

**Report to the European Commission
on the implementation of Directive 2011/36/EU
by the Cypriot NREM**

KISA – Action of Equality, Report, Antiracism, in the framework of its activities, has prepared and submits its comments and observations on the Cypriot NREM's report as they reflect reality regarding the specific issues as experienced by the organisation in its actions and daily work as an advocacy and service-providing grass root organisation in Cyprus.

Nicosia, 1 April 2015



Profile of KISA – Action for Equality, Support, Antiracism

KISA is a NGO, established in 1998, and its vision is the promotion of an all-inclusive, multicultural society, free of racism, xenophobia and discrimination, and where, through the interaction and mutual respect of diverse cultures, there will be equality and respect for the rights of all, irrespective of race, nationality or ethnicity, colour, creed or beliefs, gender, gender identity or orientation, age, inability, or any other diversity.

KISA's action is focused on the fields of migration, asylum, racism, discrimination and trafficking and it includes awareness-raising of the Cypriot society and also advocating from a human-rights perspective for changes of the legal and structural framework, as well as of policies, and practices in these fields. KISA operates a Migrant and Refugee Centre that provides free information, support, advocacy and mediation services to migrants, refugees, persons, who experience(d) trafficking and/or racism/discrimination, and ethnic minorities in general and promotes the inclusion, empowerment, and self-organisation of migrants and refugees. Such combination of activities of social intervention and the operation of services, as well as the strong ties with the migrant and refugee communities, enable KISA to have a very accurate and updated picture about the realities in the areas of its mandate.

KISA's long established expertise on migration, asylum, anti-trafficking and anti-discrimination issues is also evident from its recognition as an organisation with credibility, professionalism, and experience in implementing European and other programmes, such as EQUAL, ERF, EIF, PROGRESS, DAPHNE, Prevention of and Fight against Crime Programme of DG for Justice, Freedom and Security, MIPEX, MRIP and OSF, as well as research projects implemented on behalf of and/or in cooperation with European agencies, NGOs and other organisations, such as the Fundamental Rights Agency (Separated Children), DG for Employment, Social Affairs and Equal Opportunities, SEN (Network of Socio-Economic Experts in the Non-Discrimination Field), MRG (Minority Rights Group), IOM (International Organization for Migration), the British Council, and others.

KISA cooperates with various other stakeholders and independent institutions related to its scope and objectives at national and European level, such as the office of the Ombudswoman, the Anti-Discrimination Body and the Equality Authority, the Commissioner for Children's Rights, the European Committee against Racism and Intolerance (ECRI), the Human Rights Commissioner of the Council of Europe, GRETA, and others

KISA is also a very active member in European and international NGOs and networks, such as AEDH (European Association for the Defence of Human Rights), the European Migration Forum, ENAR (European Network Against Racism), PICUM (Platform for International Cooperation on Undocumented Migrants), EAPN (European Antipoverty Network), EMHRN (Euro Mediterranean Human Rights Network), ECRE (European Council on Refugees and Exiles), UNITED for Intercultural Action, Migreurop, FRA's Fundamental Rights Platform, and others.

Assessment of trends in THB

Present and Future-Oriented assessment

The 'recent' cases of economic exploitation of third-country nationals by agents, referred to in the NREM report, is not at all recent but actually an integral part of the migration model, policies, structures and administrative practices in place in Cyprus since the advent of migration in the country at the beginning of the 1990s and a key factor contributing to the vulnerability and exploitation of migrants. Private profit-making agencies, regulated by law, are assigned the facilitation of the entry, residence and employment process of third-country migrants. A direct consequence of this is the extremely high cost of migration (ranging from €2000 – €12000, and at times higher, depending on the country of origin). As cited in reports and other publications, private agencies are often implicated in criminal trafficking networks and working for this purpose in close association with similar agencies or individuals in the migrant communities in Cyprus and in the countries of origin of migrants. Despite these practices and many complaints against these private agencies, the competent government services have repeatedly refused to contemplate any alternative structures and mechanisms, as proposed many times by KISA.

Despite piecemeal and fragmented corrective policies and measures over the years, the migration system in Cyprus still maintains its basic tenets that were instituted in agreement with the social partners (trade unions and employer organisations). It prescribes a very stringent regime of temporary stay and work for no more than 4 years¹, whereby a migrant is literally attached to a specific employer and a specific job. Through the entry, work and residence permits regime, migrants are excluded and invisible, in statistical and other data and almost all policies and action plans for support and protection, against discrimination and racism, relegated to the margins of society, institutionally discriminated against, totally dependent on their employers and regarded as a commodity to be disposed of at will. All these make migrants very vulnerable to extreme exploitation and trafficking.

Reiterating and agreeing with the concerns voiced by other agencies and bodies in the past², in its decision on the Rantsev³ case, the ECHR referred to a “number of weaknesses and the

¹ This replaced the 6-year permit with the expressed aim to prevent migrants from qualifying for long-term residence under Directive 2003/109/EC. Exempted from the provision of this regulation are migrant domestic workers working for elderly, seriously ill or disabled people or people with special needs, families with young children, both working parents and people with large incomes.

² European Human Rights Commissioner, *Report on visit to Cyprus*, 12/02/2004; *Follow-up Report on Cyprus*, 29/03/2006; *Report on visit to Cyprus*, 12/12/2008 <http://www.coe.int/en/web/commissioner/country-report/cyprus> ;

Cypriot Ombudswoman, *Ex Officio report on the regime regarding the entry and employment of alien women as artistes in entertainment places in Cyprus*, 24/11/2003 (in Greek, *Αυτεπάγγελτη έρευνα της Επιτρόπου Διοικήσεως ως προς το καθεστώς εισόδου και εργασίας αλλοδαπών γυναικών με την ιδιότητα της καλλιτέχνης*)

http://www.ombudsman.gov.cy/Ombudsman/ombudsman.nsf/ownmotionrpt_archive_gr?OpenForm

³ European Court of Human Rights, First Section, Case of Rantsev v. Cyprus and Russia, (Application no. 25965/04), [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-96549#{"itemid":\["001-96549"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-96549#{)

adequacy of the Cypriot immigration policy” and “to procedural requirements in force in Cyprus [which] set the immigrant worker under the control of the employer, thus creating a breeding ground for trafficking and slavery”⁴.

It is noted that despite all relevant reports and the above ECHR decision, there has been no re-evaluation or review of the migration system. On the contrary, migration policies, under the pretext of the economic crisis and under the weight of rising extreme nationalism and populism using the anti-immigrant and racist narrative, have become more stringent in the last few years.

The fact that the majority of identified victims of trafficking in the period under review, as per the government report, were women for sexual exploitation is a reflection of the approach to labour trafficking in Cyprus over time. Trafficking for labour exploitation has gone through years of denial, irrespective of the available evidence, reports and other publications and considerable pressure from national, European and international NGOs, agencies and other bodies⁵. Indicative of this is the fact that the first law addressing labour trafficking was enacted as late as 2007 (Combating of Trafficking and Exploitation of Persons and the Protection of Victims Law of 2007 (7(I)/2007).

Even after the recognition phase, however, labour trafficking is still treated to a large extent more as a matter of labour disputes and violation of labour rights. In view of this and also because of lack of the required political will and determination to change the migration system or at least those parameters that facilitate trafficking, victims remain in their majority unidentified and do not, therefore, enjoy the protection and rights provided in the law. As a result, the measures taken to combat trafficking for labour exploitation are very limited and confined to cursory references, if at all, in information leaflets, awareness-raising campaigns and other actions. The continued failure of the state to provide effective identification, support and protection to victims of trafficking for labour exploitation is reflected also in the fact that the only shelter in the country for victims of trafficking run by the Welfare Services Department, of the Ministry of Labour, Welfare and Social Insurance, caters only for female victims of sexual trafficking.

Trafficking for labour exploitation is more evident in domestic work and work in agriculture and animal farming and it emanates from the migration regime, referred to elsewhere in this report, applicable to third-country migrants. Included in this regime are the employment contracts for domestic workers and the collective agreement in the farming sector applicable only to migrant

⁴Nicoletta Charalambidou, KISA legal advisor, quoted in Anna Hassapi, *The Decision of the European Court of Human Rights in the case of Rantsev v. Cyprus and Russia*, Cyprus Mail, 09/01/2010 <http://cyprus-mail.com/>

⁵ *Trafficking for Labour in Cyprus*, a report in the frame of the EU-funded project: “Combating trafficking in human beings-going beyond”, coordinated by CCME and authored by C. Christodoulou, A. Diamantopoulou, V. Dourida, A. Michalakieli, M. Papantoniou-Frangouli, Athens, Feb. 2011; *Global Report on Trafficking in human beings*, UNODOC, UN.GIFT, Feb. 2009; GRETA, *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Cyprus*, First evaluation round Strasbourg, 12 September 2011

workers⁶, which are issued by the competent government services. As a rule, domestic workers are obliged to live at their employers' house which, by its very nature, is automatically exempted from labour inspections and barred from unionisation. Similarly, agricultural migrant workers are required to live at their workplaces, often in stables or barns, in the same space as the animals they tend, and which are evidently unsuitable for human habitation. In the majority of cases, exploitation includes too many hours of work, no days off or holidays, no payment or part payment of wages, confiscation or withholding of travel and other personal documents, restriction of freedom of movement, violence and threats and often sexual violence as well, debt bondage, and inhuman and degrading living conditions or living conditions violating their right to private life. These feudal employment conditions render migrant workers in these sectors vulnerable to extreme exploitation. Such conditions, as the ones forced on the vast majority of migrants in Cyprus working in the above economic sectors, were found by the ECHR in *Siliadin v. France*⁷ to amount to treatment contrary to Article 4, which provides that no one shall be held in slavery or servitude and no one shall be required to perform forced or compulsory labour.

Analysis of different trends of THB

As shown by the statistics of the Cyprus Police, there is a marked downward trend in the identification of victims of trafficking in the 3-year period under review. There are no data or other information concerning incidents of trafficking reported but not identified and for which the reasons are not publicised. Apart from the fact that this downward trend, already very low, is not explained in the government report, this reflects the repeated concern of NGOs and other stakeholders that the identification of victims by the Police, notwithstanding the commendable work of the Office for Combating Trafficking in Human Beings of the Police, is highly problematic as it entails almost de facto that there is emphasis on the prosecution of perpetrators rather than on the detection of trafficking, the identification and protection of victims.

What is also important is that the vast majority of victims remain unidentified as most migrants, especially those who find themselves with an irregular migration status, do not report their trafficking to the Police. This is due to many reasons, such as fear of arrest and deportation, the continuing impunity of the perpetrators, the violation of the rights of identified victims of trafficking by the very government services tasked with their support and protection, the unnecessary prolongation of court proceedings, the practices of the Police and other

⁶ Among other violations of labour and human rights contained in the contract for migrant domestic workers is their salary which, at €314 (after a cut of 5% imposed by the government in 2013 as one of the austerity measures imposed by the government) is the equivalent to the minimum wage in force in 1991, when migrant women started to be employed in the sector. This amount is even lower than the Minimum Guaranteed Income introduced by the government purported to alleviate growing poverty as a result of the crisis. Domestic workers also have the smallest number of public holidays than any other group of workers, 9 compared to 15-17 for other groups.

⁷ European Court of Human Rights, Case of *Siliadin v. France*, (Application no. 73316/01),

http://ec.europa.eu/anti-trafficking/legislation-and-case-law-case-law/siliadin-v-france-application-no-7331601_en

departments⁸, and not least to the migration system, which as explained above, is in itself highly discriminatory and conducive to exploitation.

In addition, media reports and information reaching NGOs and other stakeholders about the corruption of public officials and police officers (not of the anti-trafficking Office), and participation, implication and/or profiting, directly or indirectly, from trafficking networks, are not seriously investigated. A case in point⁹ is that of a senior police officer (Deputy Chief of the Aliens and Immigration Office of the Police), who was arrested in March 2011 for trafficking in migrant women, including a 15-year old girl. Even though he was one of the prime suspects in the case and was suspended by the Police, he was finally acquitted because of lack of credible witnesses. In their reports, most of the media either ignored or failed to refer to the collaboration of the Deputy Chief of the Aliens and Immigration Police with the then Director of the Civil Registry and Migration Department of the Ministry of Interior, is responsible for issuing residence permits. It is therefore questionable if the authorities have ever bothered to investigate corruption not only in the Police but also in other government services, including the Civil Registry and Migration Department.

Information – cooperation with NGOs and other actors working in the field of THB

The representation alone of NGOs in the Multidisciplinary Coordinating Group against THB, referred to in the government report, is not in itself sufficient evidence of meaningful and effective cooperation and action. For example, no cooperation protocols with NGOs have been signed to date, even though these were included in both National Action Plans for 2010-2012 and 2013-2015. It is also noted that the most pertinent government service to refer victims of labour trafficking is the labour disputes committee of the Department of Labour of the Ministry of Labour, Welfare and Social Insurance, which examines complaints of migrant workers against their employers. However, as shown in the statistics attached to the government report, only two cases were ever referred by the Labour Department as they consider all the abuses and exploitation of migrant workers as labour disputes.

⁸ Examples of these practices: In 2009, in a case of labour trafficking in the construction industry involving 140 people from Romania, the Police decided to recognise only 20 of them, leaving the rest without any protection and support. In 2012, the Migration Police arrested a victim of trafficking working in a farm and deported him. The victim reported to KISA's Migrant and Refugee Centre that, while in custody, he had been beaten up by the police in order to give them his passport and enable them to deport him. In 2011, in a case of a criminal ring of Cypriots and Sri Lankans selling false residence and work permits for the amount of €7000 each, the Police investigation involved only the perpetrators of the crime and left all victims unprotected.

⁹ Politis newspaper, 17/3/2011, "Detained three of the suspects", <http://www.politis-news.com/cgi-bin/hweb?-A=205784&-V=articles>
Sigma live-TV channel, 25/3/2011, <http://www.sigmalive.com/simerini/news/local/367282>

Results of Anti-Trafficking Actions

The actions of KISA, a member of the Multidisciplinary Coordinating Group (MCP), against trafficking, including the information, support, mediation and advocacy services provided by its Migrant and Refugee Centre to people who experience/d trafficking, do not feature in the government report, as events and actions of other NGOs, whether members of the against THB or not.

In addition to the free information, support, advocacy and mediation services provided to victims and potential victims of migrants through KISA's Migrant and Refugee Centre (please see attached report of the Centre for 2013 – Appendix), during the period under review, the main actions implemented by KISA included the following:

Social Intervention – Communication: In the context of its social intervention actions, KISA systematically issues press releases, talks to the media and takes part in television and radio programmes on issues about either particular cases of trafficking handled by the Migrant and Refugee Centre, or particular issues and/or aspects of trafficking in general. Making use of the new technology and the social media in particular as from 2013, KISA's press releases and other social media interventions reach hundreds and often thousands of people.

In the framework of a three-year transnational project titled "Integrated approach for Prevention of Labour Exploitation in Origin and Destination Countries"¹⁰, co-funded by the Prevention of and Fight against Crime Programme 2009 of the European Commission, KISA carried out the following:

Training Seminar: "Combating Trafficking in Human Beings for Labour Exploitation", - 15–16 May 2013. There were 23 participants representing almost all relevant government services, independent institutions, trade unions and NGOs.

The objectives of the Seminar were to strengthen public and other stakeholders and NGOs engaged in the fight against THB for labour exploitation, as regards both specialised knowledge and their capacity to combat the phenomenon, and to improve and further increase their cooperation. The Seminar was led by two international experts (Mariyana Radeva Berket, Programme Officer with the International Centre for Migration Policy Development, Vienna, and Florin Ionescu, independent expert, Romania).

¹⁰ The project coordinator is the National Agency against Trafficking in Persons of the Romanian Police and partners are the National Commission for Combating Trafficking in Human Beings of Bulgaria, KISA – Action for Equality, Support, Antiracism in Cyprus, the European Public Law Organization (EPLA) in Greece, the Ministry of Justice and Law Enforcement of Hungary, and the Ministry of Interior of FYROM.

According to the participants' assessment (through evaluation forms), the Seminar was considered to be very successful as it achieved the set aims. It was also noted and appreciated by the participants that this was the first such event on labour trafficking to be organised in the country.

Research: "Transnational study on the characteristics of policies in the field of trafficking in human beings for labour exploitation". KISA contributed to the research and translated the research report to Greek and Turkish.

Prevention Campaign: "To work is a right, to exploit work is a crime! Together we can fight labour exploitation!" – 20 June – 31 July 2013

Events / Meetings and questionnaires: KISA organised 5 events, with a total participation of 190 people, (government representatives, students and other young people, journalists and other media personnel, teachers, trade unions and migrants, among them identified victims of trafficking, NGOs, including one in the northern part of Cyprus). Most of the events included the film screening of 'Ghost' on labour trafficking.

At the events, participants were asked to fill in two questionnaires, one pre- and one post-activity, which aimed to assess the knowledge of participants about trafficking in general and labour exploitation in particular. Of the 132 questionnaires returned, the majority of respondents agreed that: The general public did not know or have enough/ adequate information on the phenomenon of trafficking in human beings, especially for labour exploitation; lack of information on the part of potential victims leads to increasing vulnerability to trafficking; there should be more campaigns about labour trafficking. The overwhelming majority of the respondents were very positive as to the outcome and effects of the campaign concerning their understanding of trafficking in human beings for labour exploitation.

Brochure and other materials: Brochure with basic information about trafficking in human beings in general for labour exploitation, poster and memory stick. The materials were distributed at the above events and disseminated widely at colleges and universities, parks and other open-air spaces where migrants frequent, streets, shops, bus stations, and at other events either organised by KISA or where it participated.

TV and Radio spots: The spots, in Greek and English, were shown/aired on a national television channel, three nation-wide radio stations and one on an on-line multilingual tv radio station. 1 month, July 2013

All the materials were also downloaded on KISA's Facebook and website.

The evaluation of the overall campaign, based on the questionnaires as well as comments, chats and other exchanges with participants/ recipients of the materials, is that it achieved its objective of raising awareness among different target groups, especially among young people but also among migrant communities. However, as participants in the meetings of this campaign as well as others organised by KISA in the past, much more needs to be done.

Civil Society Exchange & Networking Seminar on THB – 21-23 October 2013

The Seminar was organised as part of KISA's action for 18 October, EU Anti-Trafficking Day, in cooperation with the Turkish Cypriot Human Rights Foundation and with the financial support of the US Embassy's Bicomunal Support Program.

The main objective of the Seminar was to renew, develop and strengthen sustainable networking, exchanges and cooperation among NGOs and other civil society actors working against trafficking in human beings, in both parts of Cyprus, as well as the main countries of origin and transition of trafficking victims.

The Seminar was attended by 34 participants from NGOs from both the northern and southern parts of Cyprus and, of particular significance, representatives of international and national NGOs, from Eastern and Central Europe, America and South East Asia. According to the participants' assessment, this was a very successful event that, through the presentations, discussions, exchanges and working groups and the social events in the evening, gave the opportunity to the participants to share their knowledge, expertise and experiences but also the problems and difficulties they face in their everyday work for fighting trafficking, raising awareness and supporting and protecting victims. It was also successful because it achieved the networking objective.

Following on from the results of the Seminar, the four NGO members of the Multidisciplinary Coordinating Group cooperated in the development of a position paper regarding "Access to training programmes and decent living conditions by identified victims of trafficking until the criminal cases in which they will be witnesses are brought before the court". The position paper was submitted to the MCG on 14/11/2013¹¹.

Legislation and rights of victims

The Prevention and Combating of Trafficking and Exploitation of Human Beings and Protection of Victims of Trafficking Law (Law L. 60(I)/2014) was enacted on 9/4/2014. The new law purports to harmonise the national legal framework with EU legislation and international legal instruments for combating trafficking in human beings. (Framework Decision of 15 March 2001, - 2001/220/JHA, Directive 2004/81/EC, Directive 2011/36/EU, and replacing Council Framework Decision 2002/629/JHA, UN Convention against Transnational Organised Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children, the Convention for the Suppression of the Trafficking in Persons and of the Exploitation of the Prostitution of Others, and the Council of Europe Convention on Action against Trafficking in Human Beings)¹².

¹¹ <http://kisa.org.cy/access-of-persons-who-have-been-recognized-as-victims-of-human-trafficking-to-training-programs-and-adequate-livelihoods-until-the-trials-of-criminal-cases-in-which-they-will-be-witnesses-will-take-p/>

¹² [Government Gazette of the Republic of Cyprus – 01.04.2014 – L. 60\(I\)/2014 on the Prevention and Combating of Trafficking in and Exploitation of Human Beings and the Protection of Victims of 2014 \[N.60\(I\)/2014 \(Ο περί της Πρόληψης και της Καταπολέμησης της Εμπορίας και της Εκμετάλλευσης Προσώπων και της Προστασίας των Θυμάτων Νόμος του 2014 – In Greek\)](#)

The bill was first drafted by the working group on legislation of the Multidisciplinary Coordinating Group on Trafficking, in which KISA played a key role with its legal expert. Following the first draft, the bill was substantially changed by the Ministry of Interior and the Attorney General's Office and they introduced or changed provisions that violated Directive 2011/36/EU as regards in particular the protection of victims of trafficking from deportation. At the stage of its discussion at the Human Rights Committee of the House of Representatives, even though the participation of NGOs and other stakeholders was very cursory because the whole issue was treated as a matter of urgency in view of infringement procedures initiated by the European Commission for late transposition, they nevertheless were given the opportunity to submit their positions in writing.

This procedure resulted in removing and/or amending some of the problematic provisions but a number of serious problems still remain, the main of which are listed below.

The law includes more stringent provisions in relation to the right of third-country nationals to remain in the country pending the determination of their identification by the Police as victims and during reflection period in order to decide whether they would like to cooperate with the Police. More specifically, in the previous law it was provided that the one month residence permit for reflection could be extended, taking into account the individual circumstances of each victim. The new legislation provides for an absolute period of one month for reflection period which may not be extended. Moreover, the law provides for a residence permit to victims of trafficking after the reflection period only if they are willing to cooperate with the Police for the prosecution of the perpetrators and only if the Police and/or the Attorney General actually decide that they will prosecute the perpetrators. It is only exceptionally and after an individual risk assessment of the consequences of the return of the victims that they may be provided with a residence permit if prosecution is over or not pursued at all. Moreover, the law does not safeguard the right of residence of the victims while criminal proceedings are under way. As the majority of the victims of labour trafficking are third country nationals, their position under the new legal framework as regards security of residence, either at the initial stage of identification and reflection or subsequent to their identification, is actually worsened, contrary to the letter and spirit of Directive 2011/36/EC, which seeks to enhance protection of victims of trafficking. The Department of the Civil Registry and Migration Department of the Ministry of Interior is alone responsible for issuing the residence permits to victims as well as for any other measure in relation to their residence in Cyprus.

Also, victims have a set of rights before identification and during criminal proceedings. Both Directive 2011/36/EC and the European Convention against THB of the Council of Europe provide that all victims of trafficking should also enjoy protection and support for a reasonable period after the end of the criminal proceedings, including the right to seek compensation

against perpetrators and anybody who may be held responsible for the crimes committed against the victims, including the state, if the victim cannot be compensated by the perpetrators.

By limiting residence rights to victims as described above, the law does not safeguard these protection rights after the conclusion of the criminal proceedings or if criminal proceedings are not initiated by the competent authorities, regardless of the victim's willingness to cooperate.

The law provides also a set of rights for the victims in the context of the criminal proceedings, such as the right to receive information on the criminal proceedings, the right to legal advice when necessary and relevant, depending on the position of the victim in the criminal proceedings, the right to be informed of the result of the criminal proceedings and if necessary to be protected from retaliation by the perpetrators, free translation and interpretation services.

In particular, the following areas present serious shortcomings in the protection of the victims as well as the whole structural mechanism adopted to prevent and combat trafficking in human beings:

(a) The way the crimes are defined in the law do not offer legal certainty and clarity as to the actions criminalised and will, once again, lead to the impunity of traffickers as a result of this lack of clarity in the law. (Section II – Criminal Offences and Court Jurisdiction, Articles 6-28) It is noted that up to now, as far as KISA is aware, there were no convictions under the anti-trafficking legislation per se.

(b) The law excludes victims from access to free legal advice outside the criminal procedures, a provision that clearly violates Directive 2011/36/EU. In addition, NGOs are excluded from the provision of legal advice to victims in the framework of free legal aid, because the law provides for the provision of these services only by practising lawyers, who in Cyprus can only be employed in or operate their own law offices. (Section III – Rights and Protection of Victims in criminal procedures – The right of Victims to compensation, Article 33 (2) and (4), Article 36.)

(c) The law does not provide for the right to effective remedy of persons referred to the police as potential victims of trafficking and not finally recognised as victims by the Office of the Police of Combating Trafficking in Human Beings. This is contrary to Article 47 of the Charter of Fundamental Rights of the EU, which provides for access to an effective remedy. (Section IV – Recognition, Assistance and Support to Victims – Part 1 – General Provisions, Article 45)

(d) In violation of Directive 2011/36/EU, the law provides that victims of trafficking are recognised by the Office of the Police of Combating Trafficking in Human Beings on the basis of internal rules of the police. The violation lies in the 'internal' rules, which are neither checked

nor publicised. Victims of trafficking should be recognised when their situation falls within the definition of trafficking. (Section IV – Recognition, Assistance and Support to Victims – Part 1 – General Provisions, Article 46 (5))

Recommendations:

- The government of Cyprus must acknowledge that the migration model, policies, structural set up and administrative practices currently in place facilitate or are conducive or are at least tolerant of trafficking in human beings and, as such, they must be replaced by a new comprehensive migration system. This system must be based on the respect, promotion and protection of human rights and equal treatment of all migrants, especially those most vulnerable to trafficking and exploitation.
- Until the onset of a new migration system, the migration policy should be transparent, specific regulations governing it should be publicised and easily accessible in the countries of origin of migrants so that migrants and potential victims of trafficking have adequate knowledge of the regulations governing the entry, employment and residence regime in Cyprus.
- Specific measures and strict policies for combating corruption in the persecuting authorities and other public services should be adopted
- Identification of victims is a difficult and complicated procedure, especially for the victims, and should, therefore, be undertaken by human rights based agencies or organisations, such as NGOs, which cooperate to this effect with the state.
- Victims should be provided with psychological and other support and protection, including for claiming compensation.
- The long term or permanent stay of trafficked victims, regardless of whether they have cooperated with the authorities, should be allowed.
- The Police approach for prosecution purposes must follow the identification of the victim.
- The return of victims to the countries of origin must take place only on a voluntary basis and only after an informed decision by the victims and if it is to their advantage.



MIGRANT AND REFUGEE CENTRE

Report on the services provided to persons who have been trafficked for labour exploitation

January 2013 – December 2013

The vast majority of persons who have experienced/experience conditions of trafficking in Cyprus are persons with migratory status, who have worked/work as unskilled workers in the following areas: domestic work, farming/agriculture industry, sex industry, and hotel and catering. Persons identified as 'victims of trafficking' are usually requested to stay in Cyprus for a long time, as they are witnesses in criminal proceedings, which typically take many years to complete. During this period, persons who have been identified as victims of trafficking face various problems regarding their rights to access adequate livelihoods and health care, as well as issuing a residence permit. According to the law, persons identified as victims of trafficking should have access to employment, access to welfare benefits, full access to medical care, and they should be granted a residence permit without being charged for it. In reality, however, they find themselves, once again, in poor living conditions, without real access, or without adequate access to any of these rights.

In 2013, KISA's Migrant and Refugee Centre dealt with approximately 50 cases of persons trafficked for labour exploitation. Out of these 50 cases, 30 were new cases (for which files were opened in 2013) and 20 concerned persons for whom KISA had opened files before 2013, but they visited KISA again in 2013 for various problems they faced.

The issues concerning persons, who have been trafficked for labour exploitation and with which KISA's Migrant and Refugee Centre dealt in 2013, are outlined below.

➤ **Identification of persons as 'victims of trafficking'**

In Cyprus, the police are the only responsible authority/body for the identification of victims. This is problematic, mainly because usually persons, who have experienced/are experiencing trafficking, do not trust the police. The other main problem in identifying persons as victims of trafficking is that often the persons themselves cannot articulate their experiences in such a way to facilitate identification. Usually, migrants visit KISA's Migrant and Refugee Centre to discuss problems they face (often problems that are not related to trafficking) and through the interview, it is revealed that they have or they might have experienced trafficking. KISA cooperates with the police, referring them cases for identification purposes and following up with them.

➤ **Access to adequate livelihoods**

The access of persons identified as victims of trafficking in satisfactory livelihoods is guaranteed either through employment or through public assistance. The problems identified are the following:

A. Employment

Persons identified as victims of trafficking do not usually have any expertise/specialization and there are no training programs for them, in order to gain such expertise. This results to their concentration in specific sectors (domestic work, entertainment, and farming and agriculture industry), where labor/sexual exploitation is frequent and thus, there is a high risk of re-victimization when they find employment. Moreover, salaries in those sectors are very low, having as a result for persons identified as victims of trafficking not to be able to have adequate livelihoods for themselves and their families. More specifically, in 2013, KISA's Migrant and Refugee Centre dealt with the following issues:

- Information of persons identified as victims of trafficking regarding their rights to employment and how to access them.
- Access to the labour market.
- Support, advice, and mediation on issues related to labour relations and working conditions.

B. Public assistance

- Information on the rights of persons, who are identified as victims of trafficking, to public assistance and the relevant procedures.
- Problems with the access to the procedures of applying for public assistance.
- Delays in examining applications for public assistance.
- Delays in paying public assistance.

- Communication failure between persons identified as victims of trafficking and the officers the Social Welfare Services (SWS).
- Problems in relation to the behaviour of SWS officers towards persons who have been identified as victims of trafficking.
- Interruption of public assistance.

➤ **Access to health care**

According to the law, persons, who are identified as victims of trafficking have full and free access to health care. Unfortunately, this right is restricted in practice by various factors. More specifically, in 2013, KISA's Migrant and Refugee Centre dealt with the following issues:

- Information of persons identified as victims of trafficking regarding their rights to health care and on how to apply for a health card.
- Problems in accessing health services (most commonly, problems in relation to the behaviour of persons working at public health services, communication problems - lack of interpretation/translation services and lack of awareness regarding cultural differences).
- Access to services/treatments that are not available at the public health services.
- Lack of therapeutic programmes to address trauma/post-traumatic stress disorders for persons who have experienced trafficking.

➤ **Problems regarding residence permits**

According to the law, persons who are identified as victims of trafficking should have immediate access to all of their rights, including the right to a residence permit. In practice, residence permits take a long time to be issued and this entails serious consequences, including: 1) their search for employment, as most employers ask migrants to prove that they have a valid residence permit in order to proceed with their employment, other government services require a valid residence permit in order to grant access to social rights, 2) their access to public assistance, as the SWS ask for a valid residence permit in order to accept their application for public assistance, and 3) their access to health care, as the residence permit is also a prerequisite when applying for a health card. Within this framework, KISA's Migrant and Refugee Centre provides:

- Information to persons identified as victims of trafficking regarding their rights to issuance/renewal of residence permit and how to access them.
- Support and mediation with the relevant authorities (Civil Registry and Migration Department, Ministry of Interior, Social Welfare Services, Employment Centres, Ministry

of Health and hospitals, etc) regarding their rights to issuance or renewal of residence permits, especially regarding requirements for payment of a fee and/or bank deposit, and/or medical insurance to apply for renewal of residence permit for themselves and their family members and delays in the issuance/renewal of residence permits.

➤ **Legal advice**

KISA's Migrant and Refugee Centre informs persons identified as victims of trafficking of their legal rights, offers advice on how to deal with court proceedings, in which they must testify as witnesses against their traffickers, and informs them of their right to apply for compensation as victims of trafficking.

When required, the Centre refers victims to a human rights lawyer that KISA cooperates with for pro bono legal advice.