

18 October 2022

Today, on EU Anti-Trafficking Day, we call upon EU leaders and Member States to ensure that victims of human trafficking can effectively claim and access their rights within the European Union

EU Member States have the responsibility to offer effective protection to victims of trafficking under international human rights obligations and EU law, including the EU Anti Trafficking Directive of 2011. While research and progress reports – including by the European Commission and EU Parliament - have noted that ‘the application of the Directive is still far from being accomplished’, the Commission will most likely on 13 December 2022 propose a revision of the Directive.

We ask the EU; the Commission, the Parliament and EU Member States to use this revision to remove all existing legal and practical obstacles that currently prevent the adequate identification, protection and support of trafficked persons in Europe.

Firstly victims access to support is still conditioned and closely tied with the criminal justice system. Assistance and protection are made dependent upon reporting the crime and to victims’ participation in legal proceedings; as well as the initiation of an investigation, continuation of a prosecution, the qualification of the crime as human trafficking and a successful prosecution of the perpetrators. Even if victims are able and willing to make a complaint and cooperate with the authorities, they risk having no access to protection and support beyond the reflection period, just because a criminal procedure has not started or is being dismissed or the crime of human trafficking could not be proven, while there are clear indications of severe exploitation.

Gaps are further noted in the provision of assistance and support to victims including related to appropriate and safe accommodation, medical treatment including psychological assistance, counselling and information, due to procedural, financial and practical difficulties. Another serious concern is that it is very rare for victims of trafficking to be granted a residence permit and only in few EU Member States, there are possibilities to obtain residence on personal grounds. Moreover, we see that victims with a so called ‘Dublin claim’ are often returned to the country of first entry, and are not granted the right to a reflection period or to report the crime and to get adequate assistance and support, as foreseen in the EU Directive.

Moreover, safe reporting and effective complaints mechanisms for undocumented workers to report exploitation and access justice are absent in most EU Member States. As a consequence victims with an irregular stay, risk to be detained and deported, when attempting to report exploitative situations. Also, the lack of implementation and application of the non-punishment principle hinders the access to protection and support, including access to residence. Trafficked persons in Europe are often still wrongly detained, prosecuted and punished for offences they have been compelled to commit in the course, or as a result, of having been trafficked. Moreover, a number of legal, procedural, financial and practical barriers hinder the access of trafficked and exploited persons to effective remedies and justice, including compensation and back wages.

A revised EU Trafficking Directive should continue to recognise and strengthen victims’ rights and offer clear guidance to and commitment of EU MS to ensure that these rights can be effectively applied in practice.

La Strada International is a European NGO Platform against Trafficking in Human Beings, our members work at grass root level and are assisting a large part of the identified trafficked persons in Europe. Help us to ensure that the rights of victims of human trafficking in Europe are guaranteed not only by law but also in practice.’