



Prevention of trafficking in persons in Central and Eastern Europe
Prewencja handlu ludzmi w Europie Srodkowej i Wschodniej
Предотвращение торговли людьми в Центральной и Восточной Европе
Prevence obchodu s lidmi ve Střední a Východní Evropě
Prevenција trgovine ljudima u Centralnoj i Istočnoj Evropi
Запобігання торгівлі людьми в країнах Центральної та Східної Європи
Prevenirea traficului de fiinte umane in Europa Centrala si de Vest
Превенция на трафика на хора в Централна и Източна Европа
Превенција од трговија со луѓе во Централна и Источна Европа
Preventie van mensenhandel in Centraal en Oost Europa

LA STRADA INTERNATIONAL RECOMMENDATIONS

on the Proposal for a Directive of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime

La Strada International (LSI), the European NGO Network against Trafficking in Human Beings, welcomes the Commission's proposal for a Directive on the rights, support and protection of victims of crime. The network agrees with the focus on the prevention of secondary and repeated victimisation and intimidation and the access to support and practical assistance from the earliest possible moment, irrespective of whether it has been reported to authorities and the establishment of an individual assessment mechanism to identify all vulnerable victims.

The proposal builds on and complements existing instruments, such as the Council Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting victims. In the trafficking Directive, measures have been established to protect the rights of victims of trafficking in human beings and to provide them access to support, assistance and justice. It is well acknowledged by NGOs, international organisations and Member States that large numbers of trafficked persons are not (officially) identified as victims of trafficking in human beings, because they cannot or do not dare to cooperate with the authorities and are thus excluded from these provisions. Therefore, the majority of trafficked persons are, for the protection of their rights and access to support and assistance services, dependent on the newly proposed Directive. Unfortunately however, this Directive too excludes large numbers of trafficked persons because of their irregular migration status.

The EU Charter for Fundamental Rights applies to every individual on EU territory, thus according to this principle, victims rights and access to victims rights should apply to everyone on EU territory.

In this perspective, La Strada International wants to make the following recommendations for the missing aspects in the proposal for the Directive on the rights, support and protection of victims of crime.

Right to access to justice

(new article)

People with an irregular or insecure migration status, such as trafficked persons, might have got into that situation because of a crime committed against them. At the same time, having an irregular status makes people particularly vulnerable to (violent) crimes such as exploitation, violence and abuse. Because of their irregular status, these victims are usually afraid to report crimes to the police or seek support services that will empower them to report the crime. This makes irregular migrants 'low risk victims' and leads to impunity of the perpetrators.

Therefore La Strada International suggests to include a new article that ensures access to justice for all victims of crime.

Through this article, Member States shall safeguard the access to justice for all victims of crime ensuring that people with an insecure migration status can report a crime without fear of being arrested or deported due to an insecure migration status.

Right to access victim support systems

(Article 7)

The purpose of article 7 is to ensure that victims have access to support services which provide information and advice, emotional and psychological support and practical assistance, which are often crucial to the recovery of victims and help them to cope with the aftermath of the crime and with the strain of any criminal proceedings.

In many Member States though, service providers are often not allowed or funded to support people with an insecure migration status. This leaves many victims without support and protection and leaves a large number of crimes unreported.

La Strada International suggests to explicitly mention all victims of crime irrespective of their migration status in article 7.

Right to legal aid

(Article 12)

Legal aid is of utmost importance for the protection of the rights of victims, especially when a victim is party in the trial against the perpetrator, for example in order to claim compensation. Not all victims can afford legal aid. Therefore La Strada International suggests to add to article 12 that free legal aid is available for all victims, who lack sufficient resources.

Right to compensation

(Article 15)

Member States should ensure that assets confiscated from the perpetrator are used for the compensation of victims.

If a compensation claim is awarded by court, Member States should have the obligation to collect the money. If the state does not succeed in doing so within eight months, the state should pay the compensation to the victim.

This is the current situation in the Netherlands and can be copied as a good practice by other member states.

Right to protection

(Article 17)

It is important to emphasise that the right to protection is irrespective of the migration status of the victim.

Identification of vulnerable victims

(Article 18)

As argued above, people with an insecure migration status are particularly vulnerable to become victims of crime and are, due to their status, vulnerable for further victimisation and intimidation and should therefore be recognised as a category of victims, which is considered to be vulnerable due to their personal characteristics.

An insecure migration status should also be included as a factor that increases vulnerability that are used for the individual assessments mentioned in recital 18.

Right to protection of victims during questioning in criminal investigations and criminal procedures

(Revised Article 20)

For the prosecution of perpetrators, the protection of the rights of victims and for the general idea of justice done, it is of utmost importance that all victims of crime can participate in the proceedings against the perpetrators. In order for victims with an insecure migration status to be able to participate in the proceedings, it is crucial that no deportation file concerning the victim shall be opened in connection with the reporting of a crime. A temporary residence permit should be given to the victim of crime in an irregular migration status, as soon as possible. During the procedures, the victims should be given the opportunity to work. In case of conviction of the perpetrator, a permanent residence permit may be issued to the victim.