforcement (HO ICE)
- Gangmasters Licensing Authority (GLA)
- Local Authorities
- National Health Service (NHS) (England, Scotland and Wales) and local health boards
- Health and Social Care Trusts (Northern Ireland)¹⁹

Additional bodies that may frequently find themselves in the role of first responders include charities such as the Salvation Army, the Poppy Project, Migrant Help, Kalayaan, Barnardos, Unseen, TARA Project (Scotland), National Society for the Prevention of Cruelty to Children (NSPCC), Black Association of Women Step Out (BAWSO), New Pathways, and the Refugee Council.²⁰

To refer a case to the competent authority, the first responder must complete a form that provides the reasons the responder thinks the person is a potential victim of human trafficking. Referral to the competent authority is voluntary for adults, who must provide permission by signing the referral form. The consent of potential child victims is not required for referral. The completed form initially goes to the UK Human Trafficking Centre, which determines which competent authority will handle the case.²¹ Once the referral is made to one of the competent authorities, it will be assessed and a decision will be made as to whether the individual is a victim of modern slavery.

The competent authority then has a two-stage process to determine whether or not someone is a victim of modern slavery. The competent authority must assess, within five working days, whether there are reasonable grounds, based upon statements from the victim and information from the first responder or other sources, to believe that the individual is a potential victim of human trafficking or modern slavery. The NCA has stated that “[t]he threshold at Reasonable Grounds stage for the trained decision makers is; ‘from the information available so far I believe but cannot prove’ that the individual is a potential victim of trafficking or modern slavery.”²² If such reasonable grounds are found, the potential victim may, if appropriate, be provided with accommodation and subsistence at a safe house at the government’s expense. The potential victim will then receive a period of forty-five calendar days of rest and reflection to determine

¹⁹ Modern Slavery Act 2015, c. 30, sched. 3.

²⁰ For a more complete list, see *Major Investigation and Public Protection: List of Anti-Slavery Charities and Non-Governmental Organisations*, COLLEGE OF POLICING, <https://www.app.college.police.uk/app-content/major-investigation-and-public-protection/modern-slavery/list-of-anti-slavery-charities-and-non-governmental-organisations/?s=trafficking> (last visited Feb. 14, 2016), archived at <https://perma.cc/MQV8-LMU5>.

²¹ *National Referral Mechanism*, NATIONAL CRIME AGENCY, *supra* note 18.

²² *Id.*

his or her next course of action. During this time frame the competent authority works to gather further information from the first responder that made the initial referral, as well as other agencies, to make a conclusive determination as to whether the individual is a victim of human trafficking or modern-day slavery. The decision maker bases his or her decision on the balance of probabilities—it must be more likely than not that the individual is a victim of human trafficking or modern slavery.²³ If the individual is an immigrant, he or she may be granted discretionary leave to remain in the UK for one year, which can be extended, to allow him/her to cooperate in any police investigation and/or legal action.²⁴ Where the victim’s case has no involvement in the criminal justice process the Home Office may still provide a grant of discretionary leave to remain²⁵ if the individual is conclusively recognized as a victim of human trafficking.²⁶ If the victim is from outside the European Economic Area he or she is entitled to receive financial assistance and help to return home through a program run by the Home Office known as the Assisted Voluntary Return of Irregular Migrants. Nationals from European Economic Area states are put in contact with their embassy and NGOs who may be able to assist them.²⁷ If the individual is found not to be a victim of trafficking or modern slavery then the circumstances of the case need to be taken into account. Depending upon these circumstances the individual may be referred to law enforcement or offered support to voluntarily return to his/her country of origin if the circumstances do not provide the individual with a right to live in the UK.²⁸

IV. Training for Law Enforcement

Training for the police starts at the College of Policing. This College has produced a number of Authorized Professional Practice materials, one of which covers modern slavery. The Authorized Professional Practice materials note that when police come into contact with potential victims of modern slavery, the officers must immediately take steps to ensure the safety of the potential victim. If the officer who makes initial contact with either the potential victim, a third party, or a witness does not have the requisite knowledge or expertise to “sensitively handle vulnerable and traumatized individuals,”²⁹ he or she must refer the case to his/her line manager or duty officer, who is then responsible for arranging, if necessary, a referral into the NRM.³⁰

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ Home Office, *Victims of Modern Slavery – Frontline Staff Guidance*, Version 2, at 7 (July 2015), https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/488188/Victims_of_modern_slavery_-_frontline_staff_guidance_v2.0_EXT_clean.pdf, archived at <https://perma.cc/LCM5-PK92>.

²⁷ *National Referral Mechanism*, NATIONAL CRIME AGENCY, *supra* note 18.

²⁸ *Id.*

²⁹ *Major Investigation and Public Protection: First Response and the National Referral Mechanism*, COLLEGE OF POLICING, <https://www.app.college.police.uk/app-content/major-investigation-and-public-protection/modern-slavery/national-referral-mechanism/?s=trafficking> (last visited Feb. 14, 2016), archived at <https://perma.cc/24S6-KUBN>.

³⁰ *Id.*

When a trained first responder is made aware of a potential victim, arrangements should be made for specialist interviewers at the earliest stage possible to conduct the interview in accordance with guidance from the Ministry of Justice on how to obtain the best evidence.³¹ The interviewer should take account of indicators of exploitation and use the information obtained in the interview to complete the national referral form to refer the potential victim into the NRM.³² The police are made aware that it can take time for a potential victim to disclose information relating to the case. In situations where such disclosure is not imminent the potential victim can be placed in local temporary accommodation, which should be secure, and the potential victim should be “under strict instructions not to attempt communication with their exploiter(s) or other victims. The placement should be kept confidential.”³³

For potential victims that are under the age of eighteen years of age, a child advocate or other selected representative should be present during any interview. It may not be appropriate to interview children immediately following their discovery and they should be placed in secure accommodation, the location of which should be kept confidential prior to any interview.³⁴ During the child’s time in accommodation, all steps should be taken to ensure that they do not go missing and are not re-exploited.³⁵ In cases where there is uncertainty over the age of a potential victim, they should be presumed to be a child.³⁶

Police that interview children are trained to understand that child victims of modern slavery are the most vulnerable, the easiest to control, and the least likely to admit or realize their situation. Child victims may also be wary of adults, particularly the police, and interviews must be conducted in a child-friendly environment. If a child goes missing before or after his/her interview, the case is treated as a missing person case.³⁷

Police may receive specialist training to recognize and help victims of modern slavery through additional programs. Charities who have either received funding from the Home Office or independently have created programs to provide further training to frontline professionals, including nurses, midwives, police officers, and prison staff, to raise awareness and

³¹ MINISTRY OF JUSTICE, ACHIEVING BEST EVIDENCE IN CRIMINAL PROCEEDINGS (Mar. 2011), www.cps.gov.uk/publications/docs/best_evidence_in_criminal_proceedings.pdf, archived at <https://perma.cc/WNB3-YG4E>.

³² *Major Investigation and Public Protection: Risk and Identification*, COLLEGE OF POLICING, <https://www.app.college.police.uk/app-content/major-investigation-and-public-protection/modern-slavery/risk-and-identification/> (last visited Feb. 10, 2015), archived at <https://perma.cc/82CR-4Q5Z>.

³³ *Major Investigation and Public Protection: First Response and the National Referral Mechanism*, COLLEGE OF POLICING, *supra* note 29.

³⁴ *Id.*

³⁵ *Id.*

³⁶ Modern Slavery Act 2015, c. 30, § 51.

³⁷ *Major Investigation and Public Protection: First Response and the National Referral Mechanism*, COLLEGE OF POLICING, *supra* note 29.

understanding of trafficking and provide them with knowledge of how to help potential victims.³⁸

V. Guidance for Frontline Workers

There are a number of guidelines in place to assist all frontline workers, not just the police, who come into contact with potential victims of modern slavery. The purpose of the guidance is to give such staff information so they understand all the aspects involved in modern slavery, to help them identify and assist potential victims. The guidance provides detailed information on how frontline workers should identify and handle potential victims. There are certain provisions in the guidance that have been redacted as being sensitive information.³⁹ The guidance notes that victims of modern slavery are most frequently identified during the border and immigration process, and that individuals working in these areas must complete e-learning training on modern slavery.⁴⁰

The difficulty in identifying victims of modern slavery are noted, and the guidance emphasizes that victims are extremely vulnerable and frequently mistrust individuals in positions of authority.⁴¹ The first guidance for frontline practitioners is to work to put the potential victim at ease as far as possible, being careful to watch the potential victim's verbal and body language. Guidance notes that victims of human trafficking may frequently appear unwilling to cooperate and feel not only fear of their trafficker but also dependence upon the trafficker.⁴²

Frontline responders are required to consider all health concerns, both psychological and physical, and ensure that care for these are provided in a timely manner. To help build rapport and the victim's confidence with the frontline responder, changes in personnel should be avoided. The responder should research the victim's cultural background, covering gender, religion, and ethnicity, and, if an interpreter is required, ensure that the interpreter, selected from the national register of interpreters, speaks the same dialect as the victim. The victim should be helped to understand the process.⁴³

Once a potential victim of modern slavery has been identified, the frontline worker must take the potential victim to a secure environment away from any potential trafficker or other potential victims. During this time, the frontline worker informs the potential victim of their right to assistance, protection, and emotional and practical help.⁴⁴ The interview of the victim is an

³⁸ *Eaves To Deliver Human Trafficking Training To Frontline Professionals*, EAVES, <http://www.eavesforwomen.org.uk/news-events/news/eaves-to-deliver-human-trafficking-training-to-frontline-professionals> (last visited Feb. 10, 2016), archived at <https://perma.cc/3ND2-YRCD>.

³⁹ Home Office, *Victims of Modern Slavery – Frontline Staff Guidance*, *supra* note 26, at 42.

⁴⁰ *Id.* at 14.

⁴¹ *Best Practice Guide*, NATIONAL CRIME AGENCY, <http://www.nationalcrimeagency.gov.uk/about-us/what-we-do/specialist-capabilities/uk-human-trafficking-centre/best-practice-guide> (last visited Feb. 8, 2016), archived at <https://perma.cc/M2U6-P9YP>.

⁴² *Id.*

⁴³ *Id.*

⁴⁴ Home Office, *Victims of Modern Slavery – Frontline Staff Guidance*, *supra* note 26, at 13.

important stage in the process, as evidence from this will be used to determine whether the individual is a potential victim of human trafficking and will be provided on the form to the NRM. All interviews must be conducted to achieve the best evidence. To meet this standard the victim's health and fitness for the interview should first be considered. If it is determined that the victim's health and fitness is sufficient to allow for the interview, the roles of those involved and the process of the interview should be clearly explained to the victim so that he or she understands it. The pace of the interview should be determined by the victim's state of mind. Neutral space should be used for the interview and interviewers should not be in uniform. In cases of female victims, both female interviewers and interpreters should be utilized.⁴⁵

Guidance provides the examples of the Border Force processing a passenger during an asylum interview or during a visit from Immigration Enforcement to a premises.⁴⁶ Frontline staff are trained to recognize indicators to assist them in identifying whether a person is a potential victim of human trafficking. There are many indicators that a person may be a potential victim. Some of these indicators are that the potential victim may be reluctant to come forward with information, or even recognize that they are a victim of modern slavery. The information that they provide may contain obvious errors, or may be unrealistic, as the victim's trafficker may have taught them information to provide to authorities if questioned.⁴⁷ If the suspected trafficker is present, frontline staff must be aware of any nonverbal communication and body language between the victim and trafficker.⁴⁸ Frontline staff should be aware that the victim will likely have been affected by trauma, and could be experiencing post-traumatic stress disorder and as a result may display hostility, aggression, or difficulty recalling information or concentrating. Children in particular may find it difficult to trust authorities as the traffickers may have told them that the authorities should not be trusted, or may have faced negative experiences in their home country with corrupt officials.⁴⁹ There may also be physical indicators of human trafficking. These physical indicators are extensive and include injuries that may have occurred as a result of assault or measures to control the victim, or neurological symptoms. The presence of certain tattoos or marks may also signify that an individual is a potential victim of human trafficking.⁵⁰ Frontline workers are also trained to look for psychological indicators of modern slavery. These indicators include expressions of fear and anxiety, depression, isolation, substance abuse, self-harm and an attitude of self-blame, and shame, as well as symptoms of post-traumatic stress disorder, which as noted above, can cause hostility and aggression.⁵¹

Frontline workers are trained to look for situational and environmental signs that indicate a person is a potential victim of modern slavery. The UK uses a report produced by the International Labor Organization that lists the following specific signs of modern slavery:

⁴⁵ National Crime Agency, *Best Practice Guide*, *supra* note 41.

⁴⁶ Home Office, *Victims of Modern Slavery – Frontline Staff Guidance*, *supra* note 26, at 12.

⁴⁷ *Id.* ¶ 7.

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.* ¶ 7.1.

⁵¹ *Id.* ¶ 7.3.

- distrust of authorities
- acting as if instructed by another
- lack of knowledge about the area they live in the UK
- fear of saying what their immigration status is
- fearful and emotional about their family or dependents
- limited English, for example only having vocabulary relating to their exploitative situation
- passport or travel document has been confiscated
- someone has taken advantage of their illegal status in the UK⁵²

Frontline workers are trained to understand that victims of human trafficking may be reluctant to identify themselves as such and unwilling to disclose details of their experience for many reasons including fear of reprisal from the trafficker against themselves or their families, punishment from the authorities, deportation, juju or witchcraft rituals, or discrimination from their community and families, or because they are concerned they will be considered complicit in their situation.⁵³ There are many other factors that cause victims of human trafficking to conceal the fact—most are caused by fear of the traffickers or lack of information about their real situation and the laws that can help to protect and support them. Given all these factors, frontline workers are trained to recognize objective signs and indicators to help them identify potential victims.

Once a victim has been identified as a potential victim of modern slavery, emergency medical treatment should be provided to the potential victim if appropriate.⁵⁴ Once any medical needs have been attended to, potential victims of human trafficking should be referred to the Competent Authority of the NRM to investigate the case further.⁵⁵ While frontline staff are trained to identify indicators of modern slavery, there is no minimum threshold to meet to refer a case to the NRM.⁵⁶ The frontline workers must include all indicators of modern slavery that he or she has noted and all the circumstances in which the person was identified on the referral form.⁵⁷ After the referral, the frontline worker must then provide accommodation for the potential victim.⁵⁸

Specific guidance is provided for frontline workers that come into contact with child victims. This guidance notes that these workers require specific knowledge and understanding about child victims, as the characteristics and issues they face are different from those of adult victims. Frontline responders are required to deal with children as a priority because of their vulnerability. Frontline responders are trained to identify potential child victims of trafficking. Indicators of this include children who arrive in the UK accompanied by adults who are not

⁵² *Id.* ¶ 7.4.

⁵³ *Id.* ¶ 8.1.

⁵⁴ *Id.* ¶ 5.

⁵⁵ *Id.* ¶ 3.

⁵⁶ *Id.*

⁵⁶ *Id.* ¶ 13.2.4.

⁵⁷ *Id.*

⁵⁸ *Id.* ¶ 3.

related to them, or in circumstances that raise child-protection concerns. These circumstances include those where there is no parental permission for the child to travel to the UK or stay with the adult, no evidence of a preexisting relationship with the adult, or evidence of unsatisfactory accommodation in the UK.⁵⁹

Responders are trained to address the child with special care to avoid causing alarm or concern and take into account the developmental stage the child is at and any grooming from the perpetrator.⁶⁰ If the potential victim is a child, frontline staff should immediately refer the child to the local authority's children's services, which is the primary service responsible for safeguarding and responding to the needs of child victims of modern slavery.⁶¹ As with adult victims, children may be inconsistent with their stories and experiences, and frontline staff are trained to recognize this. As it is not possible for a child to give informed consent, any child who is transported or transferred for the purpose of exploitation is considered to be a potential victim of modern slavery.⁶²

While the government is working to expand its program to help prevent and prosecute incidents of modern slavery, some charities that work in this area consider that the actions are not enough, that there is a lack of support for victims, and that the process victims must go through as agencies seek to determine if they are a victim sometimes amounts to "a slow dehumanization."⁶³

⁵⁹ *Id.* ¶ 11.2.

⁶⁰ *Id.* ¶ 11.10.

⁶¹ *Id.* ¶ 11.1.

⁶² *Id.* ¶ 11.3.

⁶³ Irina Do Carmo, *Trafficking Victims Often Treated as Illegal Immigrants First, Human Beings Last*, GUARDIAN (London) (July 30, 2015), <http://www.theguardian.com/global-development/2015/jul/30/trafficking-victims-treated-illegal-immigrants-modern-slavery-act>, archived at <https://perma.cc/7UXB-VA6A>.

European Union

Theresa Papademetriou
Senior Foreign Law Specialist

SUMMARY Under European Union legislation, trafficking of human beings constitutes a human rights violation and is prohibited. EU Member States play a critical role in the identification, prevention, and protection of victims of trafficking and the prosecution of perpetrators. Under European Court of Human Rights case law, states of the Council of Europe have a positive obligation to put in place an effective legal framework against human trafficking and take protective measures. Training of officials who come into contact with victims of trafficking is legally required and is an indispensable tool in ensuring that such officials are better able to identify victims of trafficking. A number of EU agencies provide training and other support to Member States in identifying trafficking victims.

I. Introduction

The European Union, in its efforts to eliminate human trafficking, has developed a comprehensive strategy by adopting legislation to criminalize human trafficking, formulating policy documents, funding programs, and establishing the office of the European Anti-Trafficking Coordinator.¹ Key priorities of the EU's policy are to prevent human trafficking, facilitate identification of trafficking victims through proper training for those who are likely to come into contact with victims or potential victims, and support and protect such victims. EU Members are legally required to train those officials who come in contact with victims of trafficking in order to facilitate and speed identification of victims. The Commission provides funding to various projects that deal with the issue of identification of victims of trafficking.²

In general, the EU is a destination region, with many of its Member States being transit and source countries, especially those who joined the EU more recently.³ A 2015 report of the Statistical Office of the European Union highlights the extent of the trafficking phenomenon across Europe.⁴ The report provides statistical data, as submitted by national authorities of the twenty-eight EU Member States, and from Iceland, Montenegro, Norway, Serbia, Switzerland,

¹ *EU Actions Explained*, EUROPEAN COMMISSION, TOGETHER AGAINST TRAFFICKING IN HUMAN BEINGS, http://ec.europa.eu/anti-trafficking/citizens-corner-eu-actions-explained/eu-actions-explained_en, archived at <https://perma.cc/GH2U-QRYA>.

² *EU Projects and Funding*, EUROPEAN COMMISSION, TOGETHER AGAINST TRAFFICKING IN HUMAN BEINGS, http://ec.europa.eu/anti-trafficking/eu-projects/en?solsort=ds_field_publication_date%20desc, archived at <https://perma.cc/E5LH-NN3F>.

³ EUROPEAN COMMISSION, THE EU POLICY TO FIGHT AND PREVENT TRAFFICKING IN HUMAN BEINGS, DIRECTORATE GENERAL, JUSTICE, FREEDOM AND SECURITY, http://www.ohchr.org/Documents/Issues/Trafficking/Dakar_Protection_Gert_Bogers.pdf (last visited Feb. 14, 2016), archived at <https://perma.cc/8DCP-PRQU>.

⁴ EUROSTAT, STATISTICAL WORKING PAPERS: TRAFFICKING IN HUMAN BEINGS (2015), http://ec.europa.eu/dgs/home-affairs/what-is-new/news/news/docs/20141017_working_paper_on_statistics_on_trafficking_in_human_beings_en.pdf, archived at <https://perma.cc/CZA4-F2LS>.

and Turkey. According to key findings of this report, during the period of 2010–2012, 30,136 people were registered as victims in the twenty-eight Member States. Of these, 80% were women and 1,000 were children trafficked for sexual exploitation.⁵ In spite of the global dimensions of the trafficking problem, more than 65% of registered victims in the EU are EU citizens.⁶

II. Legal and Policy Framework on Human Trafficking

A. General Overview

The EU derives its power to legislate in the field of trafficking from the Treaty on the Functioning of the European Union (TFEU). Under article 79 of the TFEU, the EU may enact rules in order to combat illegal immigration and human trafficking, particularly trafficking involving women and children.⁷ Moreover, trafficking of human beings is a human rights violation and is prohibited by the Charter of Fundamental Rights of the EU.⁸

The main EU legislation on human trafficking is Directive 2011/36/EU on Preventing and Combating Trafficking in Human Beings and Protecting its Victims.⁹ Directive 2011/36/EU establishes common rules regarding the definition of “trafficking” and sanctions against perpetrators. It also includes common provisions designed to prevent trafficking and to protect victims.¹⁰

In addition, the legal framework on human trafficking is complemented by two directives: (a) Directive 2012/29/EU, which establishes minimum standards on the rights, support, and protection of victims of crime;¹¹ and (b) Directive 2004/80/EC Relating to Compensation to Crime Victims.¹² The latter requires Member States to create compensation schemes for victims

⁵ *Id.* at 13.

⁶ *Id.*

⁷ Consolidated Version of the Treaty on the Functioning of the European Union, 2012 O.J. (C 326) 47, <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012E%2FTXT>, archived at <https://perma.cc/2MES-ASJT>.

⁸ Charter of Fundamental Rights of the European Union art. 5, para. 3, 2012 O.J. (C 326) 391, <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012P/TXT>, archived at <https://perma.cc/CTJ4-56ABF>

⁹ Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on Preventing and Combating Trafficking in Human Beings and Protecting Its Victims, and Replacing Council Framework Decision 2002/629/JHA, 2011 O.J. (L 101) 1, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:101:0001:0011:EN:PDF>, archived at <https://perma.cc/U8RU-CAZR>.

¹⁰ *Id.* art. 2.

¹¹ Directive 2012/29/EC of the European Parliament and of the Council of 25 October 2012 Establishing Minimum Standards on the Rights, Support and Protection of Victims of Crime, and Replacing Council Framework Decision 2001/220/JHA, 2012 O.J. (L 315) 57, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:315:0057:0073:EN:PDF>, archived at <https://perma.cc/VBB3-PV6>.

¹² Council Directive 2004/80/EC of 29 April 2004 Relating to Compensation to Crime Victims, 2004 O.J. (L 261) 15, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:261:0015:0018:en:PDE>, archived at <https://perma.cc/D8RU-FTYF>.

of intentional violent crimes in cross-border cases and specifies that compensation must be paid by the competent authority of the Member State on whose territory the crime was committed.¹³

Under EU asylum legislation, victims of trafficking are deemed a vulnerable group and are entitled to special measures. A 2014 study prepared by the European Migration Network, *Identification of Victims of Trafficking in Human Beings in International Protection and Forced Return Procedures*, contains practical guidance and advice to Member States in handling applications for international protection (asylum or subsidiary protection) or when enforcing return decisions that involve victims of trafficking.¹⁴

The EU's policy to combat human trafficking for the period 2012–2016 is contained in a document titled *EU Strategy Towards the Eradication of Trafficking in Human Beings 2012–2016* (Strategy Document).¹⁵ The EU Strategy document focuses on certain priorities and outlines a number of measures the Commission has undertaken in cooperation with EU institutions, Member States, international organizations, third countries, and the private sector. The identification, protection, and prevention of trafficking in human beings are among the top priorities.

The Strategy Document urges the Member States to (a) take all measure to ensure early victim identification, and provide protection and assistance; (b) boost prevention of human trafficking; (c) establish National Multidisciplinary Law Enforcement Units that could be used as contact points with EU agencies, such as Eurojust and Europol; (c) include a wide variety of actors in policy-making decisions, such as police officers, border guards, immigration and asylum officials, public prosecutors, lawyers, members of the judiciary, and housing, labor, health, social, and civil society organizations; and (d) create operational National Referral Mechanisms (NRMs) describing procedures to better identify, refer, protect, and assist victims.¹⁶

In 2013, and in compliance with the targets set in the EU Strategy Document, the Commission published *EU Rights of Victims of Trafficking in Human Beings*, which is available in all EU languages.¹⁷ *EU Rights of Trafficking Victims* is a practical and simplified guide that explains the rights of such victims, *inter alia* related to assistance and support, health care, labor rights,

¹³ *Id.* art. 2.

¹⁴ EUROPEAN MIGRATION NETWORK, IDENTIFICATION OF VICTIMS OF TRAFFICKING IN HUMAN BEINGS IN INTERNATIONAL PROTECTION AND FORCED RETURN PROCEDURES (2014), http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/emn_study_identification_of_victims_of_trafficking_web_140909_en.pdf, archived at <https://perma.cc/Ry6N-LT9S>.

¹⁵ *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, The EU Strategy Towards the Eradication of Trafficking in Human Beings 2012–2016*, COM (2012) 286 final, <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52012DC0286>, archived at <https://perma.cc/SG7E-P4BN>.

¹⁶ *Id.* §§ 2.2–2.4.

¹⁷ EUROPEAN COMMISSION, THE EU RIGHTS OF VICTIMS OF TRAFFICKING IN HUMAN BEINGS (2013), http://ec.europa.eu/dgs/home-affairs/e-library/docs/thb_victims_rights/thb_victims_rights_en.pdf, archived at <https://perma.cc/PDL3-DLJY>.

access to justice, and compensation, that derive from EU legislation and court decisions of the Court of Justice of the EU and the European Court of Human Rights.¹⁸

At the international level, in 2001 the then European Community signed the United Nations Convention Against Transnational Organized Crime and its Protocols on Combating Trafficking in Persons, Especially Women and Children, and the Smuggling of Migrants by Land, Air and Sea.¹⁹ Moreover, EU Members as members of the Council of Europe are required to ratify the Convention on Actions against Trafficking in Human Beings.²⁰ In a 2010 case interpreting the convention, the European Court of Human Rights, in *Rantsev v. Cyprus and Russia*, which concerned the death of a Russian woman who was trafficked from Russia to Cyprus and found dead in Cyprus, found against Cyprus for failing to protect the victim and investigate her death. Russia, as the country of origin, was found by the ECHR to have failed to adequately investigate the manner in which the victim was trafficked from its borders.²¹

B. Main Aspects of Directive 2011/36/EU

Directive 2011/36/EU requires that EU Member States criminalize the following acts when committed intentionally:

the recruitment, transportation, transfer, harboring or reception of persons, the exchange or transfer of control over those persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.²²

Member States are required to ensure that victims of human trafficking are not prosecuted or given penalties for being involved in criminal activities in which they were compelled to participate.²³ In addition, Member States must ensure that the investigation and prosecution of perpetrators does not depend on reporting or an accusation made by the victim of human trafficking.²⁴

¹⁸ *Id.*

¹⁹ Council Decision 2001/87/EC of 8 December 2000 on the Signing, on Behalf of the European Community, of the United Nations Convention Against Transnational Organized Crime and Its Protocols on Combating Trafficking in Persons, Especially Women and Children, and the Smuggling of Migrants by Land, Air and Sea, 2001 O.J. (L 30) 44, https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/decision_2001_87_on_un_convention_en_1.pdf, archived at <https://perma.cc/WJ68-DMD4>.

²⁰ Council of Europe Convention on Action Against Trafficking in Human Beings, CETS No. 197, https://www.coe.int/t/dghl/monitoring/trafficking/Docs/Convntn/CETS197_en.asp, archived at <https://perma.cc/NTM4-PB6Y>.

²¹ Case of *Rantsev v. Cyprus and Russia*, App. No. 25965/04 (Eur. Ct. H.R. May 2010, final), https://www.coe.int/t/dghl/cooperation/economiccrime/corruption/Projects/CAR_Serbia/ECtHR%20Judgements/English/RANTSEV%20v%20CYPRUS%20%20RUSSIA%20-%20ECHR%20Judgment%20_English_.pdf, archived at <https://perma.cc/9S4R-QUJJ>.

²² Directive 2011/36/EC, *supra* note 9, art. 2.

²³ *Id.* art. 8.

²⁴ *Id.* art. 9.

The penalties range from a maximum of at least five years to a ten-year maximum when the offense is committed against a particularly vulnerable person such as a child victim, was committed within the framework of a terrorist organization, involved gross negligence that put the life of the victim in danger, or has caused serious harm to the victim.²⁵

During criminal investigations, victims of trafficking are granted certain rights under Directive 2011/36/EC and Framework Decision 2001/220/JHA.²⁶ Member States are required to ensure that trafficking victims have access to legal counseling and representation free of charge when they cannot afford it.²⁷ Moreover, Member States must ensure that victims have access to witness protection programs or other similar measures, in compliance with national law,²⁸ and in the case of child victims of trafficking and especially unaccompanied child victims must take special measures to assist and support them, based on the special circumstances of each child and taking into account the best interests of the child.²⁹ In criminal investigations and proceedings that involve child victims, Member States must appoint a representative when the parents of the child are prohibited from representing the child due to a conflict of interest between the parents and the child.³⁰

In 2011, the European Commission appointed the EU Anti-Trafficking Coordinator (EU ATC) with the mandate to improve cooperation and coordination among EU institutions, EU agencies who deal with trafficking, the European Asylum Office and Frontex, and Member States in implementing the EU legislation on human trafficking.³¹ In order to achieve a coordinated EU strategy, Member States are required to cooperate with the EU ATC and facilitate its mandate. A key requirement for the Member States is to transmit the reports drafted by National Rapporteurs under article 19 of Directive 2011/36/EC on the progress made on actions taken against trafficking, statistical data, and any trends in trafficking to the EU ATC, which will forward the reports to the Commission for progress evaluation.³²

III. Role of Member States

Prevention, protection of victims, and bringing to justice the perpetrators of human trafficking are implemented and enforced by the Member States, which were required to transpose Directive 2011/36/EC into their national legal systems by April 2013. They were also required to report to

²⁵ *Id.* art. 4.

²⁶ Council Framework Decision of 15 March 2001 on the Standing of Victims in Criminal Proceedings, 2001 O.J. (L 82) 1, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2001:082:0001:0004:en:PDF>, archived at <https://perma.cc/P5S9-9CPY>.

²⁷ Directive 2011/36/EC, *supra* note 9, art. 12, para. 2.

²⁸ *Id.* art. 12, para. 3.

²⁹ *Id.* art. 14.

³⁰ *Id.* art. 15.

³¹ Myria Vassiliadou: *EU Anti-Trafficking Coordinator*, European Commission, EUROPEAN COMMISSION, TOGETHER AGAINST TRAFFICKING IN HUMAN BEINGS, https://ec.europa.eu/anti-trafficking/eu-anti-trafficking-coordinator_en (last updated Feb. 15, 2016), archived at <https://perma.cc/38CN-LZAF>.

³² Directive 2011/36/EC, *supra* note 9, art. 20.

the Commission the actions taken to implement the provisions of the Directive. The Commission in its monitoring of the implementation of Directive 2011/36/EC initiated infringement proceedings against several Member States in 2013. An interim report by the Commission on the implementation of Directive 2011/36/EC indicates that by 2014, twenty-five EU Members had notified the Commission on transposition measures concerning the Directive.³³

The Directive requires that competent national authorities involved with victims or potential victims, such as police officers, border guards, immigration officials, public prosecutors, members of the judiciary, lawyers, labor inspectors, and social workers, cooperate in combating human trafficking, including sharing information and best practices.³⁴

In compliance with the Directive, EU Members have established national rapporteurs or equivalent mechanisms.³⁵ The rapporteurs must be mandated to follow trends in human trafficking, assess the effectiveness of various programs implemented, gather statistics, and report on human trafficking issues.³⁶

IV. Training Programs

A. European Asylum Office

The European Asylum Office (EASO), as the EU agency responsible for asylum issues, is also tasked to assist vulnerable groups within the framework of asylum and trafficking. The EASO's core mission is to support Member States through, *inter alia*, common training and the development of training materials.³⁷ Within the EASO, the Officer on Gender and Vulnerable Persons is in charge of victims of trafficking throughout all EASO activities.³⁸ In 2014, the EASO updated its prior training on interviewing vulnerable persons to include cases where applicants for international protection are victims of trafficking. The updated training guide is titled *Practical Guide: Personal Interview*.³⁹

³³ Commission Staff Working Document, *Mid-Term Report on the Implementation of the EU Strategy Towards the Eradication of Trafficking in Human Beings*, COM (2014) 635 final (Oct. 2014), http://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/commission_staff_working_document_-_mid-term_report_on_the_implementation_of_the_eu_strategy_towards_the_eradication_of_trafficking_in_human_beings.pdf, archived at <https://perma.cc/2EMD-ECU2>.

³⁴ Directive 2011/36/EC, *supra* note 9, Preamble, para. 25.

³⁵ *Id.* art. 19.

³⁶ *National Rapporteurs and/or Equivalent Mechanisms*, EC, TOGETHER AGAINST TRAFFICKING IN HUMAN BEINGS, https://ec.europa.eu/anti-trafficking/national-rapporteurs_en (last visited Feb. 14, 2016), archived at <https://perma.cc/8CGR-ZHQZ>.

³⁷ *Vulnerable Groups*, EASO, https://easo.europa.eu/about-us/tasks-of-easo/training-quality/vulnerable_groups/ (last visited Feb. 15, 2016), archived at <https://perma.cc/8KFK-SGQU>.

³⁸ *Id.*

³⁹ *Id.*; EASO PRACTICAL GUIDE: PERSONAL INTERVIEW (Practical Guide Series, 2014), <https://easo.europa.eu/wp-content/uploads/EASO-Practical-Guide-Personal-Interview-EN.pdf>, archived at <https://perma.cc/272C-AUZQ>.

B. Training of EU Border Guards

Frontex, the acronym for the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, comes in contact with victims of trafficking during border-control procedures and, hence, plays a key role in the identification of victims and traffickers.⁴⁰ In 2011, the Frontex Training Unit developed the *Anti-Trafficking Manual for European Border Guards*, which has been translated into fourteen EU languages.⁴¹ The manual is designed to raise awareness of human trafficking as a serious crime and human rights violation, and to train border guards to identify and deal with potential victims of this crime.⁴² The training manual comprises three training areas: Awareness, Identification, and Interviewing. The Awareness training is designed to improve the understanding and knowledge of the human trafficking problem in general, and in particular as a human rights violation. The Identification training is intended to improve the ability of border guards to identify potential victims of trafficking and suspected traffickers. The third part, the Interview process, is designed to assist second-line experts determine whether a person is a victim of human trafficking.⁴³

A reference document entitled *Guidelines for the Identification of Victims of Trafficking in Human Beings*⁴⁴ prepared by the Commission is designed to assist and facilitate border guards and consular staff who come in contact with victims to better be able to identify such victims.

C. Europol

Europol is the EU's law enforcement body and as such it supports Member States in preventing and combating all forms of serious international crime and terrorism. Europol provides support to law enforcement personnel of the Member States concerning human trafficking investigations through operational support, access to criminal databases and other analytical tools, and sharing

⁴⁰ FRONTEX, SITUATIONAL OVERVIEW ON TRAFFICKING IN HUMAN BEINGS (2011), http://frontex.europa.eu/assets/Publications/Risk_Analysis/Situational_Overview_on_Trafficking_in_Human_Beings.pdf, archived at <https://perma.cc/AC6P-CQJA>.

⁴¹ *Combating Human Trafficking at the Border – Training for EU Border Guards*, FRONTEX (Oct. 18, 2012), <http://frontex.europa.eu/feature-stories/combating-human-trafficking-at-the-border-training-for-eu-border-guards-rRzpfI>, archived at <https://perma.cc/8Z6S-TJQV>; see also, FRONTEX, FUNDAMENTAL RIGHTS TRAINING FOR BORDER GUARDS: TRAINER'S MANUAL (2013), http://frontex.europa.eu/assets/Publications/Training/Fundamental_Rights_Training_for_Border_GuardsI.pdf, archived at <https://perma.cc/U433-PRVJ>.

⁴² *Id.*

⁴³ *Id.*

⁴⁴ EUROPEAN COMMISSION, GUIDELINES FOR THE IDENTIFICATION OF VICTIMS OF TRAFFICKING IN HUMAN BEINGS (2013), https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/guidelines_on_identification_of_victims_1.pdf, <https://perma.cc/CH9T-H6L9>.

of intelligence information.⁴⁵ Europol, which is currently under reform, will assume more powers on fighting organized crime, including human trafficking.⁴⁶

D. Law Enforcement Personnel of the Member States

EU Member States are required to actively engage in preventing human trafficking. To achieve this objective, Directive 2011/36/EC requires Member States to take the necessary measures to train, educate, and initiate awareness-raising campaigns jointly, where appropriate, with civil society organizations and other partners to eliminate human trafficking.⁴⁷

With regard to training law enforcement personnel, the Directive requires that Member States “shall promote regular training for officials likely to come into contact with victims or potential victims of human trafficking, including front-line police officers,” in order to enable them to identify victims of human trafficking.⁴⁸

⁴⁵ *Mandate*, EUROPOL, <https://www.europol.europa.eu/content/page/mandate-119> (last visited Feb. 15, 2016), archived at <https://perma.cc/FNH3-5QDQ>.

⁴⁶ Press Release, European Parliament, Europol: Deal on New Powers to Step Up EU Police Cooperation and Fight Terrorism (Nov. 30, 2015), <http://www.europarl.europa.eu/news/en/news-room/20151130IPR05456/Europol-deal-on-new-powers-to-step-up-EU-police-cooperation-and-fight-terrorism>, archived at <https://perma.cc/957A-HQHZ>.

⁴⁷ Directive 2011/36/EC, *supra* note 9, art. 18, paras. 1 & 3.

⁴⁸ *Id.*

France

Nicolas Boring
Foreign Law Specialist

SUMMARY France is bound by international agreements and European Union directives to fight human trafficking. At the national level, human trafficking is defined and prohibited by the Penal Code, and the different elements of the definition of human trafficking are individually prohibited by the Penal Code as well. Additionally, some instances of human trafficking may fall under immigration or labor laws.

The main government authority involved in the suppression of human trafficking is the National Police, which includes several specialized units that have missions that make them likely to discover and investigate cases of human trafficking. The National Gendarmerie, a separate law enforcement agency, is also involved in the fight against human trafficking. Additionally, labor inspectors are involved as the principal enforcers of labor laws in France.

Documents published by the French government highlight the importance of implementing training programs to help identify and protect victims of human trafficking. In particular, a two-year action plan published in 2014 places a high priority on a broad multidisciplinary training and continuing education program. This training should be aimed not just at law enforcement personnel but also all other professions that are likely to encounter victims of human trafficking, including medical professionals, teachers, judges, lawyers, labor inspectors, and social workers. It is unclear to what extent this training program has been implemented.

I. Legal Framework on Human Trafficking

As a member of the European Union, France is required to implement Directive 2011/36/EU on Preventing and Combating Trafficking in Human Beings.¹ Furthermore, France has ratified the 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons, also known as the Trafficking Protocol of the Palermo Convention.² Additionally, at the national level, human trafficking is punished by the French Penal Code, which defines the crime (*traite des êtres humains*) as the act of recruiting, transporting, transferring, housing, or receiving a person, under

¹ Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on Preventing and Combating Trafficking in Human Beings and Protecting its Victims, and Replacing Council Framework Decision 2002/629/JHA, 2011 O.J. (L 101) 1, <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32011L0036&from=EN>, archived at <https://perma.cc/ZU8T-3ZYJ>.

² *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Nov. 15, 2000), Status as of Dec. 24, 2015*, UNODC, <https://www.unodc.org/unodc/en/treaties/CTOC/countrylist-traffickingprotocol.html>, archived at <https://perma.cc/DH8D-JK3G>.

certain circumstances, for the purpose of exploitation.³ The circumstances listed as part of the definition of the crime of human trafficking include the use of threat, pressure, violence, deceit, abuse of authority, taking advantage of a victim's vulnerability (age, illness, handicap, physical or mental deficiency, or pregnancy), the exchange of remuneration or other advantage, or the promise of remuneration or other advantage.⁴ Exploitation, in the context of human trafficking, is defined as the act of placing the victim at the disposal of the perpetrator or of another party, for the purpose of committing one or several of the following criminal offenses: procuring, sexual assault or violation, slavery, forced labor or services, servitude, organ harvesting, exploitation of begging, subjecting the victim to work or living conditions contrary to human dignity, or forcing the victim to commit a criminal offense.⁵

Other provisions of French law deal with human trafficking, sometimes overlapping with article 225-4-1 of the Penal Code. Indeed, all of the elements of the definition of human trafficking are criminal offenses on their own. In addition, some instances of human trafficking may fall under other laws as well. The Code of Entry and Residence of Foreigners, for example, contains provisions that prohibit helping foreigners to enter the country illegally.⁶ Similarly, the French Labor Code's provisions on illegal labor may also apply to certain cases of human trafficking.⁷

II. Government Agencies Involved in Suppressing Human Trafficking

The principal government agency responsible for enforcing laws on human trafficking is the National Police (Police nationale), which has several services that deal with various aspects of human trafficking.⁸ Among these services is the Central Office for the Repression of Human Trafficking (Office central pour la répression de la traite des êtres humains).⁹ The name of this Office implies that it deals with human trafficking in general, but in reality its role is to focus

³ CODE PÉNAL [PENAL CODE] art. 225-4-1, http://www.legifrance.gouv.fr/affichCode.do;jsessionid=D100960A41B6AC4D9FF7BA808866ACCE.tpdila11v_3?idSectionTA=LEGISCTA000006165299&cidTexte=LEGITEXT000006070719&dateTexte=20160129, archived at <https://perma.cc/4JQK-PE6V>.

⁴ *Id.*

⁵ *Id.*

⁶ CODE DE L'ENTRÉE ET DU SÉJOUR DES ÉTRANGERS ET DU DROIT D'ASILE [CODE OF ENTRY AND RESIDENCE OF FOREIGNERS AND OF THE RIGHT OF ASYLUM] arts. L622-1 through L622-10, http://www.legifrance.gouv.fr/affichCode.do;jsessionid=C04365DF2063C6C78D12A6DAE5779FD5.tpdila18v_3?idSectionTA=LEGISCTA000006147789&cidTexte=LEGITEXT000006070158&dateTexte=20160201, archived at <https://perma.cc/U9KL-968N>.

⁷ CODE DU TRAVAIL [LABOR CODE] art. L8211-1, http://www.legifrance.gouv.fr/affichCode.do;jsessionid=C04365DF2063C6C78D12A6DAE5779FD5.tpdila18v_3?idSectionTA=LEGISCTA000006178266&cidTexte=LEGITEXT000006072050&dateTexte=20160201, archived at <https://perma.cc/56UN-BJTX>.

⁸ COMMISSION NATIONALE CONSULTATIVE DES DROITS DE L'HOMME [FRENCH NATIONAL CONSULTATIVE COMMISSION ON HUMAN RIGHTS], LA TRAITE ET L'EXPLOITATION DES ÊTRES HUMAINS EN FRANCE [HUMAN TRAFFICKING AND EXPLOITATION IN FRANCE] 115 (2009), http://www.cncdh.fr/sites/default/files/etude_traite_et_exploitation_des_etres_humains_en_france.pdf, archived at <https://perma.cc/PS9P-W545>.

⁹ *L'office central pour la répression de la traite des êtres humains* [The Central Office for the Repression of Human Trafficking], POLICE NATIONALE [NATIONAL POLICE] (Dec. 9, 2011), <http://www.police-nationale.interieur.gouv.fr/Organisation/Direction-Centrale-de-la-Police-Judiciaire/Lutte-contre-la-criminalite-organisee/Office-central-pour-la-repression-de-la-traite-des-etres-humains>, archived at <https://perma.cc/Z5HY-MYF2>.

solely on prostitution-related trafficking.¹⁰ Other specialized services of the National Police have responsibilities that cover different aspects of human trafficking. For example, the Central Office Against Organized Crime (Office central de lutte contre le crime organisé),¹¹ the Central Office for the Repression of Violence Against Persons (Office central pour la répression des violences aux personnes),¹² the Sub-Directorate Against Cybercriminality (Sous-direction de lutte contre la cybercriminalité),¹³ the Central Office for the Repression of Illegal Immigration and the Employment of Undocumented Foreigners (Office central pour la répression de l'immigration irrégulière et l'emploi d'étrangers sans titre),¹⁴ and the Border Police (Police aux frontières)¹⁵ all have missions that may lead them to discover and investigate instances of human trafficking.¹⁶

The National Gendarmerie (Gendarmerie nationale) is another important law enforcement organization that may be called upon to deal with cases of human trafficking. Traditionally, the National Police is in charge of law enforcement in urban areas, while the Gendarmerie operates in rural areas.¹⁷ Like the National Police, the Gendarmerie has some specialized services that are likely to find and investigate cases of human trafficking, although it does not appear to have any unit that specializes solely in that subject.¹⁸ Among these specialized services are the Central Office Against Illegal Labor (Office central de lutte contre le travail illégal),¹⁹ the Central Office

¹⁰ *Id.*; COMMISSION NATIONALE CONSULTATIVE DES DROITS DE L'HOMME, *supra* note 8, at 116.

¹¹ *L'office central de lutte contre le crime organisé* [Central Office Against Organized Crime], POLICE NATIONALE [NATIONAL POLICE] (Dec. 8, 2011), <http://www.police-nationale.interieur.gouv.fr/Organisation/Direction-Centrale-de-la-Police-Judiciaire/Lutte-contre-la-criminalite-organisee/Office-central-de-lutte-contre-le-crime-organise>, archived at <https://perma.cc/RSQ6-95D6>.

¹² *L'Office central pour la répression des violences aux personnes* [The Central Office for the Repression of Violence Against Persons], POLICE NATIONALE [NATIONAL POLICE] (Dec. 9, 2011), <http://www.police-nationale.interieur.gouv.fr/Organisation/Direction-Centrale-de-la-Police-Judiciaire/Lutte-contre-la-criminalite-organisee/Office-central-pour-la-repression-des-violences-aux-personnes>, archived at <https://perma.cc/DW9H-92P7>.

¹³ *Sous-direction de lutte contre la cybercriminalité* [Sub-Directorate Against Cybercriminality], POLICE NATIONALE [NATIONAL POLICE] (Dec. 13, 2011), <http://www.police-nationale.interieur.gouv.fr/Organisation/Direction-Centrale-de-la-Police-Judiciaire/Lutte-contre-la-criminalite-organisee/Sous-direction-de-lutte-contre-la-cybercriminalite>, archived at <https://perma.cc/HE3J-KULM>.

¹⁴ *Office central pour la répression de l'immigration irrégulière et l'emploi d'étrangers sans titre* [Central Office for the Repression of Illegal Immigration and the Employment of Undocumented Foreigners], POLICE NATIONALE [NATIONAL POLICE] (Oct. 10, 2011), <http://www.police-nationale.interieur.gouv.fr/Organisation/Direction-Centrale-de-la-Police-Aux-Frontieres/Office-central-pour-la-repression-de-l-immigration-irreguliere-et-l-emploi-d-etrangers-sans-titre>, archived at <https://perma.cc/EYE4-3PLS>.

¹⁵ *Direction Centrale de la Police Aux Frontières* [Central Directorate of the Border Police], POLICE NATIONALE [NATIONAL POLICE], <http://www.police-nationale.interieur.gouv.fr/Organisation/Direction-Centrale-de-la-Police-Aux-Frontieres> (last visited Feb. 1, 2016), archived at <https://perma.cc/5UC7-7N2Q>.

¹⁶ COMMISSION NATIONALE CONSULTATIVE DES DROITS DE L'HOMME, *supra* note 8, at 116–23.

¹⁷ Benoît Dupont, *The French Police System*, in COMPARATIVE POLICING 255 (M.R. Haberfeld & Ibrahim Cerrah eds., 2008).

¹⁸ COMMISSION NATIONALE CONSULTATIVE DES DROITS DE L'HOMME, *supra* note 8, at 120–23.

¹⁹ *Travail illégal (OCLTI)* [Illegal Labor (OCLTI)], GENDARMERIE NATIONALE [NATIONAL GENDARMERIE], <http://www.gendarmerie.interieur.gouv.fr/Notre-Institution/Nos-missions/Police-judiciaire/Travail-illegal-OCLTI> (last visited Feb. 1, 2016), archived at <https://perma.cc/LDX9-YHMK>.

Against Itinerant Criminality (Office central de lutte contre la délinquance itinérante),²⁰ and units specializing in fighting online crime.²¹

Labor inspectors (*inspecteurs du travail*), who operate under the authority of regional prefects, also have an important role in suppressing human trafficking as they are the main enforcers of labor laws in France.²²

III. Training Programs

A 2009 report by the French National Consultative Commission on Human Rights (Commission nationale consultative des droits de l'homme, CNCDH) repeatedly highlighted the value of training in the fight against human trafficking.²³ In particular, the CNCDH pointed to the importance of training law enforcement officials on the signs that a person may be a victim of human trafficking, and on the risks faced by victims of trafficking or exploitation.²⁴ The CNCDH also noted that the agency in charge of evaluating asylum applications should train its officials to better identify and understand victims of human trafficking.²⁵ The report highlighted the importance of training officials such as those from child protective services, and all other specialists who may come across instances of human trafficking.²⁶

In 2013, the French government created an Inter-ministerial Mission for the Protection of Women Against Violence and to Fight Human Trafficking (Mission interministérielle pour la protection des femmes contre les violences et la lutte contre la traite des êtres humains).²⁷ One of the mandates of this Inter-ministerial Mission is to define, in collaboration with the relevant governmental agencies and civil society actors, the contents of training on violence against women, including human trafficking.²⁸

²⁰ *Délinquance itinérante (OCLDI) [Itinerant Criminality (OCLDI)]*, GENDARMERIE NATIONALE [NATIONAL GENDARMERIE], <http://www.gendarmerie.interieur.gouv.fr/Notre-Institution/Nos-missions/Police-judiciaire/Delinquance-itinerante-OCLDI> (last visited Feb. 1, 2016), archived at <https://perma.cc/RKE8-26WC>.

²¹ *Cybercriminalité [Cybercriminality]*, GENDARMERIE NATIONALE [NATIONAL GENDARMERIE], <http://www.gendarmerie.interieur.gouv.fr/Notre-Institution/Nos-missions/Police-judiciaire/Cybercriminalite> (last visited Feb. 1, 2016), archived at <https://perma.cc/Y6BJ-87XW>.

²² Simon Auffret, *A quoi sert un inspecteur du travail? [What is the Purpose of a Labor Inspector?]*, LE MONDE (Oct. 22, 2015), http://www.lemonde.fr/les-decodeurs/article/2015/10/21/a-quoi-sert-un-inspecteur-du-travail_4794202_4355770.html, archived at <https://perma.cc/X3UE-W78R>.

²³ COMMISSION NATIONALE CONSULTATIVE DES DROITS DE L'HOMME, *supra* note 8, at 231, 247, 280, 286, 298.

²⁴ *Id.* at 231.

²⁵ *Id.* at 247–48.

²⁶ *Id.* at 280, 295.

²⁷ Décret n° 2013-7 du 3 janvier 2013 portant création d'une mission interministérielle pour la protection des femmes contre les violences et la lutte contre la traite des êtres humains [Decree No. 2013-7 of January 3, 2013, Creating an Inter-ministerial Mission for the Protection of Women Against Violence and to Fight Human Trafficking], <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000026894612&categorieLien=id>, archived at <https://perma.cc/W9CW-FRK6>.

²⁸ *Id.* art. 2.

In 2014, the government published a two-year national action plan to fight human trafficking.²⁹ One of the first priorities listed in this twenty-three-point plan was to develop training for professionals to better identify and protect victims.³⁰ This training, to be conducted by the Inter-ministerial Mission for the Protection of Women in partnership with relevant government agencies and civil society organizations, should include initial training modules followed by continuing education.³¹ The national plan specifies that this training should mainly focus on identifying victims of human trafficking, their rights, the procedures to exercise these rights, the appropriate measures to protect different categories of victims, and the roles of other organizations involved in the fight against human trafficking.³² This training should be aimed at a broad audience of professionals who may encounter victims of trafficking: not only law enforcement personnel, but also doctors and other medical professionals, social workers, judges and lawyers, teachers, labor inspectors, consular personnel, customs agents, correctional staff, and the personnel of the agency in charge of evaluating applications for asylum.³³ The training curricula should be harmonized to promote the sharing of a common body of knowledge between all categories of professionals.³⁴ In the same spirit, the educational resources used for this training should be made available to all relevant organizations through a dedicated website.³⁵ It is unclear how much of this action plan has been implemented as of February 2016.

²⁹ MINISTÈRE DES DROITS DES FEMMES, DE LA VILLE, DE LA JEUNESSE ET DES SPORTS [MINISTRY FOR WOMEN'S RIGHTS, URBAN POLICY, YOUTH, AND SPORTS], PLAN D'ACTION NATIONAL CONTRE LA TRAITE DES ÊTRES HUMAINS (2014–2016) [NATIONAL ACTION PLAN AGAINST HUMAN TRAFFICKING (2014–2016)] (2014), <http://femmes.gouv.fr/wp-content/uploads/2014/05/Plan-daction-national-contre-la-traite-des-%C3%AAtres-humains.pdf>, archived at <https://perma.cc/PE6C-ARGW>.

³⁰ *Id.* at 6, 9–10.

³¹ *Id.* at 9.

³² *Id.*

³³ *Id.* at 10.

³⁴ *Id.*

³⁵ *Id.*

Germany

*Jenny Gesley
Foreign Law Specialist*

SUMMARY Legislation in Germany criminalizes human trafficking for sexual and labor exploitation and implements the requirements of the European Union directives in human trafficking. Several government agencies, law enforcement, judges, prosecutors, and NGOs are involved in combating human trafficking and in offering specialized trainings and publishing guidelines.

I. Legal Framework on Human Trafficking

Human trafficking is addressed in the German Criminal Code, the Residence Act, the Social Security Code, and the Crime Victim Compensation Act. These provisions also implement the requirements of the European Union (EU) directives on human trafficking—Directive 2004/81/EC¹ and Directive 2011/36/EU.²

A. Criminal Code

There are three different provisions in the German Criminal Code that criminalize human trafficking.³

According to Section 232 of the Criminal Code, human trafficking for the purpose of sexual exploitation carries a sentence of imprisonment of six months to ten years. In aggravated cases involving children, serious physical abuse or the risk of death, or sexual exploitation on a commercial scale, the sentence is not less than one year of imprisonment.

Section 233 of the Criminal Code penalizes human trafficking for the purpose of labor exploitation. It is also punishable by a term of imprisonment of six months to ten years or one to ten years in aggravated circumstances.

¹ Council Directive 2004/81/EC of 29 April 2004 on the Residence Permit Issued to Third-country Nationals Who are Victims of Trafficking in Human Beings or Who Have Been the Subject of an Action to Facilitate Illegal Immigration, Who Co-operate With the Competent Authorities, 2004 OFFICIAL JOURNAL [O.J.] (L 261) 19, <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32004L0081&from=EN>, archived at <http://perma.cc/R53V-3ZH2>.

² Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on Preventing and Combating Trafficking in Human Beings and Protecting its Victims, and Replacing Council Framework Decision 2002/629/JHA, 2011 O.J. (L 101) 1, <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32011L0036&from=EN>, archived at <http://perma.cc/9CXC-33NS>.

³ Strafgesetzbuch [StGB] [Criminal Code], Nov. 13, 1998, BUNDESGESETZBLATT [BGBL.] I at 3322, as amended, <http://www.gesetze-im-internet.de/bundesrecht/stgb/gesamt.pdf>, archived at <http://perma.cc/6RF8-DDLB>, unofficial English translation at http://www.gesetze-im-internet.de/englisch_stgb/german_criminal_code.pdf, archived at <http://perma.cc/R7Y9-K7XZ>.

Finally, section 233a of the Criminal Code states that assisting in human trafficking under section 232 or section 233 by recruiting, transporting, referring, harboring, or sheltering another person carries a sentence of imprisonment of three months to five years.

B. Residence Act

The German Residence Act also contains provisions that specifically address victims of human trafficking. Victims of human trafficking are awarded a reflection and stabilization period of at least three months before they are deported.⁴ During that time, they can decide if they want to participate as a witness in the criminal prosecution of the traffickers.

If a victim of human trafficking decides to aid the prosecution of the perpetrator and testifies as a witness in the trial, a residence permit for humanitarian purposes will be granted according to section 25, paragraph 4a of the Residence Act, for the duration of the trial.

Subsidiary protection according to section 60, paragraph 2 of the Residence Act may be granted after the criminal trial has been concluded, if the alien faces a concrete danger of torture or inhuman or degrading treatment or punishment in his or her country of origin.

C. Social Security Benefits and Victim Compensation

Since adoption of an amendment to the Asylum Seeker Benefit Act in 2014,⁵ victims of human trafficking fall outside of the scope of section 1 of the Asylum Seeker Benefit Act, which provides recipients only with the necessary minimum benefits to survive. Instead, human trafficking victims are eligible for social security benefits according to the Second⁶ and Twelfth Book of the Social Security Code,⁷ although a few restrictions apply in comparison to German social security beneficiaries.

Furthermore, victims of human trafficking might be eligible for compensation payments according to the Crime Victim Compensation Act,⁸ if they are either related up to the third

⁴ Gesetz über den Aufenthalt, die Erwerbstätigkeit und die Integration von Ausländern im Bundesgebiet [Aufenthaltsgesetz] [AufenthG] [Act on the Residence, Economic Activity and Integration of Foreigners in the Federal Territory] [Residence Act], Feb. 25, 2008, BGBl. I at 162, as amended, § 59, para. 7, http://www.gesetze-im-internet.de/bundesrecht/aufenthg_2004/gesamt.pdf, archived at <http://perma.cc/QL34-TMTV>, unofficial English translation at http://www.gesetze-im-internet.de/englisch_aufenthg/residence_act.pdf, archived at <http://perma.cc/A622-PSSV>.

⁵ Asylbewerberleistungsgesetz [AsylbLG] [Asylum Seeker Benefits Act], Aug. 5, 1997, BGBl. I at 2022, as amended, <http://www.gesetze-im-internet.de/bundesrecht/asylblg/gesamt.pdf>, archived at <http://perma.cc/UZP5-NY4B>.

⁶ Sozialgesetzbuch Zweites Buch [SGB II] [Social Security Code Second Book], May 13, 2011 BGBl. I at 850, 2094, as amended, § 7, http://www.gesetze-im-internet.de/bundesrecht/sgb_2/gesamt.pdf, archived at <http://perma.cc/97SV-3KAP>.

⁷ Sozialgesetzbuch Zwölftes Buch [SGB XII] [Social Security Code Twelfth Book], Dec. 27, 2003, BGBl. I at 3022, 3023, as amended, § 23, http://www.gesetze-im-internet.de/bundesrecht/sgb_12/gesamt.pdf, archived at <http://perma.cc/CN7D-XCCT>.

⁸ Gesetz über die Entschädigung für Opfer von Gewalttaten [Opferentschädigungsgesetz] [OEG] [Act on Compensation for Victims of Violent Crimes [Crime Victims Compensation Act] [OEG], Jan. 7, 1985, BGBl. I at 1,

degree to a German national or if they are nationals of a Contracting State of the European Convention on the Compensation of Victims of Violent Crimes of November 24, 1983.⁹

II. Roles and Responsibilities of Government Agencies in Enforcing Laws Against Human Trafficking

The Federal Police is responsible for refusing entry of persons into Germany and for removal proceedings.¹⁰ If an alien identifies him or herself to the Federal Police as a victim of human trafficking, the Federal Police will refer the person to the respective state criminal police or the Federal Criminal Police Office (Bundeskriminalamt, BKA).¹¹

Asylum case officers receive training on identifying victims of human trafficking.¹² If an applicant seems to have been the victim of human trafficking, the case officer will inform the applicant about the three-month reflection and stabilization period according to the Residence Act, and an eventual humanitarian residence permit or subsidiary protection.

During the three-month reflection and stabilization period that the Residence Act grants to a victim of human trafficking, the Foreigner's Office informs the alien of the applicable regulations, programs, and measures for victims of human trafficking.¹³ The Foreigner's Office is also responsible for issuing a humanitarian residence permit or for awarding subsidiary protection.¹⁴

The Federal-State Working Group Human Trafficking, formerly known as the Federal-State Working Group Trafficking in Women, issued a cooperation concept that aims to streamline the protection and aid offered to victims of human trafficking for sexual exploitation.¹⁵ The paper

as amended, § 1, paras. 5, 6, <http://www.gesetze-im-internet.de/bundesrecht/oeg/gesamt.pdf>, archived at <http://perma.cc/D5X3-SZ5Z>, unofficial English translation at http://www.gesetze-im-internet.de/englisch_oeg/crime_victims_compensation_act.pdf, archived at <http://perma.cc/D975-FMXL>.

⁹ European Convention on the Compensation of Victims of Violent Crimes, Nov. 24, 1983, CETS No.116, 1525 U.N.T.S. 26456, <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680079751>, archived at <http://perma.cc/NTH5-4CH6>.

¹⁰ *Id.* § 71, para. 3; Gesetz über die Bundespolizei [Bundespolizeigesetz] –[BPolG] [Federal Police Act], Oct. 19, 1994, BGBl. I at 2978, 2979, as amended, § 12, para. 1, http://www.gesetze-im-internet.de/bundesrecht/bgsg_1994/gesamt.pdf, archived at <http://perma.cc/H452-X9DQ>.

¹¹ Federal Police Act, § 12, para. 3.

¹² Ulrike Hoffmann, *Identification of Victims of Trafficking in Human Beings in International Protection and Forced Return Procedures, Focussed [sic] Study of the German National Contact Point for the European Migration Network (EMN)* 15 (Federal Office for Migration and Refugees, EMN, Working Paper 56, 2013), http://www.bamf.de/SharedDocs/Anlagen/EN/Publikationen/EMN/Nationale-Studien-WorkingPaper/emn-wp56-menschenhandel.pdf;jsessionid=DFEB8AB87411A2785C092AB8675456A4.1_cid294?_blob=publicationFile, archived at <http://perma.cc/8HHT-BAKY>.

¹³ *Id.* at 11.

¹⁴ Residence Act, § 71, para. 1.

¹⁵ BUNDESMINISTERIUM FÜR FAMILIE, SENIOREN, FRAUEN UND JUGEND [FEDERAL MINISTRY FOR FAMILY AFFAIRS, SENIOR CITIZENS, WOMEN, AND YOUTH], BUND-LÄNDER-ARBEITSGRUPPE FRAUENHANDEL. KOOPERATIONSKONZEPT FÜR DIE ZUSAMMENARBEIT VON FACHBERATUNGSSTELLEN UND POLIZEI FÜR DEN SCHUTZ

assigns clear roles to the police and the counseling centers, and suggests the establishment of specialized units as well as specialized training.¹⁶ The cooperation concept has been adopted in thirteen German states.¹⁷ Police and counseling units are supposed to be involved from the start and keep each other informed as well as organize contacts with other government agencies such as the Foreigner's Office.¹⁸

III. Training Programs for Law Enforcement

A. Federal-State Working Group Human Trafficking

The Federal-State Working Group Human Trafficking (Bund-Länder-Arbeitsgruppe Menschenhandel) is composed of representatives of several Federal Ministries, specialized ministers, the BKA, the NGO Network Against Human Trafficking (Koordinierungskreis gegen Menschenhandel, KOK),¹⁹ the Federal Association of Non-statutory Welfare (Bundesarbeitsgemeinschaft der Freien Wohlfahrtspflege, BAGFW),²⁰ and the association Solidarity with Women in Distress (SOLWODI²¹).²² The working group was founded under the name Federal-State Working Group Trafficking in Women and has been active in the fight against human trafficking since 1997. In 2012, it was renamed the Federal-State Working Group on Human Trafficking to reflect the international and European usage and the expanded view of trafficking. It has published a working paper on the standardization of training for law enforcement and the judiciary on the crime of human trafficking for sexual exploitation.²³ The

VON OPFERZEUGEN/INNEN VON MENSCHENHANDEL ZUM ZWECK DER SEXUELLEN AUSBEUTUNG [FEDERAL-STATE WORKING GROUP TRAFFICKING IN WOMEN. COOPERATION CONCEPT FOR THE COOPERATION OF SPECIALIZED COUNSELLING CENTERS AND THE POLICE FOR THE PROTECTION OF VICTIMS/WITNESSES OF HUMAN TRAFFICKING FOR SEXUAL EXPLOITATION] (Nov. 2007), <http://www.bmfsfj.de/RedaktionBMFSFJ/Abteilung4/Pdf-Anlagen/gewalt-kooperationskonzept.property=pdf,bereich=.rwb=true.pdf>, archived at <http://perma.cc/GW43-2CWH>.

¹⁶ *Id.* at 9.

¹⁷ Hoffmann, *supra* note 12, at 12.

¹⁸ BUNDESMINISTERIUM FÜR FAMILIE, SENIOREN, FRAUEN UND JUGEND, *supra* note 15, at 11 *et seq.*

¹⁹ *Gremienarbeit des KOK in Deutschland [Committee Work of the KOK in Germany]*, KOK, <http://www.kok-gegen-menschenhandel.de/vernetzung/bundesweit/gremienarbeit.html> (last visited Jan. 28, 2016), archived at <http://perma.cc/Z5NN-GBXU>.

²⁰ BUNDESBARBEITSGEMEINSCHAFT DER FREIEN WOHLFAHRTSPFLEGE [BAGFW] [FEDERAL ASSOCIATION OF NON-STATUTORY WELFARE], <http://www.bagfw.de/englisch/> (last visited Jan. 27, 2016), archived at <http://perma.cc/9AH7-3RFK>.

²¹ SOLIDARITY WITH WOMEN IN DISTRESS [SOLWODI], <http://www.solwodi.de/791.0.html?&L=1> (last visited Jan. 27, 2016), archived at <http://perma.cc/DN4P-HDJ6>.

²² BUND-LÄNDER-ARBEITSGRUPPE MENSCHENHANDEL [FEDERAL-STATE WORKING GROUP HUMAN TRAFFICKING], <http://www.bmfsfj.de/BMFSFJ/gleichstellung.did=73008.html> (last visited Jan. 27, 2016), archived at <http://perma.cc/TR9K-RZ6W>.

²³ Bundesministerium für Familie, Senioren, Frauen und Jugend [Federal Ministry for Family Affairs, Senior Citizens, Women, and Youth], Arbeitspapier zur Standardisierung der Aus- und Fortbildung im Deliktbereich Menschenhandel zum Zweck der sexuellen Ausbeutung [Working Paper on the Standardization of Training on the Crime of Human Trafficking for Sexual Exploitation] (No. 106/2007, Apr. 2008), <http://www.bmfsfj.de/>

E. Training Conducted by the NGO Network Against Human Trafficking

The NGO Network Against Human Trafficking²⁸ holds internal training seminars for counseling centers that form part of its network and is involved in education and training measures as part of the Federal-State Working Group Human Trafficking, as discussed above. Furthermore, on the request of the police and the public prosecutor's office, the KOK develops training formats and conducts training. Additionally, the KOK has organized joint workshops with the Federal Police and offered a workshop on Improving the Co-operation between NGOs and the Police.²⁹

F. Regional Workshops of the German Institute for Human Rights

Occasionally, the German Institute for Human Rights, in cooperation with the German Federal Consortium of Charitable Organizations, offers regional seminars with a focus on human trafficking for migration and refugee counselors.³⁰ The seminar report was made available to interested parties on the website of the German Institute for Human Rights.³¹

G. Training Seminars of the Academy of European Law

The Academy of European Law (ERA) is a nonprofit public foundation located in Trier, Germany.³² It provides training in European law to legal practitioners and receives support from the European Union (EU). Among other trainings, it offers seminars on investigating and prosecuting trafficking in human beings,³³ and on countering trafficking in human beings,³⁴ for law enforcement officers, prosecutors, and judges.

²⁸ KOK, *supra* note 19.

²⁹ Hoffmann, *supra* note 12, at 30.

³⁰ Training Announcement, Deutsches Institut für Menschenrechte [German Institute for Human Rights], "Arbeitsausbeutung und Menschenhandel – Handlungsmöglichkeiten für die Migrations- und Flüchtlingsberatung" ["Work Exploitation and Human Trafficking – Possible Courses of Action for Migration and Refugee Counselling"] (Mar. 22, 2012), http://www.jadwiga-online.de/data/programm_fortbildung.pdf, archived at <http://perma.cc/GMR7-5NDC>.

³¹ DEUTSCHES INSTITUT FÜR MENSCHENRECHTE [GERMAN INSTITUTE FOR HUMAN RIGHTS], ARBEITSAUSBEUTUNG UND MENSCHENHANDEL. ARBEITNEHMERINNEN UND ARBEITNEHMERN ZU IHREN RECHTEN VERHELFFEN – EINE HANDREICHUNG FÜR BERATUNGSSTELLEN [WORK EXPLOITATION AND HUMAN TRAFFICKING – HELPING EMPLOYEES ENFORCE THEIR RIGHTS – HANDOUT FOR COUNSELING CENTERS] (June 2012), http://www.institut-fuer-menschenrechte.de/uploads/tx_commerce/handreichung_arbeitsausbeutung_und_menschenhandel.pdf, archived at <http://perma.cc/2LQ8-34DE>.

³² *Welcome to the Academy of European Law*, ERA, <https://www.era.int/> (last visited Jan. 27, 2016), archived at <http://perma.cc/6GN6-DDZX>.

³³ *Investigating and Prosecuting Trafficking in Human Beings*, ERA, https://www.era.int/cgi-bin/cms?_SID=a946edf2191b3165367b8adf035afacf465c5d6c00453979857030&sprache=en&bereich=artikel&aktion=detail&i Dartikel=121565 (last visited Jan. 27, 2016), archived at <http://perma.cc/3AD9-N25A>.

³⁴ *Countering Trafficking in Human Beings*, ERA, https://www.era.int/cgi-bin/cms?_SID=a946edf2191b3165367b8adf035afacf465c5d6c00453979857030&sprache=en&bereich=artikel&aktion=detail&i Dartikel=125359 (last visited Jan. 27, 2016), archived at <http://perma.cc/6GDB-VHXE>.

Israel

Ruth Levush
Senior Foreign Law Specialist

SUMMARY Israel seeks to address the problem of human trafficking by coordinating the efforts of a number of government agencies and private organizations. In 2006 it established the Office of the National Anti-Trafficking Coordinator (ONATC) in the Ministry of Justice. The ONATC currently chairs an interministerial committee to study women and children involved in prostitution in Israel. In 2014, the ONATC formed a working group with various ministries and a nongovernmental organization to address the problem of child prostitution.

Among other tasks, the ONATC is responsible for advocacy and the education of officials and the public about human trafficking. It provides training for government officials, including police officers, social workers, immigration officers, state attorneys, and judges, as well as aid organizations and private-sector professionals, including medical professionals and members of the tourism industry.

Topics in the ONATC training programs have recently included the identification of trafficking victims, the vulnerability of domestic labor migrants, migrant human-trafficking victims, and the cultures of origin of trafficking victims.

I. Introduction

Israel is classified by the US Department of State's *2015 Trafficking in Persons Report* as a Tier 1 country, having fully complied with the minimum standards for the elimination of trafficking. The report states that the Israeli government has "continued its efforts to prevent and raise awareness of human trafficking."¹ Israel's classification upgrade from a Tier 2 country in the 2007 State Department report² to a Tier 1 category in the 2012 report³ reflects concentrated efforts by the Israeli government to eliminate trafficking in persons within Israel's territory.

Israel particularly seeks to address the problem of human trafficking by coordinating the efforts of several government agencies and nongovernmental organizations (NGOs) working in this area. Such coordination is the responsibility of the Office of the National Anti-Trafficking

¹ *Israel*, in U.S. DEPARTMENT OF STATE, 2015 TRAFFICKING IN PERSONS REPORT 193–94 (July 2015) (2015 TIP REPORT), <http://www.state.gov/documents/organization/245365.pdf>, archived at <https://perma.cc/WN3U-2YEN>

² *Israel*, in U.S. DEPARTMENT OF STATE, 2007 TRAFFICKING IN PERSONS REPORT 121 (June 2007) (2007 TIP REPORT), <http://www.state.gov/documents/organization/82902.pdf>, archived at <https://perma.cc/8UBZ-SKSN>.

³ See *Trafficking in Persons Report 2012: Tier Placements*, U.S. DEPARTMENT OF STATE, <http://www.state.gov/j/tip/rls/tiprpt/2012/192363.htm> (last visited Feb. 17, 2016), archived at <https://perma.cc/VQP5-PSFE>.

Coordinator (ONATC) in the Ministry of Justice.⁴ The ONATC was established in 2006 on the basis of a government decision to appoint an official from the Ministry of Justice to serve as an interministerial coordinator of governmental and nongovernmental activities in this area.⁵

The ONATC's responsibilities include

ongoing communication and collaboration with various Israeli and international bodies; serving as an informative source of data regarding human trafficking globally and in Israel; building and maintaining a database of judicial decisions as well as expert opinions on the matter; providing guidance and consultation for legislative action; participating in parliamentary meetings; participating in inter-ministerial committees, including the Directors General Committee for combating trafficking; educating and raising awareness on human trafficking; training key professionals in the field (police, social workers, immigration officers, state attorneys, judges, medical professionals, and more). In addition, the Office has an active role regarding the annual Presidential ceremony honoring efforts of combating human trafficking.⁶

The ONATC chairs an interministerial committee appointed to study women and children in prostitution in Israel. In 2014, it formed a working group with various ministries and an NGO to address child prostitution.⁷

This report provides a brief overview of Israel's legal framework on human trafficking, describes the roles and responsibilities of the ONATC and other government agencies in enforcing laws against human trafficking, and provides information on training programs for law enforcement officers and personnel of other relevant agencies.

II. Legal Framework

A. International Law

Israel is a signatory to several conventions related to forced labor and human trafficking. In 2006 it ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational

⁴ The ONATC operates a comprehensive website detailing national plans, interministerial activities, and other relevant information on fighting human trafficking; see ONATC, <http://www.justice.gov.il/Units/Trafficking/Pages/default.aspx> (in Hebrew, last visited Jan. 19, 2016), archived at <https://perma.cc/QG9R-W64N>.

⁵ *About the Unit*, ONATC, <http://www.justice.gov.il/Units/Trafficking/About/Pages/default.aspx> (in Hebrew; last visited Feb. 1, 2016), archived at <https://perma.cc/92QA-TQRF>.

⁶ *About Us*, ONATC, <http://www.justice.gov.il/En/Units/Trafficking/Pages/About.aspx> (last visited Feb. 1, 2016), archived at <https://perma.cc/BM7F-7R4G>.

⁷ 2015 TIP REPORT, *supra* note 1, at 195.

Organized Crime.⁸ In 2008, Israel ratified the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography.⁹

B. Domestic Law

On October 18, 2006, the Knesset (Israel's Parliament) passed an amendment to the Penal Law (Amendment Law), thereby prohibiting human trafficking and subjecting convicted offenders to imprisonment for sixteen or twenty years (when the victim is a minor), forfeiture of property, and payment of monetary compensation to victims.¹⁰

The Amendment Law prohibits trading in persons for the purpose of subjecting them to one of the following:

- Removal of an organ
- Giving birth to a child and taking away the said child
- Slavery or forced labor
- Prostitution
- Participation in a pornographic advertisement or exhibition
- A sexual offense¹¹

The Amendment Law establishes a special fund to which all forfeited property and fines imposed in connection with human trafficking must be transferred. The fund's assets are to be allocated for the following purposes:

- Rehabilitation, treatment, and protection of trafficking victims (over half of the fund's yearly assets)
- Compensation (whole or partial) of individual victims who have been awarded such compensation by civil or criminal court judgments and have established that they have no reasonable possibility of enforcing the judgment

⁸ Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, Nov. 15, 2000, 2237 U.N.T.S. 319, <https://treaties.un.org/doc/Publication/UNTS/Volume%202237/v2237.pdf>, archived at <https://perma.cc/F8V9-ABLK>.

⁹ Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, May 25, 2000, 2171 U.N.T.S. 227, available at <https://treaties.un.org/doc/Publication/CN/2000/CN.1032.2000-Eng.pdf>, archived at <https://perma.cc/U4HZ-EQ73>.

¹⁰ Penal Law, 5737-1977, LAWS OF THE STATE OF ISRAEL (LSI) (Special Volume), §§ 374–377E, as amended by Prohibition of Trafficking in Persons (Legislative Amendments) Law, 5766–2006, SEFER HAHUKIM [BOOK OF LAWS, SH] (official gazette) No. 2067 pp. 2–8.

¹¹ Penal Law § 377A; see also RAHEL GERSHUNI, MINISTRY OF JUSTICE DEPARTMENT OF LEGISLATION AND LEGAL COUNSEL, ISRAEL'S NEW COMPREHENSIVE TRAFFICKING LEGISLATION 1, <http://www.justice.gov.il/En/Units/Trafficking/MainDocs/israeltraffickinglawexplained.pdf> (last visited Jan. 11, 2016), archived at <https://perma.cc/2GEQ-YYYS>.

- Crime prevention
- Implementation of anti-trafficking legislation by law enforcement authorities¹²

According to Israel's Ministry of Justice,

[t]hese purposes reflect the various aspects of the battle against trafficking, as established by international conventions: protection, prosecution and prevention. Thus, the Fund is intended to be a tool to encourage the waging of this battle on all fronts.

This provision is an important precedent, in its emphasis upon the protection of victims, above and beyond the other purposes of the Fund. This can be seen in the obligatory allocation of at least half of the yearly assets to the protection of victims and in the arrangement allowing for compensation of individual victims by the Fund, under certain circumstances.¹³

In addition to rights to rehabilitation and compensation, victims of human trafficking enjoy special procedural protections during the criminal process, including participation in in-camera proceedings, gag orders on information involving minors, receipt of information and ability to express opinions at various junctures of the criminal process, permission to testify outside the presence of the accused. They also receive legal aid.¹⁴

III. Roles and Responsibilities of Government Agencies in Enforcing Human Trafficking Law

A. Border Control and Law Enforcement

The entry of persons into Israel is controlled by Israel's Population, Immigration and Border Authority (PIBA).¹⁵ The PIBA is responsible for the issue of entry visas to qualified applicants. It currently grants foreign-worker visas to experts and to workers in ethnic restaurants, domestic helpers, and agricultural workers.¹⁶

¹² Penal Law § 377E(d).

¹³ RAHEL GERSHUNI, MINISTRY OF JUSTICE DEPARTMENT OF LEGISLATION AND LEGAL COUNSEL, BATTLE AGAINST TRAFFICKING IN PERSONS: ISRAEL'S NEW COMPREHENSIVE TRAFFICKING LEGISLATION 12, <http://www.justice.gov.il/En/Units/Trafficking/MainDocs/israeltraffickinglawexplained.pdf> (last visited Jan. 28, 2016), archived at <https://perma.cc/A8JV-Z544>.

¹⁴ *Id.* at 14–16; see also RAHEL GERSHUNI, MINISTRY OF JUSTICE DEPARTMENT OF LEGISLATION AND LEGAL COUNSEL, TRAFFICKING IN PERSONS IN ISRAEL 22 (Apr. 2011), http://www.ungift.org/doc/knowledgehub/resource-centre/Governments/Israel_Ministry_of_Justice_TIP.pdf, archived at <https://perma.cc/M86L-P8U9>.

¹⁵ MARIA RABINOWITZ, REVIEW OF ISRAEL'S ACTIVITY IN THE AREA OF THE FIGHT AGAINST HUMAN TRAFFICKING: HANDLING OF THE PHENOMENON OF TRADING IN WOMEN (Knesset Information and Research Center, Oct. 20, 2013), <http://www.knesset.gov.il/mmm/data/pdf/m03296.pdf> (in Hebrew), archived at <https://perma.cc/34QP-HZBA>.

¹⁶ *Foreign Workers*, PIBA, <http://www.piba.gov.il/subject/foreignworkers/pages/default.aspx> (in Hebrew; last visited Jan. 28, 2016), archived at <https://perma.cc/8XQT-VSX8>.

Persons who enter Israel unlawfully, and even lawfully, can become victims of human trafficking if they are traded for one of the purposes listed under the Penal Law.¹⁷

The Israel Police is responsible for preventing crimes against trafficking victims once they enter Israeli territory, and the personnel of a number of agencies involved in human trafficking cases may participate in identifying victims and providing them with assistance, including social and medical services.

B. Agency Roles

In recent years most victims of trafficking in Israel appear to have been women brought to Israel for prostitution. According to testimony by the Ministry of Justice provided to the Knesset Committee for Promoting the Status of Women and for Gender Equality, Israeli authorities experience difficulties in identifying victims of sex trafficking and enforcing the law. This is due to the lawful arrival of the victims. Unlike victims who were previously smuggled into Israel via the Sinai desert, most victims of sex trafficking currently arrive in the country lawfully on three-month tourist visas. Citizens of Russia, Ukraine, Moldova, and Belarus, the countries from which many of the victims arrive, are no longer required to obtain a visa before traveling to Israel and are therefore not screened by the Ministry of Foreign Affairs prior to their arrival. The tourism sector, therefore, has been identified by Israeli authorities as a necessary partner in the fight against human trafficking.¹⁸

According to the testimony before the Knesset committee,

[t]he Ministry of Tourism has joined the interministerial activity in this area because they arrive as tourists. Sometimes it is actually in a pretended organized group of travelers, and they arrive at hotels. Everything is organized ahead of time in travel packages, which is why we must recruit the tourism sector, from the point of view of identification, prevention, reporting, etc. So the Ministry of Tourism is recruited.

It is more difficult [to act] against private elements such as the Hotel Association, owners of hotels, the Travel Agent Association; it is apparently unrelated to them and they are only expected to make money.¹⁹

Various government agencies are involved in carrying out duties related to human trafficking within their respective areas of responsibilities. These include the Ministry of Justice, which is responsible for indicting and prosecuting offenders, and providing legal assistance to victims; the Ministry of Health, which operates hospitals and anonymous clinics to which victims turn for medical help; the Ministry of Interior, which grants temporary work visas to victims for the

¹⁷ See discussion of § 377A of the Penal Law in Part II, above.

¹⁸ *Protocol No. 20: Hearing Before the Committee for Promoting the Status of Women and Gender Equality*, 20th Knesset 5 (Oct. 12, 2015) (statement of Meirav Shmueli, Facilitator of the Fight Against Human Trafficking in the Ministry of Justice), http://www.justice.gov.il/Units/Trafficking/MainDocs/20_ptv_314575.doc (in Hebrew; last visited Feb. 1, 2016), archived at <https://perma.cc/CD85-U7GC>.

¹⁹ *Id.* (translated by author, R.L.).

purpose of rehabilitation; and the Ministry of Welfare and Social Services, which is responsible for operating shelters and providing social services for victims of human trafficking.²⁰

IV. Training Programs

A. General Training in Human Trafficking

The Israeli government's efforts to increase awareness in identifying trafficking victims were acknowledged in the State Department's *2015 Trafficking in Persons Report*, which stated that

[t]he government continued to widely circulate victim identification guidelines to government ministries, which regularly referred potential victims to the police to open an investigation and ensure the provision of protective services. Authorities also continued to cooperate with NGOs on victim identification and referral. The police continued a program with an NGO to help identify and refer protection sex trafficking victims picked up during police raids of brothels; police identified 28 victims during brothel raids in 2014.²¹

Recognizing that training and advocacy play an important role in the effort to combat trafficking, the ONATC provides information to educate the public on trafficking and victim recognition. It further provides law enforcement with the training necessary to operate effectively. The ONATC's advocacy activities include media interviews, participation in conferences, and lecturing in various forums on human trafficking and the struggle to eliminate it in Israel.

The ONATC initiates, develops, and delivers expert anti-human trafficking training programs for professionals in various fields, government agencies, aid organizations, other relevant bodies, and the general public.²² According to its website,

[t]hese trainings are specifically targeted at units or functions [sic] which may come in contact with human trafficking victims (or potential victims)[;] they are tailored to the needs of these functions and include legal content, description of relevant phenomena and the providing of tools for the identification of victims of trafficking and slavery. Some of the trainings consist of an entire day or more of lectures, some are shorter, and each is tailored to the specific needs and limitations of its target audience.²³

Between 2009 and 2011 the ONATC conducted special seminars on identifying victims for government representatives and NGOs that interact with labor migrants. In addition, a special

²⁰ *Id.* at 52–65.

²¹ 2015 TIP REPORT, *supra* note 1, at 194.

²² *Trainings and Advocacy*, ONATC, <http://www.justice.gov.il/En/Units/Trafficking/EffortsNew/Pages/trainings.aspx> (last visited Feb. 1, 2016), archived at <https://perma.cc/5K7E-7428>.

²³ *Id.*

Guide for Identifying Victims of Slavery and Forced Labor, which incorporates papers presented by subject matter experts, was later published, with financing provided by the European Union.²⁴

Among governmental and nongovernmental bodies that have received training from the ONATC in recent years are the following:

- Migration authority: prosecution unit, border control, the RSD unit, the refused facility's team in Ben Gurion airport, social workers from private offices in the nursing field (under the regulation of the migration authority).
- The Israeli police: various central units (Tel-Aviv, Negev, Lachish, North etc), Lahav 433 unit, including the Saar department, the school for the investigation and intelligence unit.
- Prison service: the Saharonim, Givon and Mattan detention facilities.
- The Ministry of Foreign Affairs: training course for ambassadors and consuls leaving the country.
- The Ministry of Justice: the prosecution, legal aid unit, the anti-money laundering authority, judges in the tribunal for detention regulation.
- Court management: criminal judges, judges' clerks.
- The Ministry of Economics: labor inspectors.
- The Ministry of health: hospitals (medical and social teams), the Levinsky clinic for sexually transmitted diseases.
- United Nations High Commissioner for Refugees (UNHCR).
- International bodies: specialists and professionals in the field, including judges and prosecutors.
- Various Israeli NGOs dealing with vulnerable populations: Assaf foundation, center for refugees and migrants, Kav Laoved etc.
- Public panels accompanying film screening, symposiums, and other events.
- Academic institutions: The College for Management, Academic Center Rupin, Tel-Aviv University, Hebrew University, Mendel Institution etc.
- High schools and youth facilities across the country.
- Religious leaders.²⁵

The ONATC plans to expand its training sessions in the coming year to new audiences, such as the private and business sectors.²⁶

²⁴ ONATC, GUIDE FOR IDENTIFYING VICTIMS OF SLAVERY AND FORCED LABOR, <http://www.justice.gov.il/Units/Trafficking/MainDocs/A%20Toolkit%20for%20Identifying%20Victims%20of%20Forced%20Labour%20and%20Slavery.pdf> (in Hebrew; last visited Feb. 16, 2016), archived at <https://perma.cc/N2PT-5ULC>.

²⁵ *Trainings and Advocacy*, *supra* note 22.

²⁶ *Id.*

In 2014, Israel's Ministry of Interior reported an increased focus on training social workers to identify potential cases of human trafficking among caregivers. Furthermore, the Ministry of Tourism has reportedly adopted the United Nations World Tourism Organization's (UNWTO's) Global Code of Ethics in Tourism²⁷ and provided anti-trafficking training for government officials, tourism industry representatives and NGOs.²⁸ Anti-trafficking training was similarly provided to Israeli diplomatic personnel.²⁹

Topics in the ONATC training sessions in recent years have included human trafficking, the identification of trafficking victims, the vulnerability of labor migrants who engage in domestic work, migrant victims of human trafficking, and the cultures of origin of trafficking victims.³⁰

In addition to conducting seminars and sharing information on human trafficking with relevant officials, the ONATC has coordinated special programs on human trafficking for students and the public at large. Informational seminars on the dangers posed by human trafficking were provided not only in Israel but also in countries where victims originate. The Israeli government has engaged in international exchanges of information with other countries to further improve its handling of the issue.³¹

B. Special Training for Judges

An international seminar for judges on the role of the judiciary in combating human trafficking was conducted in Haifa, Israel, in October 2014. The seminar was based on the joint collaboration of several Israeli government and international organizations. Sponsors included Israel's Agency for International Development Cooperation, the Organization for Security and Cooperation in Europe, the United Nations Office on Drugs and Crime, the International Organization for Migration, the Institute of Advanced Judicial Studies, and the Israeli Ministry of Justice.³²

²⁷ GLOBAL CODE OF ETHICS FOR TOURISM (UNWTO 1999), <http://dtxtg4w60xqpw.cloudfront.net/sites/all/files/docpdf/gcetbrochureglobalcodeen.pdf>, archived at <https://perma.cc/RRP9-5BLG>; see also UNODC-UNWTO Side Event on Human Trafficking in the Context of Tourism, UNWTO (Apr. 24, 2012), <http://ethics.unwto.org/event/unodc-unwto-side-event-human-trafficking-context-tourism>, archived at <https://perma.cc/BAD3-5BTV>.

²⁸ See Seminar by the Ministry of Justice and the Authority for Promoting the Status of Woman in the Prime Minister's Office: Responsible Tourism, Cooperation with the Private Sector in the Field of the Fight Against Human Trafficking (Sept. 8, 2014), http://www.justice.gov.il/Units/Trafficking/MainDocs/ימים_עיון_תירות_אחראית.doc (in Hebrew), archived at <https://perma.cc/5DCN-U63Z>.

²⁹ RABINOWITZ, *supra* note 15, at 68.

³⁰ *Id.* at 66.

³¹ *Id.* at 65.

³² MASHAV ET AL., INVITATION TO INTERNATIONAL SEMINAR FOR JUDGES: THE CRITICAL ROLE OF THE JUDICIARY IN COMBATING TRAFFICKING IN HUMAN BEINGS, <http://mctc.co.il/public/files/attachments/235/2hucfh.pdf> (last visited Jan. 20, 2016), archived at <https://perma.cc/N368-FRGY>.

The seminar included sessions on the following topics:

- The international framework of combating trafficking in persons
- Key issues and concepts that arise in trafficking cases
- Patterns of trafficking, forms of exploitation, and the means used by traffickers
- Psychological symptoms of trafficking victims
- Evidential problems specific to trafficking cases
- Best practices for the protection of victims
- The rights of victims in criminal proceedings, including noncriminalization/nonpunishment
- The importance of international cooperation
- Mock trials highlighting core issues in the seminar³³

Other programs are offered by the Institute of Legal Training for Attorneys and Legal Advisers of the Ministry of Justice (ILTALA). In March 2015, for example, a one-day seminar on human trafficking was conducted by the ILTALA in Jerusalem and included sessions conducted by experts in international law, criminal law, legal assistance, and immigration.³⁴

C. Training for Police Personnel

Human trafficking and prostitution are mandatory training subjects for all Israeli police personnel. The Israel Police conducts workshops for officers and investigators on identifying victims and on cultural diversity, a topic viewed as essential for identifying and understanding traits of victimization.³⁵

D. Training for Members of the Knesset

The Knesset is similarly involved in increasing awareness of human trafficking and in 2012 reportedly held a day-long conference for Knesset members on the cultures of East Asian countries, where labor migrants in Israel originate.³⁶

³³ *Id.* at 2.

³⁴ *See, e.g.*, Training Agenda, Seminar on: “Trafficking in Persons” (Ministry of Justice, Mar. 12, 2015), <http://index.justice.gov.il/Units/Trafficking/MainDocs/12.3.2015.doc> (in Hebrew), archived at <https://perma.cc/39NB-L6UZ>.

³⁵ *See* RABINOWITZ, *supra* note 15, at 66–67.

³⁶ *Id.*

Italy

Dante Figueroa
Senior Legal Information Analyst

SUMMARY Italy is bound by a number of international treaties and other instruments covering human trafficking and smuggling. Due to its geographical location, Italy is a point of convergence between the European continent and other regions from which intense human trafficking takes place. Italy has enacted domestic legislation prohibiting the exploitation of human beings in its different modalities, including prostitution and other forms of abuse of persons in situations of vulnerability. The Italian Criminal Code contains specific provisions punishing conduct that relates to the trafficking and smuggling of persons. These provisions have been included in the Criminal Code over the years, pursuant to Italy's obligations arising from international instruments and European legislation. Several government agencies at the national and the regional level cooperate to provide integral assistance to trafficking and smuggling victims.

I. Brief Introduction to Italy's Legal Framework on Human Trafficking

A. International Legal Framework Applicable to Italy

Italy has ratified the following international treaties that directly or indirectly deal with human trafficking:

- The Slavery Convention, ratified by Italy on August 25, 1928,¹ defining slavery and the slave trade.²
- The Universal Declaration of Human Rights of 1948, adopted by the General Assembly of the United Nations on December 10, 1948, prohibiting slavery or servitude and the slave trade.³
- The European Convention for the Protection of Human Rights and Fundamental Freedoms of 1950, ratified by Italy on October 26, 1955,⁴ establishing provisions concerning slavery or servitude and compulsory labor.⁵

¹ *Ratification of International Human Rights Treaties – Italy*, UNIVERSITY OF MINNESOTA, HUMAN RIGHTS LIBRARY, <http://www1.umn.edu/humanrts/research/ratification-italy.html> (last visited Feb. 17, 2016), archived at <https://perma.cc/V95F-BWEY>.

² Convention to Suppress the Slave Trade and Slavery (Slavery Convention) arts. 1(1) & (2), Sept. 25, 1926, <http://www.ohchr.org/Documents/ProfessionalInterest/slavery.pdf>, archived at <https://perma.cc/373Q-REMY>.

³ Universal Declaration of Human Rights art. 4, Dec. 10, 1948, http://www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/eng.pdf, archived at <https://perma.cc/D8JD-NYWX>.

⁴ UNIVERSITY OF MINNESOTA, *supra* note 1.

⁵ European Convention on Human Rights art. 4, Nov. 4, 1950, available at <http://www.hri.org/docs/ECHR50.html#Convention>, archived at <https://perma.cc/ZG2T-2C5Q>.

- The Geneva Convention on the High Seas of 1958, ratified by Italy on December 17, 1964, addressing human trafficking by sea.⁶
- The Declaration of the Rights of the Child of 1959, adopted by the UN General Assembly on November 20, 1959, prohibiting certain crimes against children, including trafficking in any form.⁷
- The International Covenant on Civil and Political Rights of 1967, ratified by Italy on September 15, 1978,⁸ banning slavery, the slave trade, servitude, and forced or compulsory labor.⁹
- The Convention Implementing the Schengen Agreement of June 14, 1985, on the Gradual Abolition of Checks at the Common Borders, enabling signatory members to impose penalties on anyone who, for financial gain, assists or tries to assist an alien to enter or reside within the territory of one of the members in violation of that member's laws concerning the entry and residence of foreigners.¹⁰
- The Europol Convention of 1995, which has as one of its objectives “prevent[ing] and combat[ing] . . . illegal immigrant smuggling [and] trade in human beings” as initial steps in “preventing and combating . . . serious forms of international crime” that involve “an organized criminal structure” in the Member States.¹¹ “Trafficking in human beings” is defined in light of European Union law¹² as

⁶ Convention on the Law of the Sea, Apr. 29, 1958, 450 U.N.T.S. 11, https://treaties.un.org/pages/ShowMTDSGDetails.aspx?src=UNTSOnline&tabid=2&mtdsg_no=XXI-2&chapter=21&lang=en#Participants, archived at <https://perma.cc/2PBX-VF89>; TULLIO TREVES, 1958 GENEVA CONVENTIONS ON THE LAW OF THE SEA 1–2 (United Nations Audiovisual Library of International Law 2008), http://legal.un.org/avl/pdf/ha/gclos/gclos_e.pdf, archived at <https://perma.cc/Q6V4-CWDA>.

⁷ Declaration of the Rights of the Child princ. 9, Nov. 20, 1959, <http://www.unicef.org/malaysia/1959-Declaration-of-the-Rights-of-the-Child.pdf>, archived at <https://perma.cc/6FZA-N5JV>.

⁸ UNIVERSITY OF MINNESOTA, *supra* note 1.

⁹ International Covenant on Civil and Political Rights art. 8, Dec. 16, 1966, 999 U.N.T.S. 171, available at <http://www1.umn.edu/humanrts/instree/b3ccpr.htm>, archived at <https://perma.cc/3VZS-947C>.

¹⁰ Schengen Acquis – Convention Implementing the Schengen Agreement of 14 June 1985 Between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the Gradual Abolition of Checks at Their Common Borders art. 27(1), 2000 OFFICIAL JOURNAL OF THE EUROPEAN UNION (O.J.) (L 239) 19, http://www.imolin.org/doc/amlid/Belgium_Convention_19_June_1990_Schengen_English.pdf, archived at <https://perma.cc/UW7U-RUT6>.

¹¹ Council Act of 26 July 1995 Drawing Up the Convention Based on Article K.3 of the Treaty on European Union, on the Establishment of a European Police Office (Europol Convention) arts. 2(1) & (2), 1995 O.J. (C 316) 1, <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A31995F1127%2801%29>, archived at <https://perma.cc/9CGJ-YZS5>. The Europol Convention was amended by Council Decision of 6 April 2009 Establishing the European Police Office (Europol), 2009 O.J. (L 121) 37 (Council Decision of 2009), available at https://www.europol.europa.eu/sites/default/files/council_decision.pdf, archived at <https://perma.cc/N34B-CQVX>. For commentary on the Convention, see TONY BUNYAN, THE EUROPOL CONVENTION (Statewatch 1995), <http://www.statewatch.org/docbin/europol-pamphlet-1995.pdf>, archived at <https://perma.cc/83GP-C7PH>.

¹² Council Joint Action 98/699/JHA of 3 December 1998 on Money Laundering, the Identification, Tracing, Freezing, Seizing and Confiscation of the Instrumentalities and the Proceeds from Crime, 1998 O.J. (L 333) 1, available at <http://db.eurocrim.org/db/en/doc/1200.pdf>, archived at <https://perma.cc/9MAW-T6HY>.

the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, as a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, the production, sale or distribution of child-pornography material, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.¹³

- The Rome Statute of the International Criminal Court of 1998, which was proposed by Italy and ratified by it on July 26, 1999,¹⁴ and contains a definition of “crime against humanity” that includes “rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity.”¹⁵
- The Geneva Convention No. 182 of 1999 on the Elimination of the Worst Forms of Child Labour, ratified by Italy on June 7, 2000,¹⁶ which addresses “all forms of slavery or practices similar to slavery, such as the sale and trafficking of children.”¹⁷
- The United Nations Convention Against Transnational Organized Crime,¹⁸ and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children,¹⁹ both of which were signed by Italy on December 12, 2000.²⁰
- The Charter of Fundamental Rights of the European Union of 2000, prohibiting slavery or servitude, forced labor, and trafficking in human beings.²¹

¹³ Council Decision of 2009, Annex(c), at 66.

¹⁴ UNIVERSITY OF MINNESOTA, *supra* note 1.

¹⁵ Rome Statute of the International Criminal Court art. 7(1)(g) (Rome Statute), U.N. Doc. A/CONF.183/9* (July 17, 1998), available at <http://legal.un.org/icc/statute/romefra.htm>, archived at <https://perma.cc/LE4V-GSSK>.

¹⁶ UNIVERSITY OF MINNESOTA, *supra* note 1.

¹⁷ Convention No. 182 of the International Labour Organization Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour art. 3(a), <http://www.ilo.org/public/english/standards/reim/ilc/ilc87/com-chic.htm>, archived at <https://perma.cc/DSK3-L7ZW>, ratified in Italy by Law No. 148 of May 25, 2000, GAZZETTA UFFICIALE DELLA REPUBBLICA ITALIANA [G.U.] June 12, 2000, No. 135, <http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:2000-05-25;148>, archived at <https://perma.cc/9SZR-2MX7>.

¹⁸ UNIVERSITY OF MINNESOTA, *supra* note 1.

¹⁹ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime, Nov. 15, 2000, 2237 U.N.T.S. 343, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-a&chapter=18&lang=en (click “vol. 2237” under “Text”), archived at <https://perma.cc/W3M3-THJ9>.

²⁰ UNIVERSITY OF MINNESOTA, *supra* note 1.

²¹ Charter of Fundamental Rights of the European Union art. 5, Dec. 7, 2000, 2000 O.J. (C 364) 1, http://www.europarl.europa.eu/charter/pdf/text_en.pdf, archived at <https://perma.cc/F9KX-SYBY>.

B. Domestic Legislation

Italian law lists those persons considered to be in a vulnerable situation for purposes of legal protection vis-à-vis human trafficking. This list includes minors; unaccompanied minors; the elderly; the disabled; women, especially when pregnant; single parents with minor children; people with mental disorders; and persons who have been subjected to torture, rape, or other serious forms of psychological, physical, sexual, or gender violence.²² The protective measures established in the legislation do not prejudice the responsibility of the state or individuals according to international law and international human rights and humanitarian law.²³

The law establishes a procedure for the legal determination of the age of a person who appears to be a minor and who has been the victim of human trafficking.²⁴ Unaccompanied minors who are victims of human trafficking must be properly informed of their rights, including eventual access to a procedure for the determination of international protection.²⁵

The law establishes the Fund for the Implementation of Anti-human-trafficking Measures under the Presidency of the Council of Ministers,²⁶ which finances assistance and social integration programs for the benefit of trafficking victims.²⁷ The Fund also covers the compensation of persons who have been victims of human trafficking.²⁸ A claim for compensation must be submitted to the President of the Council of Ministers within five days from the date of the judicial decision that ordered payment to the victim.²⁹

When government agencies providing social services detect that a foreigner has experienced violence or serious exploitation and that there is a real danger to the person's safety, the *questore* (police prefect) may issue a special residence permit to the foreigner.³⁰ Such special residence

²² Decreto Legislativo 4 marzo 2014, n. 24, Attuazione della direttiva 2011/36/UE, relativa alla prevenzione e alla repressione della tratta di esseri umani e alla protezione delle vittime, che sostituisce la decisione quadro 2002/629/GAI [Legislative Decree [L.D.] No. 24 of March 4, 2014, Implementing Directive 2011/36/UE, Related to the Prevention and Repression of Human Trafficking and the Protection of Victims, Which Replaces Framework Decision 2002/629/GAI] art. 1(1), G.U. Mar. 13, 2014, http://www.gazzettaufficiale.it/atto/serie_generale/caricaDettaglioAtto/originario?atto.dataPubblicazioneGazzetta=2014-03-13&atto.codiceRedazionale=14G00035&elenco30giorni=false, archived at <https://perma.cc/G6EW-65S6>.

²³ L.D. No. 24 of 2014, art. 1(2).

²⁴ *Id.* art. 4(2).

²⁵ *Id.* art. 4(1).

²⁶ Legge 11 agosto 2003, n.228, Misure contro la tratta di persone [Law No. 228 of August 11, 2003, Measures Against Human Trafficking] art. 12(1), G.U. Aug. 23, 2003, No. 195 <http://www.camera.it/parlam/leggi/03228l.htm>, archived at <https://perma.cc/3TT2-K6JT>.

²⁷ Law No. 228 of 2003, art. 12(2).

²⁸ L.D. No. 24 of 2014, art. 6(1).

²⁹ *Id.*

³⁰ Decreto Legislativo 25 luglio 1998, n. 286, Testo unico delle disposizioni concernenti la disciplina dell'immigrazione e norme sulla condizione dello straniero [Legislative Decree No. 286 of July 25, 1998, Consolidated Text of Provisions Related to the Topic of Immigration and on the Condition of Foreigners] art. 18(1),

permits are valid for six months and may be renewed for one year, or for a longer period as necessary based on reasons of justice.³¹ The permit is revoked when the assistance program is interrupted, when the foreigner engages in conduct incompatible with the goals of the program, or when the conditions justifying the issuance of the permit no longer exist.³²

The residence permit allows beneficiaries to access residential services, study, and work in Italy.³³ If the foreigner is still working when the residential permit expires, the permit may be renewed for the duration of the work relationship.³⁴ The aforementioned residence permits may be converted into “residence permits for reason of study” when the foreigner is registered in a regular course of studies.³⁵

C. Criminal Conduct Related to Human Trafficking

The Italian Criminal Code defines several offenses related to human trafficking.³⁶ The Code punishes with eight to twenty years of incarceration those who exercise property rights over a person or who reduce a person to, or maintain a person in, a state of continuous subjection, forcing the person to provide work or sexual services, beg or fulfill illegal activities involving exploitation, or undergo the removal of organs.³⁷ The Code provides that the reduction to or keeping of a person in a state of subjugation occurs when the conduct involves the use of violence; threats; deceit; abuse of authority; exploitation of a situation of vulnerability, physical or psychological inferiority, or need; or by promising to give or by giving money or other advantages to anyone under his authority.³⁸

The Criminal Code also punishes with incarceration of six to twelve years and a fine those who recruit or induce a person younger than eighteen years of age to prostitution.³⁹ Also punished are those who promote, exploit, manage, organize, or control the prostitution of a person younger than eighteen years, or who otherwise obtain profits from that person based on her exploitation.⁴⁰

G.U. Aug. 18, 1998, No. 191, <http://www.camera.it/parlam/leggi/deleghe/98286dl.htm>, archived at <https://perma.cc/8FKD-YN6Q>.

³¹ *Id.* art. 18(4).

³² *Id.*

³³ *Id.* art. 18(5).

³⁴ *Id.*

³⁵ *Id.*

³⁶ CODICE PENALE [CRIMINAL CODE, C.C.], available at <http://www.altalex.com/documents/news/2014/10/28/dei-delitti-contro-la-persona>, archived at <https://perma.cc/4942-SBSD>.

³⁷ C.C. art. 600.

³⁸ *Id.*

³⁹ C.C. art. 600-bis ¶ 1.

⁴⁰ C.C. art. 600 ¶ 2.

According to the Criminal Code, whoever purchases, transfers, or sells a person who is in a situation of vulnerability is subject to imprisonment from eight to twenty years.⁴¹ The penalty is increased by a third to a half if the victim is a minor under the age of eighteen or if the acts of exploitation are directed to prostitution or in order to subject the victim to the removal of organs.⁴²

The penalties also apply when the crimes are committed abroad by Italian citizens, or against an Italian citizen, or by a foreigner in conjunction with an Italian citizen.⁴³ In the latter case, the foreigner is punished when the alleged crime is punished with imprisonment of not less than five years and when the Ministry of Justice requests the penalty.⁴⁴

The Italian Constitutional Court ruled in 1991 that the expression “conditions analogous to slavery” contained in article 600 of the Criminal Code refers to article 1 of the Slavery Convention of 1926, which states as follows:

For the purpose of the present Convention, the following definitions are agreed upon:

- (1) Slavery is the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.
- (2) The slave trade includes all acts involved in the capture, acquisition or disposal of a person with intent to reduce him to slavery; all acts involved in the acquisition of a slave with a view to selling or exchanging him; all acts of disposal by sale or exchange of a slave acquired with a view to being sold or exchanged, and, in general, every act of trade or transport in slaves.⁴⁵

According to the Italian Constitutional Court, the expression “conditions analogous to slavery” also include servitude by debt, servitude or serfdom, as well as the practices that authorize (1) the sale of an unmarried woman as a wife; (2) the sale of a married woman; and (3) the sale of a person younger than eighteen years for the exploitation of his work or his person.⁴⁶ In 1998, the Italian Supreme Court (Corte di Cassazione) also recognized the application of article 600 of the Criminal Code to the exploitation of illegal immigrants.⁴⁷

⁴¹ C.C. art. 602 ¶ 1.

⁴² C.C. art. 602 ¶ 2.

⁴³ C.C. art. 604.

⁴⁴ *Id.*

⁴⁵ *Ch. V, Outline of Italian Legislation Concerning Human Trafficking*, in PARLIAMENTARY COMMITTEE SCHENGEN-EUROPOL, FINAL REPORT OF FACT-FINDING STUDY, <http://www.camera.it/bicamerali/schengen/indagini/docconclusivo.htm> (in Italian; last visited Feb. 17, 2016) (referring to Constitutional Court Decision No. 96 of 1991, which interpreted article 600 of the Italian Criminal Code in light of the Slavery Convention of 1926, *supra* note 2), archived at <https://perma.cc/VB6W-5539>.

⁴⁶ PARLIAMENTARY COMMITTEE SCHENGEN-EUROPOL, *supra* note 45.

⁴⁷ Decision of the Italian Supreme Court of December 16, 1998, cited in PARLIAMENTARY COMMITTEE SCHENGEN-EUROPOL, *supra* note 45.

Italian legislation punishes those who facilitate or promote the immigration of persons with the purpose of recruiting them for prostitution, for their exploitation, or who facilitate or promote the entry into Italian territory of minors to be used in illicit activities for their exploitation.⁴⁸ The same legislation provides that if police or social service providers become aware of situations of violence or serious exploitation affecting a foreigner and concrete dangers for his or her safety result from attempts to escape from the influence of a criminal organization, the *questore* (police prefect) may issue a special residence permit authorizing the foreigner to avoid the violence or exploitation affecting him or her, and to participate in an assistance and social integration program.⁴⁹

The legislation also contains measures for the protection of minors, particularly setting time limits on the duration of the investigation for serious crimes related to the sexual exploitation of minors, including prostitution, pornography, human trafficking, the slave trade, and sexual violence.⁵⁰

Finally, the Navigation Code punishes the commander, official, or crewmembers of a national or foreign vessel who commit the crimes of human trafficking or the slave trade.⁵¹

II. Roles and Responsibilities of Government Agencies in Enforcing Laws Against Human Trafficking.

The Italian government has adopted a series of actions aimed at analyzing and detecting the appropriate means to tackle the phenomenon of human trafficking, while still seeking to balance the activities of law enforcement and the protection of human rights.⁵² The Department for Equal Opportunities, which is located under the Ministry of the Interior, proposes, guides, and coordinates actions to fight human trafficking and to provide social integration services to the victims.⁵³ The same Department must submit a biannual report to the European Union's Coordinator for Anti-Human Trafficking.⁵⁴

⁴⁸ Decreto Legislativo 25 luglio 1998, n. 286, Testo unico delle disposizioni concernenti la disciplina dell'immigrazione e norme sulla condizione dello straniero [Legislative Decree No. 286 of July 25, 1998, Consolidated Text on Immigration and the Condition of Foreigners] art. 12, G.U. Aug. 18, 1998, No. 191, <http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legislativo:1998:286~art38>, archived at <https://perma.cc/6JQW-97XN>.

⁴⁹ *Id.* art. 18(1).

⁵⁰ Decreto-Legge 24 novembre 2000, n. 341, Disposizioni urgenti per l'efficacia e l'efficienza dell'Amministrazione della giustizia [Decree Law No. 341 of November 24, 2000, Urgent Provisions for the Effectiveness and Efficiency of the Administration of Justice], G.U. Nov. 24, 2000, No. 275, <http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto-legge:2000:341>, archived at <https://perma.cc/FD8W-37BH>.

⁵¹ Regio Decreto 30 marzo 1942, n. 327, Approvazione del testo definitivo del Codice della navigazione [Royal Decree No. 327 of March 30, 1942, Approving the Final Text of the Navigation Code] arts. 1152 & 1153, G.U. Apr. 18, 1942, No. 93, <http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:regio.decreto:1942-03-30:327!vig=2014-02-27>, archived at <https://perma.cc/3C3U-SY59>.

⁵² *Ch. VII, Government Initiatives, in* PARLIAMENTARY COMMITTEE SCHENGEN-EUROPOL, *supra* note 45.

⁵³ L.D. No. 24 of 2014, art. 7(1)(a).

⁵⁴ *Id.* art. 7(1)(c).

On February 24, 1998, the Italian government created an interministerial commission for the coordination of government actions against the trafficking of women and minors for purposes of sexual exploitation.⁵⁵ Another interministerial commission has been set up to direct, control, and plan the resources for the implementation of the social integration programs established in legislation enacted in 1998. In addition, on July 26, 2000, a telephone number against trafficking in women was activated to provide information to such women and help them escape forced prostitution.⁵⁶ The telephone service connects the victims with volunteers; local health institutions; and police, religious, and consular services.⁵⁷ In addition, the Ministry of the Interior has assigned specialized police officers to dozens of Italian consular offices in source countries for the main migratory flows into Italy.⁵⁸

The law charges the government with establishing a national plan for the assistance and social integration of victims of human trafficking and serious exploitation, whether Italian or foreign.⁵⁹ Government agencies assisting victims of human trafficking and with competence in matters of asylum must coordinate their activities.⁶⁰

Furthermore, the Ministries of Foreign Affairs and Interior conduct permanent monitoring over the Italian consular offices located abroad that grant visas to foreigners coming from countries suspected of supplying the largest number of trafficked persons in Italy.⁶¹ The government has recognized the inherent difficulty of tracking visa permits granted for educational, tourism, family, or other grounds to persons who end up engaging in sexual trafficking activities in Italy.⁶² Special computer monitoring activities are also conducted over Italian citizens who invite at least two foreigners within a one-year period.⁶³

The Italian government has signed bilateral treaties with several cooperation countries (including Tunisia, Nigeria, and Albania), which seek to improve the conditions of vulnerable local populations who have been the frequent target of human trafficking activities.⁶⁴

III. Training Initiatives

As a European Union member, Italy participates in the programs and activities carried out by the European Agency for the Management of Operational Cooperation at the External Borders of the

⁵⁵ PARLIAMENTARY COMMITTEE SCHENGEN-EUROPOL, *supra* note 45.

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ L.D. No. 24 of 2014, arts. 8(1) & 9(1).

⁶⁰ *Id.* art. 10(1).

⁶¹ PARLIAMENTARY COMMITTEE SCHENGEN-EUROPOL, *supra* note 45.

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Ch. IX, Conclusions, in* PARLIAMENTARY COMMITTEE SCHENGEN-EUROPOL, *supra* note 45.

Member States of the European Union (Frontex).⁶⁵ Concerning training, Frontex’s role is to complement “training solutions existing at the national level to create a training system whereby the border-control personnel of all the Member States can work together effectively.”⁶⁶ In addition, Frontex provides several training resources that are available to Member States in the area of border control and education.⁶⁷ In particular, Frontex issued the Common Core Curriculum (CCC) in 2007, which “represents the first standardised set of skills and knowledge criteria for basic-level border-guard training in the EU,”⁶⁸ and “includes modules representing the full range of border-related topics from detection of false documents and stolen cars to human rights, international law and leadership.”⁶⁹ Finally, Frontex offers specialized training in several areas that are key to border control, including, among other things, language instruction, anti-trafficking in human beings, detection of falsified documents, detection of stolen vehicles, flight safety training, and human rights training.⁷⁰

⁶⁵ Council Regulation (EC) No 2007/2004 Establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, Oct. 26, 2004, 2007 O.J. (L 349) 1, http://frontex.europa.eu/assets/About_Frontex/frontex_regulation_en.pdf, archived at <https://perma.cc/PD2G-JXV8>.

⁶⁶ *Principles*, FRONTEX, <http://frontex.europa.eu/training/principles> (last visited Feb. 8, 2016), archived at <https://perma.cc/H27W-RJM3>.

⁶⁷ *Curricula*, FRONTEX, <http://frontex.europa.eu/training/curricula> (last visited Feb. 8, 2016), archived at <https://perma.cc/UQQ5-SNGA>.

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Specialised Training*, FRONTEX, <http://frontex.europa.eu/training/specialised-training> (last visited Feb. 8, 2016), archived at <https://perma.cc/565G-LKR4>.

Japan

Sayuri Umeda
Foreign Law Specialist

SUMMARY While Japan has not adopted the UN Convention and Protocols related to combatting human trafficking, all acts that fall within the definitions provided in the UN Trafficking in Persons Protocol are criminal offenses under its domestic law. Law enforcement agencies in Japan provide classes and courses regarding trafficking in persons for their employees. They also regularly cooperate with nongovernmental organizations.

I. Introduction

Japan has not ratified the United Nations Convention Against Transnational Organized Crime or its Protocols, including the Trafficking in Persons Protocol.¹ However, under domestic legislation, all acts that fall within the definitions laid out in the Trafficking in Persons Protocol are criminal offenses in Japan.²

Currently, the Council for the Promotion of Measures to Combat Trafficking in Persons is in charge of national human trafficking policies and measures. The Council is chaired by the Chief Cabinet Secretary and is placed under the jurisdiction of the Ministerial Meeting Concerning Measures Against Crime. The Ministerial Meeting adopted the 2014 Action Plan to Combat Trafficking in Persons on December 16, 2014,³ which established the following as the Council's goals:

- An accurate understanding of the human trafficking situation
- The prevention of human trafficking by strict immigration and illegal alien controls
- The promotion of awareness of human trafficking victims
- The eradication of human trafficking by strict law enforcement
- The protection and support of human trafficking victims⁴

¹ MEASURES TO COMBAT TRAFFICKING IN PERSONS 4 (May 2015), <https://www.kantei.go.jp/jp/singi/jinsintorihiki/pdf/eigoban.pdf>, archived at <https://perma.cc/H779-53E9>.

² *Id.*; Amendment to Penal Code (Act No. 66 of 2005).

³ MINISTERIAL MEETING CONCERNING MEASURES AGAINST CRIME, JAPAN'S 2014 ACTION PLAN TO COMBAT TRAFFICKING IN PERSONS (ACTION PLAN) (Dec. 16, 2014), <https://www.kantei.go.jp/jp/singi/jinsintorihiki/pdf/english-ver.pdf> (provisional English translation), archived at <https://perma.cc/D8ET-QAE6>.

⁴ *Summary of 2014 Action Plan*, PRIME MINISTER AND HIS CABINET'S OFFICE, <https://www.kantei.go.jp/jp/singi/jinsintorihiki/pdf/gaiyou2.pdf> (in Japanese; last visited Feb. 14, 2016), archived at <https://perma.cc/3UY8-S3KP>.

II. Roles and Responsibilities of Government Agencies to Combat Human Trafficking

The Ministry of Foreign Affairs (MOFA) makes efforts to prevent foreigners from being trafficked into Japan. MOFA conducts a careful examination of visa applications at overseas diplomatic missions located in the home countries of trafficking victims, keeping an especially close eye on applications for types of visas that are prone to exploitation involving trafficking in persons, such as entertainment visas, temporary visitor visas, and visas for the spouses or children of Japanese nationals.⁵

The Immigration Bureau of Japan controls the entry of people at Japan's air and sea ports. It utilizes various types of information, such as passenger biometric information, ticket reservation records, and the International Criminal Police Organization's (ICPO's) database on lost and stolen passports. The Immigration Bureau of Japan has also installed devices to detect forged or altered documents and has trained its officials at air and sea ports to use those devices. Immigration control officers carry out organizational patrols in transit areas of airports and ports in order to detect suspicious persons and brokers.⁶

The police strictly enforce laws against foreigners staying in the country on a fraudulent basis, including on the basis of fake marriages, and also hold accountable the brokers related to such cases. The Immigration Bureau of Japan also investigates foreigners' illegal stays in Japan and may conduct joint raids with the police.⁷

The police and the Immigration Bureau of Japan investigate illegal employment activities. The Prefectural Labour Bureaus and the Labour Standard Inspection Offices also participate in joint inspections and investigations into cases of suspected human rights infringements by employers who have accepted technical intern trainees and other laborers.⁸

In June 2014, the Law Enforcement Task Force Against Trafficking in Persons was established. The Task Force is comprised of members from the National Police Agency; the Ministry of Justice; the Supreme Public Prosecutors Office; the Ministry of Health, Labour and Welfare; and the Japan Coast Guard.⁹

⁵ MEASURES TO COMBAT TRAFFICKING IN PERSONS, *supra* note 1, at 12.

⁶ *Id.*

⁷ *Id.* at 13.

⁸ *Id.* at 13–14.

⁹ *Id.* at 18–19.

III. Training Programs for Law Enforcement

The Council for the Promotion of Measures to Combat Trafficking in Persons has published manuals titled *Regarding Dealing with Human Trafficking Cases/ Recognizing Victims*¹⁰ and *Regarding Dealing with Human Trafficking Cases/ Protection of Victims*.¹¹

Law enforcement agencies also provide classes or courses for their employees. They invite lecturers from the International Organization for Migration and nongovernmental organizations (NGOs).¹²

The National Police Agency (NPA) provides classes on measures to combat trafficking in persons for new employees at the Prefectural Police Academy. The NPA also provides training courses at the time of an employee's promotion at the National Police Academy. Two instructors who specialize in trafficking in persons have been designated by the NPA¹³ and conduct lectures at police training courses at every opportunity. The NPA further provides courses regarding trafficking in persons with top-level staff across Japan who have jurisdiction over adult entertainment-related offenses.¹⁴

The Immigration Bureau of Japan provides lectures on trafficking in persons during its human rights education programs, which are provided at various stages of Bureau employees' careers. In addition, in cooperation with external instructors from the relevant ministries and agencies, the International Organization for Migration and NGOs, the Bureau provides training on human rights and measures to combat trafficking in persons for mid-level officials who deal directly with such trafficking cases.¹⁵

The Japan Coast Guard provides lectures on the actual situation of trafficking in persons with practitioners during annual training programs.¹⁶

The Courts of Japan provide lectures by university professors and other speakers specializing in international human rights during training programs for judges. The lectures cover various

¹⁰ COUNCIL FOR THE PROMOTION OF MEASURES TO COMBAT TRAFFICKING IN PERSONS AGREEMENT, REGARDING DEALING WITH HUMAN TRAFFICKING CASES/ IDENTIFYING VICTIMS (June 23, 2010), <https://www.kantei.go.jp/jp/singi/jinsintorihiki/pdf/ninchi.pdf> (in Japanese), archived at <https://perma.cc/G2TZ-XUTU>.

¹¹ COUNCIL FOR THE PROMOTION OF MEASURES TO COMBAT TRAFFICKING IN PERSONS AGREEMENT, REGARDING DEALING WITH HUMAN TRAFFICKING CASES/ PROTECTION OF VICTIMS (July 1, 2011), <https://www.kantei.go.jp/jp/singi/jinsintorihiki/pdf/hogo.pdf>, archived at <https://perma.cc/V66Y-4WWN>.

¹² ACTION PLAN, *supra* note 3, at 15.

¹³ One instructor was on the local news. *Human Trafficking Investigation Professional, Captain at Prefecture Living Environment Department, Hiroyasu Yokobayashi/ Nagano Prefecture*, MAINICHI SHINBUN (Nagano ed., July 6, 2015), <http://mainichi.jp/articles/20150706/ddl/k20/070/024000c> (in Japanese), archived at <https://perma.cc/7AXG-ES7M>.

¹⁴ MEASURES TO COMBAT TRAFFICKING IN PERSONS, *supra* note 1, at 29.

¹⁵ *Id.*

¹⁶ *Id.* at 30.

problems related to the international regulation of human rights issues, including trafficking in persons.¹⁷

Law enforcement agencies regularly exchange views and information on human trafficking with NGOs and the International Organization for Migration and also hold a meeting, the Contact Point Meeting for Trafficking in Persons, that NGOs and others are invited to attend.¹⁸

¹⁷ *Id.*

¹⁸ 人身取引事犯に係るコンタクトポイント連絡会議 [*Contact Point Meeting for Trafficking in Persons*], NIKKAN KEISATSU [POLICE DAILY] (July 23, 2015), <http://www.nikkankeisatsu.co.jp/news/1507/0723/news.html>, archived at <https://perma.cc/LKL8-4FHC>.

Jordan

Issam M. Saliba
Senior Foreign Law Specialist

SUMMARY Jordan has enacted Law No. 9 of 2009 on the Prevention of Human Trafficking. Articles 4, 5, and 16 allow the Council of Ministers and the National Committee on Preventing Human Trafficking to decide on how best to implement the Law. No legislative or administrative instruments addressing the roles and responsibilities of the various government agencies in this respect were located. However, various officials have attended training related to combating human trafficking.

I. Legal Framework on Human Trafficking

According to the U.S. Department of State, Jordan is a source, destination, and transit country for adults and children subjected to forced labor and to a lesser extent, sex trafficking.¹

Jordan has enacted Law No. 9 of 2009 on the Prevention of Human Trafficking (2009 Law).² This Law criminalizes all forms of human trafficking and imposes penalties of between 6 months and ten years of imprisonment and/or a fine of 5,000 to 20,000 Jordanian dinars.³

Article 4 of the 2009 Law provides for the formation of the National Committee on Preventing Human Trafficking. The Committee is composed of the Minister of Justice as president; the Secretary General of the Ministry of Justice as vice-president; the secretaries general of the Ministry of Interior, Ministry of Labor, and the National Human Rights Center; representatives of the Ministry of Foreign Affairs, Ministry of Social Development, Ministry of Trade and Industry, and the Ministry of Health; a high level officer of the Public Security Department; and the Secretary General of the National Council for Family Affairs.

II. Roles and Responsibilities of Government Agencies in Enforcing the Law against Human Trafficking

The 2009 Law does not specifically address the roles and responsibilities of the government agencies regarding the implementation of the Law. However, article 16 provides that the Council of Ministers has the authority to issue regulations necessary for the implementation of the Law, which could include defining the roles and responsibilities of any government agency in this respect. In addition, article 5 allows the National Committee on Preventing Human

¹ U.S. DEPARTMENT OF STATE, 2015 TRAFFICKING IN PERSONS REPORT: JORDAN, <http://www.state.gov/j/tip/rls/tiprpt/countries/2015/243464.htm>, archived at <https://perma.cc/S8HG-ADZY>.

² Law No. 9 of 2009 on the Prevention of Human Trafficking, *Al-Jarida Al-Rasmiya* [Official Gazette], No. 4952, p. 920, available at http://www.protectionproject.org/wp-content/uploads/2010/09/Jordan_Anti-TIP-Legislation-2009-and-TIP-Law-20082.pdf (in Arabic), archived at <https://perma.cc/797J-K69L>.

³ *Id.* arts. 8 & 9.

Trafficking to adopt measures necessary to prevent human trafficking and supervise their implementation; to raise awareness of employers and those who import workers about human trafficking through conventions, seminars, and workshop training; and to coordinate the efforts of public and private organizations concerned with human trafficking.

On June 4, 2012, the Ministry of Labor and the General Security Administration entered into a three-year agreement to create a special unit charged with combatting human trafficking; this agreement was renewed for another term in July 2015.⁴

On April 16, 2012, the Council of Ministers, in accordance with article 7 of the 2009 Law, issued Decree No. 30 of 2012 establishing a shelter for the victims of human trafficking and assigning its management to a national NGO.⁵

We note that, pursuant to the Criminal Procedure Code, all security forces and other government officials, each within their own domain, have a duty, under the supervision of the Prosecutor General, to investigate crimes, including human trafficking offenses.⁶

III. Training Programs for Law Enforcement and NGOs Involvement

The following information has been located regarding training for law enforcement officers and other officials involved in investigating and prosecuting human trafficking offenses:

- In a filing with the Committee on the Rights of the Child in its 66th session held in May 2014, the Jordanian government stated that it held numerous conventions and “workshop training” regarding human trafficking for judges, law enforcement members, and labor inspectors.⁷
- The International Labour Organization has been involved in the provision of training to government officials in Jordan for a number of years. For example it provided training on

⁴ *The Ministry of Labor and the General Security Renew the Memorandum of Understanding Concerning Anti-Human Trafficking*, AL GHAD (July 23, 2015), <http://www.alghad.com/articles/883277--وزارة-العمل-والامن-العام-يجددان-مذكرة-مكافحة-الاتجار-بالنشر> (in Arabic), archived at <https://perma.cc/7YUC-KGZH>.

⁵ Decree No. 30 of 2012 on Shelters for the Victims and Those Affected by the Crimes of Human Trafficking, *Al-Jarida Al-Rasmiya* [Official Gazette], No. 5153, p. 1624 (Apr. 16, 2012), available on the Council of Ministers, Department of Legislation and Legal Opinions website, <http://www.lob.gov.jo/AR/Pages/AdvancedSearch.aspx>.

⁶ Law No. 9 of 1961, available at <http://www.pogar.org/publications/ac/compendium/jordan/criminalization-lawenforcement/crimprocedure-61-ar.pdf> (in Arabic), archived at <https://perma.cc/3LXD-A3NF>.

⁷ Hashemite Kingdom of Jordan on the List of Issues for the Optional Protocol to the Convention on the Rights of the Child “On the Involvement of Children in Armed Conflicts,” CRC/C/JOR/Q/4–5 (Oct. 30, 2013), http://tbinternet.ohchr.org/Treaties/CRC-OP-AC/Shared%20Documents/JOR/CRC_C_OPAC_JOR_Q_1_Add-1_17264_A.docx (in Arabic), archived at <https://perma.cc/JF4L-JJ5A>.

forced labor and human trafficking to labor inspectors in 2008⁸ and to police officers, labor inspectors, prosecutors, judges, and other officials in 2013.⁹

- The website of the United Nations Office on Drugs and Crime (UNODC) states that a number of Jordanian law enforcement officials have attended a three-day anti-human trafficking workshop organized jointly by the UNODC and the Arab League “to build the capacities of those law enforcement practitioners to effectively prevent and investigate cases of human trafficking while assisting and protecting victims of trafficking.”¹⁰
- In 2013, a basic human trafficking training course, delivered by a U.S. federal prosecutor, was provided to Jordanian prosecutors through the Rule of Law Project.¹¹

⁸ *Training of Labour Inspectors on Forced Labour and Human Trafficking*, INTERNATIONAL LABOUR ORGANIZATION (ILO), http://www.ilo.org/global/topics/forced-labour/events/WCMS_143049/lang--en/index.htm (last visited Feb. 17, 2016), archived at <https://perma.cc/NQ2S-PLUH>.

⁹ Press Release, ILO, Jordan Law Enforcement Officials Train to Combat Forced Labour and Human Trafficking (Feb. 18, 2013), http://www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/pressrelease/wcms_211197.pdf, archived at <https://perma.cc/6PZP-6Q5C>.

¹⁰ *Jordanian and Iraqi Law Enforcement Officials Receive Anti- Human Trafficking Training*, UNITED NATIONS OFFICE ON DRUGS AND CRIME, <https://www.unodc.org/middleeastandnorthafrica/en/web-stories/jordanian-and-iraqi-officials-receive-training-to-combat-human-trafficking.html> (last visited Feb. 17, 2016), archived at <https://perma.cc/3LZP-HPE9>.

¹¹ RULE OF LAW PROJECT, HUMAN TRAFFICKING TRAINING: POST ACTION REPORT (Sept. 2013), http://pdf.usaid.gov/pdf_docs/PA00JKSC.pdf, archived at <https://perma.cc/4LM2-P3DX>.

Malaysia

Kelly Buchanan
Chief, Foreign, Comparative, and
International Law Division I

SUMMARY Malaysia has enacted specific legislation related to trafficking in persons and smuggling of migrants, which was most recently amended in 2015. The legislation established a council of senior government officials and a new High Level Committee of ministers to make decisions on recommendations made by the council. The council formulates policies and programs, including in relation to enhancing public awareness of human trafficking in the protection of trafficked persons, and is responsible for gathering data and authorizing research on human trafficking issues.

The council includes representatives from the five enforcement agencies with powers and responsibilities related to investigating human trafficking and migrant smuggling: the Royal Malaysian Police, Labour Department, Immigration Department, Royal Malaysian Customs Department, and Malaysian Maritime Enforcement Agency. Both the Police and the Labour Department have specialized anti-trafficking units. Enforcement officers receive training in investigating and handling human trafficking cases. Special prosecutors have also been appointed and have received training in victim-centered approaches to trafficking cases. The training programs have included regional programs and cooperative efforts with international organizations, particularly the International Organization for Migration.

I. Legal Framework

A. Overview of the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007

The Malaysian Constitution prohibits slavery and forced labor.¹ The Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007 (Act 670) (ATIPSOM Act) is the specific legislation that addresses human trafficking. It was enacted in July 2007 and came into force in February 2008.² The legislation was most recently amended in November 2015.³

¹ Federal Constitution, amended to 2009, art. 6, <http://www.jac.gov.my/images/stories/akta/federalconstitution.pdf>, archived at <https://perma.cc/69KG-FDX7>.

² Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007 (Act 670) (ATIPSOM Act), as at 1 November 2014, <http://www.agc.gov.my/agcportal/uploads/files/Publications/LOM/EN/Act%20670.pdf>, archived at <https://perma.cc/8PQ3-EHR9>. This version of the statute includes amendments made in 2010 that added provisions related to smuggling of migrants and changed the title from the Anti-Trafficking in Persons Act 2007 to the current title, among other amendments.

³ Anti-Trafficking in Persons and Anti-Smuggling of Migrants (Amendment) Act 2015 (Act A1500) (ATIPSOM (Amendment) Act 2015), http://www.federalgazette.agc.gov.my/outputaktap/20151102_1500_BI_WJ_W005504%20BI.pdf, archived at <https://perma.cc/K4VD-9QH2>.

The ATIPSOM Act was enacted pursuant to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention Against Transnational Organized Crime. Malaysia ratified the Convention in 2004 and the Protocol in 2009.⁴ Amendments in 2010 to add provisions related to smuggling of migrants were made pursuant to the Protocol Against the Smuggling of Migrants by Land, Air and Sea, which Malaysia has not yet signed.⁵

Under the Act, Malaysian courts have jurisdiction to hear prosecutions of any person charged with an offense under the Act, whether or not the alleged offense occurred within or outside Malaysia and regardless of the nationality of the offender, if Malaysia is a receiving country, transit country, or if the trafficking starts in Malaysia.⁶ The Act also extends jurisdiction to extraterritorial offenses committed by Malaysian citizens or permanent residents.⁷

Part II of the ATIPSOM Act established the Council for Anti-Trafficking in Persons and Anti-Smuggling of Migrants, commonly referred to as MAPO, which consists of various government officials and five representatives from nongovernmental organizations.⁸ The 2015 amendments added a new Part IA to the Act, establishing a High Level Committee of certain government ministers that is tasked with deliberating on and making decisions regarding recommendations made by MAPO.⁹

Part III of the ATIPSOM Act sets out a number of offenses related to trafficking in persons,¹⁰ while Part IV relates to smuggling of migrants. The main offense of trafficking in persons for

⁴ United Nations Convention Against Transnational Organized Crime (Nov. 15, 2000), Status as at 02-02-2016, United Nations Treaty Collection website, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mt_dsg_no=XVIII-12&chapter=18&lang=en, archived at <https://perma.cc/5WC6-LCHS>; Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Nov. 15, 2000), Status as at 02-02-2016, United Nations Treaty Collection website, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mt_dsg_no=XVIII-12-a&chapter=18&lang=en, archived at <https://perma.cc/BN7E-LGBF>.

⁵ See *Difference Between Trafficking in Persons and Smuggling of Migrants*, MINISTRY OF HOME AFFAIRS, <http://www.moha.gov.my/index.php/en/akta-antipemerdagangan-orang-dan-penyeludupan-migran-2007/sekretariat-akta-perbezaan> (last updated Jan. 29, 2016), archived at <https://perma.cc/48BJ-M4UE>; Protocol Against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime (Nov. 15, 2000), Status as at 02-02-2016, United Nations Treaty Collection website, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mt_dsg_no=XVIII-12-b&chapter=18&lang=en, archived at <https://perma.cc/ZVU8-4W4R>.

⁶ ATIPSOM Act s. 3.

⁷ *Id.* s. 4.

⁸ *Id.* s. 6.

⁹ ATIPSOM (Amendment) Act 2015, s. 4, inserting new ss. 5A & 5C.

¹⁰ For a list of offenses, see *Akta Antipemerdagangan Orang Dan Antipenyeludupan Migran 2007*, MINISTRY OF HOME AFFAIRS, <http://www.moha.gov.my/index.php/en/akta-antipemerdagangan-orang-dan-penyeludupan-migran-2007/125-maklumat-korporat/maklumat-bahagian/sekretariat-majlis-antipemerdagangan-orang-dan-antipenyeludupan-migran/akta-antipemerdagangan-orang-dan-antipenyeludupan-migran-2007> (last updated Jan. 29, 2016), archived at <https://perma.cc/S3SN-9WGY>.

the purpose of exploitation may be punished with up to fifteen years in prison;¹¹ where threats, use of force, abduction, etc. are involved, the punishment is from three to twenty years of imprisonment.¹² Trafficking in children also attracts a maximum twenty-year term.¹³ Persons convicted of these offenses can also be fined. Other offenses include profiting from the exploitation of a trafficked person; making, obtaining, giving, selling, or possessing fraudulent travel or identity documents; recruiting others to participate in an act of trafficking in persons; providing facilities or services in support of trafficking in persons; and harboring persons involved in trafficking in persons.¹⁴

A trafficked person is immune from prosecution in relation to illegally entering the receiving or transit country, unlawful residence in a country, or his or her procurement or possession of any fraudulent travel or identity document.¹⁵

Similar types of offenses related to smuggling of migrants are contained in Part IIIA of the Act. There is no immunity provision applicable to smuggled migrants in this Part.

Part IV relates to enforcement of the legislation. It provides that the following officers may exercise powers of enforcement under the Act:

- (a) any police officer;
- (b) any immigration officer;
- (c) an Officer of customs;
- (d) any officer of the Malaysian Maritime Enforcement Agency; and
- (e) any Labour Officer.¹⁶

Part V of the Act, related to the care and protection of trafficked persons, makes provision for the appointment of social welfare officers as Protection Officers.¹⁷ There are also provisions relating to protection orders, whereby a person is placed at a shelter home,¹⁸ and for the medical treatment and hospitalization of trafficked persons.¹⁹ A new provision, added by the 2015 amendment legislation, enables trafficked persons to be given permission by MAPO to move freely or to be employed outside of refuges.²⁰

¹¹ ATIPSOM Act s. 12.

¹² *Id.* s. 13.

¹³ *Id.* s. 14.

¹⁴ *Id.* ss. 15–22.

¹⁵ *Id.* s. 25.

¹⁶ *Id.*, s. 27(1).

¹⁷ *Id.* s. 43.

¹⁸ *Id.* s. 44.

¹⁹ *Id.* s. 45.

²⁰ ATIPSOM (Amendment) Act 2015, s. 11, adding new s. 51A.

Provisions in Part VI of the ATIPSOM Act prohibit media reporting and publication of certain matters and particulars of trafficked persons,²¹ and contain rules relating the admissibility in court of various documentary and testamentary evidence.²² The 2015 amendment legislation added provisions to this Part that enable a court to order a person convicted of an offense under the Act to pay compensation to the trafficked person.²³ Where there is no conviction, a person can still be ordered to pay any wages in arrears to the trafficked person.²⁴

Other legislation that may be invoked to prosecute trafficking or trafficking-related offenses include the Penal Code, which criminalizes trafficking for the purposes of prostitution along with other prostitution-related offenses, forced labor, and habitual dealing in slaves;²⁵ the Employment Act 1955, which contains minimum labor protection standards and provisions related to domestic servants;²⁶ the Children and Young Persons (Employment) Act, which provides for limited employment of children in light work in certain sectors;²⁷ the Private Employment Agencies Act 1981, which regulates recruitment agencies and grants the Director General of Labour investigatory and inspection powers;²⁸ the Child Act 2001, which prohibits exploitative acts, custody transfers for any valuable consideration, and bringing a child into Malaysia on false pretenses as well as taking a child out of Malaysia without parental consent;²⁹ the Passports Act 1966, which criminalizes the withholding of passports;³⁰ as well as the Immigration Act 1959, Maritime Enforcement Agency Act 2004, Customs Act 1967, Security Offenses (Special Measures) Act 2012, and the Anti-Money Laundering and Anti-Terrorism Financing Act 2001.³¹

²¹ ATIPSOM Act s. 58.

²² *Id.* ss. 59–61.

²³ ATIPSOM (Amendment) Act 2015, s. 16, adding new s. 66A.

²⁴ *Id.* s. 16, adding new s. 66B.

²⁵ Penal Code (Act 574), <http://www.agc.gov.my/agcportal/uploads/files/Publications/LOM/EN/Penal%20Code%20%5BAct%20574%5D2.pdf>, archived at <https://perma.cc/V7AF-ME7L>.

²⁶ Employment Act 1955 (Act 265), <http://www.agc.gov.my/agcportal/uploads/files/Publications/LOM/EN/Act%20265%20-%20Employment%20Act%201955.pdf>, archived at <https://perma.cc/FBY4-WZHK>.

²⁷ Children and Young Persons (Employment) Act 1966 (Act 350), <http://www.agc.gov.my/agcportal/uploads/files/Publications/LOM/EN/Act%20350%20-%20Children%20and%20Young%20Persons%20%28Employment%29%20Act%201966.pdf>, archived at <https://perma.cc/UE7J-LE66>.

²⁸ Private Employment Agencies Act 1981 (Act 246), <http://www.agc.gov.my/agcportal/uploads/files/Publications/LOM/EN/Act%20246.pdf>, archived at <https://perma.cc/7BB5-9BSW>.

²⁹ Child Act 2001 (Act 611), <http://www.agc.gov.my/agcportal/uploads/files/Publications/LOM/EN/Act%20611.pdf>, archived at <https://perma.cc/4FA7-B3MS>.

³⁰ Passports Act 1966 (Act 150), <http://www.agc.gov.my/agcportal/uploads/files/Publications/LOM/EN/Act%20150.pdf>, archived at <https://perma.cc/QE2F-ML47>.

³¹ REPORT OF THE SPECIAL RAPPORTEUR ON TRAFFICKING IN PERSONS, ESPECIALLY WOMEN AND CHILDREN, MARIA GIAMMARINARO 11 (A/HRC/29/38/Add. 1) (June 15, 2015), <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G15/125/73/PDF/G1512573.pdf?OpenElement>, archived at <https://perma.cc/6TMM-RSHV>.

B. Documents Related to Policies and Procedures

In 2009, MAPO published the National Action Plan Against Trafficking in Persons (2010–2015).³² The Plan contains several guiding principles: government ownership of the issue, civil society participation, human rights-based treatment of victims, interdisciplinary coordination at the governmental level and with international organizations and nongovernmental organizations, and systematic evaluation and sustainability.³³ The nine program areas in the Plan include “strengthening legal mechanisms, joint action of law enforcement agencies, prevention, protection and rehabilitation, capacity-building and partnership.”³⁴ It appears that a new plan for the period 2015 to 2020 has not yet been finalized or published.

In November 2013, Standing Operating Procedures (SOP) for enforcement agencies with respect to human trafficking, and a separate SOP document related to the prosecution of trafficking offenses, were issued by MAPO.³⁵

MAPO also appears to issue other policies as needed, such as a March 2014 policy statement regarding allowing labor trafficking victims to work in Malaysia.³⁶ This preceded the 2015 legislative changes related to permission to work.

C. State Department and UN Assessments of Law and Practice

Malaysia was given a Tier 3 placement in the US State Department’s 2007 and 2009 Trafficking in Persons Report. This placement is assigned where a country’s government does not fully comply with minimum standards and is not making significant efforts to do so. Subsequently, the Malaysian government increased its efforts in the area of human trafficking prevention and prosecution in order to move back to and remain at the Tier 2 Watch List level. It was placed in this category from 2010 to 2013, but was again downgraded to the Tier 3 level in the 2014

³² COUNCIL FOR ANTI-TRAFFICKING IN PERSONS, NATIONAL ACTION PLAN AGAINST TRAFFICKING IN PERSONS (2010–2015) (2009), http://www.moha.gov.my/images/maklumat_bahagian/MAPO/NAP_ANTIPEMERDAGANGAN_ORANG_2010_2015.pdf (in Malaysian), archived at <https://perma.cc/J7GP-8HXV>.

³³ Presentation, Secretariat of the Council for Anti-Trafficking in Persons and Anti-Smuggling of Migrants, Coordination Frameworks Theme 2: Building Effective Interagency Coordination at the National Level, slide 5 (Bali Ministerial Process on People Smuggling, Trafficking in Persons and Related Transnational Crime, Workshop on Victim Protection, Jan. 12–13, 2012), <http://www.baliprocess.net/files/Malaysia-national%20coordination%20framework.pptx>, archived at <https://perma.cc/V2R6-2C5X>.

³⁴ REPORT OF THE SPECIAL RAPPORTEUR ON TRAFFICKING IN PERSONS, *supra* note 31, at 11.

³⁵ *Id.* at 12; *SOP for ATIPSOM Launched to Empower Enforcement Agencies*, NEW SARAWAK TRIBUNE (Nov. 22, 2013), <http://www.newsarawaktribune.com/news/15720/SOP-for-ATIPSOM-launched-to-empower-enforcement-agencies/>, archived at <https://perma.cc/3LWU-VE4V>; U.S. DEPARTMENT OF STATE, 2014 TRAFFICKING IN PERSONS REPORT: MALAYSIA (2014), <http://www.state.gov/j/tip/rls/tiprpt/countries/2014/226770.htm>, archived at <https://perma.cc/ZA6G-T62R>.

³⁶ Press Release, Chairman of the Council for Anti-Trafficking in Persons and Anti-Smuggling of Migrants, Permission to Work for Labour Trafficking Victims (Mar. 5, 2014), <http://www.moha.gov.my/index.php/ms/kenyataan-media-akhbar/1470-chairman-of-the-council-for-anti-trafficking-in-persons-and-anti-smuggling-of-migrant-mapo-cum-secretary-general-of-the-ministry-of-home-affairs-datuk-seri-mohamad-khalid-shariff-permission-to-work-for-labour-trafficking-victims>, archived at <https://perma.cc/QA25-34F8>.

report,³⁷ regarding which placement the Malaysian government expressed disappointment and its belief that the information used for the report was flawed.³⁸ Malaysia was moved back to the Tier 2 Watch List in the 2015 report.³⁹

In early 2015, a United Nations special rapporteur visited Malaysia to “examine the prevalent forms of trafficking in persons in the country and to assess the effectiveness of measures taken by the Government to combat trafficking in persons and to protect the human rights of trafficked persons.”⁴⁰ One of her observations was that “coordination of work between government bodies remains a challenge, partly owing to their varying level of commitment to the issue of trafficking and their understanding of trafficking and its impact on/relevance to their work.”⁴¹ She stated that enforcement officers have inadequate capacity to accurately identify trafficked persons,⁴² and she was also concerned about the “limited information-sharing and disjointed coordination between government bodies at the federal and State levels.”⁴³ In addition, she commented that the scope of civil society participation should be widened with respect to combatting human trafficking.⁴⁴

The special rapporteur made a number of recommendations related to improving the legal framework, establishing a data collection system, training and capacity-building, support for victims of trafficking, cooperation with international and regional organizations, prosecution of trafficking cases, and raising public awareness about trafficking in persons.⁴⁵

II. Roles and Responsibilities of Government Agencies in Combating Human Trafficking

A. Council for Anti-Trafficking in Persons and Anti-Smuggling of Migrants (MAPO)

MAPO is made up of senior officials from a number of government agencies and has a range of functions related to preventing and combating trafficking in persons and smuggling of migrants, including: coordinating the implementation of the Act; formulating policies and programs, including protective programs for trafficked persons; increasing public awareness; monitoring immigration and emigration patterns; advising the government on the issues, including

³⁷ 2014 TRAFFICKING IN PERSONS REPORT: MALAYSIA, *supra* note 35.

³⁸ See Press Release, Ministry of Foreign Affairs, Statement by the Ministry of Foreign Affairs on the US State Department Trafficking in Persons Report 2013 (June 22, 2014), <https://www.kln.gov.my/archive/content.php?t=3&articleId=4214329>, archived at <https://perma.cc/GC9Z-54Q6>.

³⁹ U.S. DEPARTMENT OF STATE, 2015 TRAFFICKING IN PERSONS REPORT: MALAYSIA (2015), <http://www.state.gov/j/tip/rls/tiprpt/countries/2015/243485.htm>, archived at <https://perma.cc/HT7F-NXFT>.

⁴⁰ REPORT OF THE SPECIAL RAPPORTEUR ON TRAFFICKING IN PERSONS, *supra* note 31, at 4.

⁴¹ *Id.* at 12.

⁴² *Id.* at 13.

⁴³ *Id.* at 12.

⁴⁴ *Id.*

⁴⁵ *Id.* at 22–23.

developments at the international level; coordinating the formulation of policies and monitoring their implementation with relevant agencies and nongovernmental organizations; cooperating and coordinating with governments and international organizations; collecting and collating data and information; and authorizing research.⁴⁶

The following members of MAPO are currently specified in the legislation:

- (a) the Secretary General of the Ministry responsible for internal security, who shall be the Chairman;
- (b) the Secretary General of the Ministry responsible for foreign affairs, or his representative;
- (c) [deleted]
- (d) the Secretary General of the Ministry responsible for women, family and community development, or his representatives;
- (e) the Secretary General of the Ministry responsible for human resources, or his representative;
- (f) the Secretary General of the Ministry responsible for transport, or his representative;
- (g) the Secretary General of the Ministry responsible for information, or his representative;
- (h) the Attorney General of Malaysia, or his representative;
- (i) the Inspector General of Police, or his representative;
- (j) the Director-General of Immigration, or his representative;
- (k) the Director-General of Customs, or his representative;
- (l) the Director-General of Malaysian Maritime Enforcement, or his representative;
- (la) the Director-General of the Department of Women's Development, or his representative;
- (lb) the Director-General of Social Welfare Department, or his representative;
- (lc) the Director-General of Labour, Department of Labour of Peninsular Malaysia, or his representative;
- (ld) Director of Labour, Department of Labour Sabah, or his representative;
- (le) Director of Labour, Department of Labour Sarawak, or his representative;
- (m) a representative of the following Ministries:
 - (i) the Ministry responsible for internal security;
 - (ii) the Ministry responsible for defence;
 - (iii) the Ministry responsible for medical and health service;
 - (iv) the Ministry responsible for development of youth and sports;
 - (v) the Ministry responsible for international trade and industry;
 - (vi) the Ministry responsible for plantation industries and commodities;⁴⁷

...

The membership also includes up to three people from nongovernmental organizations with expertise related to trafficking in persons, and up to two people with expertise related to smuggling of migrants.⁴⁸

⁴⁶ ATIPSOM Act s. 7(1).

⁴⁷ *Id.* s. 6(2), as amended by ATIPSOM (Amendment) Act 2015, s. 3.

⁴⁸ *Id.* s. 6(2)(n) & (o).

MAPO has formed several committees on particular issues: a legislation committee (led by the Attorney-General's Chamber), enforcement committee (led by the Royal Malaysian Police), protection and rehabilitation committee (led by the Ministry of Women, Family and Community Development), a special committee to study the labor trafficking issue (led by the Ministry of Human Resources), and a media and publicity committee (led by the Ministry of Information, Communication and Heritage).⁴⁹

MAPO is supported by a secretariat situated within the Ministry of Home Affairs.⁵⁰

The new High Level Committee that will make decisions on MAPO's recommendations is made up of the ministers of the ministries represented on MAPO and is chaired by the minister responsible for internal security.⁵¹

B. Enforcement Agencies

The five types of enforcement officers identified in the ATIPSOM Act, listed above, are from the following government agencies:

- Royal Malaysian Police
- Labour Department (part of the Ministry of Human Resources), as well as the equivalent departments in Sabah and Sarawak (on the island of Borneo)
- Immigration Department (part of the Ministry of Home Affairs)
- Royal Malaysian Customs Department
- Malaysian Maritime Enforcement Agency

Under the ATIPSOM Act, enforcement officers are required to “investigate into the circumstances of the person's case for the purpose of determining whether the person is a trafficked person.”⁵² The UN special rapporteur noted that the above entities “have a primary responsibility for identifying trafficking in collaboration with each other.”⁵³ They are all represented on the enforcement committee of MAPO, whose main functions are to “rescue victims of trafficking and detain perpetrators, investigate cases, prevent trafficking, raise

⁴⁹ *Functions and Powers of the Council*, MINISTRY OF HOME AFFAIRS, <http://www.moha.gov.my/index.php/en/maklumat-perkhidmatan/2012-08-15-01-17-06/definisi/124-maklumat-korporat/maklumat-bahagian/sekretariat-majlis-antipemerdagangan-orang-dan-antipenyeludupan-migran/majlis-antipemerdagangan-orang-dan-antipenyeludupan-migran> (last updated Jan. 29, 2016), archived at <https://perma.cc/K8B3-MUNF>. See also *Council for Anti-Trafficking in Persons and Anti-Smuggling of Migrants: Background*, MINISTRY OF HOME AFFAIRS, <http://www.moha.gov.my/index.php/en/majlis-antipemerdagangan-orang/latar-belakang> (last updated Jan. 29, 2016), archived at <https://perma.cc/SFM2-DUVH>.

⁵⁰ *Introduction*, MINISTRY OF HOME AFFAIRS, <http://www.moha.gov.my/index.php/en/sekretariat-pengenalan> (last updated Jan. 29, 2016), archived at <https://perma.cc/2W9R-Z99A>.

⁵¹ ATIPSOM (Amendment) Act 2015, s. 4, adding new s. 5A.

⁵² ATIPSOM Act s. 51(1)(a).

⁵³ REPORT OF THE SPECIAL RAPPORTEUR ON TRAFFICKING IN PERSONS, *supra* note 31, at 12.

awareness and build capacity of its members.”⁵⁴ The enforcement officers from the different agencies have the power to “arrest, conduct search and seizure, and examine persons.”⁵⁵ The SOP, referred to above, “guides the methods of accomplishing tasks and establishes general performance standards, including in the area of investigation, raid, arrest, rescue and networking/coordination among enforcement agencies.”⁵⁶

The Royal Malaysian Police has a specialized anti-trafficking unit; the 2014 State Department human trafficking report stated that an additional 101 officers had been hired for this unit in 2013.⁵⁷ The Labour Department also has specialist labor inspectors “empowered to identify and investigate cases of trafficking, as well as rescue victims. They also apprehend suspects and testify in court.”⁵⁸

C. Protection Officers

Protection Officers have responsibilities related to the care and protection of trafficked persons at places of refuge.⁵⁹ They have the “power to supervise the trafficked person upon order by the Magistrate or direction by the Minister.”⁶⁰

Protection Officers are also responsible for inquiring into the backgrounds of such persons⁶¹ and for preparing a report for the consideration of the Magistrate’s Court, which is produced jointly with an enforcement officer.⁶² Based on this report, if the Magistrate is satisfied that a person is a trafficked person in need of care and protection, he or she may issue a Protection Order requiring the person to be placed in a “place of refuge” for a period of time.⁶³

D. Special Prosecutors

Under the ATIPSOM Act, prosecutions for human trafficking or migrant smuggling offenses cannot be instituted without the written consent of the Public Prosecutor.⁶⁴ Where criminal proceedings are instituted, the Public Prosecutor may apply for a trafficked person to appear before a Sessions Court for the purpose of recording his or her evidence under oath.⁶⁵

⁵⁴ *Id.*

⁵⁵ *Id.* at 16.

⁵⁶ *Id.*

⁵⁷ 2014 TRAFFICKING IN PERSONS REPORT: MALAYSIA, *supra* note 35.

⁵⁸ REPORT OF THE SPECIAL RAPPORTEUR ON TRAFFICKING IN PERSONS, *supra* note 31, at 13.

⁵⁹ ATIPSOM Act s 43(2)(a).

⁶⁰ *Id.* s. 43(2)(c).

⁶¹ *Id.* s 51(1)(a).

⁶² *Id.* s. 51(2).

⁶³ *Id.* s 51(3)(a).

⁶⁴ *Id.* s. 41.

⁶⁵ *Id.* s. 52(1).

The UN special rapporteur noted that, within the Attorney General’s Chambers, twenty-eight deputy public prosecutors specializing in trafficking have been appointed.⁶⁶

E. Dedicated Courts

According to the Human Rights Commission of Malaysia (Suruhanjaya Hak Asasi Manusia Malaysia, SUHAKAM), the Home Minister stated in October 2014 that dedicated courts would be established “to hear and expedite cases under ATIPSOM.”⁶⁷ No further information was located regarding the establishment of such courts.

F. Human Rights Commission

SUHAKAM receives complaints about human trafficking and acts “as a bridge between complainants and enforcement agencies to ensure that immediate and appropriate action is taken on every complaint.”⁶⁸ SUHAKAM states that it

holds the view that human trafficking and smuggling of migrants should be dealt with great urgency by the relevant authorities. In supporting the country’s effort to combat human trafficking, SUHAKAM has held various dialogues and roundtable discussions with relevant Government agencies and other stakeholders, as well as made submissions to the Council for Anti-Trafficking in Persons and Anti-Smuggling of Migrants (MAPO) in Malaysia. SUHAKAM also conducts periodic visits to shelters for victims of human trafficking and continues to promote greater awareness among all levels of the society of the danger of human trafficking as well as the importance to ensure the human rights of trafficked victims are guaranteed from the moment they are rescued, and during their rehabilitation and re-integration into society.⁶⁹

The UN special rapporteur noted that SUHAKAM “plays an active role” in combatting human trafficking, including through receiving and inquiring into complaints relating to trafficking in persons and monitoring shelters and detention facilities. It also “proposes and formulates policies and standard operating procedures, raises awareness and engages with stakeholders at the national, regional and international levels.”⁷⁰

⁶⁶ REPORT OF THE SPECIAL RAPPORTEUR ON TRAFFICKING IN PERSONS, *supra* note 31, at 16. *See also* 2015 TRAFFICKING IN PERSONS REPORT: MALAYSIA, *supra* note 39 (stating that “[t]he Attorney General’s Chamber had 29 deputy public prosecutors throughout Malaysia specializing in human trafficking cases”).

⁶⁷ HUMAN RIGHTS COMMISSION OF MALAYSIA, ANNUAL REPORT 2014, at 16 (2015), <https://docs.google.com/file/d/0B6FQ7SONa3PRUG1nc25yRGV3TIU/preview>, archived at <https://perma.cc/FAF6-9MQE>.

⁶⁸ *Human Trafficking*, HUMAN RIGHTS COMMISSION OF MALAYSIA, <http://www.suhakam.org.my/human-trafficking/> (last updated Jan. 28, 2016), archived at <https://perma.cc/PWX8-MDZD>.

⁶⁹ REPORT OF THE SPECIAL RAPPORTEUR ON TRAFFICKING IN PERSONS, *supra* note 31, at 16.

⁷⁰ *Id.* at 12.

III. Training Programs Provided to Law Enforcement Agencies and Other Government Agencies

Malaysia's national news agency, Bernama, has information on its website stating that "MAPO conducts year-round training programmes and workshops aimed at increasing awareness in the need to eradicate human trafficking and migrant smuggling; strengthening enforcement procedures, investigation methods, evidence gathering and victim protection; and enhance inter-agency cooperation within the Home Affairs Ministry as well with non-government organisations (NGOs)."⁷¹

The programs listed on the website are only those conducted in 2011 and 2010:

2011

- Programme On Cooperation In The Field Of Immigration Between The Government Of Malaysia And The Government Of Netherlands (Mar 12 – 25, 2011)
- Coordination Meeting For The Implementation Of The Foreign Nationale [sic] Management Lab Initiative (MPWA) BIL. 1/2011 (Mar 3, 2011)
- KDN Meet-the-client Day And KDN With The People Programme (Mar 3 – 5, 2011)

2010

- Workshop on Trafficking in Persons, Smuggling of Migrants and International Cooperation in collaboration with The Asian-African Legal Consultative Organisation (AALCO) (24-26 Nov, 2010)
- Human Trafficking Victims Protection Officer Training Workshop (21-23 Nov, 2010)
- Talk on Undercover and Integrity Testing/Information Management and Standard Operating Procedure for Anti-Trafficking in Persons (SOP for ATIP) by invited speaker from the Malaysian Anti-Corruption Commission (MACC) (26 Oct, 2010)⁷²

References have also been found to various other training programs, including the following:

- According to the 2015 US State Department human trafficking report on Malaysia,

[i]n 2014, each of the enforcement agencies continued to conduct anti-trafficking trainings, reaching nearly 700 officials. For example, Malaysian officials trained 103 coast guard officers on trafficking in Sabah, Kuantan, and Sarawak. Several ministries coordinated a series of anti-trafficking trainings on investigative interview techniques for 205 frontline officials. The Attorney General's Chamber hosted and convened a seminar for 30 judges and prosecutors throughout Malaysia to discuss victim-centered approaches to prosecution. Topics included effective victim interviewing, identifying and meeting victims' needs, and working with interpreters.⁷³

⁷¹ *Council for Anti-Trafficking in Persons and Anti-Smuggling of Migrants*, BERNAMA, <http://mapo.bernama.com/> (last visited Feb. 2, 2016), archived at <https://perma.cc/CTY2-PRA2>.

⁷² *Id.*

⁷³ 2015 TRAFFICKING IN PERSONS REPORT: MALAYSIA, *supra* note 39.

- Training for specialist prosecutors and judges has been delivered by the Warnath Group, a US advisory firm, which states on its website that a Malaysia Anti-Human Trafficking Case Skills Training Course was hosted by Malaysia's Judicial and Legal Training Institute.⁷⁴ It further states that the training "was made possible by the U.S. Department of State's Office to Monitor and Combat Trafficking in Persons (J/TIP), and with the help of the U.S. Embassy to Malaysia, Kuala Lumpur."⁷⁵
- The 2014 State Department report also noted that MAPO had reported that "248 government officials from the Royal Malaysian Police, Malaysian Maritime Enforcement Agency, Immigration Department, and Labor Department received specialized anti-trafficking training in 2013," and further that "several additional anti-trafficking training sessions" had been attended by more than 500 law enforcement officials during the year.⁷⁶
- The Southeast Asia Immigration Course on Fraudulent Document and Anti-Trafficking in Persons 2015, a regional training program, was organized by the Malaysian Immigration Academy and delivered by the Malaysian Technical Cooperation Programme in August 2015.⁷⁷

In terms of cooperation with relevant organizations, in 2010 the Home Affairs Minister announced that Malaysia and the International Organization for Migration (IOM) would "enhance their cooperation to tackle human trafficking cases effectively."⁷⁸ He stated that such cooperation would include "training investigating officers and prosecutors involved in cases of human trafficking and migration."⁷⁹ IOM noted that "Malaysian officials also regularly participate in a variety of migration management training workshops that IOM organizes in Asia and globally."⁸⁰ Previously, in 2009, IOM and the Ministry of Home Affairs "launched a three-day introductory training on combating human trafficking for Malaysian civil servants."⁸¹ Attendees included thirty-one representatives from the ministries of Home Affairs; Women,

⁷⁴ *Malaysian Specialist Prosecutors, Judges Complete Warnath Group Human Trafficking Case Skills Training*, WARNATH GROUP, <http://www.warnathgroup.com/malaysian-specialist-prosecutors-judges-complete-warnath-group-human-trafficking-case-skills-training/> (last visited Jan. 15, 2016), archived at <https://perma.cc/3DGT-N9L4>.

⁷⁵ *Id.*

⁷⁶ 2014 TRAFFICKING IN PERSONS REPORT: MALAYSIA, *supra* note 35.

⁷⁷ Malaysia Technical Cooperation Program, Southeast Asia Immigration Course on Fraudulent Document & Anti-Trafficking in Persons 2015, <https://mtcpcoms.kln.gov.my/mtcpcoms/upload/AIM00001bro.pdf> (last visited Feb. 2, 2016), archived at <https://perma.cc/NF6D-9S84>.

⁷⁸ *Malaysia, IOM Form Strategic Cooperation to Combat Human Trafficking*, BERNAMA (Mar. 10, 2010), available at <http://www.ssig.gov.my/blog/2010/03/10/malaysia-iom-form-strategic-cooperation-to-combat-human-trafficking/>, archived at <https://perma.cc/9TD8-XVGF>.

⁷⁹ *Id.*

⁸⁰ Press Release, International Organization for Migration, Malaysian Home Affairs Minister and IOM Director General Discuss Future Collaborations (May 6, 2010), <http://www.iom.int/news/malaysian-home-affairs-minister-and-iom-director-general-discuss-future-collaborations>, archived at <https://perma.cc/9539-EBVP>.

⁸¹ Press Release, International Organization for Migration, IOM and Malaysian Home Affairs Ministry Train Civil Servants in Counter Trafficking (Dec. 14, 2009), <http://www.iom.int/news/iom-and-malaysian-home-affairs-ministry-train-civil-servants-counter-trafficking>, archived at <https://perma.cc/8WNS-G6DE>.

Family and Community Development; Human Resources; and Information, Communication and Culture.

Mexico

Gustavo Guerra
Senior Foreign Law Specialist

Mexico's General Law to Prevent, Punish and Eradicate Crimes of Human Trafficking is the main statute on this topic, as it provides guidelines on the powers of authorities at the federal, state, and local level in charge of combatting human trafficking.¹

This Law also provides for the existence of the national Commission to Prevent, Punish and Eradicate Crimes of Human Trafficking, which has broad powers to define, implement, and oversee public policies to address this issue and to design relevant training programs for federal and state authorities.² The Commission is formed by the heads of a number of departments and executive agencies, each of which has certain duties, including but not limited to the following:

- Department of Governance: Coordinates the work of the Commission and serves as the point of contact with the heads of the federal and state executive, legislative and judicial branches on matters relating to the implementation of relevant public policies.
- Department of Justice: Plans and executes programs aimed at preventing and prosecuting human trafficking cases.
- National Institute of Penal Sciences: Designs and executes training programs on preventing and punishing human trafficking for prosecutors and law enforcement agents.
- Department of Labor: Conducts labor inspections at work places aimed at preventing and detecting human trafficking.
- Department of Health: Manages physical and psychological treatment for victims of human trafficking.
- National Institute of Migration: Provides assistance in Mexico to foreigners who are victims of human trafficking until they return to their countries of origin.
- Department of Tourism: Designs and implements policies aimed at discouraging sexual tourism and human trafficking in the context of tourism activities.
- Department of Foreign Relations: Creates programs of protection and assistance for victims of human trafficking, which are carried out by consular offices abroad.³

¹ Ley General para Prevenir, Sancionar y Erradicar los Delitos en Materia de Trata de Personas y para la Protección y Asistencia a las Víctimas de estos Delitos [General Law to Prevent, Punish and Eradicate Crimes on Human Trafficking and for the Protection and Assistance to the Victims of these Crimes] arts. 2, 5, DIARIO OFICIAL DE LA FEDERACIÓN, June 14, 2012, available as amended through 2014 on the website of Mexico's House of Representatives, at <http://www.diputados.gob.mx/LeyesBiblio/pdf/LGPSEDMTP.pdf>, archived at <https://perma.cc/N68J-NNYL>.

² *Id.* arts. 84, 92-X.

³ *Id.* arts. 85, 89.

Training on human trafficking may be taught in person (through workshops, certificates, conventions, forums, and courses) or online (through videoconferences and other e-learning options).⁴ The Commission recently reported that in 2014, a total of 12,823 civil servants received some type of relevant training.⁵ For example, Mexico's Department of Justice provided relevant specialized courses, including "Basic Concepts on Human Trafficking," "Crimes Committed through Electronic Media," and "Fostering the Denunciation of Human Trafficking."⁶ The National Institute of Penal Sciences provided a number of relevant courses as well, including "Types of Human Trafficking," "Social Causes of Human Trafficking," "Trafficking of Children and Adolescents," and "International and National Issues related to Protecting and Assisting Victims of Human Trafficking."⁷

In addition, Mexico has received anti-human-trafficking training from the United States government, according to a June 2014 press release from US Immigration and Customs Enforcement. The press release described a training session for Mexican government officials as follows:

U.S. Immigration and Customs Enforcement's (ICE) Homeland Security Investigations (HSI); the Department of Justice's Office of Prosecutorial Development, Assistance and Training (OPDAT); and the Department of State's Bureau of International Narcotics and Law Enforcement (INL) hosted a human trafficking training conference for federal and state prosecutors, investigators and immigration officials June 3 through 5 in Cancun.

More than 90 officials from the Attorney General of Mexico (PGR), state attorney general offices (PGJ), the Mexican Federal Police (CNS) and the National Immigration Institute (INM) participated. The participants explored how to identify potential human traffickers and victims of human trafficking and related crimes.⁸

⁴ Programa Nacional para Prevenir, Sancionar y Erradicar los Delitos en Materia de Trata de Personas y para la Protección y Asistencia a las Víctimas de estos Delitos 2014-2018 [National Program to Prevent, Punish and Eradicate Crimes on Human Trafficking and for the Protection and Assistance to the Victims of these Crimes 2014–2018] 23, DIARIO OFICIAL DE LA FEDERACIÓN, Apr. 30, 2014, http://www.gobernacion.gob.mx/work/models/SEGOB/swbtrata_Accion/10/PROGRAMA_NACIONAL_2014_2018.PDF, archived at <https://perma.cc/S44S-8XQN>.

⁵ COMISIÓN INTERSECRETARIAL PARA PREVENIR, SANCIONAR Y ERRADICAR LOS DELITOS EN MATERIA DE TRATA DE PERSONAS Y PARA LA PROTECCIÓN Y ASISTENCIA A LAS VÍCTIMAS DE ESTOS DELITOS, INFORME ANUAL 2014, [COMMISSION TO PREVENT, PUNISH AND ERADICATION OF CRIMES OF HUMAN TRAFFICKING AND FOR THE PROTECTION AND ASSISTANCE TO THE VICTIMS OF THESE CRIMES, ANNUAL REPORT 2014] 9, http://www.gob.mx/cms/uploads/attachment/file/37490/INFORME_2014_COMISION_INTERSECRETARIAL.pdf, archived at <https://perma.cc/6P7K-8M57>.

⁶ *Id.*, at 50.

⁷ *Id.*, at 51.

⁸ Press Release, US Immigration and Customs Enforcement, HSI Participates in Human Trafficking Awareness Seminar for Mexican Officials (June 9, 2014), <https://www.ice.gov/news/releases/hsi-participates-human-trafficking-awareness-seminar-mexican-officials>, archived at <https://perma.cc/LUF5-XG29>.

Netherlands

Wendy Zeldin*

Senior Legal Research Analyst

SUMMARY A number of Dutch laws address the issue of human trafficking, including the Penal Code, the Alien’s Statute, and the Child and Adolescent Statute. The Netherlands must also abide by the relevant European Union and Council of Europe directives on combatting human trafficking and is a party to the United Nations Convention Against Transnational Organized Crime and its Protocols. In conformity with the 2003 Action Plan of the Organization for Security and Co-operation in Europe, the Netherlands set up a National Referral Mechanism in 2013 to coordinate assistance to trafficking victims. The Criminal Code, the major law against human trafficking, has an extensive list of trafficking-related crimes, and in 2013 the punishments for these offenses were increased, with penalties ranging from twelve years in prison for an individual perpetrator if no bodily harm is inflicted and the victim is not a minor, to life imprisonment or up to thirty years’ imprisonment if a death occurs.

The Minister of Justice has overall responsibility for coordinating anti-trafficking policies. Other agencies involved, aside from law enforcement, include the Dutch Immigration and Naturalization Service; the Repatriation and Departure Service under the Ministry of Justice; the National Rapporteur on Trafficking in Human Beings and Sexual Violence Against Children; the Task Force on Human Trafficking, an inspectorate under the Ministry of Social Affairs and Employment; the Royal Dutch Constabulary; a network of Regional Information and Expertise Centres; and CoMensha, which maintains a national register of trafficked persons.

Police officers take an anti-trafficking course as part of their standard training, and officers specializing in the field must pass an examination following the course and sign a code of conduct. The Netherlands has established four specialized courts for handling trafficking cases, and both judges and prosecutors have been given specialized training in applying anti-human-trafficking laws and in handling traumatized victims. The Netherlands has also funded special projects to enhance the fight against human trafficking in several other countries.

I. Introduction

The *2015 Trafficking in Persons Report* published by the US Department of State describes the Netherlands, which is categorized as a “Tier 1” country, as “a source, destination, and transit country for men, women, and children from the Netherlands, Eastern Europe—including Roma—Africa, and South and East Asia subjected to sex trafficking and forced labor in shipping, offshore oil exploration, agriculture, horticulture, catering, food processing, cleaning,

* At present there are no Law Library of Congress research staff members versed in Dutch. This report has been prepared by the author’s reliance on practiced legal research methods and on the basis of relevant legal resources, chiefly in English, currently available in the Law Library and online.

and forced criminal activity.”¹ The report goes on to state that among the most vulnerable persons are “Dutch girls enticed by young male traffickers, unaccompanied children seeking asylum, women with dependent residency status obtained through fraudulent or forced marriages, domestic workers of foreign diplomats, and women and men recruited in Eastern Europe, Africa, and Asia,” and that participation by Dutch citizens in child sex tourism abroad has been reported.²

II. National Policy to Combat Human Trafficking

A. Action Plan 2011–2014

For the period 2011–2014, the Dutch government instituted the “Government-Wide Approach to the Loverboy Problem: Action Plan 2011–2014.”³ “Loverboy victims” is a term used to refer to Dutch underage female victims of human trafficking, although social workers have interpreted the term in various ways.⁴ According to the Action Plan report,

[c]onsiderable efforts have been made in the areas of prevention, investigation and prosecution in the last few years [in connection with the loverboy problem]. Various prevention projects have been started, curricula have been developed for primary and secondary schools, films have been produced and social media have been used for prevention campaigns. . . . Progress has also been made in relation to the investigation and prosecution of offenders. For example, in a two-year pilot project in Rotterdam, the police are developing innovative methods for establishing contact with victims and offenders, such as taking part in online chat sessions to investigate who is initiating contacts with underage girls and how they are doing it.⁵

¹ *Netherlands: Tier 1*, in U.S. DEPARTMENT OF STATE, OFFICE TO MONITOR AND COMBAT TRAFFICKING IN PERSONS, TRAFFICKING IN PERSONS REPORT 258 (July 2015) (2015 TIPS REPORT), <http://www.state.gov/j/tip/rls/tiprpt/> (click on “2015 Report” then on “Country Narratives N-S”), archived at <https://perma.cc/76X9-D5YL>. Tier 1 countries are those “whose governments fully comply with the [U.S.] Trafficking Victims Protection Act’s (TVPA) minimum standards.” *Tier Placements*, U.S. DEPARTMENT OF STATE, <http://www.state.gov/j/tip/rls/tiprpt/2015/243366.htm> (last visited Feb. 8, 2016), archived at <https://perma.cc/5MRG-4FJR>.

² *Id.*

³ BUREAU OF THE DUTCH NATIONAL RAPPOORTEUR, TRAFFICKING IN HUMAN BEINGS: NINTH REPORT OF THE DUTCH NATIONAL RAPPOORTEUR 200 (The Hague, 2013) (citing Parliamentary Documents II, 2011/12, 31839/28638, no. 166, http://www.dutchrapporteur.nl/Images/national-rapporteur-on-trafficking-in-human-beings-and-sexual-violence-against-children.ninth-report-of-the-dutch-national-rapporteur.2014_tcm64-564024.pdf (copy link to browser), archived at <https://perma.cc/E48E-ZKSR>.

⁴ *Combating Human Trafficking: More Attention Needed for Minors, the Prostitution Sector and New Forms of Exploitation*, NATIONAL RAPPOORTEUR REPORTS ON TRAFFICKING IN HUMAN BEINGS AND SEXUAL VIOLENCE AGAINST CHILDREN IN THE NETHERLANDS (Sept. 17, 2014), <http://www.dutchrapporteur.nl/current/news/archief/combating-human-trafficking-more-attention-needed-for-minors-the-prostitution-sector-and-new-forms-of-exploitation.aspx>, archived at <https://perma.cc/N8ZE-L3ZQ>.

⁵ TRAFFICKING IN HUMAN BEINGS: NINTH REPORT OF THE DUTCH NATIONAL RAPPOORTEUR, *supra* note 3, at 201.

B. National Referral Mechanism

The 2003 Action Plan of the Organization for Security and Co-operation in Europe (OSCE) makes reference to the appointment of national coordinators as an element of national referral mechanisms for giving help and protection to victims of trafficking; under the Action Plan, the mechanism “should create a framework that both enables the member state to meet its obligations towards victims and provide a mechanism in which civil-society organisations and the relevant government institutions can cooperate.”⁶

The Dutch National Referral Mechanism was launched in October 2013 as a joint project of three ministries: the Ministry of Security and Justice; the Ministry of Health, Welfare and Sport; and the Ministry of Social Affairs and Employment.⁷ The National Referral Mechanism aims to improve help and support, and access, for all victims of human trafficking, by mapping the regulations and rights for victims of trafficking and any potential bottlenecks; identify and protect victims; and investigate and prosecute perpetrators. The National Referral Mechanism focuses on all forms of exploitation: sexual exploitation, labor exploitation, exploitation through forced begging or stealing, and exploitation by forced confinement, as well as trafficking for the purpose of organ removal.⁸

III. Legal Framework

A. Constitution

The Constitution of the Kingdom of the Netherlands provides the general right of inviolability of the person.⁹

B. Criminal Code

The major law on trafficking in the Netherlands is the Criminal Code. Article 273f prohibits all forms of human trafficking, including trafficking in organs, trafficking to exploit minors, trafficking for purposes of sexual exploitation, trafficking for the performance of work or services, and trafficking for intentional profit from exploitation of other persons.¹⁰ In 2013, the

⁶ BUREAU OF THE DUTCH NATIONAL RAPPOORTEUR, TRAFFICKING IN HUMAN BEINGS: TEN YEARS OF INDEPENDENT MONITORING 13 (2010), http://www.dutchrapporteur.nl/Images/8e%20rapportage%20NRM-ENG-web_tcm64-310472.pdf, archived at <https://perma.cc/N5CU-B9BC>. This is the Eighth Report of the National Rapporteur.

⁷ *Algemene informatie* [General Information], WEGWIJZER MENSENHANDEL, <http://www.wegwijzermensenhandel.nl/algemeneinformatie/> (last visited Feb. 8, 2016), archived at <https://perma.cc/ZNB4-H222>.

⁸ *Id.*

⁹ GRONDWET VOOR HET KONINKRIJK DER NEDERLANDEN VAN 24 AUGUSTUS 1815 [CONSTITUTION OF THE KINGDOM OF THE NETHERLANDS OF 24 AUGUST 1815] (as amended effective July 15, 2008), art. 11, http://wetten.overheid.nl/BWBR0001840/geldigheidsdatum_04-02-2016, archived at <https://perma.cc/6CBL-B7YT>; CONSTITUTION OF THE KINGDOM OF THE NETHERLANDS 2008, <https://www.government.nl/binaries/government/documents/regulations/2012/10/18/the-constitution-of-the-kingdom-of-the-netherlands-2008/the-constitution-of-the-kingdom-of-the-netherlands-2008.pdf>, archived at <https://perma.cc/8249-L8RG>.

¹⁰ WETBOEK VAN STRAFRECHT [CRIMINAL CODE] (Mar. 3, 1881, as last amended effective Jan. 1, 2016), art. 273f(1)(1)–(9), <http://wetten.overheid.nl/BWBR0001854/TweedeBoek/TitelXVIII/Artikel273f/geldigheidsdatum>

punishments for human trafficking were made more stringent; a single offense of trafficking involving any of the abovementioned types of acts will now incur upon conviction a maximum sentence of twelve years' imprisonment or a fine of the fifth category.¹¹ For offenses committed by two or more persons in concert against a person under the age of eighteen or any other person who is abused while in a vulnerable position, or if violence is used in the commission of the abovementioned offenses, the punishment will be up to fifteen years of imprisonment or a fine of the fifth category;¹² if the offense results in grievous bodily harm or is likely to endanger another person's life, the prison term will be up to eighteen years or a fifth-category fine;¹³ if any of the offenses result in death, the penalty is life imprisonment or imprisonment for up to thirty years or a fine of the fifth category.¹⁴ In the view of the US State Department, “[t]hese penalties are sufficiently stringent and commensurate with those prescribed for other serious crimes, such as rape.”¹⁵

The Criminal Code defines exploitation to include, at a minimum, “exploitation of another person in prostitution, other forms of sexual exploitation, forced or compulsory labour or services,” forced begging, slavery or practices similar to it, servitude, and forced criminality.¹⁶

Under a new provision adopted in 2013, the Code defines “vulnerable position” (*kwetsbare positie*) as including a situation in which a person has no real or acceptable alternative but to submit to the abuse.¹⁷

Article 251 of the Code, which provides for disqualification from certain rights held by, e.g., persons holding certain offices or practicing certain professions because of the commission of

09-02-2016 , archived at <https://perma.cc/5TN2-DEJD>; CRIMINAL CODE (valid as of Oct. 1, 2012), available at http://www.ejtn.eu/PageFiles/6533/2014%20seminars/Omsenie/WetboekvanStrafrecht_ENG_PV.pdf, archived at <https://perma.cc/2JKU-69DA>.

¹¹ CRIMINAL CODE art. 273f(1).

¹² *Id.* art. 273f(3).

¹³ *Id.* art. 273f(4).

¹⁴ *Id.* art. 273f(5). Regarding a fine of the fifth category, see Wet van 28 februari 2013 inzake partiële wijziging van het Wetboek van Strafrecht en enkele andere wetten in verband met de aanpassing van het materieel strafrecht aan recente ontwikkelingen (in force on Apr. 1, 2013), STAATSBLAD No. 84, art. I(D) (amending art. 23(4) of the Criminal Code) (Mar. 7, 2013), <https://zoek.officielebekendmakingen.nl/stb-2013-84.html>, archived at <https://perma.cc/K2H5-YYVY>. As of January 1, 2016, a fine of the fifth category was €2,000 (about US\$91,537).

¹⁵ *Netherlands: Tier 1*, 2015 TIPS REPORT, *supra* note 1.

¹⁶ CRIMINAL CODE art. 273f(2). See also Dien Korvinus, Dagmar Koster, & Heleen de Jonge van Ellemeet, *Mensenhandel: het begrip uitbuiting in art. 273a Sr*, 7 TREMA 286–90 (Sept. 2006), translated as *Trafficking in Human Beings: The Concept of Exploitation in the Dutch Trafficking Provision* (Jan. 18 2007), available at http://www.legislationline.org/download/action/download/id/4992/file/Article_-exploitation-in-the-dutch-trafficking-provision_2006_en.pdf, archived at <https://perma.cc/ZT3C-P9TP>.

¹⁷ CRIMINAL CODE art. 273f(6), inserted in the Code in November 2013. See also Wet van 6 november 2013 tot implementatie van de richtlijn 2011/36/EU van het Europees Parlement en de Raad inzake voorkoming en bestrijding van mensenhandel, de bescherming van slachtoffers ervan, en ter vervanging van kaderbesluit 2002/629/JBZ van de Raad (PbEU L 101) (Nov. 12, 2013, effective Nov. 15, 2013), <https://zoek.officielebekendmakingen.nl/stb-2013-444.html>, archived at <https://perma.cc/H9AP-AHSA>.

certain criminal offenses, and also for disqualification from the practice of a profession if such offenses are committed in the practice of the profession, also applies to the trafficking offenses.¹⁸

C. Code of Criminal Procedure

Certain provisions of the Code of Criminal procedure, in particular those on threatened witnesses, may also apply in the case of human trafficking crimes.¹⁹

D. Alien's Act

The Aliens Act states that an alien who is a victim or a witness reporting human trafficking will not have his or her application for a residence permit for a fixed period turned down due to the lack of a valid temporary residence permit.²⁰ Thus, illegal foreign nationals who report human trafficking to the Dutch authorities as either a victim or a witness will be able to stay in the Netherlands temporarily, but legally, during the investigation and prosecution of the human trafficker.²¹ This regulation also applies to human trafficking victims “who are cooperative in the criminal investigation or prosecution other than by reporting it to the police.”²² Formerly, the regulation was called the B9 regulation, based on the relevant chapter of the Aliens Act Implementation Guidelines 2000. These Guidelines have been renumbered, however, and the regulation, now called the Residency Regulation Human Trafficking but not changed in content, is now found in chapter B8(3) of the Aliens Act Implementation Guidelines.²³

E. European Union Directives

The Netherlands is obliged as a member of the European Union to implement Directive 2011/36/EU on Preventing and Combating Trafficking in Human Beings,²⁴ the EU Directive on

¹⁸ CRIMINAL CODE art. 273f(7).

¹⁹ CODE OF CRIMINAL PROCEDURE (as Amended in 1994) (Relevant Provisions + Excerpts from a Decision of the ECHR with Regard to These Provisions), available at <http://www.legislationline.org/documents/action/popup/id/4681>, archived at <https://perma.cc/3RW9-9PV6>.

²⁰ Vreemdelingenwet 2000 [Aliens Act 2000] (Nov. 23, 2000, as amended effective July 20, 2015), art. 17(d), http://wetten.overheid.nl/BWBR0011823/Hoofdstuk3/Afdeling3/Paragraaf1/Artikel17/geldigheidsdatum_09-02-2016, archived at <https://perma.cc/YT6H-28YK>.

²¹ *Residency Regulation Human Trafficking*, IMMIGRATION AND NATURALISATION SERVICE, <https://ind.nl/EN/organisation/themes/human-trafficking/residency-regulation-human-trafficking> (last visited Feb. 16, 2016), archived at <https://perma.cc/6NX9-PDDF>.

²² *Id.*

²³ *Id.* B8/3 only sets forth the policy guidelines; for a description of the procedures, “in which different cooperating organisations such as IND, police, Public Prosecution Service and reception institutions and in which also the responsibilities of those cooperating organisations are described,” see *id.*, Annex to B8/3 Vc (in Dutch), <https://ind.nl/EN/Documents/bijlage%20bij%20B8.3%20Vc.pdf>, archived at <https://perma.cc/QXS6-WF5B>. For a summary description in Dutch, see, e.g., *Opinie / B8/3-Regeling: Geen aangifte, wel een verblijfsvergunning?*, CKM (Nov. 27, 2013), <http://www.ckm-fier.nl/B83-regeling-geen-aangifte-wel-een-verblijfsvergunning-1.ashx>, archived at <https://perma.cc/54QB-TGLE>.

²⁴ Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on Preventing and Combating Trafficking in Human Beings and Protecting Its Victims, and Replacing Council Framework Decision

Combating the Sexual Abuse and Sexual Exploitation of Children and Child Pornography,²⁵ and the Directive on residence permits for victims of human trafficking.²⁶

F. Council of Europe

The Netherlands is a party to the Council of Europe Convention Against Trafficking in Human Beings (European Trafficking Convention, 2005)²⁷ and the Convention for the Protection of Children Against Sexual Exploitation and Sexual Abuse (Lanzarote Convention, 2007).²⁸

G. United Nations Convention Against Transnational Organized Crime

The Netherlands is a party to the United Nations Convention Against Transnational Organized Crime (also known as the Palermo Convention) and its protocols,²⁹ including the 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons.³⁰

2002/629/JHA, 2011 O.J. (L 101) 1 (EU), <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32011L0036&from=EN>, archived at <https://perma.cc/ZU8T-3ZYJ>.

²⁵ Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on Combating the Sexual Abuse and Sexual Exploitation of Children and Child Pornography, and Replacing Council Framework Decision 2004/68/JHA, 2011 O.J. (L 335) 1 (EU), <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32011L0093&from=EN>, archived at <https://perma.cc/2EMW-JTHV>. Item (7) of the Directive calls for it to be fully complementary with Directive 2011/36/EU.

²⁶ Council Directive 2004/81/EC of 29 April 2004 on the Residence Permit Issued to Third-Country Nationals Who Are Victims of Trafficking in Human Beings or Who Have Been the Subject of an Action to Facilitate Illegal Immigration, Who Cooperate with the Competent Authorities, 2003 O.J. (L 261) 19 (EU), <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32004L0081>, archived at <https://perma.cc/N3D5-VAH8>.

²⁷ Council of Europe Convention on Action against Trafficking in Human Beings, May 16, 2005, CETS No. 197, https://www.coe.int/t/dghl/monitoring/trafficking/Docs/Convntn/CETS197_en.asp, archived at <https://perma.cc/G7VK-C5SJ>.

²⁸ COUNCIL OF EUROPE, COUNCIL OF EUROPE CONVENTION: PROTECTION OF CHILDREN AGAINST SEXUAL EXPLOITATION AND SEXUAL ABUSE (Oct. 2012), http://www.coe.int/t/dg3/children/1in5/Source/Lanzarote%20Convention_EN.pdf, archived at <https://perma.cc/3AEW-ZX4M>.

²⁹ *United Nations Convention Against Transnational Organized Crime and the Protocols Thereto*, United Nations Office on Drugs and Crime, <https://www.unodc.org/unodc/treaties/CTOC/#Fulltext>, archived at <https://perma.cc/ZXM9-R9M7>. The Convention was adopted on Nov. 15, 2000, and entered into force on Sept. 29, 2003. The Netherlands signed the Convention on Dec. 12, 2000, and ratified it on May 26, 2004. *United Nations Convention Against Transnational Organized Crime, Status as at : 09-02-2016 05:02:18 EDT*, UNTC, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12&chapter=18&lang=en, archived at <https://perma.cc/V5TS-N2DM>.

³⁰ *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime, Status as of Dec. 24, 2015*, UNODC, <https://www.unodc.org/unodc/en/treaties/CTOC/countrylist-traffickingprotocol.html>, archived at <https://perma.cc/DH8D-JK3G>. The Netherlands signed the Protocol on December 12, 2000, and accepted it on July 27, 2005. The Protocol was extended to Aruba on January 18, 2007, and effective October 10, 2010, it applied to the Caribbean part of the Netherlands, i.e., Bonaire, Sint Eustatius, and Saba.

H. Bills in Parliament

A legislative proposal was put forward in the Staten-Generaal (the Dutch Parliament) in late 2014 to criminalize sexual acts performed with a prostitute (or someone prostituted) when the person knows or must reasonably suspect that the prostitute is a victim of human trafficking. As of October 2015, the proposal appeared to still be under deliberation.³¹ The punishment proposed for the offense is up to four years' imprisonment and a fourth category fine (€20,250, about US\$22,256). The initiative would amend the Criminal Code with the insertion of a new article 273g.³²

IV. Roles and Responsibilities of Government Agencies in Enforcing Laws Against Human Trafficking

The Netherlands has a range of government agencies and other key units, referred to as chain partners, that are involved in combatting human trafficking.³³ Some of them are described below.

A. Minister of Justice Central Co-Ordination of Anti-Trafficking Actions

The Minister of Justice is charged with the “overall responsibility for coordinating anti-trafficking policies and is responsible for the areas of law enforcement, crime prevention and immigration,” while the Ministry of the Interior has the responsibility for local policy matters.³⁴ The Ministry of Foreign Affairs; the Ministry of Labour; and the Ministry of Health, Welfare and Sport also have competency to deal with human trafficking issues; each ministry has appointed a coordinator for human trafficking. The responsible officials meet regularly in interdepartmental meetings and all the ministries meet twice a year with relevant nongovernmental organizations and the National Rapporteur.³⁵

³¹ 34.091: Initiatiefvoorstel-Segers, Volp en Kooiman Wet strafbaarstelling misbruik prostitué(e)s die slachtoffer zijn van mensenhandel, EERSTE KAMER [UPPER HOUSE], https://www.eerstekamer.nl/wetsvoorstel/34091_initiatiefvoorstel_segers (last visited Nov. 4, 2015), archived at <https://perma.cc/7THZ-3U8Q> (this is a webpage that tracks the progress of the legislation).

³² Voorstel van wet van de leden Segers, Rebel en Kooiman tot wijziging van het Wetboek van Strafrecht en het Wetboek van Strafrecht BES, houdende de invoering van de strafbaarstelling van misbruik van prostitué(e)s die slachtoffer van mensenhandel zijn (Wet strafbaarstelling misbruik prostitué(e)s die slachtoffer zijn van mensenhandel, Tweede Kamer [Lower House], Session 2014-2015, 34.091, no. 2 (introduced Nov. 25, 2014) <https://www.eerstekamer.nl/9370000/1/j9vvhwtbnzpbzvc/vjp8an6h9nsr/f=y.pdf>, archived at <https://perma.cc/R7UM-3QYN>. The draft law would also insert a new article 286g in the Criminal Code of Bonaire, Sint Eustatius, and Saba, Caribbean islands that are special municipalities of the Netherlands.

³³ *Ketenpartners* [Chain Partners], CCV, <http://www.hetccv.nl/dossiers/Mensenhandel/menuketpartners/index> (last visited Feb. 8, 2016), archived at <https://perma.cc/6YHQ-BU2G>. See also *Chain Partner Organizations in Human Trafficking and Their Functions (Chart)*, in Majorie Kaandorp & Mirjam Blaak, CHILD TRAFFICKING IN THE NETHERLANDS 40 (May 2013; trans. May 2014), <https://www.defenceforchildren.nl/images/13/3517.pdf>, archived at <https://perma.cc/57VC-N72E>.

³⁴ *Netherlands*, TOGETHER TRAFFICKING IN HUMAN BEINGS (2012), https://ec.europa.eu/anti-trafficking/content/nip/netherlands_en, archived at <https://perma.cc/BR94-KSH9>.

³⁵ *Id.*

B. Immigration and Naturalisation Service (IND)

The IND plays a role in the prompt identification and passing on of indications of human trafficking to the investigative authorities, is responsible for making residence arrangements for human trafficking victims and witnesses, and is in charge of the Human Trafficking Residence Scheme mentioned above. The IND is characterized as having “a unique position as the administrative authority and the Netherlands’ sole admission organization,” enabling it “to deploy preventative administrative instruments and to create obstacles to counter human trafficking” and to “refuse and withdraw residence permits if the applicant does not or no longer meets the requirements of a purpose of stay.”³⁶ The IND also “actively takes part at various levels in the various consultations on countering human trafficking, such as the International Human Trafficking Platform and the Human Trafficking Task Force”; has a close partnership with several other anti-trafficking forces, “such as special investigative services, the Human Trafficking and Human Smuggling Centre and the Public Prosecution Service”; and participates in national and international anti-human trafficking projects.³⁷

C. National Rapporteur

The National Rapporteur on Trafficking in Human Beings was first appointed in the Netherlands in 2000. An independent agency, the National Rapporteur on Trafficking in Human Beings and Sexual Violence Against Children, exercises the National Rapporteur’s function, with one of its main tasks being “to analyse trends in the field of human trafficking and reflect on Dutch efforts to address them.”³⁸ The National Rapporteur has the responsibility to gather “statistical data from various stakeholders on human trafficking and disseminates the information in periodic reports submitted to the government. Reports contain concrete recommendations and are made available to the public. The government sends its reaction to the recommendations to Parliament.”³⁹

D. Task Force on Human Trafficking

The high-level Task Force on Human Trafficking, established in 2008, was headed by the chief public prosecutor of Amsterdam. The unit “was created to identify bottlenecks in the methods of tackling human trafficking and to come up with solutions,” prioritizes efforts to fight human trafficking, and “encourages innovative methods.”⁴⁰ It brought together “representatives of the ministries involved (Justice, Interior and Kingdom Affairs, Social Affairs and Employment, Health, Welfare and Sports, Education, Culture and Science and Foreign Affairs), the police, the Royal Constabulary (KMar),” as well as a few mayoral officials, the judiciary, and the National

³⁶ *Human Trafficking*, IND, <https://ind.nl/EN/organisation/themes/human-trafficking> (last visited Feb. 8, 2016), archived at <https://perma.cc/JSS5-QAFP>.

³⁷ *Id.*

³⁸ *Netherlands*, TOGETHER TRAFFICKING IN HUMAN BEINGS, *supra* note 34.

³⁹ *Id.*

⁴⁰ *Id.*

Rapporteur” and reported every year to the Minister of Justice.⁴¹ Its mandate was extended in early 2011 for another three years, until 2014, and then again in 2014 until 2017.⁴²

E. Inspectorate SZW

Among its other supervisory and investigative tasks related to compliance with regulations on safe working conditions and illegal employment, the Inspectorate SZW (Inspectorate of the Ministry of Social Affairs and Employment (Ministerie van Sociale Zaken en Werkgelegenheid, or SZW) has the duty to detect “fraud, exploitation and organised crime within the chain of work and income (labour exploitation, human trafficking and large scale fraud in the area of social security).”⁴³ It carries out this function under the direction of the Public Prosecution Service.⁴⁴

F. Repatriation and Departure Service (Dienst Terugkeer en Vertrek, DT&V)

The Repatriation and Departure Service (DT&V), under the Ministry of Security and Justice, arranges for the departure, voluntary or forced, of aliens from the Netherlands, and once an alien must leave the Netherlands, the agency conducts a personal interview with him or her to draw up a departure plan, during the course of which “it sometimes encounters signs of human trafficking.”⁴⁵ If the DT&V finds signs of human trafficking, the “D9 procedure” is instituted, “the effect of which is to suspend the return procedure until a decision has been made on whether to grant the possible trafficking victim a residence permit.”⁴⁶ The DT&V invested in training its staff to recognize signs of human trafficking and is said to have subsequently attained some success in increasing the number of victims identified during the alien repatriation process. “The effect has been to enable the DT&V to make a significant contribution to protecting these victims.”⁴⁷

G. Law Enforcement

The more “traditional” partners that have been engaged in fighting human trafficking for some time include, in addition to the Inspectorate SZW, the Public Prosecution Service and the police.⁴⁸ There is a National Public Prosecutor for Human Trafficking appointed by the PPS and

⁴¹ *Id.*

⁴² *Id.* See also Marieke van Doorninck, *The Netherlands*, E-NOTES (Jan. 25, 2011), <http://www.e-notes-observatory.org/phenomenon/netherlands/>, archived at <https://perma.cc/KX56-7J57>. *e-Notes* is published by the European NGOs Observatory on Trafficking, Exploitation and Slavery. *Task Force Mensenhandel verlengd met derde termijn* [Human Trafficking Task Force Extended for Third Term] (Apr. 28, 2014), MENSENHANDELWEB, <http://www.mensenhandelweb.nl/nieuws/task-force-mensenhandel-verlengd-met-derde-termijn>, archived at <https://perma.cc/26PD-ZZEH>.

⁴³ *Netherlands*, TOGETHER TRAFFICKING IN HUMAN BEINGS, *supra* note 34.

⁴⁴ *Id.*

⁴⁵ TRAFFICKING IN HUMAN BEINGS: NINTH REPORT OF THE DUTCH NATIONAL RAPPOREUR, *supra* note 3, at 146.

⁴⁶ *Id.*

⁴⁷ *Id.* at 13; see also *Repatriation and Departure Service*, DT&V, <https://english.dienstterugkeerenvertrek.nl/> (last visited Feb. 8, 2016), archived at <https://perma.cc/S7T2-NBDS>.

⁴⁸ TRAFFICKING IN HUMAN BEINGS: NINTH REPORT OF THE DUTCH NATIONAL RAPPOREUR, *supra* note 3, at 248.

there are also specialized prosecutors, called portfolio holders, who have been appointed to deal with human trafficking issues “in each district office and in the Office for Serious Fraud and Environmental Crime.”⁴⁹

The approach against human trafficking adopted by the National Police is set forth in the National Reference Framework for Human Trafficking, which “concisely sets out the framework for the force’s tasks, responsibilities and powers and for cooperation (including information exchange) with chain partners.”⁵⁰ The chain partners include “municipalities, the RIECs and the LIEC, the Royal Dutch Marechaussee, the Inspectorate SZW, the Tax and Customs Administration, chambers of commerce, the hotel sector, CoMensha [Coordination Centre Human Trafficking, an independent anti-trafficking organization] and others.”⁵¹ The police have established special teams on prostitution and human trafficking comprised of certified investigators who monitor and control prostitution venues, control the prostitution sector in regard to such matters as permit conditions, assist trafficking victims during legal proceedings, and directly intervene in cases of high suspicion of human trafficking.⁵²

H. Royal Dutch Marechaussee

The Royal Netherlands Marechaussee (RNM), or Royal Dutch Constabulary, is a gendarmerie corps (a police force with military status) responsible for state security at home and abroad.⁵³ It was reported in 2014 that the RNM was drafting its own reference framework for dealing with human trafficking. “One factor perceived as a problem by the Royal Dutch Marechaussee is that combating human trafficking is not one of the force’s statutory duties It therefore passes on relevant information about a possible human trafficking situation to the police.”⁵⁴ In 2013, however, a proposal was made “to review whether the force’s tasks could be expanded to include carrying out its own investigations of human trafficking in relation to cross-border movements.”⁵⁵ Although recommendations were also made in the report for the RNM to adopt innovative methods to conduct anti-human trafficking related investigations and information-gathering, it had already taken the innovative measure of establishing “a Profiling, Targeting and Tasking Centre (PTTC) to centralize the collection of relevant strategic and operational information to help in the fight against human trafficking.”⁵⁶

⁴⁹ *Id.*

⁵⁰ *Id.* at 250.

⁵¹ *Id.*

⁵² *Mensenhandel*, POLITIE, <https://www.politie.nl/themas/mensenhandel.html>, archived at <https://perma.cc/6BUT-R594> (last visited Feb. 8, 2016).

⁵³ ROYAL NETHERLANDS MARECHAUSSEE: MAKING THE DIFFERENCE 3–4 (Aug. 2012), <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/brochures/2011/03/10/the-royal-netherlands-marechaussee/corporate-brochure-kmar-eng.pdf>, archived at <https://perma.cc/U2ER-F89B>.

⁵⁴ TRAFFICKING IN HUMAN BEINGS: NINTH REPORT OF THE DUTCH NATIONAL RAPPORTEUR, *supra* note 3, at 251.

⁵⁵ *Id.*

⁵⁶ *Id.*

I. CoMensha

The Coordination Centre for Human Trafficking (CoMensha), while remaining an independent organization, is incorporated in the Dutch Shelters Federation and headed by the Federation's national coordinator. CoMensha serves as a national reporting and registration point for trafficked persons; it maintains a national register of (presumed) trafficked persons.⁵⁷

J. Regional Network

The Netherlands has ten Regional Information and Expertise Centres (RIECs), “established to enhance cooperation between the criminal law enforcement agencies . . . and administrative bodies – primarily municipalities,” that are both information hubs and sources of expertise to help local authorities use their administrative powers effectively.⁵⁸ One of the principal crimes RIECs focus on is human trafficking.⁵⁹

V. Training Programs for Law Enforcement

A. Police Officers

According to the US State Department, Dutch police officers, “as part of their standard training,” took part in an anti-trafficking course in 2014 that included working with victims. Moreover, “[a]nti-trafficking police officers were required to pass examinations in a training course focused on policing the sex industry” and “also had to sign a code of conduct before working in this sector.”⁶⁰ The course to which the State Department refers may be the Certification Training in Trafficking (Opleiding Certificering Mensenhandel).⁶¹ The stated purpose of the course is to teach the officers how, as human trafficking investigators, they can contribute to the fight against human trafficking, with the target group being police officers at MBO level 4 who work or are going to work in tackling migration crime.⁶² The structure of the program is to teach the relevant laws and regulations on human trafficking; the means of preparing, executing, and handling administrative control in connection with trafficking; aspects of victim and perpetrator behavior;

⁵⁷ *The Netherlands*, EUROPEAN NETWORK AGAINST TRAFFICKING IN HUMAN BEINGS, <http://lastradainternational.org/ls-offices/netherlands> (last visited Feb. 8, 2016), archived at <https://perma.cc/2J5Y-GULD>; van Doorninck, *supra* note 42.

⁵⁸ TRAFFICKING IN HUMAN BEINGS: NINTH REPORT OF THE DUTCH NATIONAL RAPPOREUR, *supra* note 3, at 245.

⁵⁹ *Id.*

⁶⁰ *Netherlands: Tier 1*, 2015 TIPS REPORT, *supra* note 1.

⁶¹ *Opleiding Certificering Mensenhandel* [Certification Training Human Trafficking], Dutch Police website <https://www.politieacademie.nl/onderwijs/onderwijsaanbod/Pages/opleiding.aspx?code=4302768> (last visited Feb. 8, 2016), archived at <https://perma.cc/2UCN-ANTT>.

⁶² *Id.* MBO (*middelbaar beroepsonderwijs*) refers to Dutch secondary vocational education, which can be up to four years, “depending on the level of training.” Level 4 is middle-management training. *Secondary vocational education (MBO)*, GOVERNMENT OF THE NETHERLANDS, <https://www.government.nl/topics/secondary-vocational-education-mbo-and-higher-education/contents/secondary-vocational-education-mbo> (last visited Feb. 9, 2016), archived at <https://perma.cc/G8K4-2R2M>.

communication and conversation skills and how an officer's own attitudes and behavior play an important role; and how to handle trafficking victims' declaration/witness testimony and the legal requirements to which they must conform.

In addition, in 2015 the Dutch police invited the Specialist Policing Consultancy Ltd. (SPC) of the United Kingdom to deliver a program on training and awareness to mayors of Dutch municipalities who face challenges of child trafficking within Roma communities. Aside from the mayors, members of the Dutch police and their partners and persons of authority involved in dealing with human trafficking cases were in attendance.⁶³ According to the SPC,

[t]hose present are facing huge criminal and social challenges with emerging migrant communities. Like other EU member states their systems are set up for dealing primarily with their domestic population and structures. The Dutch police have developed an excellent forward thinking engagement programme that is victim focused, however the audience was shocked to discover how organised the networks are and the involvement or organised criminal gangs.⁶⁴

B. Judges and Prosecutors

In January 2013, the Netherlands established four specialized courts “to address cases involving multiple victims and links to organized crime.”⁶⁵ In 2014, the specialized judges handled all trafficking cases; while the labor and sex trafficking cases were not disaggregated, “roughly 20 percent of all victims identified in 2014 were forced labor victims.”⁶⁶ Judges and prosecutors were given specialized training in applying the country's anti-trafficking provisions and in dealing with traumatized victims.⁶⁷

VI. Training Programs for Other Countries

As of July 2011, the Dutch Ministry of Foreign Affairs was funding, or had in the previous few years funded, various international projects to combat human trafficking. For example, the Netherlands implemented a technical assistance program to Bulgaria in 2009 and 2010 “in connection with the trafficking of young Bulgarian women to the Netherlands and other West-European countries,” which focused on “training Bulgarian law enforcement authorities, notably the anti-trafficking unit of the Ministry of Interior. Most of the training was provided by experts

⁶³ *SPC Deliver Training on Human Trafficking to Dutch Mayors Forum*, SPECIALIST POLICING CONSULTANCY LTD (Oct. 20, 2015), <http://www.specialist-policing.co.uk/content/spc-deliver-training-human-trafficking-dutch-mayors-forum>, archived at <https://perma.cc/BPP5-GPEZ>.

⁶⁴ *Id.*

⁶⁵ *Netherlands (Tier 1)*, in U.S. DEPARTMENT OF STATE, OFFICE TO MONITOR AND COMBAT TRAFFICKING IN PERSONS, TRAFFICKING IN PERSONS REPORT 290 (June 2014), <http://www.state.gov/j/tip/rls/tiprpt/countries/2014/226786.htm>, archived at <https://perma.cc/M6S3-48YA>.

⁶⁶ *Netherlands: Tier 1*, 2015 TIPS REPORT, *supra* note 1, at 259.

⁶⁷ *Id.*

from Dutch law enforcement authorities, but Dutch NGOs were also involved.”⁶⁸ Training on running shelters and launching information campaigns at secondary schools were part of the project, and a documentary film on a Bulgarian victim was made as an awareness-raising tool. While the project ended in 2010, in early 2011 three joint investigation teams were established with Bulgaria to investigate specific cases.⁶⁹

Some of the other projects included building a national referral mechanism for Bulgaria (2008–2010) by La Strada International and CoMensha (the Dutch member of La Strada) together with the Animus Association (the Bulgarian La Strada member) and assisting Nigeria in fighting human trafficking by offering a series of trainings, given by a variety of experts from Dutch law enforcement agencies, to a number of personnel from Nigerian agencies involved in dealing with human trafficking issues (July 2009 to the end of June 2010).⁷⁰

TeamWork!, a joint project of the Netherlands with Luxembourg, Slovakia, and Malta, was set up in January of 2016 to strengthen multidisciplinary cooperation against trafficking for labor exploitation. To that end, a manual was prepared that is “aimed at experts and intended to help inspire and strengthen the policy and practice to address trafficking in human beings (THB) for labour exploitation of all organisations that could come across it.”⁷¹

⁶⁸ MINISTRY OF SECURITY AND JUSTICE, DUTCH ANTI-TRAFFICKING POLICY, at 6, <http://www.defenceforchildren.nl/images/13/1900.pdf> (last visited Feb. 8, 2016), archived at <https://perma.cc/62D3-YA8S>.

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Manual for Experts on Multidisciplinary Cooperation Against Trafficking in Human Beings for Labour Exploitation*, MENSENHANDELWEB (Jan. 18, 2016), <http://www.mensenhandelweb.nl/en/system/files/documents/18%20jan%202016/teamwork-manual-for-experts-on-multidisciplinary-cooperation-against-thb-for-labour-exploitation.pdf>, archived at <https://perma.cc/TJ57-JTF3>.

South Africa

Hanibal Goitom
Foreign Law Specialist

SUMMARY South Africa enacted a comprehensive legal framework to prevent and combat human trafficking in 2013 and began implementing it in late 2015. Prior to that, the country relied on existing criminal laws not directly relevant to trafficking matters and provisional laws enacted to address certain aspects of human trafficking crimes. The new legal framework includes a broad definition of trafficking and sets out various trafficking-related offenses that are subject to harsh penalties. It also gives victims access to a number of services and programs. In addition, it encourages witnesses to trafficking offenses to cooperate with law enforcement by according them certain protections.

South Africa has in place institutions and programs whose functions include providing training to government officials that deal with human trafficking issues. In 2003, South Africa established the Human Trafficking Desk within the Organized Crime Unit (OCU) of the South African Police Service (SAPS). One of functions of the Desk is training members of the OCU that investigate trafficking offenses. In 2009, South Africa established an anti-human-trafficking initiative known as the Tsireledzani Programme with a capacity-building component aimed at devising training programs for social workers and health, law enforcement, immigration, labor, and justice officials.

The recently-issued human trafficking legal framework envisages the involvement of various institutions in implementing its provisions. Regulatory powers are delegated to a number of institutions, including the Department of Justice and Constitutional Development, the Department of Social Development, the Department of Home Affairs, and the South African Police Service (SAPS). The legislation also mandates the development of training programs for officials from various government agencies that deal with trafficking issues and the formulation of awareness programs for the general public. It appears that such programs have not yet been established.

I. Introduction

Human trafficking is said to be a significant problem in South Africa. Although accurate statistical information on the prevalence of the problem is largely not available, there are consistent reports regarding South Africa's status as a major source, transit, and destination country for human trafficking in southern Africa.¹ In its *2015 Trafficking in Persons (TIP)*

¹ *South Africa: Still Waiting for an Anti-Human Trafficking Law*, IRIN NEWS (June 30, 2011), <http://www.irinnews.org/report/93104/south-africa-still-waiting-for-an-anti-human-trafficking-law>, archived at <https://perma.cc/C822-6GRB>; Troy Martens & Vivian Attwood, *Women and Children Trafficked at SA Border*, INDEPENDENT ONLINE (Sept. 18, 2007), <http://www.iol.co.za/news/south-africa/women-and-children-trafficked-at-sa-border-1.371169>, archived at <https://perma.cc/S9ZW-XK4J>; Rebecca Wynn, *SA Hotbed of Human Trafficking*, MAIL AND GUARDIAN (June 5, 2007), <http://mg.co.za/article/2007-06-05-sa-hotbed-of-human-trafficking>, archived at <https://perma.cc/7XGP-JWV4>; Laura Brooks Najemy, *South Africa's Approach to the Global Human Trafficking Crisis: An Analysis of the Proposed Legislation and the Prospects of Implementation*, 9(1) WASH. U. GLOB. STUD.

Report, the US Department of State gave South Africa a Tier 2 designation, a level reserved for countries “whose governments do not fully comply with the TVPA’s [Trafficking Victims Protection Act of 2000] standards for the elimination of trafficking, but are making significant efforts to bring themselves into compliance with those standards.”² South Africa has had this rating since the Department of State started issuing the annual TIP reports in 2001.³

South Africa recently put in place a comprehensive legal framework to prevent and combat human trafficking. South Africa is party to various international and regional instruments dealing with human trafficking.⁴ All of these instruments require the country to put in place a

L. REV. 171, 176–77 (Jan. 2010), http://openscholarship.wustl.edu/cgi/viewcontent.cgi?article=1044&context=law_globalstudies, archived at <https://perma.cc/A9HZ-D2HA>.

² *Tier Placements*, U.S. DEPARTMENT OF STATE, <http://www.state.gov/j/tip/rls/tiprpt/2015/243366.htm> (last visited Feb. 1, 2015), archived at <https://perma.cc/C76K-HJRU>; U.S. DEPARTMENT OF STATE, TRAFFICKING IN PERSONS REPORT 2015, at 308 (July 2015), <http://www.state.gov/documents/organization/245365.pdf>, archived at <https://perma.cc/KWU9-8GUU>.

³ All of the TIPS reports are available on the US Department of State website, at <http://www.state.gov/j/tip/rls/tiprpt/index.htm> (last visited Feb. 4, 2016), archived at <https://perma.cc/7C39-KNPZ>.

⁴ These include: (1) the 2000 United Nations Convention Against Transnational Organized Crime, which South Africa signed in December 2000 and Ratified in February 2004 (*United Nations Convention Against Transnational Crime (Status)*, UNITED NATIONS TREATY COLLECTION (UNTC), https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12&chapter=18&lang=en (last visited Feb. 1, 2016), archived at <https://perma.cc/Y724-NVS6>); (2) the 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (commonly known as the Palermo Protocol), which South Africa signed and ratified at the same time (*Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime (Status)*, United Nations Treaty Collection, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-a&chapter=18&lang=en (last visited Feb. 1, 2016), archived at <https://perma.cc/TT9R-AXVZ>); (3) the 1989 Convention on the Rights of the Child, which South Africa signed in January 1993 and ratified in June 1995 (*Convention on the Rights of the Child (Status)*, UNTC, https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-11&chapter=4&lang=en (last visited Feb. 1, 2016), archived at <https://perma.cc/TT5M-UXNZ>); (4) the 2000 Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, which South Africa acceded to in June 2003 (*Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (Status)*, UNTC, https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-11-c&chapter=4&lang=en (last visited Feb. 1, 2016), archived at <https://perma.cc/U8AJ-AW6W>); (5) the 1979 Convention on the Elimination of All Forms of Discrimination Against Women, which South Africa signed in January 1993 and ratified in December 1995 (*Convention on the Elimination of All Forms of Discrimination Against Women (Status)*, UNTC, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&lang=en (last visited Feb. 1, 2016)); (6) the 1998 Rome Statute of International Criminal Court, which South Africa signed in July 1998 and ratified in November 2000 (*Rome Statute of the International Criminal Court (Status)*, UNTC, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-10&chapter=18&lang=en (last visited Feb. 1, 2016), archived at <https://perma.cc/ZW5Z-PDLA>); (7) the 1981 African Charter on Human and Peoples’ Rights, which South Africa signed and ratified in July 1996 (*Ratification Table: African Charter on Human and Peoples’ Rights*, AFRICAN COMMISSION ON HUMAN AND PEOPLE’S RIGHTS (ACHPR), <http://www.achpr.org/instruments/achpr/ratification/> (last visited Feb. 1, 2016), archived at <https://perma.cc/8MJZ-4GHE>); (8) the 1990 African Charter on the Rights and Welfare of the Child, which South Africa signed in October 1997 and ratified in January 2000 (*Ratification Table: African Charter on the Rights and Welfare of the Child*, ACHPR, <http://www.achpr.org/instruments/child/ratification/> (last visited Feb. 1, 2016), archived at <https://perma.cc/VFS2-E4HY>); and (9) the 2003 Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (also known as the Maputo Protocol), which South Africa signed in March 2004 and ratified in December of the same year (*Ratification Table:*

legal and policy framework that meet the standards set by their provisions.⁵ Under the 1996 Constitution, national laws enacted by its Parliament are required for the implementation of the country's obligations under international law.⁶ While it had implemented some of these international instruments on an ad hoc basis (for instance, the 2005 Children's Act included a chapter on trafficking in children), South Africa did not have comprehensive legislation on the matter until the enactment in 2013 of the Prevention and Combatting of Trafficking in Persons Act.⁷ However, this legislation did not take effect until August 2015⁸ and its accompanying regulations were not enacted until October of the same year.⁹

Prior to 2015, South African anti-human-trafficking laws were said to have been fragmented and limited in scope. During this period, human trafficking cases were dealt with in two ways: First, through the utilization of existing laws—laws that did not criminalize human trafficking per se but were used to prosecute human trafficking actors for crimes they committed in the process. These included both statutory offenses (including under the Intimidation Act of 1982 and the Prevention of Organized Crime Act of 1998) and common law offenses (such as kidnapping, slavery, and assault).¹⁰ The second method was through the enactment of provisional laws to address specific aspects of human trafficking. In this category are the Children's Act of 2005 and the Trafficking in Children and the Criminal Law (Sexual Offences and Related Matters) Amendment Act of 2007.¹¹

Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, ACHPR, <http://www.achpr.org/instruments/women-protocol/ratification/> (last visited Feb. 1, 2016), archived at <https://perma.cc/S9WQ-DEDH>.

⁵ SOUTH AFRICA LAW REFORM COMMISSION, TRAFFICKING IN PERSONS REPORT (Project 131) at 3 (2008), available on the South African Department Justice and Constitutional Development website, at http://www.justice.gov.za/salrc/reports/r_pr131_trafficking_2008.pdf, archived at <https://perma.cc/MEX3-V6BM>.

⁶ CONST. OF S. AFR., 1996, § 231(1), available on the South African government website, at <http://www.gov.za/sites/www.gov.za/files/images/a108-96.pdf>, archived at <https://perma.cc/UTK8-NQF4>; Najemy, *supra* note 1, at 180.

⁷ Prevention and Combatting of Trafficking in Persons Act 7 of 2003 (July 29, 2013), available on the Pretoria University website, at <http://www.lawsofsouthafrica.up.ac.za/index.php/browse/criminal-law-and-criminal-procedure/prevention-and-combating-of-trafficking-in-persons-act-7-of-2013/act/7-of-2013-prevention-and-combating-of-trafficking-act-8-jan-2016-to-date-pdf/download>, archived at <https://perma.cc/5UYQ-NHUJ>.

⁸ Prevention and Combatting of Trafficking in Persons Act: Commencement, GOVERNMENT GAZETTE No. 39078 (Aug. 7, 2015), available on the South African government portal, at http://www.gov.za/sites/www.gov.za/files/39078_proc32.pdf, archived at <https://perma.cc/RF46-5GYZ>.

⁹ Regulations Under Section 43(3) of the Prevention and Combatting of Trafficking in Persons Act (Act No. 7 of 2013) (Oct. 23, 2015), <http://www.lawsofsouthafrica.up.ac.za/index.php/browse/criminal-law-and-criminal-procedure/prevention-and-combating-of-trafficking-in-persons-act-7-of-2013/regulations-and-notices/7-of-2013-prevention-and-combating-of-trafficking-act-regs-gnr-1006-23-oct-2015-to-date-pdf/download>, archived at <https://perma.cc/Q7Z2-3FFA>.

¹⁰ CHARLENE MAY & MANDIVAVARIRA MUDARIKWA, LEGAL RESOURCES CENTRE, TRAFFICKING OF PERSONS: A SOUTH AFRICAN LEGISLATIVE PERSPECTIVE 6–18 (Oct. 2011), available on the Probono.org website, at http://www.probono.org.za/Manuals/Refugee-Manual/2011_12_14_LRC_HumanTrafficking.pdf, archived at <https://perma.cc/D4WM-NV7E>; SOUTH AFRICA LAW REFORM COMMISSION, *supra* note 5, at 10–17.

¹¹ MAY & MUDARIKWA, *supra* note 10, at 6–12; SOUTH AFRICA LAW REFORM COMMISSION, *supra* note 5, at 10–11.

This presented a number of challenges. For instance, it was difficult to prosecute individuals other than those directly linked to the trafficking offenses, and whenever prosecutors were able to secure convictions, the sentences were often seen as inadequate.¹² In addition, even the statutes with sections dealing specifically with human trafficking matters were reportedly limited in scope, both in terms of the types of cases they could be used to prosecute (for instance the Children's Act only applied to children) and in their overall contribution to reducing human trafficking, in that they did not provide for awareness training and preventative measures.¹³

The recently enacted comprehensive legislation seeks to ensure South Africa's compliance with all its obligations under international law and ameliorate the above-noted deficiencies in prosecuting human trafficking offenses.¹⁴ This report briefly discusses key parts of the legislation. It includes a discussion of the recently introduced anti-human-trafficking legal framework as well as existing and recently established or recently mandated government institutions and programs to prevent and combat human trafficking in South Africa, including training of government officials.

II. Anti-Human Trafficking Legal Framework

The Prevention and Combating of Trafficking in Persons Act (PCTP Act) adopts a broad definition of what constitutes trafficking. This includes

- delivery, recruitment, transportation, transfer, harboring, sale, exchange, leasing or receiving of any person, for the purpose of exploitation in or outside of South Africa, through various means including threat of harm, fraud, abduction, or abuse of power aimed at the victim or anyone related to that person; or
- adoption of a child or conclusion of forced marriage for the purpose of exploitation in or outside of South Africa.¹⁵

Exploitation includes all forms of slavery or practices similar to slavery, sexual exploitation, servitude, forced labor, child labor, removal of body parts, or impregnating female persons for the purpose of selling their children.¹⁶

¹² *Human Trafficking Strategy: South Africa's Response to Trafficking in Persons*, SOUTH AFRICA GOVERNMENT INFORMATION 1–2 (Sept. 2, 2010), available on the Stop Trafficking of People website, at <https://stoptraffickingofpeople.files.wordpress.com/2010/02/south-african-government-human-trafficking-strategy.pdf>, archived at <https://perma.cc/EPB5-SN7X>.

¹³ Louise du Preez & Antoinette Marais, *A Legal Approach to Human Trafficking in South Africa*, in GLOBAL BUSINESS AND TECHNOLOGY ASSOCIATION, FULFILLING THE WORLDWIDE SUSTAINABILITY CHALLENGE: STRATEGIES, INNOVATIONS, AND PERSPECTIVES FOR FORWARD MOVEMENT IN TURBULENT TIMES 780, 784–5 (Nejdet Delener et al. eds., 2011), available on the Research Gate website, at https://www.researchgate.net/profile/Tshediso_Sekhampu/publication/255997111_Participation_In_Physical_Activity_Perceptions_of_Individuals_Living_In_A_Low_Income_Neighborhood/links/004635215ec548312a000000.pdf#page=799, archived at <https://perma.cc/Q269-QGL9>.

¹⁴ Prevention and Combating of Trafficking in Persons Act 7 of 2013, *Preamble*.

¹⁵ *Id.* § 4.

¹⁶ *Id.* § 1.

The PCTP Act criminalizes various acts that constitute or relate to trafficking in persons and imposes harsh penalties for violators. The following are among the offenses enumerated in the legislation:

- Trafficking in persons: punishable by a fine not exceeding South African Rand ZAR100 million (about US\$6.15 million) and/or a custodial sentence of up to life in prison.¹⁷
- Intentionally engaging in conduct that causes another person to enter into debt bondage: punishable by up to fifteen years in prison and/or a fine.¹⁸
- Using the services of victims of trafficking: punishable by up to fifteen years in prison and/or a fine.¹⁹
- Facilitation of trafficking in persons, including through the leasing of rooms or publishing of advertisements: punishable by up to ten years in prison and/or fine.²⁰
- Attempt of any of the above-listed offenses: punishable by the same penalty imposed for the commission of the actual offense.²¹

In determining sentences for offenses under the PCTP Act, South African courts are required to consider various aggravating factors.²² These include previous conviction(s), whether the perpetrator caused the victim to develop substance dependency, the age of the victim, the length of and conditions under which the victim was kept, and whether the offense was committed as part of organized crime.²³

In addition to the applicable criminal penalties, the PCTP Act also provides for compensation of victims of trafficking. It empowers a South African court before which a trafficking offense is prosecuted on its own motion or at the request of the victims, to order a convicted defendant to pay his victim(s) for damage to or loss of property, physical or mental suffering, causing the contraction of a life-threatening disease or diseases, or loss of income or support.²⁴ If the payment awarded by the court is insufficient, the victim reserves the right to institute a civil action against the perpetrator.²⁵

The PCTP Act accords South African courts extraterritorial jurisdiction in certain circumstances. South African courts may assume jurisdiction over certain cases involving acts committed

¹⁷ *Id.* § 13

¹⁸ *Id.* §§ 5 & 13.

¹⁹ *Id.* §§ 7 & 13.

²⁰ *Id.* §§ 8 & 13.

²¹ *Id.* § 10.

²² *Id.* § 14.

²³ *Id.*

²⁴ *Id.* § 29.

²⁵ *Id.*

outside of South Africa if such acts constitute an offense under the relevant provisions of the PCTP Act and one of the following factors is present:

- The victim or the alleged perpetrator is a resident or citizen of South Africa
- The alleged perpetrator is present in South African territory (including on a vessel or an off-shore installation registered or required to be registered in South Africa)
- The perpetrator is a juridical person registered under South African law²⁶

Whether the act in question constitutes an offense in the jurisdiction where it was committed is immaterial.²⁷

The PCTP Act seeks to encourage witness cooperation with law enforcement. It requires that anyone (except legal practitioners in certain circumstance) who knows or suspects the commission of a trafficking offense to report it to the police.²⁸ The Act accords immunity to individuals who report suspected trafficking offenses in good faith from any civil or disciplinary actions.²⁹ In addition, such persons are also entitled to have their identity kept confidential to ensure their safety “unless the interests of justice require otherwise.”³⁰

Under the PCTP Act, various services are available to trafficking victims. For instance, adult victims of trafficking are entitled to access various programs offered by accredited organizations, including counseling programs and programs aimed at reintegration of victims to their families and communities.³¹ Foreigners who are victims of trafficking are entitled to healthcare services.³²

III. Government Institutions and Programs

A. Institutions and Directives Under the PCTP Act

The PCTP Act envisages the participation of a number of institutions in the implementation of its provisions. For instance, under this Act, accredited institutions, which may be government or private institutions, will provide various services to victims of the trafficking.³³ These institutions are regulated by the Minister of Social Development, who is authorized to issue procedures for their accreditation and requirements for their eligibility for program grants.³⁴ The

²⁶ *Id.* § 12.

²⁷ *Id.*

²⁸ *Id.* §§ 18 & 19.

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.* §§ 1, 26 & 27.

³² *Id.* § 21.

³³ *Id.* § 26.

³⁴ *Id.* §§ 1 & 24.

Minister will also be issuing norms and minimum standards for accredited organizations including on the safety of victims of trafficking and access to and provision of adequate health services to victims.³⁵ The Minister of Justice and Constitutional Development, in consultation with various other state organs, is charged with approving a national policy framework, developed by his/her Director General in consultation with various other government institutions, including for the purpose of guiding the implementation and administration of the Act and enhancing the delivery of services envisaged in the Act.³⁶

In addition, different Departments are tasked with regulating different aspects of the efforts for the prevention and combating of human trafficking. For instance, the Minister of Justice and Constitutional Development is authorized to issue regulations with regard to the manner in which public prosecutors may order the assessment of alleged victims of trafficking.³⁷ The Minister of Home Affairs is tasked with issuing regulations on how foreigners associated with trafficking cases (victims and witnesses) would be able to stay in South Africa.³⁸ The Minister of Social Development is charged with enacting regulations, including on “the assessment of a person to determine whether he/she is a victim of trafficking.”³⁹

Further, the PCTP Act mandates the enactment of national directives and instructions. The Director General of the Department of Justice and Development, in consultation with various government organs, is required to issue directives “with which all police officials, members of the prosecuting authority and officials of the Departments of Home Affairs, Labour and Social Development must comply with in the execution of their functions.”⁴⁰ The directives would cover issues such as how to report human trafficking cases and the actions required to ensure the safety of victims of trafficking and witnesses.⁴¹ Similarly, the National Commissioner of SAPS, in consultation with various other institutions, must issue national instructions that all police officials must comply with, including on which police units can investigate trafficking cases, the manner in which such cases are investigated, and the collection and analysis of information on trafficking cases.⁴²

³⁵ *Id.* § 25.

³⁶ *Id.* §§ 40 & 41.

³⁷ *Id.* § 43.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.* § 44.

⁴¹ *Id.*

⁴² *Id.*

B. Training and Capacity-Building Programs

1. Human Trafficking Desk

Established in 2003, the Human Trafficking Desk is part of the Organized Crime Unit of the South African Police Service (SAPS).⁴³ One of the functions of the Desk is providing training to members of the Organized Crime Unit that investigate human trafficking crimes.⁴⁴ The Desk also coordinates human trafficking matters around the country, advises the chief of the Organized Crime Unit on human-trafficking issues, and monitors the effectiveness of the Organized Crime Unit in dealing with human-trafficking crimes.⁴⁵

2. Tsireledzani Programme

The Tsireledzani Programme, headed by the National Prosecuting Authority (NPA), is an anti-human trafficking initiative established in 2009 that involves various government, international, and national organizations.⁴⁶ The objectives of the initiative include ensuring South Africa's compliance with the 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (one of the Palermo Protocols) "through research, training and awareness-raising."⁴⁷ The NPA website indicates that the International Organization of Migration (IOM) is in the process of "implementing the capacity-building and development component of Tsireledzani."⁴⁸ According to the NPA,

[t]his component will build the capacity of government officials, NGOs and media to prevent trafficking from South Africa, identify trafficked persons, improve the standard of physical protection and direct assistance offered to victims of trafficking in the country, and increase the number of trafficking cases investigated and prosecuted by law enforcement and justice officials.

Workshops have been designed to ensure that the identified, five government departments develop the capacity to train social workers, health, law enforcement, immigration, labour and justice officials on the prevention & combatting of human trafficking, as well as the protection and assistance of victims. The training content imparts basic awareness and an intermediate level of competency for NGO workers, to identify, protect and directly assist trafficked persons. At the end of the capacity development process a comprehensive and inter-sectoral National Curriculum on Human

⁴³ du Preez & Marais, *supra* note 13, at 784.

⁴⁴ SOUTH AFRICA LAW REFORM COMMISSION, *supra* note 5, at 4.

⁴⁵ *Id.*

⁴⁶ *About Tsireledzani*, THE NATIONAL PROSECUTING AUTHORITY OF SOUTH AFRICA (NPASA), <https://www.npa.gov.za/node/56> (last visited Feb. 3, 2016), archived at <https://perma.cc/Z9KQ-KAL9>.

⁴⁷ CAROL ALLAIAS ET AL., NATIONAL PROSECUTING AUTHORITY, TSIRELEDZANI: UNDERSTANDING THE DIMENSIONS OF HUMAN TRAFFICKING IN SOUTHERN AFRICA 11 (Mar. 2010), available on the International Labour Organization (ILO) website, at http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@declaration/documents/publication/wcms_142882.pdf, archived at <https://perma.cc/L8R8-7LDC>.

⁴⁸ *Capacity Building*, NPASA, <https://www.npa.gov.za/node/58> (last visited Feb. 3, 2016), archived at <https://perma.cc/4495-8DGU>.

Trafficking consisting of 5 curricular modules (one for each department), and one additional curricular module on expected comprehensive anti-trafficking legislation will have been published.⁴⁹

The page from which this information was obtained is not dated and, therefore, the timeline of the capacity-building program is unclear. A 2010 survey involving 101 prosecutors found that only nineteen had received human-trafficking-related training.⁵⁰

3. Mandated Training under the PCTP Act

The PCTP Act states that the Director General of the Department of Justice and Constitutional Development, the National Commissioner of SAPS, the National Director of Public Prosecutions, and the Directors General of Home Affairs, Labour and Social Development “must each develop training courses . . . to ensure that all police officials, prosecutors and other functionaries are able to deal with matters relating to trafficking in persons in an appropriate, efficient and sensitive manner.”⁵¹ The Act requires that the courses include “training, also incorporating social context training, on the national instructions or directives^[52] . . . and . . . provide for and promote the use of uniform norms, standards and procedures. . . .”⁵³

No specific training programs or courses developed in compliance with the provisions of the PCTP Act were located.

4. Public Awareness Programs

Under the PCTP Act, the Director General of the Department of Justice and Constitutional Development (in consultation with various other organs of the government) is tasked with “establishing public awareness programmes or other measures for the prevention and combating of trafficking in persons.”⁵⁴ The type, purpose and design of the programs would vary depending on the target audience. For instance, programs designed for the general public and those who are vulnerable to trafficking would include information on

common recruitment techniques used by traffickers . . . , practices used to keep victims of trafficking in exploitative situations . . . , the forms of abuse to which victims of trafficking may be subjected . . . , and organizations, institutions or law enforcement agencies that may be approached for assistance or information. . . .⁵⁵

⁴⁹ *Id.*

⁵⁰ ALLAIAS ET AL., *supra* note 47, at 53.

⁵¹ Prevention and Combating of Trafficking in Persons Act, § 44.

⁵² For more information on “national instructions and directives,” see *id.* § 44 (1), (2) & (10), which mandates their issuance, the purpose for which they are to be issued, and the information/procedures that such directives and instructions must contain.

⁵³ *Id.* § 44.

⁵⁴ *Id.* § 41.

⁵⁵ *Id.*

Programs designed for victims of trafficking would include information on “their rights as victims . . . , legal or other measures in place to ensure their safety, recovery, return and repatriation, and . . . organisations, institutions or law enforcement agencies that may be approached for assistance of [sic] information.”⁵⁶

No specific public awareness programs developed in compliance with the provisions of the PCTP Act were located.

⁵⁶ *Id.*

Sweden

Elin Hofverberg

Foreign Law Research Consultant

SUMMARY Swedish law criminalizes human trafficking as well as preparation for or attempted human trafficking. Aliens who are victims of human trafficking in Sweden receive temporary residence permits for reflection and/or stabilization periods. The County Administrative Board for Stockholm is responsible for the national coordination of efforts against human trafficking. Tailored courses in human trafficking for police personnel are provided by both universities and private corporations.

I. Legal Framework

Sweden criminalizes human trafficking in its Criminal Code and is bound by European Union (EU) law on the subject.¹ Human trafficking is defined in the Criminal Code as follows:

He or she who, [in cases other than kidnapping] through illegal coercion, exploitation of someone's situation, or through other improper means, recruits, transports, transfers, houses, or receives a person with the purpose that he or she should be exploited for sexual purposes, harvesting of organs, war service, forced labor, or other activity in a situation that creates an emergency for the victim, is convicted of human trafficking and receives a prison term of at least two but no more than ten years. A person who commits [such an act] against a person who is not yet eighteen years old is convicted of human trafficking regardless whether an improper means [prescribed above] has been employed. For lesser crimes of [human trafficking] a person is sentenced to a maximum of four years in prison.²

The Code also criminalizes attempt, preparation, and conspiracy to commit human trafficking as well as a failure to report such a crime.³

¹ Council Directive 2004/81/EC of 29 April 2004 on the Residence Permit Issued to Third-Country Nationals Who are Victims of Trafficking in Human Beings or Who Have Been the Subject of an Action to Facilitate Illegal Immigration, Who Cooperate With the Competent Authorities, 2004 O.J. (L 261) 19, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004L0081:EN:HTML>, archived at <https://perma.cc/BQS8-UFJV>; Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on Preventing and Combating Trafficking in Human Beings and Protecting its Victims, and Replacing Council Framework Decision 2002/629/JHA, 2011 O.J. (L 101) 1, <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32011L0036>, archived at <https://perma.cc/722H-8ZFW>.

² 4 ch. 1a § BROTTSBALKEN [BRB] [CRIMINAL CODE] (SVENSK FÖRFATTNINGSSAMLING [SFS] 1962:700), <https://lagen.nu/1962:700>, archived at <https://perma.cc/SMG4-TYDR> (all translations by author); see also RH 2010:34 [Svea Appellate Court Case on Human Trafficking], <https://lagen.nu/dom/rh/2010:34>, archived at <https://perma.cc/6CN6-AZK4>.

³ 4 ch. 10 § BRB and 23 ch. 6 § BRB.

Crimes that are carried out by children while they are victims of human trafficking are “statute barred crimes” and thus not prosecuted.⁴

Victims of human trafficking receive temporary visas for a thirty-day reflection period or six-month stabilization period.⁵ In rare cases, longer residence permits can be issued for victims of human trafficking on humanitarian grounds.⁶

II. Responsibilities of Government Agencies in Enforcing Laws Against Human Trafficking

A. Stockholm County Administrative Board

The Swedish Government has delegated the coordination responsibility for combating and preventing human trafficking crimes to the Stockholm County Administrative Board in Stockholm.⁷ Its role was defined in a 2014 government task order and included “coordinating the proliferation of knowledge and methods to provide support and protection for children against human trafficking and exploitation to municipalities, county councils, county administrative boards and agencies [such as the police] in their work.”⁸ The Stockholm County Administrative Board also reports on its work in the periodic *Human Trafficking of Children Report*.⁹

B. Border Control Agencies & the Police

Swedish border control is carried out by several government agencies. These include the Customs Police, Coast Guard, Migration Authority, and Central Border Management Division

⁴ See LÄNSSTYRELSEN I STOCKHOLM [STOCKHOLM COUNTY ADMINISTRATIVE BOARD], KAN DET VARA MÄNNISKOHANDEL? [MIGHT IT BE TRAFFICKING?] 17 (Nov. 18, 2015), <http://www.lansstyrelsen.se/stockholm/SiteCollectionDocuments/Sv/publikationer/2015/kan-det-vara-manniskohandel-2015-reviderad-sid-26.pdf>, archived at <https://perma.cc/J34V-EGX6>.

⁵ 5 ch. 15 § UTLÄNNINGSLAGEN [UTL] [ALIENS ACT] (SFS 2005:716), <https://lagen.nu/2005:716> (including comments), archived at <https://perma.cc/GYU4-RQG5>.

⁶ *Id.* 5 ch. 3a § 3 mom. including comments).

⁷ Press Release, Regeringskansliet, Länsstyrelsen i Stockholms län får ansvar för arbete mot människohandel (Apr. 30, 2015; updated May 18, 2015), <http://www.regeringen.se/pressmeddelanden/2015/04/lansstyrelsen-i-stockholms-lan-far-ansvar-for-arbete-mot-manniskohandel/>, archived at <https://perma.cc/F78G-6MMQ>.

⁸ Uppdrag att samordna arbetet mot människohandel och exploatering av barn [Mission to Coordinate Efforts Against Human Trafficking of Children] (Regeringsbeslut II:5 [Government Decision II:5]) (Feb. 20, 2014), <http://www.regeringen.se/contentassets/4ec2ebd1d3bc4032a534584d8acc0313/uppdrag-att-samordna-arbetet-mot-manniskohandel-och-exploatering-av-barn-s20141695fst>, archived at <https://perma.cc/4RMJ-PRVG>.

⁹ For the most recent report, see LÄNSSTYRELSEN STOCKHOLMS LÄN, MÄNNISKOHANDEL MED BARN – NATIONELL KARTLÄGGNING 2012–2015 [TRAFFICKING IN CHILDREN – NATIONAL SURVEY 2012–2015], Rapport 2015:30 (2015), (<http://www.lansstyrelsen.se/stockholm/SiteCollectionDocuments/Sv/publikationer/2015/R2015-30-manniskohandel-med-barn-WEBB.pdf>), archived at <https://perma.cc/A7TV-BVUY>.

within the National Bureau of Investigation.¹⁰ The National Operational Unit (NOA) of the Swedish Police bears the overall responsibility for the Swedish borders.¹¹ As part of the NOA, the Border Police (Gränspolisén) carries out the actual control of the border in conjunction with the relevant agency. Thus, for example, the Border Police and the Coast Guard cooperate in relation to border controls and violations of Swedish waters. The Border Police also conduct the investigative work surrounding human trafficking.¹²

The main responsibility to prevent human trafficking lies with the police, who should identify and investigate this offense. Human trafficking cases are within the jurisdiction of the public prosecutor; there is no special prosecutor for such cases. In its border protection work (including human trafficking work) the Swedish Police cooperates with Frontex and the European Border Guard Teams.¹³

C. Migration Authority

The Migration Authority has responsibility to detect and report suspected instances of human trafficking.¹⁴ In addition, the Migration Authority must report to the police all measures it uses to identify children who are victims of human trafficking.¹⁵ Starting in December 2015, the Migration Authority has adopted a new routine of personal interviews intended to better detect victims of human trafficking in the labor market.¹⁶

III. Training Programs for Law Enforcement Agencies

Swedish Police have previously been described by representatives of the Stockholm County Administrative Board (responsible for coordination of human trafficking prevention and enforcement efforts) as possessing little knowledge on human trafficking.¹⁷ Following this

¹⁰ *Swedish Border Control*, RIKSPOLISSTYRELSEN, https://polisen.se/Global/www%20och%20Intrapolis/Informationsmaterial/01%20Polisen%20nationellt/Engelskt%20informationsmaterial/swedish_border_control130508.pdf (last visited Feb. 1, 2016), archived at <https://perma.cc/5QLV-CFND>.

¹¹ POLISEN, DEN NYA POLISMYNDIGHETEN 6 (2015), https://polisen.se/PageFiles/581379/Faktablad_Polismyndigheten.pdf, archived at <https://perma.cc/7K97-9ECP>.

¹² *See Så fungerar gränspolisén i region Syd*, POLISEN (Nov. 24, 2015), <https://polisen.se/Blekinge/Aktuellt/Nyheter/Skane/okt-dec/Sa-fungerar-granspolisen-i-region-Syd/>, archived at <https://perma.cc/AM9M-ENWS>.

¹³ RIKSPOLISSTYRELSEN, *supra* note 10.

¹⁴ MIGRATIONSVERKET, ÅRSREDOVISNING 2015 [ANNUAL REPORT 2014] at 97, <http://www.migrationsverket.se/download/18.39a9cd9514a346077212ead/1424702424160/%C3%85rsredovisning+2014.pdf> (last visited Jan. 28, 2016), archived at <https://perma.cc/UM5B-U6QJ>.

¹⁵ POLISEN, MÄNNISKOHANDEL FÖR SEXUELLA OCH ANDRA ÄNDAMÅL: LÄGESRAPPORT 16, at 27 (2015), https://polisen.se/Global/www%20och%20Intrapolis/Rapporter-utredningar/01%20Polisen%20nationellt/M%C3%A4nniskohandel/Lagesrapport_16_Manniskohandel_webb.pdf, (police report covering the year 2014), archived at <https://perma.cc/BL29-FECS>.

¹⁶ *Muntliga utredningar ska motverka människohandel*, MIGRATIONSVERKET (Jan. 11, 2016), <http://www.migrationsverket.se/Om-Migrationsverket/Nyhetsarkiv/Nyhetsarkiv-2016/2016-01-11-Muntliga-utredningar-ska-motverka-manniskohandel.html>, archived at <https://perma.cc/RTV7-GEYM>.

¹⁷ *Utbildning ska minska människohandel*, SVERIGESRADIO (Feb. 7, 2011), <http://sverigesradio.se/sida/artikel.aspx?programid=103&artikel=4336583>, archived at <https://perma.cc/93BW-5CHG>.

criticism it has created a number of educational programs. Still, in 2014, ECPAT Sweden (national affiliation of End Child Prostitution, Child Pornography, and Trafficking of Children for Sexual Purposes) reported that more needed to be done to educate law enforcement personnel on human trafficking issues.¹⁸

As mentioned in Part II, above, the Stockholm County Administrative Board is responsible for the coordination of efforts to fight human trafficking. An informational report on children as victims of human trafficking from the Stockholm County Administrative Board meant to educate persons, including law enforcement officers, who come into contact with children who are victims of human trafficking can be found on the Board's website.¹⁹ In addition to background and general advice this report includes a checklist for how to deal with such victims.²⁰ In its report for 2015 the Administrative Board found that further training of police, especially outside of the larger cities, was needed.²¹

A. Interactive Course for Police Personnel

The Police train all of its personnel on issues of human trafficking through a special intranet-based course with an accompanying test. The test was first initiated in 2010 by the National Police.²² The creation of this intranet-based test was outsourced to a private company, SamSari AB.²³ The police still offer the interactive course for all of its employees. During the period of 2012–2014 human trafficking was a priority area for the police.²⁴

¹⁸ *Vi kan inte vänta - Sverige måste genomföra Europarådets rekommendationer för att stoppa människohandeln nu*, ECPAT BLOG (June 11, 2014), <http://www.ecpat.se/kategorier/barnsexhandel/trafficking-maenniskohandel>, archived at <https://perma.cc/TY9C-5EWL>.

¹⁹ LÄNSSTYRELSEN I STOCKHOLM, *supra* note 4, at 31.

²⁰ *Id.* at 31.

²¹ LÄNSSTYRELSEN STOCKHOLMS LÄN, MÄNNISKOHANDEL MED BARN – NATIONELL KARTLÄGGNING 2012–2015, *supra* note 9, at 53.

²² *Kurs ska öka kunskap om människohandel*, SVENSK POLIS (Sept. 10, 2010), <http://www.svenskpolis.se/Artikelarkiv/Artiklar-2010/augusti-2010/Kurs-ska-oka-kunskap-om-manniskohandel/>, archived at <https://perma.cc/66MS-7DSE>.

²³ Tilldelningsbeslut DiarieNr PVS-754-4884/09 [Procurement Decision 2009 No. PVS-754-4884], Rikspolisstyrelsen [National Board of Police] (Feb. 9, 2010), https://www.polisen.se/PageFiles/213283/Publicering_20100211_Tilldelning_807_Interaktiv_utbildning.pdf, archived at <https://perma.cc/ATG7-4E2A>; Press Release, SamSari AB, Rikspolisstyrelsen och SamSari utbildar poliser om människohandel [National Board of Police and SamSari Trains Police on Human Trafficking] (July 2, 2010), <http://www.mynewsdesk.com/se/pressreleases/rikspolisstyrelsen-och-samsari-utbildar-poliser-om-maenniskohandel-433844>, archived at <https://perma.cc/P6DG-KTV5>.

²⁴ RIKSPOLISSTYRELSEN, TILLSYNSRAPPORT 2013:7, INSPEKTION AV POLISMYNDIGHETERNAS FÖRMÅGA ATT UTREDA ÄRENDE OM MÄNNISKOHANDEL FÖR SEXUELLA ÄNDAMÅL OCH KÖP AV SEXUELL TJÄNST 11, https://www.polisen.se/Global/www%20och%20Intrapolis/Rapporter-utredningar/01%20Polisen%20nationellt/Ovriga%20rapporter-utredningar/Inspektioner-tillsyns%20rapporter/2013/Tillsynsrapport_7_2013_Manniskohandel%20indd.pdf (last visited Feb. 1, 2016), archived at <https://perma.cc/Y8D7-PRX2>.

B. Targeted Education of Police Officers

Training on human trafficking is incorporated into police training. Courses on interacting with victims of human trafficking are part of the general police education.²⁵ There are also special educational programs on human trafficking targeted to active police personnel offered through universities, such as Uppsala University.²⁶

In addition to institutionalized education and training there are also other initiatives to train police personnel. For example, the Swedish Crime Victim Compensation and Support Authority (Brottsoffermyndigheten) has held educational programs for law enforcement at the request of the government.²⁷

Moreover, the government has given the National Board of Health and Welfare (Socialstyrelsen) responsibility for creating educational materials intended for, among others, law enforcement personnel who work with children who are victims of human trafficking.²⁸

Other examples of law enforcement targeted training include full-day seminars, often in cooperation with government agencies and nongovernmental organizations (NGOs).²⁹

C. Cooperation Between Agencies and NGO involvement

There are several Swedish NGOs that work to end human trafficking or to support its victims. Both the police and the National Board of Health and Welfare have cooperated with NGOs in its human trafficking training.

1. *Nationellt Metodstödsteam mot prostitution och människohandel*

The Stockholm County Administrative Board leads a task force on prostitution and human trafficking, known as the Nationellt Metodstödsteam mot prostitution och människohandel (National Method Support Team Against Prostitution and Human Trafficking, NMT), which

²⁵ POLISEN, MÄNNISKOHANDEL FÖR SEXUELLA OCH ANDRA ÄNDAMÅL: LÄGESRAPPORT 16, *supra* note 15, at 15, 37.

²⁶ *Kursplan för Människohandel – kurs för poliser (uppdagsutbildning)* [Human Trafficking – Course for the Swedish Police (Contract Education)], UPPSALA UNIVERSITET, <http://www.uu.se/utbildning/utbildningar/selma/kursplan/?kpid=30029&type=1> (last visited Feb. 1, 2016), archived at <https://perma.cc/9HK9-FFY4>. The course is described in more detail at *NCK ger universitetskurs för poliser om människohandel*, NCK NATIONELLT CENTRUM FÖR KVINNOFRID, http://www.nck.uu.se/NCK_press/Reportage/reportage-2013/nck-ger-universitetskurs-for-poliser-om-manniskohandel/ (last updated Jan. 26, 2016), archived at <https://perma.cc/B7ZE-DTYN>.

²⁷ BROTTSOFFERMYNDIGHETEN, PROSTITUTION OCH MÄNNISKOHANDEL FÖR SEXUELLA ÄNDAMÅL, UTBILDNINGSPROGRAM FÖR ÖKAD KUNSKAP OCH BÄTTRE BEMÖTANDE, REDOVISNING AV ETT REGERINGSUPPDRAG, No. Ju2008/7290/KRIM (2011), <http://www.brottsoffermyndigheten.se/Filer/B%C3%B6cker/Prostitution%20och%20m%C3%A4nniskohandel%20%C3%B6r%20sexuella%20%C3%A4ndam%C3%A5l.pdf>, archived at <https://perma.cc/L7F5-VYP7>.

²⁸ *Id.* at 27. Educational material, including both written and video material, is available at *Sex mot ersättning*, SOCIALSTYRELSEN, <http://www.socialstyrelsen.se/valds-ochbrottsrelateradefragor/sexmotersattning> (last visited Feb. 1, 2016), archived at <https://perma.cc/56J4-G8ZE>.

²⁹ BROTTSOFFERMYNDIGHETEN, *supra* note 27, at 27.

coordinates efforts between country administrative boards, public prosecutors, the NOA division of the police, the Migration Authority, and health care providers.³⁰ This group cooperates with the Council of the Baltic Sea States, Plattformen Civila Sverige mot människohandel (Platform Civilian Sweden Against Human Trafficking),³¹ and Insamlingsstiftelsen mot Trafficking (Fundraising Foundation Against Trafficking, IMTR).³² These organizations educate Swedish law enforcement in conjunction with the NMT and on their own initiative.³³

The National Board of Health Care and Welfare has also held training sessions together with the NMT to educate government personnel on issues of human trafficking.³⁴

2. *Stiftelsen Allmänna Barnhuset*

The NGO Stiftelsen Allmänna Barnhuset (Public Children's House Foundation)³⁵ has received funding directly from the Police to limit the risk of children becoming victims of human trafficking by tailoring information campaigns toward that goal.³⁶ It also cooperates with the Stockholm County Administrative Board to fight human trafficking.³⁷

³⁰ *Samverkande myndigheter*, NTM, <http://projektwebbar.lansstyrelsen.se/nmtsverige/Sv/om-nmt/Pages/samarbetspartners.aspx> (last visited Feb. 1, 2016), archived at <https://perma.cc/X28C-L3RB>.

³¹ PLATTFORMEN CIVILA SVERIGE MOT MÄNNISKOHANDEL [PLATFORM CIVILIAN SWEDEN AGAINST HUMAN TRAFFICKING], <http://www.manniskohandel.se> (last visited Feb. 1, 2016), archived at <https://perma.cc/K3WC-SDGQ>.

³² *Andra samarbetspartners*, NTM, <http://projektwebbar.lansstyrelsen.se/nmtsverige/Sv/om-nmt/Pages/andra-samarbetspartners.aspx> (last visited Feb. 1, 2016), archived at <https://perma.cc/5CSU-WMWP>.

³³ *See Det här gör vi*, IMTR, <http://www.imtr.se/det-har-gor-vi/> (last visited Feb. 1, 2016), archived at <https://perma.cc/XC6H-X7YM>.

³⁴ *See, e.g.*, an invitation to training at *Prostitution och människohandel – basutbildning*, LÄNSSTYRELSEN STOCKHOLM, <http://www.lansstyrelsen.se/stockholm/Sv/kalender/2012/Pages/prostitution-och-manniskohandel-basutbildning.aspx?keyword=m%c3%a4nniskohandel> (last visited Jan. 28, 2016), archived at <https://perma.cc/ALQ2-GA9B>.

³⁵ STIFTELSEN ALLMÄNNA BARNHUSET, <http://www.allmannabarnhuset.se/> (last visited Feb. 1, 2016), archived at <https://perma.cc/46HV-FD3G>.

³⁶ POLISEN, MÄNNISKOHANDEL FÖR SEXUELLA OCH ANDRA ÄNDAMÅL: LÄGESRAPPORT 16, *supra* note 15, at 27.

³⁷ STIFTELSEN ALLMÄNNA BARNHUSET, ÅRSREDOVISNING OCH VERKSAMHETSBERÄTTELSE 2014 [ANNUAL REPORT 2014], at 38 <http://www.allmannabarnhuset.se/wp-content/uploads/2013/11/Verksamhetsberättelse-och-Årsredovisning-2014.pdf>, archived at <https://perma.cc/QP9J-FN8Y>.

Ukraine

Peter Roudik
Director of Legal Research
and
Olena Yatsunska
Foreign Law Consultant

SUMMARY Ukraine is a source, transit, and destination country for men, women, and children subjected to forced labor and sex trafficking, and human trafficking remains an acute problem in the country. The problem is addressed in numerous laws and implementing regulations. The Ministry of Social Policy is the government agency that coordinates the activities of national and regional (local) government bodies working to combat human trafficking. The Ministry of Social Policy reviews all human trafficking cases, decides whether to grant an individual the status of a human trafficking victim, and runs rehabilitation facilities for the victims. Human trafficking is a crime prosecuted under the Criminal Code, and the National Police together with the State Border Guard Service are the two major law enforcement agencies involved in investigating and prosecuting this crime. Periodic professional training for public employees, educators, social workers, investigators, prosecutors, judges, and lawyers who work with victims of human trafficking is required by law and is conducted by government institutions through the existing system of continuing professional education. National and international nongovernmental organizations assist government institutions in training law enforcement personnel. A number of textbooks, guidelines, and case studies have been published and distributed among those who are working to fight human trafficking.

I. Introduction

Human trafficking is a significant issue for Ukraine. According to a recent US Department of State report, it is a source, transit, and destination country for men, women, and children subjected to forced labor and sex trafficking.¹ Since 1991, when Ukraine became an independent state, over 160,000 of its citizens became victims of human trafficking,² making Ukraine one of the largest “suppliers” of slave labor in Europe.³

The International Organization for Migration (IOM) Mission in Ukraine has reported that in 2010 there were 1,085 identified victims of human trafficking, 814 in 2011, 945 in 2012, 929 in

¹ US DEPARTMENT OF STATE, TRAFFICKING IN PERSONS (TIP) REPORT (July 2015), <http://www.state.gov/documents/organization/245365.pdf>, archived at <https://perma.cc/LD65-Z93N>.

² *Combating Human Trafficking*, INTERNATIONAL ORGANIZATION FOR MIGRATION (IOM) MISSION IN UKRAINE, <http://www.iom.org.ua/en/combating-human-trafficking> (last visited Jan. 15, 2016), archived at <https://perma.cc/R3EW-KJ52>.

³ *Id.*

2013, and 903 in 2014.⁴ Citizens of Ukraine are usually trafficked to the Russian Federation (46%), Poland (13%), Turkey (11%), and other European Union countries (14%).⁵ From 2003 to June 2015, victims of human trafficking within Ukraine came from Moldova (65%), Central Asian countries (20%), the Russian Federation (5%), Vietnam (5%), and other countries (5%).⁶

According to IOM statistics, human trafficking for sexual exploitation has decreased from 34% in 2010 to 6% in 2014.⁷ However, human trafficking for labor exploitation saw a significant increase from 56% in 2010 to 91% by 2014.⁸ In 2010 and 2011, the majority of the identified victims were women (64% in 2010 and 58% in 2011), but in 2012–2014 the number of male victims prevailed (56% in 2012, 52% in 2012, and 58% in 2014).⁹

Regarding other forms of exploitation, the Group of Experts on Action Against Trafficking in Human Beings (GRETA) reported that ten Ukrainians in 2010 and four in 2012 were trafficked for the purpose of organ removal.¹⁰ Experts also pointed to cases of internal trafficking within Ukraine, with 114 identified victims in 2010, 79 in 2011, and 139 in 2012.¹¹

Because of the ongoing conflict between Russia and Ukraine, over 1.3 million people have been displaced since March 1, 2014.¹² According to experts, these people are especially vulnerable to exploitation.¹³ There have been reports of kidnappings from conflict-affected areas for the purpose of sex and labor trafficking, as well as employing minors as soldiers and informants or using them as human shields.¹⁴

Ukraine declares its adherence to international standards for combating human trafficking. In addition to the Council of Europe Convention on Action against Trafficking in Human Beings,¹⁵

⁴ IOM MISSION IN UKRAINE, STATISTICS ON COMBATING TRAFFICKING IN HUMAN BEINGS IN UKRAINE (June 2015), http://www.iom.org.ua/sites/default/files/iom_vot_statistics_eng_dec2015.doc (last visited Jan. 15, 2016), archived at <https://perma.cc/7KDB-HAUS>.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ GRETA, REPORT CONCERNING THE IMPLEMENTATION OF THE COUNCIL OF EUROPE CONVENTION ON ACTION AGAINST TRAFFICKING IN HUMAN BEINGS BY UKRAINE 20 (2014), http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Reports/GRETA_2014_20_FGR_UKR_w_cmnts_en.pdf, archived at <https://perma.cc/32J3-L9CQ>.

¹¹ *Id.*

¹² Press Release, President of the Russian Federation, Vladimir Putin Submitted an Address to the Federation Council (Mar. 1, 2014), <http://en.kremlin.ru/events/president/news/20353>, archived at <http://perma.cc/6Y3V-MSJS>.

¹³ TIP REPORT, *supra* note 1.

¹⁴ *Id.*

¹⁵ Council of Europe Convention on Action Against Trafficking in Human Beings, May 16, 2005, CETS No. 197, https://www.coe.int/t/dghl/monitoring/trafficking/Docs/Convntn/CETS197_en.asp, archived at <https://perma.cc/4JBP-ZPKG>.

Ukraine ratified the United Nations (UN) Convention Against Transnational Organized Crime (2004)¹⁶ and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children,¹⁷ the UN Convention on the Rights of the Child (1991)¹⁸ and the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (2003),¹⁹ the Convention on the Elimination of All Forms of Discrimination Against Women (1981)²⁰ and its Optional Protocol (2003),²¹ and the following conventions elaborated under the International Labor Organization (ILO), relevant to combating human trafficking: the Convention Concerning Forced or Compulsory Labor (No. 29),²² the Convention Concerning the Abolition of Forced Labor (No. 105),²³ and the Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor (No. 182).²⁴

II. Legislation on Human Trafficking

A. Legal Framework

Over the past decade, Ukraine has taken a number of significant steps to develop a legal and institutional framework for combating human trafficking. This framework has evolved over the years in light of the country's international commitments, and now includes laws on the following topics:

¹⁶ UNITED NATIONS OFFICE ON DRUGS AND CRIME, UNITED NATIONS CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME AND THE PROTOCOLS THERETO 5 (New York, 2004), <https://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf>, archived at <https://perma.cc/GR53-L49M>.

¹⁷ *Id.* at 41.

¹⁸ United Nation Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3, <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>, archived at <https://perma.cc/3TZC-K73C>.

¹⁹ Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, May 25, 2000, TIAS 13095, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPSCCRC.aspx>, archived at <https://perma.cc/LA9E-YFUG>.

²⁰ Convention on the Elimination of All Forms of Discrimination Against Women, Dec. 18, 1979, 1249 U.N.T.S. 13, <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>, archived at <https://perma.cc/PY4V-7BFD>.

²¹ Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women, Oct. 6, 1999, 2131 U.N.T.S. 83, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N99/774/73/PDF/N9977473.pdf?OpenElement>, archived at <https://perma.cc/VKT8-LXUT>.

²² ILO Convention Concerning Forced or Compulsory Labour, June 28, 1930, https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312174, archived at <https://perma.cc/96VU-CLWX>.

²³ ILO Convention Concerning the Abolition of Forced Labour, June 25, 1957, http://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_ILO_CODE:C105, archived at <https://perma.cc/HP6V-RUVL?type=image>.

²⁴ ILO Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, June 17, 1999, http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_ILO_CODE:C182, archived at <https://perma.cc/LMD8-8W44>.

- Combating Trafficking in Human Beings²⁵
- Immigration²⁶
- Legal Status of Foreigners and Stateless Persons²⁷
- Protection of Individuals Involved in Criminal Proceedings²⁸
- Operative-Investigative Activity²⁹
- Social Services³⁰
- Social Work with Families, Children and Youth³¹
- Employment of the Population³²
- Securing Equal Rights and Opportunities for Women and Men³³
- Protection of Childhood³⁴

²⁵ Law No. 3739-VI of September 20, 2011, on Combating Trafficking in Human Beings, with the Latest Amendments of Nov. 10, 2015, <http://zakon3.rada.gov.ua/laws/show/3739-17> (in Ukrainian), archived at <https://perma.cc/25R2-3ESV>.

²⁶ Law No. 2491-III of June 7, 2001, on Immigration, with the Latest Amendments of Oct. 6, 2015, <http://zakon2.rada.gov.ua/laws/show/2491-14> (in Ukrainian), archived at <https://perma.cc/797V-6LXE>.

²⁷ Law No. 3773-VI of September 22, 2011, on Legal Status of Foreigners and Stateless Persons, with the Latest Amendments of Nov. 10, 2015, <http://zakon4.rada.gov.ua/laws/show/3773-17> (in Ukrainian), archived at <https://perma.cc/NQD9-82DX>; <https://perma.cc/GKR9-W6PC>.

²⁸ Law No. 3782-XII of December 23, 1993, on Protection of Individuals Involved in Criminal Proceedings, with the Latest Amendments of July 2, 2015, <http://zakon4.rada.gov.ua/laws/show/3782-12> (in Ukrainian), archived at <https://perma.cc/YD2S-NDAH>.

²⁹ Law No. 2135-XII of February 18, 1992, on Operative-Investigative Activity, with the Latest Amendments of July 2, 2015, <http://zakon4.rada.gov.ua/laws/show/2135-12/page> (in Ukrainian), archived at <https://perma.cc/F6KV-D5QS>; <https://perma.cc/N4DE-TPTK>.

³⁰ Law No. 966-IV of June 19, 2003, on Social Services, with the Latest Amendments of Sept. 18, 2012, <http://zakon4.rada.gov.ua/laws/show/966-15> (in Ukrainian), archived at <https://perma.cc/N58H-Y5NW>.

³¹ Law No. 2558-III of June 21, 2001, on Social Work with Families, Children and Youth, with the Latest Amendments of Nov. 6, 2012, <http://zakon4.rada.gov.ua/laws/show/2558-14> (in Ukrainian), archived at <https://perma.cc/Z5Z9-QHLC>.

³² Law No. 5067-VI of July 5, 2012, on Employment of the Population, with the Latest Amendments of June 17, 2015, <http://zakon4.rada.gov.ua/laws/show/5067-17> (in Ukrainian), archived at <https://perma.cc/UV87-ZJMT>; <https://perma.cc/KB6C-FV9Y>; <https://perma.cc/6QVH-7M94>; <https://perma.cc/5JCR-SZ3K>.

³³ Law No. 2866-IV of September 8, 2005, on Securing Equal Rights and Opportunities for Women and Men, with the Latest Amendments of May 13, 2014, <http://zakon4.rada.gov.ua/laws/show/2866-15> (in Ukrainian), archived at <https://perma.cc/3XKZ-DC36>.

³⁴ Law No 2402-III of April 26, 2001, on the Protection of Childhood, with the Latest Amendments of Dec. 24, 2015, <http://zakon4.rada.gov.ua/laws/show/2402-14/page> (in Ukrainian), archived at <https://perma.cc/5WJZ-ZG3K>; <https://perma.cc/3LWY-9CEX>.

- Bodies and Services for Children’s Affairs and Special Institutions for Children³⁵
- Nationwide Program “National Action Plan to Implement the UN Convention on the Rights of the Child” for the Period Until 2016³⁶

Procedural issues are resolved by a set of government regulations, resolutions, and orders issued by the Cabinet of Ministers and individual executive agencies responsible for law enforcement and implementation of social policies. These documents establish guidelines on the provision of services to victims of human trafficking,³⁷ the standards for services offered to such persons³⁸ including social and psychological rehabilitation,³⁹ especially for children,⁴⁰ and the benefits they are entitled to receive in Ukraine;⁴¹ define government institutions tasked with fighting against trafficking in human beings and regulate their activities and legal status;⁴² provide for coordination among government agencies in the field of fighting human trafficking⁴³ and approve procedures for their interaction;⁴⁴ and stipulate procedures for identifying a person as a

³⁵ Law No 20/95-BP of January 24, 1995, on Bodies and Services for Children’s Affairs and Special Institutions for Children, with the Latest Amendments of Oct. 14, 2014, <http://zakon4.rada.gov.ua/laws/show/20/95-%D0%B2%D1%80> (in Ukrainian), archived at <https://perma.cc/G6S8-HPPB>; <https://perma.cc/QS75-GFVZ>.

³⁶ Law No 1065-VI of March 5, 2009, on the Nationwide Program ‘National Action Plan to Implement the UN Convention on the Rights of the Child’ for the Period Until 2016, <http://zakon4.rada.gov.ua/laws/show/1065-17> (in Ukrainian), archived at <https://perma.cc/GJN8-658Z>.

³⁷ Ministry of Social Policy of Ukraine Order No. 432 of August 19, 2013, on Approval of the Guidelines for the Provision of Social Services to Victims of Trafficking in Human Beings, http://www.mlsp.gov.ua/labour/control/uk/publish/article?art_id=153435&cat_id=150191 (in Ukrainian), archived at <https://perma.cc/Y2L5-XFVW>.

³⁸ Ministry of Social Policy of Ukraine Order No. 458 of July 30, 2013, on Approval of the Standards for the Provision of Social Services to Victims of Trafficking in Human Beings, <http://zakon4.rada.gov.ua/laws/show/z1327-13> (in Ukrainian), archived at <https://perma.cc/8NNF-NEYT>.

³⁹ Cabinet of Ministers of Ukraine Regulation No. 608 of May 12, 2004, on Approval of a Model Regulation of a Centre for Social-Psychological Assistance, <http://zakon3.rada.gov.ua/laws/show/608-2004-%D0%BF> (in Ukrainian), archived at <https://perma.cc/T8WW-ZBBV>.

⁴⁰ Cabinet of Ministers of Ukraine Regulation No. 87 of January 28, 2004, on Approval of a Model Regulation of a Centre for Social-Psychological Rehabilitation of Children, <http://zakon5.rada.gov.ua/laws/show/87-2004-%D0%BF> (in Ukrainian), archived at <https://perma.cc/U22Y-ZGHJ>.

⁴¹ Cabinet of Ministers of Ukraine Regulation No. 660 of July 25, 2012, on Approval of the Procedure for Payment of a One-Time Benefit to Victims of Trafficking in Human Beings, <http://zakon3.rada.gov.ua/laws/show/660-2012-%D0%BF> (in Ukrainian), archived at <https://perma.cc/792H-BYEH>.

⁴² Ministry of the Internal Affairs Order No. 1074 of October 14, 2014, on Approval of Department for Combating Crimes Related to Human Trafficking, <http://document.ua/pro-zatverdzhennja-polozhennja-pro-departament-borotbi-zi-zl-doc237905.html> (in Ukrainian), archived at <https://perma.cc/2Q29-9LT8>.

⁴³ Cabinet of Ministers of Ukraine Regulation No. 29 of January 18, 2012, on the National Coordinator on Combating Human Trafficking, <http://zakon5.rada.gov.ua/laws/show/29-2012-%D0%BF> (in Ukrainian), archived at <https://perma.cc/4KQK-GH7J>.

⁴⁴ Cabinet of Ministers of Ukraine Regulation No. 783 of August 22, 2012, on Approval of the Procedure for Interaction of Agents for Combating Trafficking in Human Beings, <http://zakon5.rada.gov.ua/laws/show/783-2012-%D0%BF> (in Ukrainian), archived at <https://perma.cc/9ESA-2NCD>.

trafficking victim.⁴⁵ Since 2012, a national registry of human-trafficking-related crimes has been maintained by the Ministry of Internal Affairs (police).⁴⁶

In October 2015, the Cabinet of Ministers approved the State Social Program for Combating Trafficking in Human Beings for the Period Until 2020.⁴⁷ The Program is aimed at preventing human trafficking, improving the efficiency of identifying individuals who commit such crimes or contribute to their occurrence, and protecting the rights of victims of trafficking (especially children) and providing assistance to them.⁴⁸

B. Definition of “Human Trafficking” and “Victim of Human Trafficking”

The definition of “human trafficking” is provided in article 1 of the Law on Combating Trafficking in Human Beings as the

[s]ettlement of an illegal agreement, the object of which is a human being, as well as recruitment, transportation, harboring, transfer or receipt of a human being for the purpose of his/her exploitation, including sexual [exploitation], by means of deception, fraud, blackmail, abuse of a person’s position of vulnerability or by use of force or threat of the use of force, with abuse of power or economic or other dependence of the victim on another person.⁴⁹

Human Trafficking is a separate offense under the Criminal Code of Ukraine.⁵⁰ Article 149 of the Code prohibits all forms of trafficking in human beings and prescribes penalties in the form of imprisonment for a period of three to eight years.⁵¹ However, depending on the circumstances, the term of imprisonment may be increased. Thus, trafficking in children, trafficking committed by two or more persons or by a group of persons with a prior conspiracy, and trafficking committed by an official through abuse of his/her authority are all punishable for a term of five to twelve years’ imprisonment.⁵² Trafficking committed in combination with violence endangering the life or health of the victim or his/her close relatives, or in combination

⁴⁵ Cabinet of Ministers of Ukraine Regulation No. 417 of May 23, 2012, on Approval of the Procedure for the Declaration of the Status of a Victim of Trafficking in Human Beings, <http://zakon3.rada.gov.ua/laws/show/417-2012-%D0%BF> (in Ukrainian), archived at <https://perma.cc/N7P3-LWVG>.

⁴⁶ Cabinet of Ministers of Ukraine Regulation No. 303 of April 18, 2012, on Approval of the Establishment and Operations of the Unified State Registry of Crimes in Trafficking in Human Beings, <http://zakon3.rada.gov.ua/laws/show/303-2012-%D0%BF/paran9#n9> (in Ukrainian), archived at <https://perma.cc/BJ96-8U5Z>.

⁴⁷ Cabinet of Ministers of Ukraine Resolution No. 1053-p of October 7, 2015, on Approval of the State Social Program for Combating Trafficking in Human Beings for the Period Until 2020, <http://zakon3.rada.gov.ua/laws/show/1053-2015-%D1%80> (in Ukrainian), archived at <https://perma.cc/5XLA-33VV>.

⁴⁸ *Id.*

⁴⁹ Law No. 3739-VI of September 20, 2011, on Combating Trafficking in Human Beings art. 1, *supra* note 25 (translation by authors).

⁵⁰ Criminal Code of Ukraine, Law No. 2341-III of April 5, 2001, with the Latest Amendments of Nov. 26, 2015, art. 149, <http://zakon5.rada.gov.ua/laws/show/2341-14/page> (in Ukrainian), archived at <https://perma.cc/T55L-DZAF>.

⁵¹ *Id.*

⁵² *Id.* art. 149.2.

with threats of such violence; trafficking committed by an organized group; and trafficking causing grave consequences are punishable by imprisonment for a term of eight to fifteen years.⁵³ When any of these aggravating circumstances are present, the court may also order the forfeiture of property as a supplementary sanction.⁵⁴

Ukrainian legislation defines “victim of human trafficking” as “[a]ny natural person who has been subjected to trafficking in human beings and who has been declared a victim thereof.”⁵⁵ To obtain the status of a victim of human trafficking, the applicant needs to have a mandatory interview with the local state administration in the territory where the trafficking victim was identified and complete a special questionnaire. After these steps, the Ministry of Social Policy considers the case and decides whether to grant the status of human trafficking victim.⁵⁶ The person who receives such status has a right to receive payment of a one-time benefit in the amount of a subsistence minimum amount, which is today UAH1,330 (approximately US\$55).⁵⁷ The status of victim of human trafficking is granted for two years. It can be renewed once for no more than one year.⁵⁸

Persons recognized as victims of human trafficking are entitled to receive

- information about their rights and responsibilities in their native language;
- medical, psychological, social, and legal assistance;
- access to housing in the centers of temporary accommodation for up to three months, which can be extended;
- compensation for moral and material damages from the perpetrator;
- payment of a one-time benefit in the amount of a subsistence minimum payment; and
- vocational training and job placement assistance.⁵⁹

⁵³ *Id.* art. 149.3.

⁵⁴ *Id.* arts. 149.2., 149.3.

⁵⁵ Law No. 3739-VI of September 20, 2011, on Combating Trafficking in Human Beings art. 1, *supra* note 25.

⁵⁶ *Id.* art. 15; Cabinet of Ministers of Ukraine Regulation No. 417 of May 23, 2012, on Approval of the Procedure for the Declaration of the Status of a Victim of Trafficking in Human Beings, *supra* note 45.

⁵⁷ Cabinet of Ministers of Ukraine Regulation No. 660 of July 25, 2012, on Approval of the Procedure for Payment of a One-Time Benefit to Victims of Trafficking in Human Beings, *supra* note 41.

⁵⁸ Law No. 3739-VI of September 20, 2011, on Combating Trafficking in Human Beings art. 15.5, *supra* note 25.

⁵⁹ *Id.* art. 16.1.

In addition to these rights, foreigners and stateless persons who receive the status of a human trafficking victim in Ukraine also receive the right to

- free translation service;
- temporary stay in Ukraine for up to three months, which can be extended if necessary, in particular in connection with their participation as victims or witnesses in criminal proceedings; and
- permanent residence in the territory of Ukraine in the manner prescribed by law.⁶⁰

Assistance to those affected by human trafficking does not depend on their request for law enforcement involvement, their participation in criminal proceedings, or their ability to provide identification documents.⁶¹

III. Roles and Responsibilities of Government Agencies in Fighting Human Trafficking

According to Ukrainian legislation, the following government entities and officials are responsible for combating trafficking in human beings:

- President of Ukraine
- Cabinet of Ministers of Ukraine
- National executive agencies
- Local state administrations
- Diplomatic institutions of Ukraine abroad
- Institutions providing assistance to victims of trafficking⁶²

Interaction between all of these agencies is governed by the Law on Combating Trafficking in Human Beings⁶³ and the Regulation No. 783 on Approval of the Procedure for Interaction of Agents for Combating Trafficking in Human Beings.⁶⁴ The main principles of these interactions are based on the mutual exchange of information, on the basis of confidentiality, concerning the crimes of trafficking in human beings, the premises and causes of such trafficking, methods used by the traffickers, and assistance required for victims of trafficking; the exchange of best practices in combating trafficking in human beings; the joint development of programs and plans

⁶⁰ *Id.* art. 16.2.

⁶¹ *Id.* art. 16.6.

⁶² *Id.* art. 5.

⁶³ *Id.* art. 16.1.

⁶⁴ Cabinet of Ministers of Ukraine Regulation No. 783 of August 22, 2012, on Approval of the Procedure for Interaction of Agents for Combating Trafficking in Human Beings, *supra* note 44.

for combating trafficking in human beings; and the joint implementation of measures aimed at combating trafficking in human beings.⁶⁵

The Ministry of Social Policy of Ukraine performs the role of national coordinator of actions aimed at fighting human trafficking.⁶⁶ The Ministry's Department for Family, Gender Policy, and Combating Human Trafficking⁶⁷ is responsible for coordinating anti-trafficking activities on a daily basis.⁶⁸ The Ministry of Social Policy, as mentioned in Part I, is also responsible for the formal recognition of victims of human trafficking, including granting the status of a victim.

As of July 7, 2015, ninety-four people, including eighty-eight Ukrainian nationals and six foreigners (citizens of Pakistan, Moldova, and the Russian Federation) possessed the status of human trafficking victims.⁶⁹

The National Police of Ukraine is the main law enforcement agency involved in discovering crimes of human trafficking, identifying victims of trafficking and traffickers, and prosecuting the latter. For this purpose, the police conduct investigations and searches; perform administrative, procedural, informational, and other activities; and carry out research.⁷⁰

Since 2012, the Ministry of Internal Affairs has maintained the Unified State Registry of Crimes in Trafficking in Human Beings.⁷¹ This Registry consists of a database that includes the personal data of the victims of human trafficking and their perpetrators in Ukraine.⁷² Statistical information contained in the Registry is publicly available on the official website of the Ministry of Internal Affairs.⁷³

In May 2000 the Ministry of Internal Affairs created departments to combat crimes related to the sale of people abroad for sexual and labor exploitation, pornography, prostitution, and

⁶⁵ Law No. 3739-VI of September 20, 2011, on Combating Trafficking in Human Beings art. 13.4, *supra* note 25.

⁶⁶ Cabinet of Ministers of Ukraine Regulation No. 29 of January 18, 2012, on the National Coordinator on Combating Human Trafficking, *supra* note 43.

⁶⁷ *Structure of the Central Office of the Ministry of Social Policy of Ukraine*, MINISTRY OF SOCIAL POLICY OF UKRAINE, http://www.mlsp.gov.ua/labour/control/uk/publish/article?art_id=160863&cat_id=160862 (in Ukrainian; last visited Jan. 17, 2016), archived at <https://perma.cc/CCL6-XU4T>.

⁶⁸ *Combating Trafficking in Human Beings: Reports and Statistics*, MINISTRY OF SOCIAL POLICY OF UKRAINE, http://www.mlsp.gov.ua/labour/control/uk/publish/category?cat_id=160722 (in Ukrainian; last visited Jan. 17, 2016), archived at <https://perma.cc/S4A5-ZTNW>.

⁶⁹ *Status of Implementation of the State Policy for Combating Trafficking in Human Beings*, MINISTRY OF SOCIAL POLICY OF UKRAINE (July 30, 2015), http://www.mlsp.gov.ua/labour/control/uk/publish/article;jsessionid=63641F9EA0BF2550CC9911A536CB0DE6.app1?art_id=180048&cat_id=160722 (in Ukrainian), archived at <https://perma.cc/RQA2-89AH>.

⁷⁰ Law No. 3739-VI of September 20, 2011 on Combating Trafficking in Human Beings art. 11, *supra* note 25.

⁷¹ Cabinet of Ministers of Ukraine Regulation No. 303 of April 18, 2012 on Approval of the Establishment and Operations of the Unified State Registry of Crimes in Trafficking in Human Beings, *supra* note 46.

⁷² *Id.* art. 2,3,4.

⁷³ *Id.* art. 8.

panhandling.⁷⁴ Several departmental reorganizations have occurred during the past fourteen years. In 2014, according to Order No. 1074 of the Ministry of the Internal Affairs, the Department for Combating Crimes Related to Human Trafficking was created.⁷⁵ This Department is the structural unit of the Ministry of Internal Affairs and belongs to the Criminal Police.⁷⁶

According to statistic of the Ministry of Internal Affairs, from January to June 2015, eighty criminal offenses under article 149 (human trafficking) of the Criminal Code of Ukraine were registered. Eighty-six victims of trafficking in human beings (fifty-six women, twenty-six men, and four minors) were found.⁷⁷

Another law enforcement agency involved in the investigation of facts surrounding human trafficking is the State Border Guard Service of Ukraine. This Service monitors transportation means used by commercial shipping agents, controls passports and other documents that grant entry into and exit from the country, and prepares documents granting the right of stay in or return to Ukraine. The State Border Guard Service repatriates foreigners and stateless persons who became victims of trafficking in human beings and forcibly departs from Ukraine foreigners and stateless persons guilty of violations of the laws, including laws on trafficking in human beings.⁷⁸

During the first six months of 2015, the State Border Guard Service of Ukraine suppressed the activity of twenty-three “channels of illegal migration” and prosecuted illegal activities of sixty-eight people. Six Ukrainian nationals and two citizens of Poland were arrested for organizing five channels of human trafficking in four regions of the country.⁷⁹

Local state administrations have a coordinating role in implementing anti-trafficking activities. According to the Law on Combating Trafficking in Human Beings, victims of human trafficking should submit an application to the local state administration, which is responsible for providing assistance and protection and referring the application to the Ministry of Social Policy. In addition, local state administrations are tasked with collecting statistical information concerning victims of human trafficking and transmitting this information to the Ministry of Social Policy.⁸⁰

⁷⁴ Department Combating Trafficking in Human Beings, NATIONAL POLICE OF UKRAINE, <http://www.npu.gov.ua/uk/publish/article/956734> (in Ukrainian; last visited Jan. 18, 2016), archived at <https://perma.cc/8PGW-3WSP>.

⁷⁵ Ministry of the Internal Affairs Order No. 1074 of October 14, 2014, on Approval of Department for Combating Crimes Related to Human Trafficking, *supra* note 42.

⁷⁶ *Id.*

⁷⁷ *Status of Implementation of the State Policy for Combating Trafficking in Human Beings*, MINISTRY OF SOCIAL POLICY OF UKRAINE, *supra* note 69.

⁷⁸ Law No. 3739-VI of September 20, 2011, on Combating Trafficking in Human Beings art. 7.1.10, *supra* note 25.

⁷⁹ Operational Divisions Border Agency Suspended the Activity of 28 Channels of Illegal Migration and Human Trafficking, STATE BORDER GUARD SERVICE OF UKRAINE (May 28, 2015), http://dpsu.gov.ua/ua/about/news/news_7268.htm (in Ukrainian), archived at <https://perma.cc/35KY-HT5X>.

⁸⁰ Law No. 3739-VI of September 20, 2011, on Combating Trafficking in Human Beings art. 8, *supra* note 25.

The Ukrainian Government plans to spend UAH 1,844,000 (approximately US\$75,000) from the state budget to fund this program. Expenditures from local budgets will be UAH 219,226 (approximately US\$9,000) per year.⁸¹

IV. Government-Supported Training Programs for Law Enforcement Personnel

The State Social Program for Combating Trafficking in Human Beings requires periodic professional training for public employees, investigators, prosecutors, judges, and lawyers who work with victims of human trafficking.⁸²

GRETA has reported that since 2009, the Ministry of Social Policy, with the support of the Organization for Security and Co-operation in Europe (OSCE) office in Ukraine, has carried out 600 seminars, 234 training sessions, and 170 special courses (lectures and practice sessions) on combating human trafficking in different parts of the country.⁸³

The Institute for Continuing Education of Civil Servants organizes trainings four times a year to improve the professional level of specialists working in centers of social services for families, children, and youth. These programs are devoted to human trafficking and assistance for its victims. In 2013, according to GRETA, 3,568 government employees who provide assistance, rehabilitation, and social reintegration services to victims of human trafficking received training. Topics included representation of the interests of victims, assistance in obtaining legal aid, maintenance of the standards for providing social services, and securing the confidentiality of personal data.⁸⁴ In 2014 some 10,000 employees of state agencies, local government bodies, state enterprises, and institutions and organizations that work in the field of combating trafficking in human beings attended classes at regional centers for professional retraining and advanced training.⁸⁵

In 2014, the Ministry of Social Policy of Ukraine—in cooperation with the IOM; the Ministry of Education and Science of Ukraine; and the Ministry of Regional Development, Construction and Housing and Communal Services of Ukraine—organized the regional informational campaign “Your Safe Way to the Dream.” The goal of this initiative was to increase public awareness of the risks of falling into a situation of trafficking in human beings and to prevent the various forms of trafficking in human beings. This campaign was aimed at young people, women and men aged sixteen to thirty-five, unemployed persons, and potential migrants who are searching for a better life or work abroad and often become the victims of trafficking in human beings.⁸⁶

⁸¹ Cabinet of Ministers of Ukraine Resolution No. 1053-p of October 7, 2015, *supra* note 47.

⁸² *Id.*

⁸³ GRETA, *supra* note 10, at 20.

⁸⁴ *Id.*

⁸⁵ *Status of Implementation of the State Policy for Combating Trafficking in Human Beings*, MINISTRY OF SOCIAL POLICY OF UKRAINE, *supra* note 69.

⁸⁶ *European Commission, Fifth Progress Report on Ukraine’s Implementation of the Action Plan on Visa Liberalization*, COM (2015) 200 final (May, 8, 2015), <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52015SC0104>, archived at <https://perma.cc/XC5J-H4WW>.

In April 2012 the Ministry of Internal Affairs conducted training on human trafficking for twelve participants at the National Academy of Internal Affairs and in 2013 for twenty-six participants in the National Academy's Institute for Postgraduate Education and thirty participants in the Kharkiv National University of Internal Affairs. In addition, sixty employees of the territorial police units participated in a series of workshops entitled "Capacity Building of Law Enforcement Agencies in Identifying and Investigating Human Trafficking Cases" in Odessa and Ivano-Frankivsk in 2013.⁸⁷

With the support of the IOM Mission in Ukraine a number of handbooks and guidelines on human trafficking have been published. Among them are practical materials for the Border Guard Service, law enforcement personnel, and judges;⁸⁸ recommendations on the security of participants in criminal proceedings for human trafficking;⁸⁹ a textbook for judges on the proceedings in criminal cases of human trafficking;⁹⁰ and a guide for employees of the State Migration Service of Ukraine on identifying, documenting, and legally detaining foreigners and stateless persons who are victims of trafficking.⁹¹

V. Training Conducted by Nongovernmental Organizations

Nongovernmental Organizations (NGOs) are also involved in implementing measures aimed at combating trafficking in human beings in Ukraine.⁹²

The All-Ukrainian Coalition of NGOs for Combating Trafficking in Human Beings consists of twenty-eight NGOs from different parts of the country. They perform awareness-raising activities for the general public and target groups such as school children, students, people in economically depressed areas, migrant workers, etc. They also provide training on human trafficking to different groups of professionals.⁹³

⁸⁷ GRETA, *supra* note 10, at 20.

⁸⁸ M. VASILEVA ET AL., UKRAINE AS A COUNTRY OF DESTINATION OF HUMAN TRAFFICKING: MATERIALS FOR PRACTICAL USE FOR BORDER GUARD SERVICE, LAW ENFORCEMENT OFFICERS AND JUDGES (2012), http://iom.org.ua/sites/default/files/krayina_pryzn4_layout_1.pdf (in Ukrainian), archived at <https://perma.cc/J4S7-2773>.

⁸⁹ V. KASKO & A. ORLEAN, THE SECURITY OF PARTICIPANTS IN CRIMINAL PROCEEDINGS FOR HUMAN TRAFFICKING (2012), http://www.iom.org.ua/sites/default/files/121017_mom_ensuring_safety_brochure_a5.pdf (in Ukrainian), archived at <https://perma.cc/GML5-BJVP>.

⁹⁰ A. ORLEAN ET AL., A MANUAL FOR JUDGES ON THE PROCEEDINGS IN CRIMINAL CASES OF HUMAN TRAFFICKING FOR THE PURPOSE OF LABOR EXPLOITATION (2014), http://www.iom.org.ua/sites/default/files/posibnik_dlya_suddiv.pdf (in Ukrainian), archived at <https://perma.cc/9PGE-5ER7>.

⁹¹ S. GUBSKY ET AL., GUIDE FOR EMPLOYEES OF STATE MIGRATION SERVICE OF UKRAINE ON FEATURES IDENTIFYING, DOCUMENTING AND PROVIDING LEGAL STAY OF FOREIGNERS AND STATELESS PERSONS – VICTIMS OF TRAFFICKING (2013), http://www.iom.org.ua/sites/default/files/posibnik_dlya_dms_mom.pdf (in Ukrainian), archived at <https://perma.cc/2RF6-G64R>.

⁹² Law No. 3739-VI of September 20, 2011 on Combating Trafficking in Human Beings art. 5.2, *supra* note 25.

⁹³ European Commission, *Sixth Progress Report on Ukraine's Implementation of the Action Plan on Visa Liberalization*, COM (2015) 905 final (Dec, 18, 2015), <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52015SC0705>, archived at <https://perma.cc/J795-DE9J>.

One of the most active NGOs in the anti-trafficking field in Ukraine is the International Women's Rights Center La Strada Ukraine. The Ministry of Justice of Ukraine officially registered this organization in 1998.⁹⁴ La Strada Ukraine conducts research, carries out preventive activities, provides assistance to victims, prepares reports on implementing the national anti-trafficking program, and issues recommendations for improving anti-trafficking policy. This NGO operates a toll-free telephone hotline for victims and potential victims of trafficking.⁹⁵ La Strada Ukraine also provides training to law enforcement officers, social workers, labor inspectors, and other specialists working in the anti-trafficking area. In cooperation with partners from Georgia and Armenia, La Strada Ukraine has conducted a training for law enforcement officers and social workers that involved a distance-learning course on the prevention of human trafficking and illegal migration and a training course for social workers in the anti-trafficking and irregular migration areas. This training focused on social work with adult and child victims of human trafficking, including behavior models and the occurrence of post-traumatic stress disorders among such victims, as well as management techniques for dealing with such cases.⁹⁶ During the period 2010–2012, La Strada Ukraine, in cooperation with the All-Ukrainian Network Against Commercial Sexual Exploitation of Children, conducted ten training sessions for social workers and police officers specializing in children's issues. They were trained how to interview child victims of trafficking and sexual offenses and provide victims with assistance. Overall, La Strada Ukraine has provided training through its national trainer's network in thirteen provinces of Ukraine to more than 90,000 educational and social professionals and more than 220,000 school children.⁹⁷

⁹⁴ LA STRADA UKRAINE, <http://www.la-strada.org.ua/>, in Ukrainian, Russian and English; last visited Jan. 20, 2016), archived at <https://perma.cc/22E7-JF8Z>.

⁹⁵ *Id.*

⁹⁶ GRETA, *supra* note 10, at 20.

⁹⁷ *Id.*

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Constance A. Johnson
Senior Legal Research Analyst

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