



St Mary's  
University  
Twickenham  
London



Religious in Europe Networking  
Against Trafficking and Exploitation

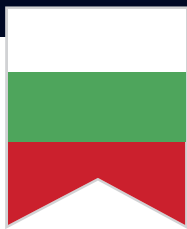
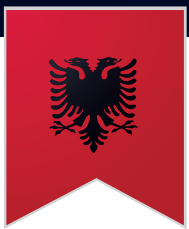


Bakhita Centre for Research on  
Slavery, Exploitation and Abuse  
Applied Research, Education and Training



## Legal practitioners' work with victims of human trafficking

training required to undertake this work and  
resources to aid them in five countries: Albania,  
Bulgaria, Romania, Spain and United Kingdom



June 2024



## Contents

<b>BACKGROUND TO THE RESEARCH</b> .....	<b>6</b>
<b>FOREWORD</b> .....	<b>8</b>
<b>ACKNOWLEDGEMENTS</b> .....	<b>9</b>
<b>ACRONYMS/GLOSSARY OF TERMS</b> .....	<b>9</b>
<b>1. INTRODUCTION</b> .....	<b>10</b>
<b>2. METHODOLOGY</b> .....	<b>12</b>
2.1    Limitations .....	12
<b>3. ALBANIA</b> .....	<b>13</b>
3.1    Findings.....	14
3.1.1    Human trafficking in Albania .....	14
3.1.2    Legal Assistance work with victims of human trafficking.....	15
3.1.2.1    Early engagement on rights and identification .....	17
3.1.2.2    Assessment of legal needs .....	18
3.1.2.3    Supporting a victim through the criminal justice process .....	18
3.1.2.4    Ongoing Legal Support for Survivor Recovery and Reintegration .....	20
3.1.2.5    Legal assistance and defence for crimes committed during exploitation .....	20
3.1.2.6    Legal Assistance for Compensation Claims .....	20
3.1.2.7    Witness Protection .....	21
3.1.2.8    Legal assistance in relation to immigration issues .....	21
3.1.2.9    Advocacy and strategic level work .....	21
3.1.3    Good practice.....	23
3.1.4    Training and skill development paths for legal practitioners assisting survivors of human trafficking .....	25
3.1.5    Essential skills and knowledge for assisting victims of human trafficking .....	27
3.1.6    Funding Legal Aid for survivors of modern slavery and human trafficking.....	30
3.1.7    Challenges to effective responses to human trafficking.....	31
3.1.7.1    Ensuring victims' rights and a victim-centred approach .....	31
3.1.8    Challenging Criminal justice processes and Uncooperative Actors .....	32
3.1.8.1    Lack of adequate knowledge about human trafficking .....	32
3.1.8.2    Challenges due to changes in judicial processes .....	33
3.1.8.3    Lack of Access to Compensation .....	34
3.1.8.4    Lack of unified law on human trafficking .....	34
3.1.8.5    Experience of workplace stress and vicarious trauma .....	35
3.1.8.6    Lack of a multi-agency approach to ensure a holistic response to survivors' needs.....	35
3.2    Recommendations.....	35



<b>4. BULGARIA</b> .....	<b>36</b>
4.1 Legal assistance work with victims of human trafficking.....	38
4.1.1 Victim identification .....	39
4.1.2 Victim engagement in criminal justice processes .....	39
4.1.3 Assistance with compensation claims.....	41
4.2 Funding of legal practitioners' work.....	42
4.3 Training and skill development paths for legal practitioners assisting survivors of MSHT .....	42
4.4. Essential skills and knowledge for assisting victims of human trafficking .....	44
4.5 Challenges to effective responses to human trafficking.....	46
4.5.1 Victim identification .....	46
4.5.2 Lack of access to legal advice .....	47
4.5.3 Risks of re-traumatisation .....	47
4.5.4 Limited prevention efforts .....	47
4.5.5 Lack of access to compensation .....	48
4.5.6 Lack of multi-agency cooperation .....	48
4.6 Recommendations.....	48
<b>5. ROMANIA</b> .....	<b>4</b>
5.1 Legal Assistance work with victims of human trafficking .....	51
5.1.1 Victim identification .....	51
5.1.2 Awareness of victims' rights .....	52
5.1.3 Victim engagement in criminal justice processes .....	52
5.2 Funding of legal practitioners' work.....	53
5.3 Training and skill development paths for legal practitioners assisting survivors of MSHT .....	53
5.4 Essential skills and knowledge for assisting victims of human trafficking .....	55
5.5. Challenges to effective responses to human trafficking.....	58
5.6 Recommendations.....	58
<b>6. SPAIN</b> .....	<b>59</b>
6.1 Legal assistance work with victims of human trafficking.....	60
6.1.1 Victim identification .....	61
6.1.2 Legal advice for a range of issues .....	61
6.1.3 Legal advice and support through criminal justice procedures .....	62
6.1.4 Comprehensive and holistic assistance .....	63
6.1.5 Collaborative approaches and multi-agency working .....	63
6.1.6 Provision of training .....	64
6.1.7 Advocacy and strategic activities .....	65



6.2	Training and skill development paths for legal practitioners assisting survivors of MSHT .....	65
6.3	Additional support or resources that would benefit legal practitioners .....	67
6.4	Training provided by expert legal practitioners .....	68
6.5	Essential skills and knowledge for assisting victims of human trafficking .....	69
6.6	Funding .....	70
6.7	Good practice .....	71
6.8	Challenges .....	71
6.8.1	Identification of victims .....	71
6.8.2	Lack of access to support, including legal advice .....	72
6.8.3	Structural issues linked to state funded legal provision .....	73
6.8.4	Negative impact of criminal justice processes on victims.....	74
6.8.5	Significant problems in relation to criminal justice actors and processes .....	75
6.8.6	Funding of support and legal advice .....	75
6.8.7	Lack of awareness on human trafficking .....	76
6.9	Recommendations.....	76
<b>7.</b>	<b>UNITED KINGDOM .....</b>	<b>77</b>
7.1	Findings.....	79
7.1.1	The role of support workers and advocates in NGOs .....	79
7.1.2	Legal Assistance work with victims of human trafficking.....	81
7.1.2.1	Ensuring adequate identification and assistance for survivors .....	81
7.1.2.2	Identification .....	82
7.1.2.3	Immigration advice .....	82
7.1.2.4	Advice provided pre-engagement with law enforcement .....	83
7.1.2.5	Treatment of suspects who are also victims .....	84
7.1.2.6	Prevention of modern slavery.....	84
7.1.2.7	Assistance with compensation claims .....	85
7.1.2.8	Using public law to challenge public bodies' decisions .....	86
7.1.2.9	Other work .....	87
7.1.2.10	Strategic work.....	87
7.1.3	Good practice.....	88
7.1.4	Funding legal advice work with survivors of modern slavery.....	90
7.1.5	Training and skill development paths for legal practitioners assisting survivors of MSHT .....	91
7.1.6	Essential Skills and Knowledge for Assisting Victims of Human Trafficking .....	93
7.1.7	Challenges to effective responses to human trafficking.....	97
7.1.7.1	Inadequate legal aid funding .....	97
7.1.7.2	Difficulties managing expectations and maintaining trust .....	98
7.1.7.3	Decreased numbers of legal aid funded experts .....	98



7.1.7.4	Lack of funding for Pre-NRM advice .....	99
7.1.7.5	Lack of legal aid for compensation claims .....	99
7.1.7.6	Difficulty of obtaining funding for expert reports .....	99
7.1.7.7	Lack of awareness about MSHT amongst law enforcement .....	99
7.1.7.8	Delays in asylum decisions .....	100
7.1.7.9	Difficulties arising from use of ill-informed private lawyers .....	100
7.1.7.10	Limited Capacity Strains .....	100
7.1.7.11	Hostile rhetoric from the government .....	100
7.2	Recommendations.....	101
<b>8.</b>	<b>CONCLUSION .....</b>	<b>101</b>
8.1	Recommendations for RENATE going forward.....	104
<b>APPENDIX 1: INTERVIEW QUESTIONS.....</b>		<b>105</b>
<b>APPENDIX 2: SURVEY QUESTIONS .....</b>		<b>106</b>
<b>APPENDIX 3: RESOURCES AND TRAINING RECOMMENDED BY LEGAL PRACTITIONERS IN FIVE EUROPEAN COUNTRIES .....</b>		<b>109</b>



## Background to the research

The Religious in Europe Networking Against Trafficking and Exploitation (RENATE), presents this new research report after 18 months of dedicated and painstaking work by the RENATE Law Task Group. RENATE commissioned The Bakhita Centre for Research on Slavery, Exploitation and Abuse, at St Mary's University, Twickenham, to conduct research on the gaps in the training and resources required by legal practitioners of six European countries who work for and with victims of human trafficking. RENATE specifically nominated 6 countries to be included in this research, Albania, Bulgaria, Romania, Spain, the United Kingdom and Germany. Through this process, after much effort on the part of RENATE members to engage German lawyers in this process, Germany was excluded from the research, due to the lack of lawyers available to conduct the research in a qualitative and quantitative process. Germany is undergoing great change during this time, particularly in the field of law regarding legalised prostitution and the impact of this on human trafficking for sexual exploitation, now hidden from sight. RENATE stays close to Solwodi, who is particularly impacted by the present upsurge of dialogue in this field. Consequent to this fact, the remaining five countries in Europe were the subject for this research.

RENATE is a network operating in 31 European countries, that continues to work tirelessly to abolish all forms of human trafficking and exploitation that violates the human dignity and the rights of persons. Throughout Europe, RENATE adopts a Victim-Centred, Human Rights, Trauma-informed approach in relation to the law.

This research builds upon previous RENATE research (June 2021) in the six named originally chosen countries that looked specifically at the legal assistance for victims of trafficking. Of critical interest in this research, was firstly, the awareness of victims of human trafficking of their right to legal assistance, secondly, the quality of this legal assistance and thirdly, the ability of victims to access appropriate, timely, qualified, guiding and supportive legal assistance.

RENATE campaigns and advocates for an holistic response to survivors' legal needs and this first mapping research highlights the pivotal and wide-ranging role that legal representatives have in identifying victims, accompanying and advising victims of their rights and entitlements, providing information about immigration or compensation or sometimes advising on criminal justice processes that can be incredibly opaque depending upon the country examined.

RENATE has begun work to create a Europe-wide directory of services that would include a list of pro-bono legal advocates in all our 31 countries. The Bakhita Centre, at St Mary's University, Twickenham, UK, surveyed and interviewed legal practitioners in all five countries, offering translation, where appropriate, in an effort to come to the conclusions that they reached in this research.

One obvious and remarkable finding, is the lack of training that is offered to lawyers who work with victims. This has been anecdotally obvious to RENATE for so long that we are heartened now that this research offers a credibility and authority to what we have long known to be the case on the ground. Another important finding is the degree to which those lawyers working with victims have shown a compassion, patience, understanding and empathy that goes way beyond their legal remit and many would say was not part of their formal training. They do this without much fanfare. They regularly work well beyond their expected hours, recognising that support for a traumatised victim must be ongoing. Their working conditions are often very confining, being paid poorly for lengthy, complex and often very slow work. We learned of the strategies that lawyers have developed themselves in order to help improve legal practices, including upskilling themselves and other members of the legal profession.

This research invigorates and emboldens RENATE to continue to pursue and advocate for better conditions and services for those victims of human trafficking who are among the most marginalised. RENATE's primary commitment is to reach those forgotten and abandoned. This is the promise of RENATE: to leave no one behind and not only the victims but also those legal practitioners who responsibly defend their cases. These legal practitioners want to offer advice, listen with a victim centred approach, which is trauma informed and according to human rights law. For this essential approach in defending victims of human trafficking, legal practitioners admit the need for training and time to conduct this process ethically. With much needed support they can make a lasting difference to the lives of the most vulnerable in society, the Human Trafficked. Of course, these lawyers want a better system for victims but they are left with little time to advocate for much needed change to a creaking legal system in all five countries. The systems are not "fit for purpose" in offering a high level and professionally trained service to victims of human trafficking. This research supports those



lawyers in their efforts to campaign for change. It allows lawyers, in each of the five participating countries, to glimpse alternative models of highly professional legal assistance. The ultimate real imperative arising out of this research, lies in the recognition that all legal systems must be victim protected, trauma-informed and human rights based. This gives a flexibility ensuring the victims move into a safe space in the legal processes, building an environment of trust, which empowers both lawyer and victim to reach the stages of the prosecution of perpetrators, under the law, with safety and fulfilment of justice.

We congratulate the Bakhita Centre on this highly professional and enlightening research, and we extend our sincerest thanks to those legal practitioners who made themselves available for interview and questioning. We can see the richness of their contributions in all areas of this research especially in Appendix 3, where we can find a list of resources and training programmes, referred to by the legal practitioners, that stand out as exceptional in all efforts to legally assist all victims of human trafficking.

This significant and important research underpins RENATE's ongoing commitment to work together with Church, State and Civil Society, in the joint desire, as outlined in specific Sustainable Development Goals, to focus on ending human trafficking. RENATE is confident to challenge judicial and civil authorities to adopt and enforce legislation that empowers lawyers to protect the victims, prosecute the perpetrators, enable a seizure of their assets, and to guarantee these assets are used for the ongoing empowerment and fulfilment of life for the survivors of this heinous crime.

**Sr Marie Power HFB**, *Co-President of RENATE, United Kingdom*  
**Ms Ivonne van de Kar**, *Co-President of RENATE, Netherlands*

**And on behalf of the RENATE Law Task Group**  
**Mr Brian O'Toole and Sr Imelda Poole, IBVM**



## Foreword

Working on this mixed method study commissioned by RENATE, researchers from the Bakhita Centre for Research on Slavery, Exploitation and Abuse at St Mary's University, Twickenham have produced a valuable, evidence-based report that highlights the work of legal practitioners in five European countries, the ways in which they have acquired the knowledge and skills they need to perform their roles, and the kinds of knowledge and skills they believe legal practitioners need to provide expert advice to victims of human trafficking and modern slavery. It has highlighted the challenges faced by legal practitioners, and also identified good practice in individual countries, some of which is shared across a number of the countries investigated as part of this study. A valuable addition to this report is the list of resources and training opportunities that may be of benefit to legal practitioners who seek to develop their knowledge and improve their practice.

Both RENATE and the Bakhita Centre would particularly like to acknowledge the researchers and editor who produced this work: lead researcher, Dr Ruth Van Dyke, co-researcher, Phil Brewer, and editor, Dr Anta Brachou. Both of these researchers and the editor are important members of and contributors to the Bakhita Centre. The report demonstrates the high quality research expertise and high standards of professionalism underpinning the study. This task was supported by the expertise of the *RENAME Law Task Group*. It was through their guidance, and enabling access to their professional contacts that made this study possible.

We believe that this report sheds light on the already existing good practice adopted by legal practitioners in five European countries. Moreover, it provides the evidence that can be used to advocate for improvements in legal education and legal processes which will enhance the capacity to deliver a trauma informed and holistic approach to legal assistance for victims of human trafficking and modern slavery.

The team at the Bakhita Centre hope that this report will be of value to practitioners and policy makers in each of the five countries investigated and that it will also prove useful as a foundation for future actions undertaken by RENATE.

**Dr Carole Murphy**

*Director of the Bakhita Centre for Research on Slavery, Exploitation and Abuse  
St Mary's University*







## Acknowledgements

This significant RENATE research was undertaken and written with generous funding from the Conrad Hilton Foundation, for which we are most grateful. The research forms part of the wider work RENATE undertakes to protect and support victims of trafficking across Europe. Supported and assisted by the RENATE Law task group, the research was led by the Bakhita Centre for research on Slavery, Exploitation and Abuse (Bakhita Centre). The project was as a result of a huge amount of dedicated enthusiasm, perseverance, persistence and expertise from many people, without whose help, we would have been unable to produce this report. Therefore, we would like to extend our sincerest gratitude to all of them. We would first of all, like to acknowledge the invaluable work and contributions from the RENATE Law Group Members:

Sr Marie Power HFB – Co-President of RENATE, United Kingdom  
 Dr Agnes Martony – SOLWODI HUNGARY, Hungary  
 Ms Annie Bannister – Police Lawyer, United Kingdom  
 Dr Anta Brachou – Bakhita Centre for Research on Slavery, Exploitation and Abuse, United Kingdom  
 Sr Begoña Iñarra – SMNDA, Missionary Sister of our Lady of Africa, Spain  
 Mr Brian O' Toole – International Presentation Association, Ireland & England  
 Ms Brikena Puka – Director of Vatra Psychosocial Center, Albania  
 Ms Dilyana Giteva – Right to Childhood Foundation, Bulgaria  
 Mr Gazmir Memaj – Mary Ward Loreto Foundation, Albania  
 Sr Imelda Poole IBVM – Mary Ward Loreto, Albania  
 Ms Mariana Meshi – Different and Equal, Albania  
 Ms Marie-Christine Davy – France  
 Ms Marta Santos Romero JPIC, IBVM – Spain  
 Dr Mary McHugh – United Kingdom  
 Sr Mary Patricia Mulhall, CSB – United Kingdom  
 Ms Rochelle Keyhan – Collective Liberty, US  
 Mr Shawn Kohl – International Justice Mission (IJM), Romania

Their continuous support and written input have been of paramount importance to this project. We would like to express our deepest appreciation to the Co-Presidents of RENATE, Sr Marie Power HFB, United Kingdom and Ivonne van de Kar, Netherlands, who were the driving force behind this initiative and who also sought and encouraged the support of other RENATE members. We are also indebted to Ms Anne Kelleher and Ms Sorcha Mallen for their constant support and assistance in all our work in RENATE.

The Bakhita Centre for Research on Slavery, Exploitation and Abuse was commissioned to undertake this significant RENATE research. RENATE remain indebted to Dr Ruth Van Dyke, Acting Director of the Bakhita Centre and also Phil Brewer, Honorary Research Fellow at the Bakhita Centre, for their skill, patience, engagement, and enthusiasm in completing this work. We are also grateful to Dr Carole Murphy who was our initial contact at the Bakhita Centre and to Dr Anta Brachou for her work in editing and for her ongoing and supportive connection to the RENATE Law Task Group.

The research team wants to thank all the legal practitioners who were willing to participate in this research. We hope that we have provided a clear and insightful narrative based on the rich information you provided to us. We hope we have done justice to your work, to the challenges you face, and to the development of more expertise amongst legal practitioners who can then provide the much-needed legal assistance to survivors of human trafficking in your countries.

## Acronyms/glossary of terms

CICA	Criminal Injuries Compensation Authority [UK]
ECAT	Council of Europe Convention on Action against Trafficking in Human Beings
GRETA	Group of Experts on Action against Trafficking in Human Beings
MSHT	Modern Slavery and Human Trafficking
NGO	Non-profit organisation
NRM	National Referral Mechanism, the established framework in England and Wales responsible for identifying and supporting victims of modern slavery and human trafficking.
OSCE	Organisation for Security and Co-operation in Europe
RENATE	Religious in Europe Networking Against Trafficking and Exploitation
THB	Trafficking in Human Beings
UNODC	United Nations Office on Drugs and Crime
VoT	Victim of Trafficking

*All photographs of persons are stock library images*



## 1. Introduction

International, regional and national policy establish the kinds of social, economic and legal support that should be available to victims of human trafficking. The translation of such policies into practical implementation within European countries has been a focal point of research. In addition, collaborative projects that include comparative studies have emerged, which have promoted learning from other countries experiences and allowed good practice to emerge which can be shared. These research projects have also highlighted some of the challenges faced by victims of trafficking who seek to obtain their entitlements as defined by policy frameworks.

One area that has received attention is information about legal rights and access to legal representation<sup>1</sup>. A comparative study noted that legal advocacy and representation was acknowledged in six EU states but monitoring bodies had indicated that improvements should be made. It highlighted the need to 'improve the provision of legal advice or assistance to victims on various matters including the NRM, asylum systems, criminal proceedings and compensation', and to 'ensure that all trafficking victims are, in practice, able to access available legal services and that legal advice and legal aid is provided as soon as there is an indication of trafficking'<sup>2</sup>. It also indicated that victims required representation to ensure they were not punished for crimes committed while in a situation of exploitation, and that victims who were incarcerated received support. Access to legal aid by victims of human trafficking varied across the countries particularly with regards to different legal issues, with immigration advice and non-prosecution advice being the most prevalent, with advice for compensation, or for victims acting as a witness in a criminal investigation and a trial offered in only some. The report noted the complexity and length of human trafficking cases, that often required legal advice related to immediate needs but also for long term needs. However, it also described the challenge to legal aid provision arising from lack of expertise amongst legal aid practitioners, and legal aid funding not covering the costs of the complex casework<sup>3</sup>.

The benefit of early legal intervention was also noted as it 'plays a critical role in ensuring that VoT can make informed choices which will ensure they can realise their rights and obtain a better overall outcome'<sup>4</sup>. This included access to rights, support to aid recovery, non-punishment, and reducing the risk of re-trafficking. Research also highlighted promising practice related to early legal intervention and identified core principles and types of knowledge and skill that could help develop more effective legal assistance for victims of human trafficking, based on a human rights approach, which 'is about ensuring that a victim of human trafficking is able to effectively realise their human rights under international law'<sup>5</sup>. Best practice entailed providing legal assistance for all legal issues and at the first indication that someone was a potential victim of human trafficking. Moreover, it meant that legal advice should be provided before any formal agreements were made to ensure there was informed consent in relation to engagement with law enforcement or the process of identification. It also required partnership working between agencies likely to encounter victims and who may provide support or criminal investigations and legal practitioners who can be invited to provide early legal advice. Fundamental to a rights-based approach to legal assistance requires delivery 'by those who have knowledge and training in this area and in a manner tailored towards the specific needs of the victim of human trafficking'<sup>6</sup>.

Good practice was also identified as legal practitioners adopting a holistic approach to working with victims, and responding to the varied legal issues that can affect them, for example, 'all matters relevant to a victim's identification and subsequent protection and could cover administrative, civil and criminal legal proceedings'<sup>7</sup>. The EU funded the ASSIST project<sup>8</sup>, which developed and delivered gender-specific legal assistance and practical support to female third country national victims of trafficking for sexual exploitation in EU Member States in order to contribute towards their integration. It also indicated that trafficked women required holistic legal representation<sup>9</sup>. Building trust by actively engaging and listening to victims and seeking to ensure the safety and protection of victims were considered crucial

1 Kirsty Thomson, (undated) Upholding Rights! Early Legal Intervention for Victims of Trafficking – Best Practice Principles. Accessed 12 12 2023. <https://www.immigrantcouncil.ie/sites/default/files/2021-03/ELI-Best-Practice-Report2.pdf>; and Monica O'Connor (2015) Comparative Report Upholding Rights! Early Legal Intervention for Victims of Trafficking, Dublin: Immigrant Council of Ireland. Accessed 12 12 2023. [https://emn.ie/files/p\\_20150720122344early%20legal%20intervention%20for%20victims%20of%20trafficking.pdf](https://emn.ie/files/p_20150720122344early%20legal%20intervention%20for%20victims%20of%20trafficking.pdf)

2 O'Connor, 2015, p 20

3 Ibid.

4 Ibid., p. 34

5 Thomson, undated, p 4

6 Ibid., p 12

7 Ibid., p 15

8 Kirsty Thomson and Nusha Yonkova (2020) ASSISTING TRAFFICKED WOMEN: Best practice principles of gender-specific legal assistance and integration supports to third country national female victims of trafficking for sexual exploitation, Glasgow: JustRight Scotland. Accessed 12 12 2023, [https://www.justrightscotland.org.uk/wp-content/uploads/2020/12/JRScot\\_ASSIST\\_Report-FINAL.pdf](https://www.justrightscotland.org.uk/wp-content/uploads/2020/12/JRScot_ASSIST_Report-FINAL.pdf)

9 Ibid.



aspects of a holistic response. It was noted that human trafficking cases are complex and often very challenging and thus legal practitioners will have to demonstrate tenacity.

In order to provide quality legal advice, research on promising practice suggested legal practitioners needed in-depth knowledge of international, regional and national policy that affects victims of human trafficking as well as awareness of professional standards and ethics. They also required an understanding of other professional sectors that might affect victims. In order to build and maintain trust, legal practitioners needed to have sufficient time to engage with clients, often over long periods of time and at their pace, and to help them understand options so that they could make decisions. Effective practice was also seen as adopting a victim-centred approach which was trauma informed, which 'is about understanding the needs of a particular client - the fear, shame and humiliation that may be experienced - and taking these needs into account in every element of legal service provision'<sup>10</sup>.

It was noted that specialist legal practitioners working with victims of human trafficking have been important in helping to upskill other legal practitioners as well as taking an active role in working to protect the rights of victims<sup>11</sup>.

The 2021 RENATE study<sup>12</sup> fit into this work as it explored legal aid provision in six European countries, and the challenges to the provision of legal aid work and barriers to victims accessing legal aid in Albania, Bulgaria, England and Wales, Germany, Romania, and Spain. In order to promote the development of good practice in legal assistance for survivors it required more evidence about what legal assistance looked like, how it was funded, and the knowledge and skills required to provide high quality legal assistance.

International policy that sets out the kinds of social, economic and legal support that should be available to victims of human trafficking, includes the Council of Europe Convention on Action against Trafficking in Human Beings (ECAT), the EU directive against trafficking in human beings and the Organisation for Security and Cooperation in Europe's (OSCE) guidance and handbook on developing a National Referral Mechanism (NRM). The NRM has also been promoted internationally as the institutional structure that should be used to identify victims of human trafficking and to provide government funded support to victims. The 2022 NRM handbook makes it clear that legal assistance is a fundamental part of the support that should be offered to victims. It states: 'Access to legal advice and representation is an important safeguard for victims and survivors of trafficking. It should be offered at the earliest opportunity and free of charge'<sup>13</sup>.

Access to legal assistance has been the subject of the Group of Experts on Human Trafficking who evaluate if and how State's implement ECAT. It has also featured in academic research and practitioners reports which have explored the provision of legal assistance, particularly early legal advice, and access to this provision and the factors affecting provision.

A number of reports point to good practice in relation to legal assistance, and/or discuss how good practice could be developed drawing on examples in different country settings.

Central to providing legal assistance is the 'how' legal practitioners engage with survivors. A trauma informed approach was viewed as best practice<sup>14</sup>. A gender-sensitive approach was viewed as particularly aiding women who had some specific gendered needs, while others referred to approaches which were child friendly or appropriate to vulnerable and marginalized groups.

From this discussion it is evident that research and evaluation studies have explored the provision of legal assistance to victims of human trafficking within European countries. However, there are significant gaps that this research seeks to fill. These include exploring and clarifying the nature of work undertaken by legal practitioners in the modern slavery and human trafficking (MSHT) sector, how this work is funded, how they acquired their knowledge and skills, their perspectives on the necessary expertise and knowledge for quality legal assistance, and finally the challenges they face in their work.

10 Thomson, undated, p 22

11 Thomson, undated

12 RENATE (2021) Legal Assistance for Victims of Tracking Across Europe with Special Reference to six European Countries. [https://www.renate-europe.net/wp-content/themes/renate/Final%20Report\\_LegalAidEurope%20FINAL%201%20korrik.pdf](https://www.renate-europe.net/wp-content/themes/renate/Final%20Report_LegalAidEurope%20FINAL%201%20korrik.pdf)

13 Rachel Witkin (2022) National Referral Mechanisms - Joining Efforts to Protect the Rights of Trafficked Persons: A Practical Handbook (2nd ed.), p. 104. Accessed 25 03 2024. <https://www.osce.org/odhr/NRM-handbook>

14 Thomson, undated, p. 20.



## 2. Methodology

Religious in Europe Networking Against Trafficking and Exploitation (RENATE) commissioned the Bakhita Centre for Research on Slavery, Exploitation, and Abuse to explore the training and resources available to legal practitioners who provide legal assistance to victims of human trafficking across five European countries, namely Albania, Bulgaria, Romania, Spain, and the United Kingdom<sup>15</sup>. This research was intended to build on previous work commissioned by RENATE in 2021, which culminated in the report *Legal Assistance for Victims of Tracking Across Europe: With Special Reference to Six European Countries*.

The research had a number of aims:

- To explore the types of work with victims of human trafficking undertaken by legal practitioners in each country and how this was funded,
- To identify how they acquired the knowledge and skills they needed to work with victims of human trafficking,
- To explore the knowledge and skills they felt legal practitioners required in order to provide quality legal advice to victims of human trafficking,
- To identify the challenges legal practitioners faced in undertaking their work.

In addition, RENATE was keen to identify examples of good practice in the provision of legal advice and resources that could be accessed by practitioners to help them improve their practice. Thus, both interview and survey respondents were invited to share examples of good practice and useful resources.

A mixed method approach was employed to collect data from legal practitioners in the five countries. This consisted of interviews designed to collect qualitative data from a small group of practitioners in each country, complemented by an online survey aimed at potentially engaging a larger group of legal practitioners working in the MSHT sector.

The interview schedule consisted of 11 questions that were intended to gather relevant data to address the research aims<sup>16</sup>. The survey was designed to elicit similar information and used both closed and open questions to make it less time-consuming to complete but also providing an opportunity to gather some rich data. The survey consisting of 14 questions<sup>17</sup>, was made available on the JISC platform. The interviews and survey were both developed in accordance with the research and ethics policy of St Mary's University. Ethics approval for the study was granted by the Ethics Board at St Mary's University.

The RENATE Law Task Group worked with the research team, Dr Ruth Van Dyke and Phil Brewer, to agree the sample size for interviews and the survey. The aim was to obtain 5-10 interviews with legal practitioners in each of the six countries between June and December 2023 based on names and contact details provided by RENATE members. The survey was intended to reach a larger sample of legal practitioners in each country. RENATE members were responsible for providing the link to practitioners in their own countries.

### 2.1 Limitations

Given the study's scope across five countries, numerous challenges arose, leading to a limited number of conducted interviews and completed surveys. Despite prioritising flexibility and extending deadlines multiple times, participation from legal practitioners proved difficult to secure. RENATE members provided contact details for legal practitioners in all five countries; however, an overall high non-response rate was encountered. Despite these challenges, however, those who contributed to the research provided remarkably rich and insightful data.

Table 1 below shows the number of interview and survey participants in each of the five countries included in the study. In total, 58 legal practitioners contributed to the research.

15 It is important to note that initially, the research also sought to include Germany, as in the RENATE research conducted in 2021. However, it was not possible to secure data from this country. The German legal framework, while reflective of societal changes, has introduced complexities in approaching individuals for participation in our study. This observation does not assume any specific attitudes or behaviours but rather highlights a nuanced and potentially sensitive area in the research process.

16 See Appendix 1

17 See Appendix 2



**Table 1 – Number of research participants in the five European countries**

Country	Type of Participation	Number of participants
Albania	Interview participants	7
	Survey respondents	12
Bulgaria	Interview participants	2
	Survey respondents	4
Romania	Interview participants	1
	Survey respondents	9 <sup>18</sup>
Spain	Interview participants	3 <sup>19</sup>
	Survey respondents	6
UK	Interview participants	10
	Survey respondents	6

The research reflects the experiences and views of legal practitioners who spend significant amounts of time working with victims of human trafficking. As a result, the findings reflect the views of legal practitioners with considerable expertise about human trafficking and the knowledge, skills and funding that are required to work with survivors to address their varied legal needs. Consequently, the findings are indicative but not generalisable. Furthermore, although the research goal was to engage practitioners from both rural and urban areas in each country, the majority of respondents were located in capital cities. As a result, the findings primarily reflect the situation in these urban centers.

### 3. Albania

Over the last few years legal assistance for victims of human trafficking has been recognised as an issue of concern in Albania. GRETA, who monitor implementation of ECAT, made a number of recommendations to the Albanian government in order to enhance legal assistance and free legal aid and to develop more effective systems of compensation<sup>20</sup>. Article 12 of ECAT 'provides that victims are to be given counselling and information, in particular as regards their legal rights and the services available to them, in a language that they understand' and Article 15 stipulates 'from their first contact with the competent authorities, to information on relevant judicial and administrative proceedings, in a language they can understand'<sup>21</sup>. In its 2020 report, GRETA noted that it was lawyers and social workers embedded in specialist shelters that provided this information, not law enforcement or prosecutors. They recommended that 'Albanian authorities should strengthen the capacity of law enforcement and relevant professionals to inform presumed victims and formally identified victims of trafficking regarding their rights, the services available and how to access them'<sup>22</sup>



The 2021 RENATE report *Legal Assistance for Victims of Tracking Across Europe With Special Reference to six European Countries*<sup>23</sup> made reference to a number of difficulties arising from poor implementation of Albanian legislation that has

18 Ten Practitioners completed the survey, but one survey was excluded from the data analysis as the practitioner did not work with victims of human trafficking.

19 Two practitioners who completed the survey also participated in interviews. As a result, a total of seven legal practitioners participated in the study in Spain due to the overlap between interviewees and survey respondents.

20 Group of Experts on Action against Trafficking in Human Beings (2020) EVALUATION REPORT ALBANIA: Access to justice and effective remedies for victims of trafficking in human beings. Accessed 06 11 2023 <https://rm.coe.int/greta-2020-09-fgr-alb-en/1680a0b84f>

21 GRETA, 2020, p. 13

22 Ibid., p.15

23 RENATE (2021) *Legal Assistance for Victims of Trafficking Across Europe With Special Reference to six European Countries*. P. 45 Accessed 07 11 23. [https://www.renate-europe.net/wp-content/themes/renate/Final%20Report\\_LegalAidEurope%20FINAL%201%20](https://www.renate-europe.net/wp-content/themes/renate/Final%20Report_LegalAidEurope%20FINAL%201%20)



a bearing on human trafficking. For example, the report indicated that victims encountered problems in accessing their rights, including compensation. These challenges were attributed to lack of capacity within law enforcement, inadequate human trafficking expertise amongst law enforcement, prosecutors, and secondary legal aid lawyers, and bureaucratic systems, particularly in relation to claiming and obtaining compensation. Access to legal assistance was one means of challenging these ineffective systems and aiding survivors' identification and recovery.

The 2022 Different and Equal participatory study, into young people's perspectives on seeking justice and support in relation to child trafficking in Albania, identified significant problems with the perception and experience of young survivors within the criminal justice system<sup>24</sup>. The study identified a lack of trust in the police, in prosecutors and in the courts, as a result of a failure by these actors to take their experiences seriously, traumatising, and stigmatising treatment, and failure to keep them safe.

The 2022 UNODC report also highlighted a number of problems with the criminal justice process. It noted that police and prosecutors failed to fully investigate a number of cases, a victim-centred approach was not always adopted, and they 'do not always have an approach toward victims that considers the trauma they have experienced during trafficking'<sup>25</sup>. Law enforcement also had the responsibility to ensure victims' rights to services were implemented. The issues raised in the two 2022 reports on how Albanian victims of human trafficking victims were treated within the criminal justice system, suggests that legal practitioners will have an important role to play in supporting and aiding victim identification, support, recovery, and access to justice.

### 3.1 Findings

In order to address the research questions about legal practitioners' work with survivors of human trafficking, their acquisition of relevant knowledge and skills, and the knowledge and skills they felt practitioners needed, eight interviews were conducted with legal practitioners in Albania who worked for NGOs or statutory bodies<sup>26</sup>. These organisations provide support to vulnerable people who experience gender-based violence, human trafficking, are vulnerable minors or are marginalised. As a result, these practitioners have extensive experience providing legal assistance to victims of human trafficking. They identified a range of work they undertake. It encompassed advice related to identification as a victim of human trafficking, understanding and accessing rights, welfare and housing issues, immigration issues, criminal justice processes, and compensation<sup>27</sup>. In addition, some lawyers worked at a strategic level through developing training, a network of expert lawyers, a review of Albanian legislation and a proposed unified law.

Findings below are from the survey completed by 12 legal practitioners supplemented by data obtained from interviews with 7 legal practitioners, who provided additional insights<sup>28</sup>.

#### 3.1.1 Human trafficking in Albania

The legal practitioners interviewed worked with adult and child victims of human trafficking who had been trafficked for the purpose of sexual exploitation, labour exploitation including begging, and forced criminality. They indicated that almost all the survivors they worked with were Albanian. The 2023 TIP<sup>29</sup> report noted that Albania recorded 110 victims of human trafficking in the year 2022 of which only three were foreign nationals. All victims were able to access legal advice through the specialist shelters and reception centre including those living in the community. However, it was noted that differences in forms of exploitation and nationality had some impact on how legal practitioners engaged with victims. Practitioners mentioned the need to obtain interpreters for foreign national victims, and to provide some immigration

[korrik.pdf](#)

24 Different & Equal (2022) The evidence speaks for itself: Findings from the 'Small steps can make a big difference' youth-led action research project into young people's perspectives on seeking justice and support in relation to child trafficking in Albania. Accessed 08 01 2024. <https://differentandequal.org/wp-content/uploads/2023/03/Research-Report-The-Evidence-Speaks-Itself.pdf>

25 UNODC (2022) UnLocking Impunity Of Traffickers And Supporting Justice For Victims Of Trafficking In Persons In Southeastern Europe: Analysis Of Cases Of Trafficking In Persons In The Republic Of Albania. p. 33 Accessed 08 01 2024 [https://www.unodc.org/documents/human-trafficking/2023/New\\_publications/Publication\\_Albania\\_EN\\_v1.0.pdf](https://www.unodc.org/documents/human-trafficking/2023/New_publications/Publication_Albania_EN_v1.0.pdf)

26 The interview sample did not include lawyers who were part of the secondary legal aid funded list and who have provided legal representation to victims of human trafficking.

27 Practitioners interviewed provide the same legal assistance to both Albanian and foreign national victims, but their needs may differ.

28 Key to quotes: Survey answers are denoted as SR + code; Interviews are denoted IS + code. The first letter represents the letter of the country the practitioner is from.

29 U.S. Department of State, 2023 Trafficking in Persons Report: Albania. Accessed 08 09 2023. <https://www.state.gov/reports/2023-trafficking-in-persons-report/albania/>



advice to help them regularise their status so they could access work and benefits. In addition, these cases are more complex as criminal investigations may need to look at countries of origin and how the victims arrived in Albania, and by implication legal assistance might be needed for longer periods of time.

Legal practitioners working with children indicated psychological support was an essential part of the recovery process and the criminal justice process. Thus, a psychologist along with the legal practitioner would be present at police interviews to ensure their well-being.

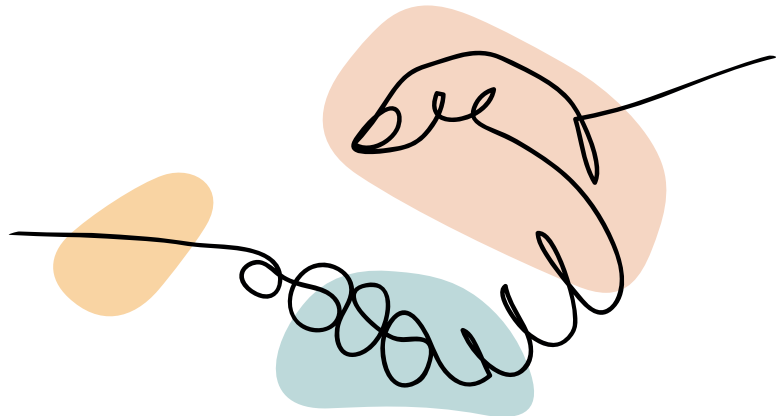
“ In the moment when they see the need that the child cannot speak anymore or is hesitating, he [the minor] has the right to stop the interview and maybe to begin and restart it in a different moment (AIP4).

In addition, they indicated they might have to provide more family related advice as the aim, where possible, was to enable the children to return to their families. However, they would have to ensure that it was safe for children to return, as family members may have been complicit in trafficking, and family neglect has also been an enabler of trafficking. In addition, they might need information to help children understand how the work they are doing, for example, begging, makes them victims of exploitation.

“ We try first of all to make them understand that even if they have just come here to beg, this is exploitation because they think that they have not been exploited. .... They don't understand it. ... We tried to explain that it can have negative impact in the future (AIP5).

### 3.1.2 Legal Assistance work with victims of human trafficking

Legal practitioners provide a wide range of legal assistance to victims of human trafficking<sup>30</sup>. The seven practitioners interviewed all worked for NGOs or the statutory shelter and provided specialist support to aid victims of human trafficking. Their NGOs were based in different parts of the country. The twelve practitioners that completed the survey also all worked for NGOs and mainly worked in Tirana but also in Saranda, Shkodra, Vlora and Elbasan.



30 See also 2021 RENATE report Legal Assistance for Victims of Tracking Across Europe With Special Reference to six European Countries



Survey participants were asked to tick the types of legal advice they provide from a list of four areas as well as having an opportunity to write in any additional assistance. *Table 2* below sets out the results. Helping victims seek compensation for the harm caused to them by the traffickers was the most frequently ticked form of advice which is interesting given the evidence of the difficulty in actually obtaining compensation for them. This finding suggests legal practitioners believe victims have a right to receive compensation for material and non-material damages. Most also provided advice prior to, and during, victims' engagement in the criminal justice process. Two-thirds also provided advice in the identification process or in helping victims with their immigration status. A few noted that they also help with family matters and protection programmes.

**Table 2: Type of work undertaken by legal practitioners**

Types of work	Survey 12 Respondents
Provide assistance through the identification process	67% (8)
Provide assistance in relation to immigration status, for example making an asylum claim or seeking leave to remain/residence permit.	67% (8)
Provide legal assistance while a victim considers participating in a criminal investigation and/or during a criminal investigation and prosecution.	83% (10)
Provide legal assistance when a victim seeks compensation	92% (11)
Legal advice about a divorce	17% (2)
Legal help with a protection order/protection programme	17% (2)
Family related issues, e.g. legal assistance in the civil process of recognising fatherhood, legal assistance in the court process to obtain permit to move with the children abroad (even without the consent of the father).	8% (1)

Based on the interview data it was evident that much of the work of legal practitioners concerned the provision of primary legal advice that fell within the legal aid scheme. The RENATE report described it thus:

“ Primary Legal Aid consists of the provision of information regarding the Albanian legal system, current legislation in force, the rights and obligations of victims and the process of exercising such rights. Under the Primary Legal Aid packages, victims can also access legal counselling, advice on mediation procedures, assistance in drafting and compiling necessary documents to initiate legal proceedings and representation before administrative bodies’.<sup>31</sup>

One form of assistance is providing victims with information. It is information about their rights and obligations, entitlement to support provisions, criminal justice processes and compensation. They also act as advocates on behalf of their survivor clients in their interactions with criminal justice actors or with statutory bodies who could aid the well-being of their clients. They may also undertake the necessary legal actions where survivors need legal help to remedy issues related to financial benefits, divorce or other family matters including paternity identification. They also undertake compensation claims on behalf of survivors through civil remedies. In addition, legal practitioners were involved in immigration matters related to right to remain and to work in Albania, or an application for asylum, when supporting foreign national victims. Both domestic and foreign national victims have the same rights and entitlements when it comes to legal assistance, although their needs might be different.

31 RENATE, 2021, pp. 22-23

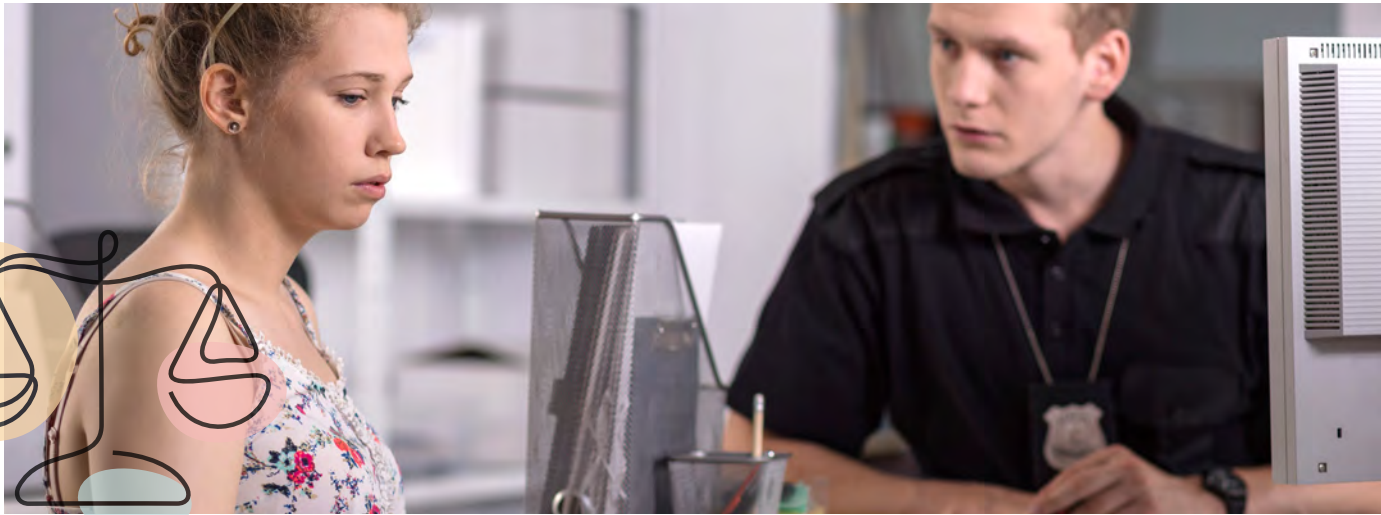




### 3.1.2.1 Early engagement on rights and identification

Legal practitioners working for NGOs and the statutory reception centre indicated that early contact with victims was important to ensure they were made aware of their rights (see footnote for description of these rights which were described in 2021 RENATE report<sup>32</sup>). This was part of delivering the primary package of legal aid assistance to victims which also includes information about the criminal justice process.

“...as a legal practitioner, I would go to the police office and that is where I start supporting the victim by providing legal assistance because we are there to inform the victim in terms of their rights and responsibilities. But also help them make the first disclosures, denounce the traffickers, if that is what they want to do (AIP8).



It is important for legal practitioners to explain to victims the rights that the victims have as prescribed by the law as some victims may not know how to read or are simply not educated enough to understand the legal terms. Not understanding their rights could be dangerous as victims cannot make informed decisions and/ or sign documents that they don't understand, but which can have significant consequences.

The links between these organisations and local police forces or mobile units<sup>33</sup> helped facilitate early engagement. For example, the NGO might be called when someone came to a police station to disclose an experience of exploitation or trafficking or were identified by other means. Involvement at this early stage was viewed as crucial because the legal practitioners could use their expertise around human trafficking to ensure that local police officers, who often have limited understanding of human trafficking, take the person seriously and take account of the indicators which determine human trafficking. Legal practitioners thus can play a key role in ensuring that the police identify a person as a potential victim of the crime of human trafficking. This determination also can have consequences for a criminal investigation where the focus is on a human trafficking offence and not another, often lower level, offence.

32 'Article 58 on the 'Rights of Victims' was amended by Law No. 35/2017, dated 30.3.2017<sup>12</sup>, which states that the victims have the right to choose a lawyer and, where appropriate, to receive free legal aid, according to the legislation in force; to be informed of the court proceedings at all times, including information about the arrest of the accused and their release, and communicate in their own language and be assisted by an interpreter, sign language interpreter or communication facilitator for persons with speech and hearing disabilities. These recent amendments to the Criminal Procedure Code (CPC) have certainly improved the position of victims of trafficking by enhancing the framework of their rights. According to the CPC, minor victims, sexually abused victims and victims of trafficking have a special status under the law, which entitles them to special measures for legal assistance and protection, including the right to seek criminal prosecution of the perpetrator as well as the right to obtain evidence, and the right to seek compensation' (RENATE, 2021, pp 20-21).

33 Law enforcement mobile units are sent to monitor places where people might be at risk of being trafficked.



We have the right to intervene and most of the things we have [to do is] to fulfil the rights, ... all the rights which are in our code has to be executed ... most of the time the police officer does not know very well the procedures of identification of the victim of traffic. So, most of the time we try to help them. And to assist them to fill the forms for the identification and not to skip any details, any criteria that is linked with the fact that have the elements to be considered a victim or a possible victim of trafficking (AIP4).

In addition, identification is key for accessing support provision. By being present at the identification stage, legal practitioners can also clarify that access to support is not conditional on collaboration with the criminal justice process.

Nonetheless, legal practitioners are not always involved in the identification process as many victims are referred to support organisations after they have been identified as potential victims by the police. This is particularly the case for those working in the Statutory Shelter, as they are not allowed to be involved in the identification process. However once identified and referred both the Statutory and NGO-run shelters provide a wide range of support to victims, that extend beyond legal assistance.

### 3.1.2.2 Assessment of legal needs

Victims referred to support agencies participate in a needs assessment which includes an assessment of their particular legal needs. These needs may emerge and change over time as support workers, including legal practitioners, engage at the pace of the victim who may not be ready or comfortable to share their legal issues early on in their recovery journey. Based on this assessment and a continuous review of needs, legal practitioners can provide the necessary legal advice throughout the victim's recovery journey while they are in a shelter or remain as clients while living in the community. This tailored approach to legal assistance is designed to address the specific circumstances and legal status of individuals, taking into account factors such as the duration of their stay at the shelter and their evolving needs throughout their journey. As well as providing basic information, legal assistance might include making requests for assistance from other organisations. For example, they might help survivor clients register with E-Albania, the portal to access key documents, register their children in nursery or school, register for welfare benefits to help with rent through the municipalities or to seek financial aid they are entitled to from the time they leave the shelter until they are employed. They also can help single mothers with the procedures to register their children so they can receive child benefits. Some of the assistance they offer is related to administrative<sup>34</sup>, civil<sup>35</sup> or criminal cases, for example a civil compensation claim, or supporting them through criminal investigations and prosecutions.<sup>36</sup>

Support is provided according to individual need, but there are common issues that many victims face, so group information sessions are held to impart advice on family law, protection, and child related matters. These sessions also enable participants to share their experiences on a particular legal issue that might be helpful to others facing similar issues.

### 3.1.2.3 Supporting a victim through the criminal justice process

Legal practitioners indicated that they undertook a number of specific tasks which might benefit the victim as they engaged with the criminal justice system. Helping ensure people were properly identified as victims of human trafficking was a key task because police lacked awareness about different forms of human trafficking.

Providing information to victims about how the system worked and what their engagement might entail was another task. This includes explaining their rights under Sec 58 of the 2017 Criminal Procedure Code, which gives them rights to information about a criminal case, to seek a prosecution, to psychological support, to access an interpreter, to give evidence by means of audio-visual equipment to avoid direct contact with the defendant, and to compensation. Practitioners not only provided the information but might have to engage with law enforcement to ensure these rights were implemented, for example the right to be interviewed in private and comfortable spaces.

34 For example, help in reinstating carer financial support.

35 For example, help with divorce proceedings.

36 In a minority of cases, this is providing legal advice as they are funded by donor contributions to represent victims in a criminal case, but for most they support them on criminal justice journey with free legal aid lawyers undertaking their representation.



“ Another right is to be interviewed in a separate room, in a special room, which is very important and not in front of the perpetrators, because maybe in some cases the police have [done so]. Sometimes they do not respect this thing, they do not interview the victim in a special room (AIP4).

Importantly it also means explaining the 'legal defence' rule to victims. This means that victims are aware that they cannot be prosecuted for some offences committed while being trafficked, for example crossing the border with false documents or selling drugs. This information may make them more willing to denounce a trafficker.

“ Many victims do not know that they have this legal defence and it's important to be explained to them so that they are encouraged and feel reassured that if they go to report they will not be criminalized for other illegal activities that they might have committed as part of the exploitation (AIP2).

Another task was to accompany a victim to the police station when they had decided to disclose. One aspect of this work was to ensure police take the victim's account seriously.

“ In many cases the police, they often don't treat them well. Do not take them seriously, the victims of trafficking that want to make a deposition. So that's why the presence of the legal practitioner is important (AIP3).

Another crucial aspect of this task involved implementing a trauma-informed approach during interactions with victims engaging with the criminal justice system. They sought to ensure that victims were treated with respect, and attention was paid to their needs. Thus, legal practitioners might remind police officers that victims would need breaks during their disclosures. They also pushed police officers and the judicial system to enact the special measures available to victims of trafficking which were covered by the 2017 amended Criminal Procedure Code. Currently there is a lack of understanding regarding human trafficking dynamics and the profound trauma endured by victims before, during, and after exploitation among judges, prosecutors, and law enforcement officials. Therefore, legal practitioners seek to safeguard victims' rights throughout the entirety of the criminal justice process. Accompanying their client survivors to court was another task they included in their schedule in order to support them at a time that was stressful, by providing a trusted presence. They could also act as a conduit for information provided by the court or for requests made by the court regarding court appearances and testimony.

Legal practitioners working for the NGOs and statutory sector also had to step in to provide legal representation to victims. Despite victims having this right enshrined in the Criminal Procedural Code, this right was not always translated into practice as illustrated by one interviewee.

“ It happens, I can say quite often here in Albania, that the victim of trafficking has not been assisted from a lawyer. Not only in the investigation procedure, but also in the in the judgement procedure (AIP7).

Many of the legal practitioners interviewed indicated that they continued to support victims through a prosecution even where legal aid funded state lawyers were appointed to support them, because they often had little expertise around human trafficking. This was particularly the case with respect to children who had a State appointed lawyer to represent them through the criminal justice process but often had little engagement with child victims outside the court. As a result, legal practitioners talked to the children about their case, gathered information, for example on the situation in which trafficking developed and in some cases the threat posed by the family. This information was then relayed to their assigned lawyer. They might also provide information about the support provided to children and their recovery, and as a known person accompanied children to court. The NGO staff sought to work in a collaborative way with the assigned lawyer, and help to prepare the children for court, because they could be revictimized in this context. In Albania children may provide testimony to a prosecutor before the trial but then are required to come to court to testify because there is a lack of audio-visual equipment to allow them to provide evidence or be questioned in a safe environment without contact with the defendant. However, children have a right not to attend, and the legal practitioner can act in the interest of the child and provide a letter signed by the child explaining why they will not attend the court.



#### 3.1.2.4 Ongoing Legal Support for Survivor Recovery and Reintegration

Legal practitioners mentioned that they had to continue to provide legal assistance after the completion of a trial. They tried to ensure that decisions made arising from the court case were implemented, which would include any compensation. In addition, many of the survivor clients had ongoing needs that related to enhancing their security and safety, their financial security or other family matters. This holistic response was viewed as important because victims of trafficking are often vulnerable due to poverty, lack of education and skills, gender-based violence or discrimination and thus are at risk of being re-trafficked. The lawyers referred to acting as advocates in terms of survivors' rights, or their children's rights to services, or to family security through divorce e.g. where family members had been involved in domestic abuse or trafficking. Legal practitioners who worked with children also provided legal assistance to the children's family, who were often poor and vulnerable. Aiding the family was seen as helping to improve the family's situation, for example helping the mother get a job, which in turn helps provide a safer environment if the child is able to return home.<sup>37</sup>

Seeking to improve survivors' understanding of situations that constitute exploitation and human trafficking was another strand of work. The aim was to prevent re-trafficking. For example, some of the child victims that were referred to shelters for support had been victims of trafficking related to begging. One of the things legal practitioners had to do was to try and help children understand begging was a form of exploitation, and that this activity had negative consequences. The intention of this discussion was to help prepare children for a safer future and reduce their risk of being re-trafficked.

This all-encompassing support from legal practitioners did mean that some felt stretched by contact from former survivor clients who sought help from them after they returned to the community to live independently because they had no one else to turn to for support.

#### 3.1.2.5 Legal assistance and defence for crimes committed during exploitation

Another form of legal work undertaken was to try to prevent the prosecution of victims for offences which occurred while being exploited. This would include seeking to overturn the occurrence of fines for 'engaging in prostitution'. In GRETA's Third Evaluation report they raised concerns about Albania's implementation of the non-punishment provision. They referred to cases of women prosecuted for prostitution offences despite being victims of trafficking. Legal practitioners suggested this is still the case, with girls and women given fines for their 'illegal activities'. Changes in the criminal code meant legal advice was very pertinent because collaboration with a prosecution could mean no fines were applied.



If the victim collaborated with the court, with the prosecutor, and gave extra information and helped the investigation they could even be eliminated totally from the penalty (AIP5).

Thus, legal practitioners in shelters had to be able to support their clients who might be charged and punished for crimes rather than being treated as a victim. In addition, they would have to engage with criminal justice actors that might seek to reduce charges from human trafficking to exploitation of prostitution. This might become a more significant problem as many human trafficking cases have now been dispersed to regional and city jurisdictions where the prosecutors might not be specialized enough or expert enough to punish human trafficking.

#### 3.1.2.6 Legal Assistance for Compensation Claims

A number of legal practitioners indicated that they worked with their survivor clients on compensation claims. They produced the necessary documentation to lodge a claim in a civil court. This compensation claim had to be made in a specified period after identification but ran alongside a criminal case. Delays in the trials of suspected traffickers meant there have been significant delays in civil cases being reviewed. Legal practitioners also indicated that the lack of a conviction in a criminal case meant the civil cases for compensation tended to be thrown out. Thus, despite indicators of exploitation and the use of expert lawyers, survivors were not receiving compensation for loss of wages or for harms done to them. In fact, some practitioners pointed to the way in which exploiters appeared to benefit as monies earned in an immoral way were not returned to women victims as stereotypes prevailed and they were viewed as immoral.

<sup>37</sup> See for example the family approach adopted by Mary Ward Loreto. MWL-Annual-Report-January-2022—December-2022.pdf (marywardloreto.net)



Legal practitioners working with minors indicated that children in particular find the compensation process particularly problematic as they often desire immediate access to compensation. They want money to use in their recovery journey. Moreover, while they may want to obtain compensation, their key goal is to move on and to ensure that they have no further contact with the trafficker.

“ They just want not to have a contact with them. They just want to begin a new life (AIP5).

With this in mind, it is not just legal knowledge that is required for compensation claims, but practitioners' perseverance over a long period of time. They need the ability to provide support, including emotional support, to survivors who have to wait a long time for their compensation claims to be adjudicated. Moreover, even if they win a case, they may have to take further action to see the monies are paid.

“ And now we are working for the most difficult part, which is the implementation of the court decision to compensate the victim. Speaking as a lawyer, we know that a court decision is a law and is obligated in theory, but we know that in a context of practice it is not easy to be executed (AIP1).

Obtaining compensation is even more difficult in Albania as legal practitioners have to go to another state body to execute the court order who are responsible for obtaining monies derived from traffickers' assets in order to pass it on to the victims. The difficulties noted by the legal practitioners were also identified by GRETA in its 2020. Due to the lack of effective compensation remedies, GRETA urged the Albanian government to 'to make efforts to facilitate and guarantee access to compensation for victims of' human trafficking.<sup>38</sup>

### 3.1.2.7 Witness Protection

As part of their legal assistance, legal practitioners may need to assist victims with an application for witness protection. Legal practitioners, operating in the best interests of their survivor clients, had to seek protection for a few of them if they were going to provide testimony for a criminal investigation and prosecution. One legal practitioner indicated that seeking witness protection was a very difficult task as she had undertaken all the documentation required but was only successful in one out of ten cases. The 2023 TIP report corroborated the existence of a witness protection programme but indicated that no victims had access to it in either 2021 or 2022. GRETA also considered that 'the Albanian authorities should take additional steps to ensure that victims and witnesses of human trafficking, as well as their family members, are provided with effective and appropriate protection from potential retaliation or intimidation'<sup>39</sup>. In their 2023 response to GRETA the government of Albania did not indicate they were taking additional steps to protect witnesses or their families.<sup>40</sup>

### 3.1.2.8 Legal assistance in relation to immigration issues

Legal practitioners who worked with foreign nationals stated that they were responsible for applying for leave for the survivor to remain in Albania or for humanitarian protection or asylum. After six months they might help them apply for permission to work which would enable them to integrate into Albania and have the same rights as citizens. As there are only a small number of foreign national victims of human trafficking referred to support agencies, these forms of legal assistance are only a small part of their role.

### 3.1.2.9 Advocacy and strategic level work

Legal practitioners also undertake advocacy and strategic level work. They use their expertise to help improve awareness of human trafficking, indicators of trafficking, and victim-centred approaches to working with victims by providing training to front-line professionals (e.g. legal aid lawyers, law enforcement, judges, and service providers). Some also seek to prevent human trafficking by raising awareness in communities and schools.

38 GRETA, 2020, p. 20

39 Ibid., p. 27

40 Committee of the Parties to the Council of Europe Convention on Action against Trafficking in Human Beings (2023) Report submitted by the authorities of Albania on measures taken to comply with Committee of the Parties Recommendation CP/Rec (2020)06 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings. <https://rm.coe.int/report-submitted-by-the-authorities-of-albania-on-measures-taken-to-co/1680aba900>



The legal practitioners interviewed had day to day experience working with victims but also the different agencies that might engage with them. As a result, they identified gaps in safeguarding, support, criminal justice responses or poor implementation of legal obligations. They used this insight to advocate for improved responses.

“ So, sometimes we make recommendations to the law enforcement institution about the enforcement of the law (AIP4).

In addition, they have sought to improve the legislative response to human trafficking and to policy that has an impact on support including legal advice.

“ I'm involved in all the actions that [seek to] improve the legal legislation in Albania... Albania has, let's say, legislation that deals with trafficking, but we believe that there are still gaps to fill and that need to be addressed according, especially the protection of victim or to change the mentality that's in all the institutions including justice institutions. ... [For example] the prosecutor wants to have investigation and to bring evidence only to criminalize the perpetrator and it is not interested what happens with the victim (AIP1).

Included in the National Action Plan for the Fight against Trafficking in Persons 2018 was the creation of an ad hoc group to conduct an in-depth analysis and evaluation of the need for a separate law focusing on protection of victims / potential victim of trafficking. The NGO, 'Different and Equal', was charged with organising and convening this working group which published their report in 2019<sup>41</sup>. It recommended specific legislation to provide a legal framework for the protection of victims, obligations on actors involved in protection and the criminal justice process, prevention, and the creation of oversight through a National Human Trafficking Coordinator.

“ We need a special law that brings together all the regulations, including mechanisms that guarantee the rights for victims of trafficking (ASR1).



**A unified law is currently being discussed in Albania.**

41 Different & Equal (2019) Study Report On The Need Of Drafting A Special Law For The Protection Of Victims Of Trafficking In Albania. Accessed 08 01 2024. <https://differentandequal.org/wp-content/uploads/2019/10/Study-report-on-the-need-of-drafting-a-special-law-for-the-protection-of-victims-of-trafficking-in-albania.pdf>



No victims of human trafficking have received compensation for the harm caused to them<sup>42</sup>. The route to compensation through both criminal and civil routes has proved ineffective. GRETA (2020) noted that Albania had not instituted an effective system of state compensation for victims of trafficking. The NGO, 'Different and Equal', indicated that they were working with state actors to identify how to use the State's seizure of traffickers' assets to compensate individual victims for material and non-material harms through a state funded compensation scheme. This would be a strategic change, because according to the government's 2023 response to the GRETA report, it has used the seized assets to fund organizations supporting victims and has not offered individual compensation<sup>43</sup>.

“ All the money confiscated from the criminals, from the perpetrators of organized crime are in the pocket of the state. At first it must be used to compensate and to repair the damages that have caused to the victims. And we are working on that. (AIP5).

In many parts of Albania, there is a lack of legal practitioners who can provide expert free legal advice to victims of trafficking. As a result, the NGO 'Different and Equal' has sought to fill this gap by setting up a network of lawyers. They have sought out lawyers who might be willing to provide primary as well as secondary advice and also were willing to participate in training to ensure they had the skills to undertake this work. This strategic activity has been noted by the Albanian government in its 2023 response to the 2020 GRETA evaluation report.

“ During the year 2022, the “Different and Equal” organization, in the framework of a project developed with the support of UNDP, but also in cooperation with the Directorate of Legal Aid, has enabled the establishment of a national network of lawyers and “probono” lawyers for providing free legal aid for crime victims, including victims of trafficking. 70 jurists, advocates, and other legal professionals from the private sector (including NCATS)<sup>44</sup> from 12 counties have signed the application form expressing their willingness to contribute with primary and secondary legal aid. During July 2022, 3 “online workshops” were held with the participation of about 40 members of the network of lawyers on various topics related to the provision of legal assistance and the representation of the interests of crime victims<sup>45</sup>.

Legal practitioners also worked strategically at international level, for example using their expertise to advocate for improvements to the Council of Europe's recommendations on rights, services, and support to victims of crime.

### 3.1.3 Good practice

Both the legal practitioners who were interviewed, and those who completed the survey identified good practice, as a holistic response to victims. This covered continuity of legal assistance across the victims' journey of recovery and re-integration, and the expert knowledge that legal practitioners working for NGOs, or the State shelter, offered to victims. The development of a network of expert lawyers, helpful guidance documents and the taking on and winning cases of human trafficking were also highlighted as benefitting the sector.

The provision of holistic and victim-centred support to victims of human trafficking emerged as the key to good practice provided by specialist shelters who work with adults and children. A wide range of support was provided to help victims recover and then to reintegrate into the community. Legal practitioners were able to offer legal advice and support throughout the long journey to recovery, through the criminal justice process and then to ensure survivors were able to access community-based provision including education and welfare benefits. In addition, they dealt with a wide range of family issues that could hamper recovery or that could lead to re-trafficking. Funding from the state and from donors enabled this holistic response. In the survey, practitioners made reference to the specific NGOs that they considered to exemplify such good practice. They were Different and Equal, Another Vision, Vatra psycho-social centre, and Mary Ward Loreto.

42 Although in very few cases the court has ruled in favour of victims in compensation claims, the decisions have not been enforced, resulting in victims not receiving the compensation they are owed.

43 Committee of the Parties to the Council of Europe Convention on Action against Trafficking in Human Beings (2023)

44 National Coalition of Anti-Trafficking Shelters (NCATS)

45 Committee of the Parties to the Council of Europe Convention on Action against Trafficking in Human Beings, 2023, p. 11



Another aspect of good practice was the provision of legal advice to victims who engaged with law enforcement. Expert legal practitioners were able to attend and assist victims who were brought to a police station or were able to accompany victims who decided to engage with law enforcement. They aimed to build trusting relationships with survivors and provide continuity of support and advocacy within the criminal justice process from the stage of disclosure to the implementation of any court decisions. Moreover, they had the expertise to ensure that evidence was used to identify the three elements comprising a crime of human trafficking and/or to encourage a charge of human trafficking was recorded in relation to suspects.

“ So, I will basically support a victim from the onset with the identification, their first disclosure to the police, and then right up to the end when there is a court order that needs to be implemented (AIP3).

Multi-agency training on human trafficking was identified as good practice. It included key actors in the legal realm: lawyers, law enforcement, prosecutors, and judges. This inclusive training is considered important because it allows clarification of issues, the exchange of experiences, and the sharing of practice. This format can help ensure there is agreed understanding about human trafficking and can help reduce tensions between professionals arising from different levels of understanding. These different understandings can interfere with effective cooperation and work on a trafficking case. The UNODC organised training event in Albania is an example of this practice.<sup>46</sup>

As police officers are moved around, including those who have received specialist human trafficking training, expert legal practitioners provided continuity and expertise that otherwise might be lacking within the criminal justice process.

Continuity of legal assistance was considered a crucial element of good victim support. Some legal practitioners working for NGOs and the statutory shelter were able to continue supporting victims during the investigative and prosecutorial processes. They were able to act as their legal representative because their organisation had obtained donations or a grant for this work. Others continued to support their survivor clients even when they were represented by someone from the list of secondary legal aid funded lawyers. They performed this role because they had knowledge of the victim and ongoing contact with them, while the legal representatives had minimal in person contact with them. Moreover, evidence from this study, the 2020 GRETA report, and the 2021 RENATE report, indicates that secondary legal aid funded lawyers lacked human trafficking expertise.

Another way to ensure continuity of legal assistance was through the network of NGO lawyers who offer legal assistance to victims of trafficking. A practitioner who completed the survey said:

“ The moment a victim receives legal assistance from an NGO lawyer, this assistance must continue for all the processes the victim has. This NGO practice must be financed by the state since the state finances only primary legal aid and not secondary legal aid. (AIP2).

Reference was also made to several publications that could be used to promote more effective practice amongst legal entities<sup>47</sup> and to encourage the participation and representation of victims of trafficking in anti-trafficking efforts<sup>48</sup>. Successful prosecutions, that were aided by the holistic support of an NGO and the legal assistance they provided, were considered an indication of good practice as illustrated below.

*We have two wonderful court cases in which we have represented to the court victims of trafficking. The first one, is a woman with three children, who was trafficked by her cohabitant. Their children were unregistered and at risk of trafficking. The other case was a girl from Romania, trafficked by her boyfriend from Albania. They meet each other in Rome, Italy and came together to leave in Albania. She believed that their relationship will be a wonderful one, but it wasn't so. He trafficked her and he obliged her to be a prostitute in a Club in named town. We represented her to the court, and we may say that it was a successful case.*

46 “Investigation and judgment of Trafficking in Person cases through a victim-centered approach” - 15,16 and 17 June 2022, Hotel Adriatic, Durrës – Albania. <https://www.unodc.org/southeasterneurope/en/all-stories-june-addressing-human-trafficking-through-a-victim-centred-approach-in-albania.html>

47 <http://differentandequal.org/en/udhezues-per-avokatet-dhe-juristet-qe-ofrojne-ndihme-ligjore-per-viktimat-e-krimit>

48 <http://differentandequal.org/wp-content/uploads/2022/11/Participation-and-Representation.pdf>





### 3.1.4 Training and skill development paths for legal practitioners assisting survivors of human trafficking

All legal practitioners interviewed had received recognized legal education in Albania however their formal education did not include specialist knowledge related to human trafficking. One practitioner mentioned that her course did include discussion of basic human rights. As a result, all practitioners used a variety of methods to obtain their specialist knowledge and skills. These methods included in-house training, shadowing, talking with colleagues, doing their own research, drawing on the expertise of practitioners in their network of key contacts, and attending specialist training sessions organised at local, regional, national, or international level.

This interview finding contrasted with those who completed the survey as 83% learned about human trafficking in their initial legal education (see *Table 3*). Two-thirds to three-quarters of those survey also acquired information about supporting people with immigration issues, supporting victims of a crime in criminal justice process and the procedures for making a compensation claim. It might be that this is a younger cohort of legal practitioners and the issue of human trafficking, and related topics has become incorporated into formal legal education. Nevertheless, it was evident that almost all of them, 92%, supplemented their knowledge of human trafficking by attending specialist seminars, once or twice a year.

**Table 3: Initial legal education and specialist training**

	Survey 12 Respondents
Did you receive information about human trafficking in your initial legal education as a legal practitioner?	83% (10) Yes
Did you receive information about supporting asylum seekers or dealing with immigration status issues in your initial legal education as a legal practitioner?	67% (8) Yes
Did you receive information about supporting a victim of a crime in the criminal justice process in your initial legal education as a legal practitioner?	75% (9) Yes
Did you receive information about supporting an application for compensation for victims of a crime in your initial legal education as a legal practitioner?	75% (9) Yes
Have you received any additional specialist training on human trafficking and modern slavery?	92% (11) Yes

In-house training was identified as an important means of skilling up the lawyers who came to work for one of the organisations that support and shelter victims. The training draws on the extensive internal expertise that has been developed over many years. There were several elements that were considered important to their development as effective legal practitioners working with victims. The first was gaining a clear understanding of what human trafficking is, how it presents itself in Albania, indicators of human trafficking and some awareness of how it is experienced and its effects on victims, for example trauma. Without this clear understanding of the phenomena of human trafficking and how it is codified in law, they could not act as survivor advocates particularly in relation to victim identification and to ensuring police acknowledge a crime of human trafficking. They also needed to understand how victims are identified.

“ First and foremost, one which is quite important, is on the identification process, the formal identification. (AIP4)

In addition, inhouse training was one means of learning about how to engage with victims, and how to adopt a victim-centred approach that could challenge some of the legal training they had received to become a lawyer. New staff were helped to embed a victim-centred approach by shadowing other staff and learning the operational culture of their organization.

Learning from fellow legal practitioners was also a way to gain understanding of the wide range of laws that were pertinent to supporting survivor clients in terms of rights and obligations as a victim, identification as a victim of trafficking, compensation schemes, human rights law, and family and social support laws.



All legal practitioners referred to external training they had sought and undertaken in order to enhance their work capabilities. Some training was provided at the local or regional level while others had a national remit or involved international agencies who provided training within Europe or offered it within Albania. Training provided by the National Collation of Shelters, which has expertise dealing with victims of human trafficking, was mentioned. It has helped update key practitioners about changes in the law. Training was also provided by NGOs for example, Different & Equal, *Tjeter Vizion*, *Terre des Hommes*, and the Centre for Legal Initiatives (see footnote for topics covered)<sup>49</sup>.

Reference was also made to training provided by Save the Children, ARISE, UNODC, and by the Council of Europe Anti-Trafficking division. Some practitioners who completed the survey made reference to specific training that they valued, for example dealing with monitoring and evaluation, investigating cases using a victim-centred approach, and labour exploitation amongst children from Southeastern Europe,<sup>50</sup> *which provided a comparative view, where we shared experiences with other eastern European countries (ASR10)*.

Training that explored good practice in other countries was considered invaluable, for example learning about the impact of a unified human trafficking law which is lacking in Albania. Other training related to a gender-sensitive approach to working with victims and to a trauma informed approach. Both helped build lawyers' awareness of how practice needs to be improved. For example, despite it being a right, there are still *female victims being interviewed by male officers which is very uncomfortable for the victims to make their statements and share everything (AIP3)*.

Those completing the survey also indicated undertaking training about the rights of victims and representing their best interests, indicators of human trafficking, services for victims with a focus on trauma, supporting child victims. Furthermore, they reported staying informed about the latest developments and changes in legislation and policies related to human trafficking in their country. The 12 practitioners surveyed provided insights on the ways in which they kept up-to-date. 92% attended seminars and/or training events, and 83% indicated that collaborations with other legal professionals were helpful in keeping abreast of the latest developments. The majority of practitioners also obtained useful knowledge from official publications and government sources. Only a minority referred to social media, newsletters, on-line data bases or academic journals as sources of developments. Nevertheless, the list presented in Table 4 sets out the variety of ways that legal practitioners sought to keep enhancing their awareness of policy developments.

**Table 4: Method of staying updated**

	Survey 12 Respondents
Attend seminars and workshops	92% (11)
Collaboration with Legal Professionals	83% (10)
Regular Review of Official Publications	67% (8)
Research and Government Sources	56% (7)
Regular Consultation with Legal Advisors	50% (6)
Networking with Government Officials	42% (5)
Social Media and Online Communities	33% (4)
Subscriptions to Newsletters and Alerts	25% (3)
Online Policy Databases	25% (3)
Academic Journals and Research Papers	17% (2)

49 Examples of training courses attended: *Center for Legal Initiatives, "Monitoring and evaluation of the legal framework and policies in the fight against human trafficking", Tirana 2020; On-line training, with the theme: "Therapies for relieving the stress of persons who work with victims of trafficking/possible trafficking", Tirana 2020; Centre for Legal Initiatives, Interpretation of Article 36 of the Istanbul Convention, "Sexual violence", Tirana 2021, three-day training by Tjeter Vizion on the topic: "Development of capacities for the identification of potential victims of trafficking and victims of trafficking (special focus on education)", 2022; Different and Equal training on "Identification and Referral of Victims of Trafficking and Potential Victims of Trafficking", Tirana 2022.*

50 "Monitoring and evaluation of the legal framework and policies in the fight against human trafficking"- December 9, 10 and 11, 2020- Center for Legal Civic Initiatives; " Investigation and judgment of Trafficking in Person cases through a victim-centered approach" -15,16 and 17 June 2022, in Hotel Adriatic, Durrës - Albania-UNODC ; The need for a dedicated law in Albania, for protecting victims of human trafficking,1 June 2023- Arise Foundation; Trafficking in Persons for Labour Exploitation, Particularly Children in South Eastern Europe" UNODC. Trainings organized by the Centre for Legal Civic Initiatives on compensation of victims.



As well as participating in training, some legal practitioners indicated they provided training to other legal practitioners as well as other stakeholders in Albania at city, regional and sometimes at a national level. 42% of practitioners surveyed were offered training.

Training for lawyers was an important element of this work. It was considered necessary because, *we see that even lawyers that have finished law school do not have the capabilities to support victims of trafficking (AIP1)*. For example, changes in the law about legal aid was the impetus for offering training to ensure lawyers were aware that victims of human trafficking could benefit from free legal aid.

“ I have also been part of some training sessions as a lecturer for trafficking issues here in Albania, especially with members of NGOs in Albania, in order that they know better about this phenomenon, about legal issues, about the Criminal Code of Procedure in Albania, because this code has changed in 2017 and they really need training courses in order that they understand better the way how to treat victims of trafficking and also other victims of the crime in Albania (AIP7). ”

Lawyers also needed training to understand national and international legal frameworks, standard procedures for identifying victims, rights of victims of human trafficking, problems, and barriers that persons at risk of being trafficking are facing in Albania, changes in Civil Status Law related to birth registration and the importance of recording stateless persons, unaccompanied migrant children, and refugees at risk of being trafficked.

One of the objectives of 'Different and Equal' is to enhance the protection of victims. Training to relevant front-line professionals is one method used to achieve this aim. 'Different and Equal' are also seeking to improve the knowledge of other criminal justice actors and have worked with the UNODC in 2023 to provide training to 70 police officers, prosecutors, and judges. The government of Albania noted this training in their report to GRETA<sup>51</sup>, which referred to the conference theme, "Improvement of responsibility of criminal justice for addressing evidentiary issues for the investigation of cases of human trafficking in Southeast Europe", as well as to the promotion of the correct application of forms of identification, referral and provision of services to victims.

However, concern was expressed that lawyers, particularly those providing secondary legal aid funded representation were not interested in human trafficking and did not attend training that would improve their work with victims of human trafficking.

### 3.1.5 Essential skills and knowledge for assisting victims of human trafficking

Legal practitioners identified the kind of knowledge and skills that lawyers working with victims of human trafficking should have. These are not generally provided in the formal legal education provided within universities and thus would need to be acquired through inhouse training, working with experienced practitioners, and external training. Some felt that an accredited training package for legal practitioners was the way forward and should be a requirement for those providing legal assistance to victims of trafficking, including through the free legal aid packages. In fact, in its third evaluation report GRETA<sup>52</sup> urged the Albanian authorities to provide accredited training to lawyers representing victims of trafficking.

A number of core skills were identified that legal practitioners needed to have, or needed to develop, to be effective in working with victims of human trafficking. These skills included patience and the ability to keep engaged over a long period of time as trafficking cases are complex and lengthy. They have to be able to operate from a place of humility and to act in a respectful manner with people who previously have been treated as of no value. These are not generally skills taught to, or perceived as useful by, lawyers.

51 Committee of the Parties to the Council of Europe Convention on Action against Trafficking in Human Beings, 2023

52 GRETA, 2020, Available at:



“ We believe that this person must be the same since the beginning. If we change the lawyers time to time, we are not working in a good way with victims. They need that person not just for explaining and informing for their rights or initiatives in a procedure but even to support them in communication with all the institutions, and that lawyer that ... must work with all the institutions including prosecutor office, courts and those that offer services for victims. What we call a comprehensive, free legal aid for victims of crime. And for doing that is needed the right person, that have not only the law background education, but ... humanity and the goodwill (AIP1).

It is a way of being, of operating from a place of humanity, not just having relevant knowledge, that was reiterated.

“ It is not sufficient just to have the right training or the right knowledge. They must have even a good way, that dimension of humanity to work with victims of trafficking (AIP1).

Moreover, legal practitioners have to develop a relationship with victims that enables them to understand the context within which trafficking takes place and its impact on them. Practitioners embedded in support organisations are able to provide consistent support which helps build trust, but they also need to have empathy. They may need to draw on this understanding in their interactions with various professionals who may act in discriminatory ways with this marginalized group or who may not take cases seriously.

“ It is of paramount importance [for legal practitioners] to learn how to approach victims. ...it's very difficult to work with this vulnerable cohort and legal practitioners that are embedded in organizations that focus on human trafficking, they have to go beyond sometimes their legal professional role because although it's not really allowed by their profession or the qualification they have to become the psychologist. Meaning they need to be very close to the victim to understand what they've gone through and take a more humane approach (AIP3).

Legal practitioners identified the different kinds of knowledge required. This included understanding both national and international conventions and laws which defined human trafficking, and which set out rights and responsibilities for the State and for the different actors charged with prevention, protection, and prosecution. In addition, this knowledge should include an awareness of case law arising from national and European cases from European Court of Human Rights. This training needed to be practical and multi-disciplinary.

“ Trainings should be interwoven with theoretical and practical elements, based on concrete cases taken from practice. The trainings should be multidisciplinary in order for professionals to get to know and interact with each other (ASR1).

To enhance their effectiveness practitioners suggested mock trials on cases of trafficking in persons and include police, prosecutor, lawyer and victim, as well as *applying themselves to scenarios based on real cases provided by professionals with long experience in the field (ASR3 and ASR4).*

Most lawyers are not aware of the phenomenon of human trafficking, apart from legal practitioners who are working for NGOs or statutory bodies that provide support to victims of trafficking. As a result, practitioners who seek to work in this field need to know what human trafficking is, how it manifests itself in Albania, factors that enable human trafficking in and out of Albania, and the legal framework surrounding human trafficking. They need a context to understand how people become victims and the harms that arise as a victim in order to provide informed legal assistance.

“ A law professional who works with victims must know deeply all the legislation. Must know the structure, context, and the complexity of the phenomenon, and we see that only a few persons, that mostly work with NGOs, are able to do that (AIP1).



An essential form of knowledge relates to having a comprehensive understanding of indicators of trafficking. This included specific awareness of indicators of trafficking for sexual exploitation as they may need to advocate for people to be treated as victims not as suspects for the crime of prostitution. This is because at the present time, many police officers have limited knowledge about human trafficking. This can lead them to charge girls and women for prostitution offences rather than to instigate a human trafficking investigation and to treat the girls and women as victims.

“ First of all, all the procedures of identification and all the forms of identity of trafficking because sometimes in our community we see our trafficking only connected to exploitation of prostitution sexually (AIP4).

Practitioners should also have knowledge of relevant legislation linked to criminal codes and victim rights. These include Sections 9 and 58 of the Criminal Procedure Code that were amended in 2017 and that give victims enhanced rights.

“ They should have knowledge about rights of victims. I think these are the most important things that they should know, and these aren't pieces of information that they would get from their legal studies (AIP4).

They need to understand these rights in order that they can help victims access them.

“ There are some new legal instruments that empower victims to have access during the criminal proceedings, including the possibility to ask for their rights but they can't do that by themselves. They need professional support by, professional lawyer ...one of our objectives through our project was to organize several trainings and we invited law professionals, representatives of institutions from the private sector ...to understand that (AIP1).

For example, lawyers need to know and to be able to implement victims' rights to attend court and have questions asked of defendants, even if they are not called as witnesses. A legal practitioner indicated that victims want to ensure that their story of the trafficking experience is noted not just how the defendant trafficker tries to explain the situation. This view is corroborated by a recent study of the perspectives of young women seeking support and justice in relation to trafficking and sexual violence in Albania. A key message for authorities that emanated from the research was that 'criminal justice institutions must respect children and young people's right to participation and ensure that the voices of young victims are heard during criminal proceedings'<sup>53</sup>.

Lawyers representing victims also need to know that they have to keep in touch with victims after the trial because they need to ensure that victims are aware of the court decision.

Supporting victims of human trafficking is multi-layered and requires engagement with a variety of different front-line professionals and institutions, including those linked to the criminal justice system, health care, housing, welfare, education, and immigration. Understanding the importance of a collaborative approach to their work is thus necessary knowledge as well as being aware of the entitlements victims have to different services.

Reference was made to professional engagement being victim-centred and in some instances trauma-informed. These approaches are not taught in formal legal education and were often acquired through workplace learning.

“ It is important to learn through practice. To be exposed to the cases and understand how they work in practice (ASR2).

53 Different & Equal, 2022, p.6



Learning through the use of real case scenarios and inviting all the participants in a training session to reflect on how they would respond was suggested as a viable method to help develop legal practitioners' capabilities.

Working with victims of human trafficking means that legal practitioners are exposed to victims' traumatic experiences, and this can lead to vicarious trauma amongst professionals. In addition, the long-term nature of a relationship with survivors can lead to emotional as well as professional engagement. As a result, professionals can find their work overwhelming and will need to be able to listen to their clients, and to obtain the information needed to make a professional response. They have to be empathetic but also learn how to cope and not be overwhelmed by the issues presented.

“ Because I learned how to focus only on resolving their problems. But also, I try to gather the information that I need to follow the process and to help them in a better way. So, with experience you try, and you learn more how to help them without getting you know too attached (AIP4).

### 3.1.6 Funding Legal Aid for survivors of modern slavery and human trafficking

The Albanian government provides two types of legal aid. 'Primary (including the provision of information on the legal system, rights and obligations, counselling, advice on mediation procedures and alternative dispute solution, assistance in drafting documents, and representation before administrative bodies) and secondary (which covers the provision of legal services for the drafting of acts setting the court proceedings, and representation in administrative, civil and criminal proceedings, which is provided by lawyers included in a list approved by the National Chamber of Lawyers)'.<sup>54</sup>

54 GRETA, 2020, para 48



Legal practitioners working for NGOs or statutory bodies were funded to provide legal assistance that falls within 'primary provision'. This state funding means that all victims/potential victims referred to specialist support bodies benefitted from access to legal services that could aid their recovery and improve their situation. Significantly, some of these legal practitioners also provided legal assistance to victims as they engaged with criminal justice actors and processes, 'secondary provision'. This was funded by donations made to the NGO or special project funding received by the statutory shelter. These support organisations sought funding to enable their inhouse legal practitioners to provide continuity of support to their survivor clients (adults or children) during the criminal justice process. This was considered part of their holistic support provision and enabled a trusted person, who was cognisant of the victims' background and experiences, to provide victim-centred assistance. Moreover, lawyers approved by the National Chamber of Lawyers were not considered to have the expertise to provide high quality and victim-centred legal support during the often lengthy criminal justice process, including claims for compensation.

The government policy on legal aid placed a financial burden on NGOs and holistic support. It also undermined the provision of high-quality legal assistance to victims during the criminal justice process based on the view that approved lawyers lacked the necessary expertise.

### 3.1.7 Challenges to effective responses to human trafficking

Legal practitioners identified a number of challenges which have an impact on their ability to provide effective victim-centred engagement for the achievement of positive outcomes in relation to identifying and protecting victims, ensuring the prosecution of offenders, and the payment of compensation. The majority of challenges related to ensuring victims' rights and to criminal justice actors and processes. Accessing compensation was also identified as a problem by legal practitioners. The fragmentary nature of Albanian legislation in relation to human trafficking was another.

#### 3.1.7.1 Ensuring victims' rights and a victim-centred approach

Legal practitioners participating in this research stated that one of their key tasks was to ensure victims obtained the rights they were entitled to and that were codified in law. This meant they had to intervene in criminal justice processes because victims' rights were not respected. They also highlighted a number of ways by which the implementation of victims' rights was undermined. For example, victims could be interviewed in shared spaces not in separate or specialist rooms. This practice was seen as antithetical to an approach that recognised the trauma victims had experienced.

“ They don't have specific places in the police stations where they can interview children or women also. So again, this makes it very difficult for victims to go through their stories, relive the trauma and not being supported or held in a comfortable space (AIP3).

One of the rights conferred on victims is to be informed when the offender is released from prison. In order to ensure their safety or to take safety precautions victims need to be told when their traffickers are to be released. But the procedure is bureaucratic and requires the victim to set it in motion, and usually there is no timely response.

Foreign national victims may need an interpreter in order to engage fully with legal practitioners and others and it is their right. However, it was noted by practitioners that it be very difficult to implement this right, especially if the victim speaks a language which is unusual within an Albanian context.

“ There are problems to find the right interpreter because in the case that they speak English it is okay because it is easy [to find an English-speaking interpreter] but there are cases coming from Africa or other places that is not easy to find interpretation (AIP1).

The key area highlighted by practitioners related to the 2017 changes in the Criminal Procedure Code. The amendments to Sections 9 and 58 enhanced the rights available to specific victims of crime including minors and victims of human trafficking. However, lawyers trained before this date may not have knowledge of victims' rights and may not, according to interviewees, seek to update their knowledge even if they might provide secondary legal advice to victims of trafficking. Legal aid lawyers were not the only criminal justice actors who might be unaware of changes to victims' rights or did not take action to implement them. Practitioners noticed problems with the way prosecutors and judges respect all the rights of the victims. According to the changes to Sec 58 of the Criminal Procedures Code victims should now be a part of the investigative procedure and the judgment procedure, however as highlighted in the quote below, this is not the case.



“ But the problem here is that most of these judges and prosecutors are people that have a lot of years of work in this field, and they execute the law in the same way that they have done before. So, they don't treat the victim like an active part of the process, but like a part of the process that doesn't have the rights that that are written in law (AIP7). ”

### 3.1.8 Challenging Criminal justice processes and Uncooperative Actors

#### 3.1.8.1 Lack of adequate knowledge about human trafficking

All interviewees highlighted the lack of knowledge and expertise about human trafficking amongst criminal justice actors including police officers, prosecutors, judges and secondary legal aid lawyers.<sup>55</sup> This has a number of consequences. Firstly, people were not identified by law enforcement as victims of human trafficking and/or their experiences were not treated seriously. Secondly the state failed to ensure victims received expert legal representation for criminal justice processes. Thirdly, criminal justice actors failed to pursue human trafficking charges and instead filed lower-level charges against offenders. Fourthly the judicial system took a long time to deal with cases which meant lengthy delays for victims who had experienced significant human rights abuses and wanted to move on with their lives.

Practitioners noted that police officers lacked understanding of indicators related to trafficking for sexual exploitation. As a result, they might charge girls and women with prostitution related offences and not identify them as victims. Without this identification they will not be referred for support. Moreover, police officers will not take them or their experiences seriously and will not investigate the bigger crime of trafficking.

Due to lack of understanding of human trafficking, legal practitioners stated they have to challenge law enforcement or prosecutors' decisions related to charges, for example where they bring a charge of exploitation of prostitution, particularly when they are dealing with Albanian victims and suspects. This can be because they wrongly believe human trafficking has to be international even where the evidence shows all three elements that comprise human trafficking and despite the victim having an official identification as a victim.

“ Because they [the prosecutor] do not register it as trafficking of the person, but they reduce it to exploitation of prostitution. And this is one of the biggest problems that we have. ...We try to call them or to explain to them many times and we make a formal request to them to change the registration but it's not in our hands. Because they are very independent. But we try to change this registration and to make it that... the criminal offence should be trafficking of the persons and not exploitation of prostitution. Well, this is a challenge for us (AIP4). ”

Another practitioner indicated that in the four years from 2020 to 2023, *the cases that they have supported there weren't any trafficking cases, but they've ended up being charged for exploitation for prostitution (AIP2).*

The views of the legal practitioners interviewed were corroborated by the 2023 Trafficking in Person's report which stated that district prosecutors did not have the specialized experience and capacity to prosecute trafficking cases successfully. GRETA and other observers reported authorities confused overlapping elements of “exploitation of prostitution” and trafficking and at times applied the lesser charge because it required less specialization and time or due to the false belief that trafficking crimes required a transnational element<sup>56</sup>.

<sup>55</sup> In their response to GRETA the government of Albania identified training activities that were undertaken to enhance the capabilities of criminal justice actors including law enforcement, prosecutors, and judges. Some information related to human trafficking was included in the initial curricula for trainee magistrates. In their continuing education programme, the School of Magistracy provided training that was pertinent to human trafficking cases including interviewing minors, online sexual exploitation of minors and methods of investigation, rights of minors, human trafficking and the victim in the criminal process in the years 2021 and 2022.

<sup>56</sup> TIP Report, 2023





The lack of human trafficking expertise amongst the lawyers who were listed as available to provide secondary legal aid was viewed as very problematic. The National Chamber of Lawyers created an approved list of lawyers who could provide free legal aid funded representation.

“ And when we see the list the names of the lawyers It is quite impossible to find anyone who has experience in trafficking (AIP1).

Practitioners observed that limited knowledge of the harms caused by human trafficking meant that these cases might not be treated by prosecutors and judges as a priority. Moreover, they may have prejudicial views about victims of human trafficking which can affect how they treat victims and these cases. Altering the mentality of these professionals was seen as difficult but necessary.

“ I know that it's really difficult to change people, but to try to change the way how they see the victim and how they treat these victims (AIP7).

Legal practitioners noted that due to the long duration of the investigation and the court process they have to help keep survivors engaged in the criminal justice process. when they just want it to end and to be able to move on with their lives. They also noted that they do not receive responses to their requests for information from criminal justice institutions within the legal timeframe and this affects their interaction with survivors they are supporting through this process.

“ For example, we send a request to the prosecutors to see in which phase of the investigation they are, and what kind of decision they have made during this time. That are very important to know not only for us and our presentations but also for the victim (AIP4).

### 3.1.8.2 Challenges due to changes in judicial processes

Judicial reforms introduced in 2019 have altered how human trafficking cases are dealt with. Previously cases were tried in specialist national courts dealing with serious and organized crime, now only cases linked to organized crime are dealt with at this level and all other trafficking cases are dealt with at a regional level. Decentralising human trafficking to regions and cities has had negative consequences. In particular this was because the prosecutors might not be specialized enough or expert enough to push human trafficking. The recent UNODC report, based on an analysis of human trafficking cases in Albania, corroborated these findings but went further to argue that the reforms reduced the number of cases of trafficking that have been prosecuted. The report stated that the amendments in the criminal procedural legislation did not have a positive impact on the prosecution and adjudication of crimes of trafficking, given that prosecutors and judges of the district courts are not specialized in the investigation, prosecution, and adjudication of criminal acts of trafficking in persons. Statistics show a significant decrease in the number of investigated and prosecuted cases by district Prosecutor's Offices'.<sup>57</sup>

Concerns were also raised about how human trafficking charges might be dropped as a result of the judicial reforms. Moreover, the shift to district courts led to poor communication about the status of cases and to delays in cases reaching court.

“ ...lack of expertise maybe from the prosecution side dealing specifically with victim cases has meant that there are some of these cases not necessarily treated as priority, which means that cases remain longer in the system and sometimes cases that they never hear anything back for a year (AIP6).

These delays in the criminal justice process mean that victims are left in limbo for long periods of time. This adversely affects their mental health and makes it more difficult for them to move out of sheltered accommodation and move on with their lives.

57 UNODC, 2022, p. 8.



The judicial reforms have also had an impact on compensation claims as these largely become the responsibility of regional courts, but their lack of knowledge and capacity has made processing compensation claims even more difficult.

“...the compensation case goes to be decided in the regional prosecution offices which means that because of their lack of resources or lack of staff, some of these cases are sometimes neglected and therefore not necessarily prioritized (AIP6).”

### 3.1.8.3 Lack of Access to Compensation

The bureaucratic and ineffective system for claiming compensation was also identified as a key challenge. Only two victims of human trafficking had been awarded compensation over more than a ten-year period, and none had actually received any monies. As neither the criminal nor civil avenues for claiming compensation were effective, legal practitioners argued for the state to fund a compensation scheme for individual claimants. In its third evaluation report GRETA<sup>58</sup> recommended that the government guarantee access to compensation through the use of the special funding for compensation arising from the seizure of traffickers' assets. In its 2023 response the Albanian government indicated that it had allocated monies from the seizure of traffickers' assets to support victims of trafficking but through grants to organisations, not by the provision of a stated funded compensation scheme.<sup>59</sup>

While some legal practitioners working for NGOs had discussed compensation claims with victims, the lengthy and difficult process put some victims off. Moreover, others found it frustrating that monies that would aid their recovery and reintegration were not forthcoming. It was recognized that lack of a government compensation scheme presented a barrier to accessing compensation, but the way in which traffickers hide their assets also made it more difficult to find them and thus access monies. Moreover, some of the traffickers remained overseas along with their assets.

### 3.1.8.4 Lack of unified law on human trafficking

Legal practitioners stated that there was no specific law on human trafficking. Because legislation is fragmented, front-line professionals have to draw on a wide range of laws related to offences, victims' rights, victim protection and social protection (for example, the Criminal Procedure Code, Criminal Code, Civil Code, Family Code and Labour Code). The NGO 'Different and Equal' organised a working group to explore improvements to the law and produced the *Study Report on The Need Of Drafting A Special Law For The Protection Of Victims Of Trafficking In Albania*. It makes a case for a specific law on human trafficking which practitioners indicated was needed to provide a clearer and more comprehensive system to protect trafficking victims. A human trafficking bill has been developed and is being discussed. Having a unified human trafficking act, as in other countries, was viewed as a positive approach to delivering a more effective response to human trafficking.

It is not just the fragmentation that has been a problem but also gaps or inconsistencies with international human trafficking conventions. For example, there seems to be confusion about identifying Albanian children as victims of human trafficking if they have been moved within the country for the purpose of exploitation as opposed to transnationally. International policy does not require transnational movement.

“If the child is moved internally, so from one place of Albania to another that is not recognized as trafficking. The only trafficking related children that they recognize according to the current law is the cross border, so the transnational and of course that is a gap which from the perspective of a lawyer creates more obstacles (AIP2).”

58 GRETA, 2020

59 Committee of the Parties to the Council of Europe Convention on Action against Trafficking in Human Beings, 2023



### 3.1.8.5 Experience of workplace stress and vicarious trauma

Legal practitioners working in specialist organisations that support victims in a shelter or community indicated that their workloads can be stressful because of ongoing challenges experienced by survivors even when they have left the shelter. In particular this can be manifested by victims who have been reintegrated into the community but then seek further help and advice because they do not know who else to turn to. They might need help around obtaining employment or childcare or might experience problems completing a training course. For example:

“ They are enrolled to do the vocational training but because they might have very low educational levels, pre-exploitation or they might be illiterate, they start them, but they are unable to complete them. So, all these additional challenges and hurdles that victims face when they are out in the community means that they end up going back to the shelter and it means that they go back to knocking on the door of [NGO] and you as an employee of the organization need to also deal with these matters in addition to any other legal matters that are ongoing (AIP3).

Lack of further assistance around these issues, or where victims need help because they have been re-trafficked can impede survivors' reintegration and their wellbeing, but it also presents a challenge for legal practitioners' workloads/ work-life balance.

### 3.1.8.6 Lack of a multi-agency approach to ensure a holistic response to survivors' needs

Legal practitioners identified a holistic response to supporting victims of human trafficking as good practice. The organisations they worked in sought to operate holistically and meet victims' varied needs as they emerged and changed over time. The challenge they experienced was that provision by other actors or institutions was often piecemeal and not joined up. Thus, legal practitioners felt there should be better coordination between support providers, police/ mobile units and prosecutors so they could work in more coordinated way to respond to human trafficking. Where this collaboration exists, it has positive benefits. For example, a new young prosecutor in one area was collaborative and *made the NGO feel that they are together, that the state is not against them, but it is with them (AIP2).*

## 3.2 Recommendations

In light of the findings above, the challenges identified and the pressing need for enhanced support mechanisms for survivors of MSHT in Albania, the following recommendations are proposed to address critical gaps in legal assistance, collaborative responses, compensation schemes, and victim-centred support.

- **Advocate for Mandatory Training:** Advocate for a mandatory programme of training for those legal practitioners that are funded by legal aid for secondary legal assistance. The aim is to enable these lawyers to obtain the knowledge and skills they need to be more effective in their work with the survivors that they are representing through the criminal justice process.
- **Regular Workshops for Collaboration:** Organise workshops on a more regular basis to enable professionals (including criminal justice agencies and stakeholders) to collaborate and promote trauma-informed multi-agency responses to survivors of human trafficking. These workshops would include sharing of good collaborative trauma-informed practice and reflection on how this approach could be adopted more widely.
- **Establish and Implement of a State Compensation Scheme:** Advocate for a State compensation scheme that enables victims of human trafficking to receive compensation for the harm done to them.
- **Holistic Victim Support:** Promote holistic support for victims of human trafficking that is victim-centred, trauma informed and that imbeds a family-based approach to support in relevant cases or where the problem of gender-based violence underpins the cases.
- **Advocate for a Unified Human Trafficking Law:** Based on the evidence published by the recognised expert working group which recommended specific legislation to provide a legal framework for the protection of victims, obligations on actors involved in protection and the criminal justice process, prevention, and the creation of oversight through a National Human Trafficking Coordinator.



## 4. Bulgaria

Bulgaria has ratified key conventions and the EU directive that have a bearing on human trafficking. For example, it has adopted legislation to ensure that it has transposed EU Directive 2011/36/EU into national law and ratified the Council of Europe Convention against Trafficking in Human Beings (ECAT). In addition, Bulgaria has introduced and amended the Law on Combating Trafficking in Human Beings. Recent amendments have improved support provision for victims and included provision entitling victims to free legal assistance. The 2021 RENATE Report<sup>60</sup> identified a range of national policy that establishes the framework for the identification and support of trafficking victims and for the investigation and prosecution of traffickers. These include: 'The Criminal Code (CC), the Action against Human Trafficking Act, the Legal Aid Act and the Assistance and Compensation Act and the National Anti-Trafficking Strategy 2017 – 2021 (adopted in 2017)'.<sup>61</sup>



In its third evaluation report, published in 2021, GRETA<sup>62</sup> indicated that Bulgaria has both policies and procedures in place which confer victims with a number of rights, with different authorities informing them of these entitlements at different stages of their journey. However, NGOs have considered the process very formalistic and may be insufficient to enable victims to fully understand their rights as well as act on them.

Bulgaria's law on legal aid sets out the kind of legal advice victims can receive for free if they lack the means to pay for a lawyer. They can consult a legal aid lawyer as an injured party or as a witness, or if they are considering taking a private prosecution based on material and non-material damage arising from the crime of trafficking. They can also seek assistance with a civil claim for compensation. In addition to Legal Aid provision, amendments to the Anti-Trafficking Law in 2019, made the provision of legal assistance in shelters for victims of trafficking a requirement. As a result, there are two systems running side by side. According to the 2021 GRETA report, legal practitioners imbedded in NGOs were not always able to provide legal representation throughout criminal proceedings because of funding issues, but this problem has sometimes been rectified through external donations to support this work. Victims can seek ex officio lawyers through the National Bureau for Legal Aid (NBLA) registry but 'according to NGOs supporting victims of THB<sup>63</sup>, ex officio lawyers appointed to assist victims of THB are often not familiar with the specificities of THB and the quality of the legal assistance provided by ex officio lawyers appointed by the NBLA is variable'<sup>64</sup>. The 2023 TIP report also raised concerns about access to legal advice, and compensation. It said: 'While the law provided free legal assistance to victims, qualified legal aid was difficult to access, especially when victims were outside of the jurisdiction of the court reviewing the case. ...The process for seeking compensation remained overly bureaucratic and discouraged victims from filing civil suits. In 2022, there were no cases of restitution'.<sup>65</sup>

Bulgaria is a country of origin for human trafficking, and trafficking is both internal and transnational. Evidence from the 2023 TIP report indicates that the vast majority of victims of human trafficking are women who are trafficked for the purpose of sexual exploitation. A much smaller number of victims of forced labour and forced begging were also identified. The 2021 GRETA report indicated that pregnant Bulgarian women were trafficked for the purpose of selling their babies, while other women and girls were subject to sham or child marriages. Almost all victims identified in 2022 were Bulgarian with the Roma population over-represented as victims. People from other marginalized groups, including those with disabilities and mental health issues, were also over-represented as victims.

There is evidence that law enforcement in Bulgaria fails to identify victims of human trafficking particularly amongst the Roma community and also amongst asylum seekers. Lack of identification means that victims do not have access to support or to legal advice. There is also concern that where victims are identified law enforcement fails to inform them of their rights in clear and appropriate ways.<sup>66</sup>

60 RENATE (2021) Legal Assistance for Victims of Trafficking Across Europe With Special Reference to six European Countries. Accessed 07 11 23. [https://www.renate-europe.net/wp-content/themes/renate/Final%20Report\\_LegalAidEurope%20FINAL%201%20korrik.pdf](https://www.renate-europe.net/wp-content/themes/renate/Final%20Report_LegalAidEurope%20FINAL%201%20korrik.pdf)

61 RENATE, 2021, p 27

62 GRETA (2021) EVALUATION REPORT Bulgaria Third Round Evaluation Access to justice and effective remedies for victims of trafficking in human beings. Accessed 20 02 24. <https://rm.coe.int/greta-evaluation-report-on-the-implementation-of-the-council-of-europe/1680a249f9>

63 THB stands for trafficking of human beings, a shorthand term used in GRETA reports.

64 GRETA, 2021, p. 20

65 <https://www.state.gov/reports/2023-trafficking-in-persons-report/bulgaria/>

66 RENATE, 2021

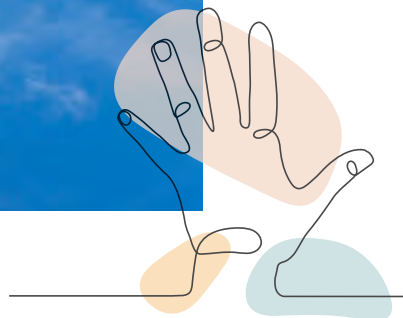


Access to legal practitioners in the early period of identification is part of Bulgarian policy. In addition, they are also entitled to apply for a free legal aid lawyer to assist them through criminal justice processes where they have agreed to engage with a criminal investigation. However, it is victims of trafficking that have to find and apply for legal aid in order to obtain a legal representative which places bureaucratic burdens on them. Dobreva noted that 'The right of the victim to be legally represented in the criminal proceedings arises as of the moment s/he decides to cooperate with the investigation authorities. In practice, victims do not apply for an ex officio lawyer'.<sup>67</sup>

Other barriers to legal advice were noted in the 2021 RENATE report and included victims not being able to consult a lawyer 'before deciding if they wish to cooperate with authorities in investigations'<sup>68</sup>, and research conducted in 2013 suggests relying on legal services provided by NGOs can be problematic because 'NGOs often lack training in providing legal assistance for victims'<sup>69</sup>. The RENATE report also suggested that legal aid lawyers might lack expertise in human trafficking. Moreover, payment for their services is low and result in lawyers taking on and having to manage too many cases at one time which will affect the quality of assistance. These points were taken from Dobreva's 2013 report.

Victims of trafficking are by law entitled to compensation, but the evidence reveals that in practice the bureaucratic process makes it difficult or impossible to put in a claim. Access to compensation is theoretical because: 'The application procedure for full legal aid requires the filling in of a 1-page request and the submission of as much as possible proofs of law income, labour occupancy, health condition, family status, social assistance, etc. These application procedures are practically impossible for victims to follow because many of them are illiterate, have mental disabilities, or are from Roma origin and cannot read and write in Bulgarian'<sup>70</sup>. This process combined with a lack of expert support

means few are successful in obtaining compensation. This is despite rights to State funded compensation as set out in the Criminal Procedural Code. According to Dobreva, 'The identified victim also has a right to a one-time financial compensation provided by the State for her/his material damages'<sup>71</sup>. However, the difficulties in accessing compensation have had a knock-on effect, as these negative results are shared widely and discourage other victims from applying for compensation<sup>72</sup>.



67 Natasha Dobreva, Promotion of the Rights of Trafficked Persons in Bulgaria, Animus Association Foundation, Sofia, July 2013. p. 30. Accessed 28 02 24: <http://www.animusassociation.org/wp-content/uploads/2014/03/Promotion-of-the-rights-of-the-traffickedpersons-in-Bulgaria.pdf>

68 RENATE, 2021, p. 29

69 Ibid.

70 Dobreva. 2013, p. 34

71 Dobreva. 2013, p. 28

72 Dobreva, 2013



Specialist guidance to aid legal practitioners working with victims of human trafficking was developed. It was based on a three-year project exploring legal support in Bulgaria, Romania and Slovakia, which was funded by the European Commission<sup>73</sup>. The handbook *Promotion of the Rights of Trafficked Persons in Bulgaria* provides 'practical information and guidance to lawyers on how to effectively apply Bulgarian legislation to defend the interests of victims of trafficking'.<sup>74</sup>

GRETA identified that the inability to identify specialist lawyers within the legal aid scheme, combined with how legal aid advice is funded within NGOs has created obstacles to ensuring good quality and readily available legal assistance to victims of human trafficking. They said:

“This division between non-specialised legal aid lawyers and specialised private lawyers who are paid through projects run by NGOs is one of the obstacles to integrating qualified legal aid in the national assistance systems. In practice, this means that victims are largely dependent on NGOs for the provision of specialised legal aid, whereas NGOs are dependent on donors who are willing to fund legal assistance or lawyers who are willing to work pro bono’.<sup>75</sup>

## 4.1 Legal assistance work with victims of human trafficking

Six legal practitioners participated in the RENATE commissioned research; two were interviewed and four completed the survey. Five of them worked in Sofia, the capital, and all of them worked for NGOs. They described the different kinds of legal assistance they provide to victims of human trafficking. Their work included providing legal assistance in the identification process, and during the time a victim considered participating in a criminal investigation, or they actually participated in a criminal investigation and prosecution. They also offered advice when a victim wanted compensation or needed help in relation to their immigration status, for example making an asylum claim or seeking leave to remain and a residence permit (see Table 5).

“We help them with the preparation of the documents and send the documents to the authorities, so they have refugee status in Bulgaria (BIP2).

Table 5: Type of work undertaken by legal practitioners

	Survey: 4 Respondents
Provide assistance through the identification process	75%
Provide assistance in relation to immigration status, for example making an asylum claim or seeking leave to remain/residence permit.	100%
Provide legal assistance while a victim considers participating in a criminal investigation and/or during a criminal investigation and prosecution.	75%
Provide legal assistance when a victim seeks compensation	75%

73 Ibid.

74 GRETA, 2021, p. 21

75 GRETA, 2021, p. 21



These responses reflect the legal rights noted by Dobрева, who said:

“ ‘Victims have the right to a lawyer to protect their rights, to inform them about their role in the proceedings, to defend their interests and to have their views heard and considered in the criminal proceedings. This includes civil or other proceedings to claim compensation for damages suffered’<sup>76</sup>.

#### 4.1.1 Victim identification

Legal practitioners indicated that they may need to intervene in the identification process because police fail to identify people as victims of human trafficking. According to Dobрева this is particularly the case for victims of sexual exploitation as police fail to investigate indicators of trafficking when women state they are voluntary prostitutes<sup>77</sup>. Thus, practitioners' advocacy is important in relation to how prosecutors might use legislation around prostitution to ignore the crime of trafficking for sexual exploitation which is recognised in Bulgarian law.

“ We have a legislation... about internal trafficking of women for sexual abuse, but the prosecutor was calling the victims prostitutes. This was written in the Prosecution Act. And [according to the police] there were no victims, there were no witnesses, but they were prostituted. It was scandalous. And we try we try to explain many times because we were the lawyers of those victims (BIP2).

#### 4.1.2 Victim engagement in criminal justice processes

Practitioners also provide information to help victims understand the criminal justice processes, including the criminal investigation and then the prosecution which would include trial procedures. They also can also help them prepare their statement if they want a case to be investigated.<sup>78</sup>

Some of the first contact of the survivor with a lawyer might be to support the survivor to draft the application to the prosecutor's office, and then to explain the circumstances (BIP1).

In addition, they can act as a legal representative in relation to law enforcement and thus liaise with the investigating police officers and offer assistance as survivors are questioned as witnesses. An important element of this interaction can be to ensure that police interviews are more victim-centred and thus limited in terms of time and number as these can be re-traumatising. The numerous interrogations and their impact on victims was a problem noted by Dobрева in her 2013 report, *Promotion of The Rights of Trafficked Persons in Bulgaria: A Human Rights Based Approach* and highlighted explicitly by one of the respondents.

“ Because in many cases people are reluctant to go and be interrogated more and more. As much as possible, I'm trying to decrease the number of interviews as much as possible (BIP1).

<sup>76</sup> Dobрева, 2013, p.30

<sup>77</sup> Ibid.

<sup>78</sup> Dobрева argues that legal practitioners need to enable victims to make an information choice about participating in a criminal investigation. As a result, 'During the reflection period, the victim must get information about the criminal proceedings, the expected outcome, and length of the trial, her/his participation in it, and the expected number of interrogations, any expected meetings with the traffickers, and the available measures for protection of privacy and safety, the possibilities to receive compensation for the damages suffered, and the right to free legal attorney to represent them in court. Only on the basis of this information can the victim give informed consent to cooperate with the authorities. This is indeed the purpose of the reflection period' (Dobрева, 2013, p. 41).



Practitioners may also need to remind police about victims' vulnerabilities, particularly with regards to adult victims as they may be more aware of children's vulnerabilities. During the trial stage the practitioner may seek to ensure that victims' rights are recognised. For example, victims have rights to special measures, but they need to be applied for. Practitioners may also need to intervene during the court process because victims are being asked inappropriate questions by prosecutors, defence lawyers and judges. The questions might relate to their sexual activities and result in the victim feeling humiliated in a process which should be aimed at justice. In addition, practitioners may seek to intervene or to sit next to the survivor client in court in order to provide some level of safety in what can be an intimidating environment.

“ I'm doing my best to minimize the harm to the women participating in these procedures, trying not to allow them to be humiliated, to be threatened during the process (BIP1).

Legal practitioners stated they also might need to advise and support survivors who have been let down by police due to poor criminal investigations. In some situations, this can result in cases being re-opened at a time when survivors have moved on and are concerned about the consequences for their families.

“ So, they have a new life. They do not want to deal with this case anymore and they [the police] are sending these documents, and the main concern of the women is what will happen when their husbands learn because they have babies, small babies. What will happen when they have to explain that they have to leave the baby and to go 300 kilometres [to engage with police] (BIP1).







### 4.1.3 Assistance with compensation claims

Legal practitioners may also advise survivors on their compensation claims and help them manage often bureaucratic and difficult processes. The importance of legal advocacy for compensation claims was also made strongly by Wijers. Her report stated:

“ The early participation of a lawyer in the investigation is valuable not only as a guarantee against degrading treatment and incriminating questions, but also in relation to a future compensation claim, for example to request the freezing of assets of the trafficker(s). However, the widespread understanding is that lawyers are only needed when the case is brought to court. NGOs try to compensate the failure of the state funded system by providing at least basic information to victims on their rights and supporting their clients throughout the criminal process, but they are not legally trained nor qualified to legally represent victims<sup>79</sup>.

Practitioners may assist survivors to seek compensation after someone pleads guilty to a crime prior to a trial, as well as making an application to the judge for a civil case for compensation at the time of a prosecution.

Legal advocacy may be crucial in cases where survivors have been exploited in another country undertaking activities where there is no record of the amount that was made for the trafficker. For example, a practitioner referred to a case where a woman had been trafficked to Milan Italy for begging. The trafficker pleaded guilty and as a result the compensation claim for harm was accepted, but it was difficult to claim for loss of money as no one knew how much she actually made. *There were no people sitting there and counting how much [she had made begging]. but still the court said that she suffered no pecuniary damages (BIP1).*

In addition, it can be difficult to obtain compensation from traffickers where the money was derived from prostitution which is considered illegal and immoral in Bulgaria. Instead, the trafficker seems able to keep it. For example, a practitioner said:

“ I have also been refused [compensation for women] and usually the explanation is that because this money was earned through immoral actions. These women are not allowed, which is actually not fair because still this money helps the trafficker to have the best lawyers (BIP1).

GRETA raised concerns about access to compensation for those in forced labour but also those who were trafficked for sexual exploitation. GRETA stated: ‘In practice, it is not possible to claim compensation for the often considerable amounts of money victims of THB were forced to earn from prostitution and hand over to the trafficker, even when this happened in countries where prostitution is legal. There is a growing body of case-law treating such claims as inadmissible or ill-founded, with the argument that the victim has no legal ground to claim compensation since prostitution is considered to bring “immoral earnings”, which are criminalised under Article 329, paragraph 1, of the CC’.<sup>80</sup> Wijers also noted this problem in 2015.

Practitioners may also be involved at a more systematic level, for example working around prevention. One noted their work to help raise awareness of human trafficking in schools as part of a European project. Another project concerned *monitoring [outcomes], for the prosecution, how the process is going on. And it was very interesting results from our monitoring because for almost 4 years the cases did not finish (BIP2).* GRETA made reference to this research in its 2021 evaluation report.

79 Wijers M (2015) Position of victims of trafficking in human beings in criminal and other legal proceedings in Bulgaria, Slovakia and Romania: A Human Rights Based Approach. P. 25. accessed 06 02 2024. [https://www.nhc.nl/assets/uploads/2017/07/2015-12-10-NHC\\_Bulgarije\\_Rapport\\_def\\_LR.pdf](https://www.nhc.nl/assets/uploads/2017/07/2015-12-10-NHC_Bulgarije_Rapport_def_LR.pdf)

80 GRETA, 2021, p. 26



## 4.2 Funding of legal practitioners' work

The legal practitioners interviewed for this research indicated that their work was funded by NGOs. The NGOs obtained monies mainly from international donors, for example Norway's Active Citizen Fund. Thus, NGOs were able to provide their own legal advice or to fund external lawyers who worked in cooperation with the NGO and survivors. NGOs sometimes pooled their funding streams to ensure the cost of legal advice was met, for example in one case the NGO A21 paid for the transport for Bulgarian survivors who had to travel to participate in criminal justice processes. There is a view that the Bulgarian authorities *will ask an NGO to pay because they don't have this funding for a lawyer (BIP2)*.

There is no government funding except via legal aid. In their 2021 report GRETA recommended that Bulgarian authorities increase funding for legal support for victims of human trafficking when it urged them to ensure 'adequate funding is made available for the provision of legal assistance, legal representation and interpretation/translation to victims of THB placed in shelters'.<sup>81</sup>

## 4.3 Training and skill development paths for legal practitioners assisting survivors of MSHT

The legal practitioners participating in the study indicated that they used a variety of methods to acquire the requisite knowledge and skills to be effective in their work. They relied on their own initiative and curiosity to learn through reading, attending training events and engaging with those with relevant experience. All the legal practitioners stated that human trafficking was not included in their formal legal training.

“ This is some kind of..... I will not say forbidden topic, but maybe forgotten. We don't have it in our programs. So, when we work in that field, we have to learn from international sources (BIP2).

As Table 6 below illustrates formal legal education also did not generally include the topics of immigration, criminal justice process and compensation. Only one of the practitioners obtained knowledge of criminal justice processes and compensation schemes in their formal legal education. As a result, all them were undertaking specialist training, sometimes once or twice a year and occasionally less frequently, every two or three years.

Table 6: Initial Legal Education and Specialist Training

	Survey 4: Respondents
Did you receive information about human trafficking in your initial legal education as a legal practitioner?	100% No
Did you receive information about supporting asylum seekers or dealing with immigration status issues in your initial legal education as a legal practitioner?	100% No
Did you receive information about supporting a victim of a crime in the criminal justice process in your initial legal education as a legal practitioner?	75% No
Did you receive information about supporting an application for compensation for victims of a crime in your initial legal education as a legal practitioner?	75% No
Have you received any additional specialist training on human trafficking and modern slavery?	100% Yes

It was ascertained from those interviewed that learning about human rights, including international conventions, and engaging in work linked to human rights issues, for example, discrimination, and gender-based violence including domestic violence, were often precursors to acquiring knowledge about human trafficking and working in settings that engaged with victims. Working in NGOs which had a human rights remit also provided the context for practitioners to expand their knowledge of victims' rights.

81 GRETA, 2021, p. 22



Learning from colleagues who had expertise and practical experience was one method of acquiring the necessary knowledge and skills to provide legal advice to victims. However, not all practitioners in Bulgaria have colleagues that can help them think through how best to proceed with a case. Some individuals seek *colleagues to discuss tactics and strategies while working on a case (BSR1)*.

Practitioners also undertook their own research to better inform themselves. This included a review of international and national legal frameworks, for example, the EU directive and Istanbul Convention, as well as human trafficking cases. They also used research as a means of keeping themselves updated, for example by reviewing government documents, academic research, and relevant newsletters and social media. Based on the survey data, (see *Table 7* below) the most common methods for keeping updated were reviewing research and government sources, collaborating with other legal professionals and attending seminars.

**Table 7: Method of staying updated**

Survey 4: Respondents	
Research and Government Sources	100%
Collaboration with Legal Professionals	75%
Attend seminars and workshops	75%
Social Media and Online Communities	50%
Regular Review of Official Publications	50%
Academic Journals and Research Papers	50%
Regular Consultation with Legal Advisors	50%
Networking with Government Officials	25%
Subscriptions to Newsletters and Alerts	25%
Online Policy Databases	25%

Participating in human trafficking training in Bulgaria or that was available in Europe was another means of enhancing knowledge and skills. The on-line HELP training for legal professionals, developed by the Council of Europe, was mentioned by four participants as a valuable resource<sup>82</sup>. At the national level, the Attorneys' Training Center to the Supreme Bar Council of Bulgaria offered courses *in the field of human trafficking (BSR2)*. Surveyed practitioners felt they would benefit from more specialist practical workshops and *courses on the psychology of victims of human trafficking (BSR4)*.

Training was also used by practitioners to keep up to date and to enhance the professional development of professionals they collaborated with. Reference was made to training events organised by the local Commission for Combatting Trafficking in Human Beings. According to one practitioner it provided an opportunity for interested professionals to meet and learn. However, this learning environment was also limited as it tended to feature the same individuals over time, rather than drawing in new people which would expand the human trafficking network.

Practitioners also mentioned that they acquired knowledge and skills from the networks they formed with other professionals, including other legal practitioners, as well as their engagement with those working on human trafficking in an international setting.

Enhanced understanding also derived from engagement in legislative reform around human trafficking.

“ And then going to different trainings, participating in different initiatives, for example, for legislative changes, looking for such cases, having these contacts with organizations working with vulnerable victims (BIP1). ”

82 <https://www.coe.int/en/web/anti-human-trafficking/help-online-training-course>



It was evident that practitioners felt they had more to learn to be more effective in their work. One practitioner indicated she needed better understanding of wider issues and techniques. For example, more understanding of psychology and trauma was viewed as pertinent to be more supportive of victims.

“ But still for myself, I can say there are many things I need to learn. More techniques, more things outside the legal thing because I'm fine with the legal aid base. But still there is a need to learn more about how to be more effective to support the client. ...to know more about the specifics, the trauma (BIP1). ”



Legal practitioners who participated in the RENATE research indicated that they shared their expertise with others through the provision of training. It could be training offered at an international level through the Council of Europe, or in Bulgaria, for example training was offered that highlighted international and European human rights standards for the protection of victims of human trafficking. In addition, training could be offered at a local level, bringing together municipalities, NGOs and government officials. Providing input into the School of Lawyers was also undertaken but on a more ad hoc basis. However, the low fees obtained by lawyers representing victims of human trafficking, was said to affect interest in developing relevant skills to work with victims.

#### 4.4. Essential skills and knowledge for assisting victims of human trafficking

Legal practitioners working with victims of human trafficking identified a wide range of knowledge and skills that needed to be acquired by those who wanted to work in this field and to be effective practitioners.

They stated that practitioners need to understand the international legal landscape that has set standards on human trafficking and should underpin actions in Bulgaria, for example the Palermo Protocol, ECAT and EU directive on human trafficking. They need to know *the international standards, because this framework is more advanced and gives a very high standard, which is good to be followed on a national level (BIP2)*. Practitioners also need to understand the bigger policy landscape because of its implications for victims, as they set out various entitlements for victim support.<sup>83</sup>

83 While Bulgaria has ratified these conventions they have not been translated into Bulgarian, as a result even the experts don't know the real texts in those documents.



In addition they need to become familiar with relevant institutions like the European Court of Human Rights because they can draw on its case law, for example case law *concerning violence against women because the things are connected to trafficking (BIP1)*. An awareness of case law is useful *because very practically it also gives us arguments (BIP1)*. It also gives practitioners a way of thinking, acknowledging the specific needs of the victim. And knowledge that the victim is in a vulnerable situation, for example, one that might on the surface seem like domestic violence but needs to be explored as an experience of human trafficking. Having an awareness of international conventions also enables legal practitioners to bring a gender dimension to their work, and an understanding of how gender-based violence underpins much exploitation.

Practitioners recognised the necessity of understanding the international standards to identify internationally accepted indicators of trafficking. This information would enable them to challenge current thinking about women who are trafficked for the purpose of sexual exploitation, who are perceived by some criminal justice actors as 'prostitutes' engaging in illegal activities, rather than as victims of trafficking.

“ We still have many people from the institutions and our colleagues, lawyers, who say that we have a national legislation, we don't have to read international laws. And I think that this is one of the problems. And that's how the absence of sensitivity is getting here because we don't know about the international standards and we don't understand why this is a victim, she's not a prostitute (BIP2).

It was stated that practitioners must also understand the *national legal framework and knowledge about the institutions which can provide support to the victims because lawyers they're not aware about NGOs and other institutions which can aid victims (BIP1)*. Practitioner's role requires them to operate in conjunction with other actors and institutions that engage with victims whether by providing support or during the criminal justice processes. As a result, they have to understand their role as one in which they have to cooperate because *cooperation between different institutions is very important (BIP1)*. This means practitioners need to have the skills to be able to collaborate with others based on meeting the needs of the victim.

Legal practitioners also reported the need to comprehend what human trafficking actually means, recognising it as exploitation and a type of slavery that infringes upon basic human rights. They highlighted that it is crucial to acknowledge that victims are not at fault, regardless of the work they were compelled to perform.

“ This person has rights. This person was exploited. Nobody has the right to behave with somebody this way. ...And because it's a slavery actually (BIP1).

It is not only about acquiring knowledge; possessing the requisite skills to effectively work with victims is equally vital. Good communication skills were considered essential based on the experience of witnessing lawyers speaking with victims, like policemen. They are harsh and not empathic (BIP2). Effective communication was also linked to understanding the impact of trauma and adopting a trauma-informed approach in the interactions with victims.

Understanding the impact of trauma on victims and how various processes may inadvertently re-traumatise them is crucial for legal practitioners. This entails gaining knowledge about trauma and its effects on victims, as well as understanding the implications of this knowledge for professional practice. As part of their endeavours to improve support, practitioners should learn how their actions can mitigate the risk of re-traumatization during their interactions with victims.

Practitioners working with victims will have to *help them navigate through many different institutional processes and service providers (BSR1)*. As a result, they require knowledge of the various actors, institutions and processes, as well as service providers that might be encountered as they help victims in their recovery journey and possibly their engagement with the criminal justice system. Understanding how to work collaboratively is the skill that needs to be developed alongside knowledge of the system of victim protection. In addition, one practitioner made that case that lawyers *need to know how to make a case winnable, so they need to really know the criminal justice process. You have to know the legislation; you have to know the process (SIP2)*.



There are special protective measures within the policy framework for victims of crime, including victims of human trafficking, that can be sought. Practitioners need to be aware of these new measures which give victims' rights. For example, these measures include limiting the number of interviews conducted, enabling victims to be interviewed by someone of the same sex, and ensuring care is taken so the victim is able to avoid contact with the perpetrator.

Legal practitioners can play an important role in seeking compensation on behalf of victims. As a result, they need to understand the processes for applying for compensation, and the kind of compensation that might be awarded to victims of human trafficking. They need to be aware of the amount of money traffickers make through exploitation, and thus how compensation is a part of the justice process.

“ So, they need to have that understanding that the gangs have made an awful lot of money and exploited people and so, you know, part of that whole thing [about legal advice] is compensation (BIP2).

Finally, legal practitioners in Bulgaria are tasked not only with assisting adults but also with addressing cases involving children. As a result, they require knowledge about children's rights and specialised legislation pertaining to minors.

## 4.5 Challenges to effective responses to human trafficking

Legal practitioners identified a number of issues that undermined effective measures to identify victims of trafficking, to support victims, to provide expert legal advice and to improve criminal justice practices and outcomes for victims. These challenges related to human trafficking not being a priority issue, lack of specialised knowledge amongst key professionals, and lack of coordination between relevant professionals and institutions.

There is insufficient awareness about the phenomenon of human trafficking amongst many professionals and institutions that have a role to play in tackling human trafficking and in supporting victims. This means it is not considered a priority area for action. Lack of interest is compounded by the composition of victims, many of whom come from the minority Roma community in Bulgaria who are subject to marginalisation and discrimination. As a result, human trafficking does not receive the attention or sympathy it warrants.

“ [Victims are] mainly from Roma minority, and that's why the society is not very empathic about that problem. Because we are not very tolerant about our minorities and especially for the Roma minority (BIP2).

### 4.5.1 Victim identification

Professionals involved in the criminal justice processes lack specialised knowledge which would equip them to identify victims of trafficking, based on international standards, and to make use of the appropriate laws and methods to undertake an adequate criminal investigation. Some continue to hold stereotypical views about victims.<sup>84</sup> As a result there are missed opportunities to identify victims, to help bring traffickers to justice and to ensure victims' rights are implemented. Poor understanding impacts on women who can be viewed through the lens of engaging in illegal activities and earning money through immoral means, despite recent changes in the law. It can also impact on recognising victims of criminal exploitation because the focus is on a drug offence and not on the exploitation of a person. This oversight is compounded by lack of understanding of the non-punishment provision. GRETA had sought to rectify this problem by recommending that Bulgarian authorities 'take further measures to ensure effective compliance with the principle of non-punishment of victims of THB for their involvement in unlawful activities, to the extent that they were compelled to do so. Such measures should include the development of guidance for police officers and prosecutors on the scope and application of the non-punishment provision'.<sup>85</sup>

84 This issue was also noted by GRETA which said in its 2021 evaluation report: 'GRETA is concerned by the persistence of entrenched negative attitudes and prejudices vis-à-vis victims of trafficking' (p.34).

85 GRETA, 2021, p. 38



## 4.5.2 Lack of access to legal advice

Bulgaria has established a free legal aid service, and victims of human trafficking may be able to access free legal advice. However legal practitioners noted that there are no specialist lawyers in some regions of Bulgaria and there is no agreed standard of knowledge required for lawyers who work with victims of trafficking. As a result, victims are not able to access an expert to provide them with the specialist advice they need. As discussed earlier, GRETA too noted this difficulty in its 2021 evaluation report. One expert practitioner stated that she had never been assigned a human trafficking case since she was appointed as a legal aid lawyer.

“ Also, there is no specialisation. You can be appointed in such cases, but no standards, necessary background and knowledge (BIP1).

## 4.5.3 Risks of re-traumatisation

Moreover, currently in Bulgaria victims might experience the criminal justice process as traumatising because they end up having contact with the perpetrator or are left feeling revictimised because of their treatment by criminal justice actors. A practitioner stated that with more knowledge of the rights and needs of victims, *they will take measures to avoid the contact between the victim and the perpetrator, the visual contact (BIP1).*

The stigma attached to being trafficked for sexual exploitation means that women may not be willing to identify as victims or to support a criminal investigation and prosecution. This can be compounded by the locations of victims in small, rural and remote villages as well as the conservative nature of Bulgarian society.

“ They were really victims of trafficking, but they didn't realize it. And it was very difficult to work on their cases. We try everything. We try education, psychological support. But unfortunately, our society is very conservative. And the cases were in one small villages with almost 200 people in the village and everybody knows each other, and the victims did not want to cooperate on their own cases (BIP2).

## 4.5.4 Limited prevention efforts

NGOs are experiencing difficulties in being able to access schools to undertake prevention work with school children. These difficulties seem to emanate from national government decisions which also apply to NGOs who seek access to centres which house migrants and asylum seekers. As a result, this prevents NGOs from being able to talk to migrants and potentially identify foreign nationals who are victims of human trafficking and who might be in need of protection.

“ They don't let us there. We don't have a way to speak with the people, so we don't know if they are trafficked or not? And when they [officials] understand that we are from the NGO sector and they said, oh no, it's forbidden for you [to enter].... We don't forbid the NGO sector, but the work of NGO sector is kind of forbidden in some areas (BIP2).

The challenge of identifying trafficking victims amongst those held in immigration detention was also noted in the 2021 RENATE report.



### 4.5.5 Lack of access to compensation

Difficulty in applying for and obtaining compensation was also a challenge. While legal practitioners sought to help victims claim compensation the process was bureaucratic, had strict time limitations, and had limited success. Moreover, practitioners referred to difficulties in helping women access compensation if they had been involved in selling sexual services, because judges perceived women as seeking their immoral earnings, ignoring the fact that the trafficker was then able to retain the money earned from exploiting the women. A legal practitioner who sought compensation on behalf of a victim said:

“ I have also been refused and usually the explanation is that because this money was earned through immoral actions (BIP1).

Accessing compensation is also difficult as the National Compensation Scheme has not provided an alternative means for victims to obtain financial remediation for the harms done to them. GRETA too noted this failure and urged Bulgarian authorities in 2021 to facilitate ‘access to state compensation by setting up as a matter of priority a victim compensation fund which uses confiscated assets of perpetrators of human trafficking to fund compensation and reparation, and simplifying the procedure and eligibility criteria for claiming compensation’<sup>86</sup>. The evidence from legal practitioners suggests this recommendation has not been address.

### 4.5.6 Lack of multi-agency cooperation

Another challenge noted by legal practitioners related to lack of coordination between the institutions who support and engage with victims. A more coordinated response was viewed as desirable for ensuring victims’ needs were met. Moreover, for those who lack family support, this coordinated response might provide the level of support required to enable victims to act as a witness and be a participant throughout the often lengthy criminal investigation and prosecution.

#### Improve services to survivors

Finally two practitioners who completed the survey indicated that more resources need to be allocated for the support and care of survivors. In particular, improvements need to be made in *providing psychological support to victims* (BSR3).

## 4.6 Recommendations

In light of the specific needs and challenges faced by legal practitioners in Bulgaria regarding human trafficking cases, the following recommendations are proposed to enhance support mechanisms, foster collaboration, and enhance professional development within the legal community.

- **Enhanced legal support:** Advocate for enhanced funding of legal advice to victims of human trafficking, particularly early in the identification and recovery process.
- **Collaborative Practices:** Encourage the development of specialist and practical workshops aimed at legal practitioners and other stakeholders, for example support workers and police officers, to enhance their knowledge and skills and to build collaborative practice.
- **Knowledge Sharing:** Advocate for a network of lawyers in Bulgaria that could meet in person or online to share knowledge and to discuss cases.

86 GRETA, 2021, p. 31





## 5. Romania

Romania has ratified key conventions and EU directives that have a bearing on human trafficking, children's rights and victims of crime. These ECAT, 2011 EU directive on trafficking in human beings, and the ILO Convention on the worst forms of child labour. The Romanian Anti-Trafficking Law has criminalised human trafficking and entitled victims of human trafficking to free legal assistance, as well as some support measures.

Romania is regarded as a country of origin for victims of human trafficking. The 2023 TIP report<sup>87</sup> noted that 492 victims of human trafficking had been identified in 2022. Almost all were Romanian citizens who were trafficked in Romania or had been trafficked to other European countries. The 2021 RENATE report stated that Romania 'constitutes one of the top five source states in the EU context'<sup>88</sup>. Adults and children were trafficked for the purposes of sexual exploitation, labour exploitation and forced begging. 68% were sex trafficking victims and almost half of all victims were children.



However, NGOs who provided evidence for the 2023 TIP report suggested that foreign national victims were under-reported because 'authorities did not screen asylum-seekers and migrants for trafficking indicators and were reluctant to identify them because of the significant time and resources that an investigation would entail'<sup>89</sup>. In addition, the TIP report referred to the huge increase in foreign nationals provided with Romanian work visas. However, it appears that various restrictive practices, lack of awareness of rights, coupled with language barriers, has created an environment conducive to labour exploitation and human trafficking for foreign nationals.

The 2023 TIP report noted that at the local level, multi-disciplinary teams to support victims of trafficking, including some adults had been rolled out by Child Protection Services (CPS). They are 'composed of social workers, psychologists, legal advisors, and paediatricians who were responsible for advising case managers and conducting prevention activities'<sup>90</sup>. Given the scale of child trafficking these teams, which could provide a more holistic recovery programme, seem a positive development. However, evidence provided by NGOs suggests that the CPS does not provide high quality care and some of the residential staff may be complicit in child trafficking.

The 2023 TIP report suggested Romanian authorities needed to improve its support to victims of trafficking. It identified a lack of qualified lawyers to provide good quality legal assistance to victims of trafficking, despite the Romanian government encouraging the Bar Association to develop legal capacity by offering relevant training on human trafficking legislation. Moreover, the TIP report indicated that court appointed lawyers were unaware of the special laws on compensation for victims of trafficking. As a result, victims were losing the opportunity to claim compensation, and they lacked the financial means to initiate civil claims. The 2021 RENATE report also highlighted problems with the legal advice available to victims. It noted that while victims with limited means, can access free legal aid, an ex-officio lawyer is appointed for the duration of the criminal proceedings but only shortly before a trial. As a result, 'victims cannot consult the legal assistance and prepare for their hearing in advance which negatively affects how lawyers defend victims'<sup>91</sup>.

The quality of legal assistance was also identified as a concern because 'these lawyers receive very low fees and consequently tend to accept a high number of clients and evidence was cited about their lack of experience working with trafficking victims and expertise in relation to human trafficking'. 'There is no legal requirement for them to be trained in human trafficking'<sup>92</sup>. The NGO Justice & Care, that offers support to victims of trafficking in Romania, also noted that implementation of the Criminal Procedure Code giving victims the right to legal assistance was undermined by low fees and lack of expertise<sup>93</sup>. In addition, Wijers pointed to the lack of commitment of State funded lawyers to seek justice for victims. She noted these lawyers 'do not or hardly communicate with the victim concerned, have little interest in defending the interests of the victim'<sup>94</sup>.

87 U.S. Department of State (2023) 2023 Trafficking in Persons Report: Romania. Accessed 13 02 24. <https://www.state.gov/reports/2023-trafficking-in-persons-report/romania/>

88 RENATE (2021) Legal Assistance for Victims of Trafficking Across Europe With Special Reference to six European Countries. P. 45 Accessed 07 11 23. [https://www.renate-europe.net/wp-content/themes/renate/Final%20Report\\_LegalAidEurope%20FINAL%201%20korrik.pdf](https://www.renate-europe.net/wp-content/themes/renate/Final%20Report_LegalAidEurope%20FINAL%201%20korrik.pdf)

89 U.S. Department of State, 2023

90 Ibid.

91 RENATE, 2021, p. 47

92 Ibid, p. 50

93 Justice & Care (2023) *Victims of Human Trafficking Final Report: The Path to Recovery*, London: Justice & Care

94 Wijers M (2015) Position of victims of trafficking in human beings in criminal and other legal proceedings in Bulgaria, Slovakia and Romania: A Human Rights Based Approach. P. 23. accessed 06 02 2024. <https://www.nhc.nl/assets/uploads/2017/07/2015-12-10->



Another concern that has been raised relates to lack of continuity in legal representation, which undermined the building and maintenance of trust between victims and their legal advisors, as a result of high turnover in legal aid lawyers. GRETA (2021) also highlighted these issues, but also the ability of alleged traffickers to hire more experienced lawyers as they can afford higher fees. GRETA provided the following overview in relation to legal assistance to trafficking victims.

“ ‘Even though Romanian legislation provides for the right of victims of trafficking to free legal counselling, which includes legal representation, there is a limited number of lawyers specialised in representing victims of trafficking. GRETA considers that the Romanian authorities should ensure that a lawyer is appointed as soon as there are reasonable grounds for believing that a person is a victim of trafficking, as well as encourage training and specialisation of lawyers to provide legal aid to trafficking victims’<sup>95</sup>.

Victims of trafficking have a range of rights related to judicial proceedings, which are enacted in law, including protection of anonymity. However, there is evidence that victims’ identity and location has not been protected and thus they could be subject to intimidation as key witnesses<sup>96</sup>. GRETA too noted this problem and urged the Romanian ‘authorities to make full use of the available measures to protect victims and witnesses of trafficking, and to prevent their intimidation during the investigation, as well as during and after the court proceedings, including by banning the publication of trafficking victims’ names on judicial websites’<sup>97</sup>.

Concern has also been expressed about inadequate legal protection afforded to children, for example ‘in terms of the guardianship system but also when it comes to legal aid’<sup>98</sup>.

Victims can seek a private lawyer through NGOs, but NGOs have little money to pay them or time to seek a pro bono lawyer on their behalf. In addition, particular regulations mean NGOs in general are not licenced to provide legal assistance. However, where NGOs have been able to organise a lawyer, they provide the necessary expertise and ‘have a stronger trust-based relationship with them as they assist clients throughout the whole duration of proceedings’<sup>99</sup>.

In their third evaluation report GRETA set out the criminal and civil procedures for claiming compensation and the importance of compensation to the victim. However, they also referred to the lack of success, even where criminal courts granted victims civil damages. GRETA identified a number of issues with the compensation process. It urged Romanian authorities to undertake a number of tasks to ensure access to compensation became a reality which amongst other things required, ‘including the topic of compensation in training programmes for lawyers, prosecutors and judges and encouraging them to use all the possibilities the law offers to uphold compensation claims by victims of THB’<sup>100</sup>. GRETA did not mention that for women trafficked for sexual exploitation, they would not receive compensation for the monies they made for their traffickers through their work. Wijers stated that it ‘is not possible for victims of trafficking for prostitution to claim compensation for the (often considerable amounts of) money they were forced to earn and hand over to the trafficker, as these are considered immoral earnings. This of course does not stop the state from confiscating the money and in that sense profiting from it’<sup>101</sup>.

---

NHC\_Bulgarije\_Rapport\_def\_LR.pdf

95 GRETA, 2021, p. 4

96 RENATE, 2021

97 GRETA, 2021, p. 5

98 RENATE, 2021, p. 51

99 Ibid, p. 49

100 GRETA, 2021, p. 24

101 Wijers, 2015, p. 44



## 5.1 Legal Assistance work with victims of human trafficking

The legal practitioners that participated in this survey were based in a number of cities including Brasov, Alba Iulia, Baia Mare, and Oradea, but the majority worked in Bucharest. They were employed in different sectors, with 50% working in NGOs and the others working in law enforcement and law firms.

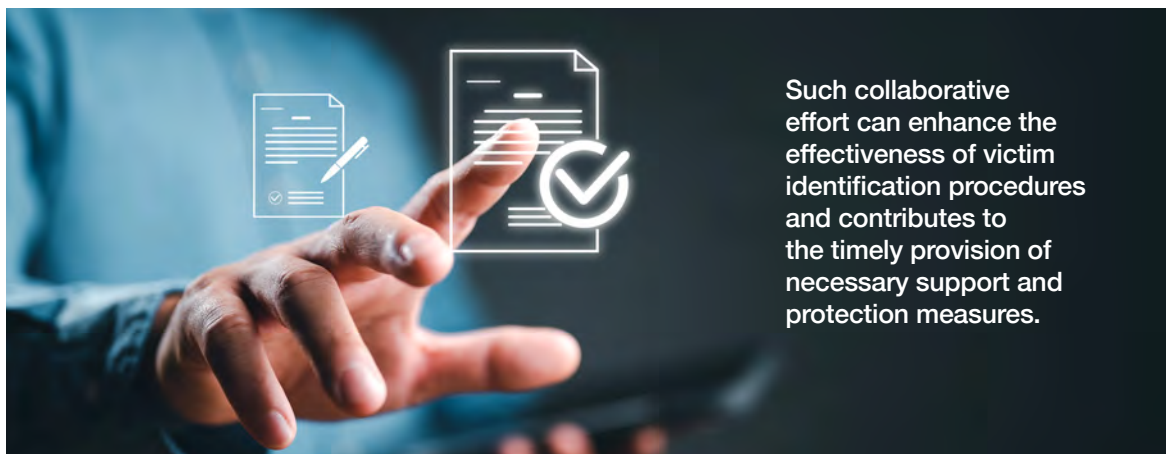
Overall, they provided legal advice related to victim identification, immigration status, participation in criminal justice processes and compensation (see *Table 8*). However, the survey documented that some practitioners only provided legal advice in one or two areas. What was notable is that those that worked in law enforcement evaluated the needs of victims and referred them for support, informed them of their rights and monitored if special support measures were provided during a trial. They seemed to have a different remit than those that worked in NGOs or law firms, although it is possible that some practitioners undertake other types of work but did not add specific details, responding only to the preselected work categories.

**Table 8: Type of work undertaken by legal practitioners**

	Survey: 9 Respondents
Provide assistance through the identification process	44% (4)
Provide assistance in relation to immigration status, for example making an asylum claim or seeking leave to remain/residence permit.	33% (3)
Provide legal assistance while a victim considers participating in a criminal investigation and/or during a criminal investigation and prosecution.	44% (4)
Provide legal assistance when a victim seeks compensation	33% (3)
Evaluate the needs of victim and refer the victims to public institutions and NGO for assistance.	22% (2)
Inform victims about their rights	22% (2)
Monitoring the assistance provided to support victims during the criminal trial	22% (2)

### 5.1.1 Victim identification

Legal practitioners who work with victims of human trafficking in Romania or have worked with Romanian victims trafficked to other European countries, often play a crucial role in the victim identification process. Drawing upon their expertise, they bring attention to relevant indicators of trafficking associated with the individuals in question, collaborating closely with law enforcement agencies. Such collaborative effort can enhance the effectiveness of victim identification procedures and contributes to the timely provision of necessary support and protection measures.



Such collaborative effort can enhance the effectiveness of victim identification procedures and contributes to the timely provision of necessary support and protection measures.



## 5.1.2 Awareness of victims' rights

Another key task they may undertake is ensuring victims understand their rights and entitlements and are informed about their various pathways and the consequences that can arise from them. Providing this information enables victims to reclaim some level of agency that is often denied them in a trafficking situation. They are able to make more informed decisions in their recovery journey that can be about access to support services, willingness to denounce their trafficker/s and engagement with the police, and/or to seek compensation.

“ So we first I mean explain what are the options.... They can hope to denounce, and these are the consequences. You can hope not to denounce. These are the okay and so this is what we call making an informed decision now. So, what are the consequences if you file a police report. What does it mean? So, we have people who are illiterate as well as we have people who have been to university. So, the range, like I said, it has to be tailored to each person's needs. And of course, explanation about what happens if you ask for victims' assistance program if you are participating in a program what does it mean? ...Yeah, so when explaining what does it mean to collaborate with the lawyer? What is the role of the prosecutor? What is the role of the police? So, through the legal process, they need to understand who is doing what and why. This is my tiny little part. (RIP1).

## 5.1.3 Victim engagement in criminal justice processes

Legal practitioners play a role in advising victims about engaging in the criminal justice process and then supporting them if they agree to denounce a trafficker, and act as a witness during trial. This role might encompass helping victims understand how the criminal justice process work, and the importance of their witness testimony. This requires ensuring they are adequately prepared to provide their account.

“ You know, human trafficking, it's a very special field and I think you need to be properly trained to help what we can call now survivors, but in terms of legal procedure, they are victims. They are victims of a crime. And unfortunately, in many legislations, they are seen as the actors. The main actors of the legal proceedings and everything relies on them, on their testimony. So, they really need to be well prepared (RIP1).

To provide legal assistance, legal practitioners have to pay attention to the context of trafficking in Romania. Many women are trafficked by lover boys and as a result they do not see themselves as being exploited and as a result are not willing to denounce. It means practitioners may have to engage with these victims of sexual exploitation over a long period of time, because of how deeply they have embedded a belief in a love relationship.<sup>102</sup>

“ Most of women who are victims, who fell victims of human trafficking through sexual exploitation. Most of them are part of a train of lover boys. So, unless this emotional relationship, so-called love relationship with the abuser is not clarified, we will be stopped in our procedure because they don't want to go against somebody they love. It's taking so much time for us (RIP1).

102 Stockholm syndrome has been identified as a coping mechanism for people who are in abusive situations which includes victims of human trafficking, in particular sex trafficking. It may apply to some of the Romanian victims. See <https://my.clevelandclinic.org/health/diseases/22387-stockholm-syndrome>



Legal practitioners may also help support victims through the criminal proceedings by taking note of and responding to their emotional state. One practitioner suggested they needed to ensure victims had received support to help them recover so that they could be credible witnesses.

“ As long as the person is not comfortable, emotionally comfortable. We cannot reach very far with the legal proceedings no matter how brilliant the law is. Because we rely on their testimony (RIP1).

In addition, they may provide a trusted presence during the prosecution stage and accompany victims to court, where they can explain things that the appointed legal representative does not have time to do or is disinterested in ensuring victims' rights<sup>103</sup>. Legal practitioners also act as a safe anchor when victims might have to face their trafficker.

“ I go along with the victims and try because you know lawyers they don't have so much time to explain all the details and all what happened and also in in situations you know the women's biggest fear is to meet the trafficker in the same room for the examination. What is the role of the judge? How are you going to speak? Of course, in collaboration with a lawyer ... they still as comfortable as possible during the hearings (RIP1).

## 5.2 Funding of legal practitioners' work

No information was obtained from the interviewee about funding for the legal advice she provided in an NGO setting. Moreover, the survey did not ask about funding of legal advice. The 2021 GRETA report once again raised concerns about the limited funding provided by the Romanian government to NGOs that provide support and care to victims of human trafficking. GRETA said it remained 'concerned by the limited capacity of state-run shelters, as well as the absence of public funding for NGOs'<sup>104</sup>.

As discussed, earlier GRETA has noted that Romania's free legal aid service is inadequate to meet the legal needs of victims as legal aid fees are too low and legal aid lawyers lack expertise. GRETA also indicated that some NGOs provide legal advice which has to be funded by external donations.

## 5.3 Training and skill development paths for legal practitioners assisting survivors of MSHT

Almost all of the legal practitioners who participated in the research indicated that they had received some information about human trafficking in their formal legal education. The majority also obtained information about supporting a victim of a crime in the criminal justice process, and about applying for compensation on behalf of a client. Many also received information about dealing with immigration issues, like the asylum process in their formal education (see *Table 9*).

While legal practitioners acquired knowledge of human trafficking through their formal legal education, in subsequent years some have sought additional information. They have participated in specialist training events, once or twice a year, or more commonly once every two or three years.

103 Wijers provided a longer account of how State funded lawyers treat victims of trafficking. The report noted: 'Most of the victims in the monitored cases had state lawyers. Many of them were not active in explaining their clients the legal procedures and their rights and manifested a lack of interest towards the victim's situation. They did not discuss too much with the victim before the sessions, did not have questions or objections and had no strong knowledge on the rights to which victims are entitled in court procedures. They were more a physical presence in the room. Most victims had no proper knowledge of the procedures in court and their rights. Their representation in court by state lawyers was mostly purely formal; they saw their state lawyers only in court for a few minutes' (2015, p. 23).

104 GRETA, 2021, p. 5



**Table 9: Initial legal education and specialist training**

	Survey 9: Respondents
Did you receive information about human trafficking in your initial legal education as a legal practitioner?	89% (8) No
Did you receive information about supporting asylum seekers or dealing with immigration status issues in your initial legal education as a legal practitioner?	56% (5) No
Did you receive information about supporting a victim of a crime in the criminal justice process in your initial legal education as a legal practitioner?	78% (7) No
Did you receive information about supporting an application for compensation for victims of a crime in your initial legal education as a legal practitioner?	67% (6) No
Have you received any additional specialist training on human trafficking and modern slavery?	78% (7) Yes

Some had participated in training provided by international organisations like Save the Children, International Organisation for Migration (IOM), United Nations Refugee Agency (UNHCR), Organisation for Security and Cooperation in Europe (OSCE) and European Union Law Enforcement Training Agency (CEPOL). Some mentioned specific courses, for example OSCE's live simulation training course "Combating Human Trafficking along Migration Routes", and CEPOL 57/2022 "Victim protection" and CEPOL 6/2023 "Child trafficking, forced criminality and forced begging".

Training provided by RENATE<sup>105</sup> was also mentioned as well as more local events, for example, on victim trauma delivered by a psychologist.

Legal practitioners also used a number of different methods to keep themselves updated about the latest developments and changes in legislation and policies related to human trafficking in Romania. The most common strategies used was to review research and government sources, to learn from other legal professionals through collaborations, to attend seminars and through social media. More than half of the practitioners ticked these methods on the survey. Additional strategies were used as well, as detailed in *Table 10*, although few practitioners mentioned using newsletters or on-line databases.

**Table 10: Method of staying updated**

	Survey 9: Respondents
Research and Government Sources	78% (7)
Collaboration with Legal Professionals	67% (6)
Attend seminars and workshops	56% (5)
Networking with Government Officials	56% (5)
Social Media and Online Communities	56% (5)
Regular Review of Official Publications	44% (4)
Academic Journals and Research Papers	44% (4)
Regular Consultation with Legal Advisors	44% (4)
Subscriptions to Newsletters and Alerts	11% (1)
Online Policy Databases	11% (1)

<sup>105</sup> This training was organised by RENATE on Human Trafficking & the Law and delivered by various stakeholders in Sweden in 6-10 May 2019, information available here: <https://www.renate-europe.net/wp-content/uploads/2019/05/Sweden-Report-Pdf-OK-.pdf>



Practitioners were asked what additional support or resources would benefit their legal practice. Some made reference to professional training sessions on human trafficking and modern slavery, or legislative changes as well as workshops to exchange good practice. Others referred to text-based resources like access to official reports, good case studies or a newsletter. Access to a specialist legal adviser, perhaps a lawyer with more extensive experience, was viewed as benefiting their practice. Finally, one practitioner indicated that a good support team for the survivor would be really invaluable.

As a result of their experience of working with victims of human trafficking, some practitioners have become trainers and are sharing their expert knowledge and skills with others. Some training focuses on legislation and legislative changes that are pertinent to those working with victims of human trafficking, and on legal procedures and/or victim protection procedures. It is provided by specialist lawyers. Other training focuses more specifically on victims. It has included victim identification, case management, rights of victims and issues that are specific to foreign national victims of human trafficking. As well as drawing on theory, training includes practical cases to aid learning. Training was provided to lawyers but also to mixed groups of professionals like magistrates, police and lawyers, which was a collaborative initiative. In addition, practitioners reported providing more specialised training, for example about domestic servitude particularly in a diplomatic setting.



## 5.4 Essential skills and knowledge for assisting victims of human trafficking

Only some of the legal practitioners that participated in the research identified the kinds of knowledge and skills that lawyers need to work with victims of trafficking. This referred to: knowledge of relevant legislation, legal remedies for victims, victims' rights, the dynamics of trafficking in Romania, indicators of trafficking to aid victim identification, and ability to build trust with victims, adopting a victim-centred approach, and being an ethical legal practitioner.

Practitioners aspiring to work with victims of human trafficking must understand the relevant legislation concerning human trafficking. Additionally, access to case law from other jurisdictions dealing with this phenomenon can provide them with a broader perspective, enabling them to comprehend the range of possibilities available in addressing such cases. They also need to be aware of the policy framework, national and European, related to victims' rights and the rights of migrant victims. This includes understanding the processes for obtaining legal residence and work permits, among other key considerations. Their knowledge needs to encompass the legal remedies available to victims in relation to identification, and the criminal justice process, as well as, in preventing re-victimisation. It also must include *the importance of complying with the right to compensation and the role of compensation in recovering and reintegrating the victims (RSR3)*.

Participants explained that beyond acquiring and sharing information, there exists a critical need for exchanging best practices to cultivate more effective approaches and ensure successful strategies across Romania.



As mentioned earlier, it was suggested that to provide the appropriate kind of advice and support, legal practitioners need to better understand the human trafficking landscape. Moreover, it will require them to keep updated as the landscape and context changes, for example the dynamics of trafficking in Romania changes in relation to the nationalities of people trafficked into Romania or the methods used for trafficking, coercion, and control.

“ I think at least every 2 or 3 years practitioners should be updated on dynamics of trafficking. Because it's changed a lot. When I started 15 to 20 years ago it was all in brothels and windows in the Netherlands and then it was on the street. Now it's on the Web. Okay, how do we collect evidence? ... What are my rights when I'm on the internet? (RIP1).

As legal practitioners might be involved in identifying victims, they need to be aware of victim identification protocols and be able to recognise signs of trafficking including indicators amongst migrant communities. As some victims of trafficking are foreign nationals, practitioners *need training on immigration law and procedures*. *I think it's essential for addressing issues related to the legal status of victims of human trafficking (RSR6)*.

The interviewed legal practitioner highlighted a number of key areas related to engaging with victims that she considered essential for being an empathetic and effective practitioner. These required the acquisition of knowledge and skills linked to developing a relationship of trust, operating in a trauma-informed way, and being an ethical practitioner.

It was suggested that practitioners need to understand the significance of trustworthiness from the perspective of victims. They must earn the trust of their service users, as victims have previously experienced betrayal from individuals they have trusted, including some they have known all their lives, who then proceed to exploit them. As a result, they will be wary of trusting someone new, even if their role is to help. Practitioners might need to re-consider strategies for building trust. As one participant noted, trust is nurtured through visible, tangible outcomes. These can even be small achievements, but they are instrumental in building rapport and confidence.

“ Victims of human trafficking in most cases have been received by someone they trust a lot. So, they wouldn't invest the same trust in us. From the beginning the lack of trust, it's part of the first meetings. Well okay, I trust you, but I [the victim] will keep a lot from you because I was hurt so much by someone I really trust my whole life ... So, I [the legal practitioner] think trust is built, it grows in relation to us by seeing visible concrete results. It can be very small ones. So, our responsibility as service providers, even legal providers, is to make sure that this trust is not broken by, let's say for example lack of coordination between law enforcement agencies and judicial assistance [around special measures like a screen in court] (RIP1).

The quote above emphasises the importance of conveying to legal practitioners the responsibility they bear in both cultivating and preserving trust.

“ In my heart, [I have] memories of people, I don't know if they really trust us. But they had to. Because we were the only ones there. And I think this responsibility, we really are going have to take very seriously. For us service providers it is important to keep in mind this. We need to build trust not to break trust and to work toward doing our best from our side (RIP1).

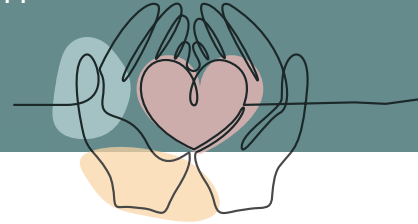
Legal practitioners also require knowledge and skills linked to working in a victim-centred way. This entails not only their interactions with victims but also their advocacy on behalf of victims in diverse settings, like criminal justice proceedings. Putting the victim at the centre of interventions is a fundamental skill set that practitioners must acquire.

“ What does it mean, victim-centred. In a very short sentence, I would say the victim is the leader of all our intervention. ... the protagonist is the victim. So, all our services, all our information, all our goodwill has to build around the victim. How far can she go? How far can he go? I can see potentially some people I can help grow, unfold this potential (RIP1).





Understanding of the impact of trauma and acting as a professional in a trauma informed way was also seen as important by participants, as well as being equipped to deal with vulnerable populations from differing cultures.



Understanding of the impact of trauma and acting as a professional in a trauma informed way was also seen as important by participants, as well as being equipped to deal with vulnerable populations from differing cultures. Although not explicitly identified as such, participants pointed out that cultural competency is crucial in effectively addressing the needs of victims from diverse cultural backgrounds.

“ You know, we have many cases of people being exploited from the Roma communities we need to understand how the system works inside these communities, but also other vulnerable population. Like I mentioned, very remote areas, villages. What is the culture? What is the role of the family? What is the role of the father, for example? (RIP1). ”

One practitioner felt that a key part of learning and training should be about ethical conduct. The participant posed a reflective question to fellow lawyers: ‘Can one effectively and empathically represent victims of trafficking while simultaneously defending traffickers who have been accused of perpetrating similar forms of abuse and exploitation against other victims?’ It was suggested part of the training might mean considering what stand you might take in terms of the cases you are willing to take on, in particular reflecting on whether one can represent victims as well as defendants charged with human trafficking offences. In other words, is there an ethical stand lawyers need to consider if they are going to work in the field of human trafficking. A scenario was presented which highlighted the ethical decisions they might or will need to make.

“ When you have a case of human trafficking, let’s say a 14-year-old girl being trafficked for two years since she was 12. And today somebody comes to your door and says, you know, I have this, I want to give you this client, it’s a man who is part of a chain of trafficking, I don’t know, let’s say in Spain. He recruits. He just recruits, he didn’t beat anyone, he’s just the nice boy who is the lover boy and that’s all he does. What do you do? And this is not hypothetical. This is reality. This is the things that are happening (RIP1). ”

This scenario presented by a practitioner raises questions about the principles under which a lawyer operates. Should one advocate for both the rights of victims and defendants throughout the criminal justice process, or does working with victims of trafficking necessitate taking a specific stance?

“ I only work for the victims. Because if you do both the vulnerability stands in the victim. It doesn’t stand in the abuser, ever (RIP1). ”

Finally legal practitioners in the research identified that collaborating with other professionals was an important part of their work and was also an essential element in aiding victim recovery and engaging in criminal justice processes. As a result, understanding the importance of collaborative working and the different organisations and professionals to collaborate with needs to be a part of legal practitioners’ toolkit of knowledge.



## 5.5. Challenges to effective responses to human trafficking

Legal practitioners identified a number of challenges. These related to the current legal framework, criminal justice processes, bureaucracy, services for victims, barriers to identification or to interacting with victims, and the protection of victims.

Practitioners mentioned that there was a complex, yet limited legal framework but they did not provide specific information on how it had a negative impact on their work. Legal practitioners indicated that they cannot offer legal advice or representation to victims of human trafficking if they do not recognise themselves as such, and consequently go through formal identification. Practitioners might feel frustrated by the inability to help injured persons *who do not consider themselves victims (RSP5)*.

Assisting victims in their recovery posed challenges due to insufficient shelter facilities and a shortage of specialised assistance service providers. Additionally, for foreign national victims, language barriers hindered access to services, legal aid, and legal remedies.

Practitioners mentioned a number of issues related to criminal justice processes. Concerns were raised about police incompetence, delays in procedures, victims' safety which might be linked to victim intimidation, witness protection, and compensation. For example, the length of time it takes for cases to come to court, can make it difficult to keep victims on board and continuously willing to engage as witnesses. All of these presented challenges in enabling them to support the victims of trafficking they worked with. Many of these challenges mentioned above stem from insufficient human and financial resources.

Finally, the ethical dilemma facing lawyers who can be appointed to represent human trafficking victims but at another time to defend traffickers was considered a challenge. While acknowledging both have a right of representation, the question remains, can lawyers who do both really provide high quality legal advice to victims of human trafficking? This question and challenge revolve around credibility and whether legal practitioners can be considered trustworthy while navigating both sides of the legal spectrum.

“ I think this is my question. Are you still credible? Is it credible the work? Are you trustworthy? You have to have a very strong approach. Because you can't do both. You can't represent the victims and the traffickers in another trial. And the traffickers have a lot of money. So for you as a lawyer, the temptation is very big. So how do we keep this ethical stand? ... to keep the trained lawyers on the same track forever on the side of the victims. This is another challenge (RIP1).

## 5.6 Recommendations

Based on the data and insights provided by legal practitioners regarding practitioners' needs, and challenges in the field of human trafficking, below are some recommendations:

- **Continuous professional development:** Access to regular training and resources, tailored to the specific needs and challenges encountered by legal practitioners working with victims of human trafficking, is essential.
- **Ethical conduct training:** In addition, it is recommended that training on ethical conduct, focusing on the unique challenges faced by legal practitioners working with victims of human trafficking it is crucial. Such training should encourage reflection on ethical dilemmas, such as representing both victims and traffickers, and provide guidance on maintaining ethical standards.
- **Advocacy for legal framework improvement:** Stakeholders in the legal landscape and those involved more broadly in the anti-trafficking sector in Romania should advocate for improvements in the legal framework and consequently the criminal justice processes.
- **Regular updates on trafficking dynamics:** Legal practitioners would benefit from regular updates on the evolving dynamics of trafficking in Romania, to be informed about emerging trends, methods, and vulnerabilities. Such updates or discussion groups could include insights from practitioners with long-term experience, providing context and guidance on adapting to changes in the trafficking landscape.
- **Government funding for legal assistance:** Advocate for government funding to ensure victims of human trafficking are able to access legal assistance to support them in the identification process, to advise them if they engage with the criminal justice process, to ensure they receive the care and protection they are entitled to, and to assist them to claim compensation as a victim of a serious crime.



## 6. Spain

Spain has adopted legislation to ensure that it has transposed EU Directive 2011/36/EU into national law. It has also ratified the Council of Europe Convention Against Trafficking in Human Beings (ECAT). However, there is not a unified law that deals with all aspects of victim identification, protection, prosecution and prevention. Instead, different aspects are dealt with in the Criminal Codes and in laws concerning foreigners<sup>106</sup>. This may change as the Organic Law Against Human Trafficking was introduced into Parliament on the 14<sup>th</sup> March 2024. The proposed new law may address previous failures to adopt a human rights and gender perspective policy approach as noted in the 2021 RENATE report.<sup>107</sup>



Moreover, the adoption of Law 10/2022 on the Comprehensive Protection of Sexual Freedom (LOGISIL), may provide further impetus to implement this approach as it 'recognises victims of sexual violence, sexual exploitation and trafficking for sexual exploitation as victims of gender-based violence'<sup>108</sup>. Spain also has obligations to ensure its national policy and practice aligns with ECAT, which is underpinned by a human rights-based approach, as it has ratified this Convention.

Law enforcement is the only organisation in Spain that has the ability to formally identify someone as a victim of human trafficking. The 2023 TIP<sup>109</sup> report noted a failure to identify victims amongst certain groups in part because 'trafficking was predominantly viewed as affecting foreign nationals, which could exclude Spanish and EU nationals from official victim recognition and the associated protection services'. This situation suggests that legal practitioners can play an important role in aiding victim identification as defined by the law and not by beliefs. In other words, it is important to rely on established legal definitions and criteria and standards when identifying individuals as victims, rather than subjective interpretations or biases. In addition, the 2023 GRETA report suggests that law enforcement needs to take a more active role in identifying victims of labour exploitation as the numbers identified remains low. Moreover, it recommends strengthening 'multi-agency coordination in the identification of victims with the involvement of specialised NGOs'<sup>110</sup>.

Formal victim identification is necessary as it provides the gateway to a number of rights including support and protection, as well as the possibility of criminal justice. Thus, inadequate victim identification processes by police can have numerous adverse consequences for victims.

The legal framework in Spain provides for free legal aid for victims of trafficking. GRETA indicated that there were specialist lawyers with expertise to assist victims of trafficking but there was an uneven geographical spread. They recommended that Bar Associations offer relevant training to improve access to specialist lawyers throughout Spain. They also noted action taken by the Spanish General Council of Lawyers, which issued 'practical guidance for lawyers on the detection and legal assistance of victims of trafficking. This guidance provides concrete examples and identifies good practices, recommending to have a permanent on-call duty lawyer specialised on THB, similar to the model of Madrid and Sevilla, to improve the training of lawyers on THB and to ensure that law enforcement agencies inform the Bar Associations promptly about the detection of a victim of THB in order to ensure victims' access to legal assistance at an early stage'<sup>111</sup>. Based on its interviews with specialist lawyers, GRETA identified that law enforcement did not always implement victims' rights to information and to accessing legal representation. It stated that based on the trauma and vulnerability of victims of human trafficking, specialist lawyers needed to be able to confer with victims so they understood their rights and could make informed choices before making a complaint.

The 2021 RENATE report not only identified concerns related to the identification process but to poor understanding and implementation of the non-punishment clause. Based on research findings it stated that victims 'were often not exempted

106 Law 4/2000 on the Rights and Freedoms of Foreigners in Spain and Their Social Reintegration. For foreign nationals 'as soon as there are reasonable grounds to believe that the person is a victim of trafficking, the competent authorities should inform him/her about his/her rights, including the rights to a recovery and reflection period, assistance and protection measures, a resident permit and assisted voluntary return' (GRETA, 2023, p.15).

107 [https://www.renate-europe.net/wp-content/themes/renate/Final%20Report\\_LegalAidEurope%20FINAL%201%20korrik.pdf](https://www.renate-europe.net/wp-content/themes/renate/Final%20Report_LegalAidEurope%20FINAL%201%20korrik.pdf)

108 GRETA (2023) EVALUATION REPORT SPAIN Third Round Evaluation Access to justice and effective remedies for victims of trafficking in human beings. P. 10. Accessed 08 01 24. <https://rm.coe.int/greta-evaluation-report-on-spain-3rd-evaluation-round-greta-2023-10-ac/1680ab8d0f>

109 U.S. State Department, 2023 Trafficking in Persons Report: Spain. Accessed 08 01 24 <https://www.state.gov/reports/2023-trafficking-in-persons-report/spain>

110 GRETA, 2023, p. 6

111 Ibid., p. 18



of the liability of the unlawful activities due to possible trafficking<sup>112</sup>. GRETA too noted this problem and indicated that Spanish authorities should consider improving implementation of the non-punishment clause, and recommended 'providing further training to law enforcement officers, prosecutors and judges on the basis of the Guidance on judicial proceedings regarding trafficking in human beings'<sup>113</sup>. Another element of the criminal justice process that raised concerns was the ability of legal practitioners to adequately explain what participating in a criminal investigation entails<sup>114</sup>.

Spanish law requires prosecutors to seek restitution from convicted traffickers. While 42 victims were granted monetary restitution by courts in 2022, in reality they did not receive any monies because confiscating assets from traffickers remained difficult<sup>115</sup>. Victims were also not able to receive money from the State as there is no state compensation scheme. GRETA too recognized that there were criminal and civil means of claiming compensation, but none were effective. It urged the Spanish government to take steps to implement effective measures to ensure victims have access to compensation.

Evidence from the 2023 TIP report and 2023 GRETA report indicate that Spain is a destination country for victims of trafficking who come from Africa, Central and South America, Eastern Europe and Asia. There are also Spanish victims, but they are less likely to be identified. The majority of victims are adult females who are victims of sexual exploitation. Victims of labour exploitation have been identified as well as smaller numbers for domestic servitude, criminal exploitation, forced marriage and forced begging. Neither the TIP nor the GRETA reports refer to victims originating from Spain; thus, the focus of attention appears to be transnational trafficking.

## 6.1 Legal assistance work with victims of human trafficking

Seven legal practitioners participated in the research, three were interviewed but two of them also completed the survey<sup>116</sup>. They mainly worked for NGOs, while the others worked for a Bar Association and a College of Lawyers. They worked in different locations in Spain, including the cities of Barcelona, Leida, Sevilla and Madrid. Three legal practitioners were interviewed, two of whom had also completed the surveys. Five practitioners completed the survey. All of the legal practitioners provide legal assistance when victims consider participating in criminal investigations and/or during criminal investigations and prosecutions (see *Table 11*). Except for the public defender, they all assist with: victim identification, immigration issues, and compensation claims.

**Table 11: Type of work undertaken by legal practitioners**

	Survey: 6 Respondents
Provide assistance through the identification process	83% (5)
Provide assistance in relation to immigration status, for example making an asylum claim or seeking leave to remain/residence permit.	83% (5)
Provide legal assistance while a victim considers participating in a criminal investigation and/or during a criminal investigation and prosecution.	100% (6)
Provide legal assistance when a victim seeks compensation	83% (5)
Evaluate the needs of victim and refer the victims to public institutions and NGO for assistance.	83% (5)

112 RENATE, 2021, p. 57

113 GRETA, 2023, p. 32

114 RENATE, 2021

115 TIP report 2023

116 Five practitioners completed the survey but do to the overlap between survey respondents and interviews a total of only seven practitioners engaged in the research.



Two survey respondents provided a more detailed picture of the legal work they undertake. The respondent who was a public defender stated that his role was not only to provide legal representation through the criminal proceedings but to *inform her of her rights as a victim, in particular the right to appear as a prosecutor in the proceedings, or simply to report the facts. I always recommend that she becomes a party to the proceedings and be a private prosecutor, especially in order to ensure that the subsequent compensation for damages is paid (SSR1)*. The other respondent, who works for an NGO, listed the important types of legal assistance they provided during survivors' journey of recovery, engagement in criminal justice processes and reintegration. It included:

- Risk assessment and specific needs assessment
- Detection of signs of trafficking in human beings
- Counselling and information on the rights of victims of human trafficking
- Advice and information on asylum, immigration and criminal law issues.
- Advice and accompaniment throughout the administrative regularisation procedure as a victim of human trafficking
- Advice and accompaniment throughout the asylum procedure
- Advice and accompaniment in relation to criminal proceedings (SSR5).

## 6.1.1 Victim identification

Evidence collected from the small number of interviews provides a more detailed picture of the work undertaken. Helping to identify victims of trafficking is a key role played by practitioner's working in NGOs. They have the expertise to detect the signs of trafficking, and some prepare reports that can be used by law enforcement who have the legal role to formally identify victims of human trafficking. Identification by some of the specialist NGOs is sufficient to enable victims to access social protection in Spain and the range of services available to them. However, formal identification by designated law enforcement representatives is required for foreign national victims who seek residence and work permits. As well as drawing on their expert knowledge to detect signs, legal practitioners in NGOs make use of the collaborative relationships they have established with law enforcement to aid victims, once they have consented to be formally identified as a victim of human trafficking. For example:

“ And specialized organization like ours do have a recognized role in that identification process. So that means we also coordinate very much with the law enforcement who does this identification process. We are present or should be present from the very first moment. Accompanying the victim, informing her, supporting her and for example we can also provide reports, if we have contacted the person first. [Reports] explaining her trafficking situation, her personal situation, how she is being supported by our organization and all this is taken into account by the law enforcement and by the final authorities who decide on the formal identification (SIP2).

The reports that specialist NGOs provide also help reduce the risk of re-victimisation in the police interview for identification purpose. The reports offer contextual information about the trafficking experience and as a result the victim does not have to start their story from the beginning.

## 6.1.2 Legal advice for a range of issues

The risk and needs assessments that NGOs undertake with service users often uncover a variety of legal issues that may require attention from legal practitioners, extending beyond mere victim identification. Migrants' rights are likely to feature prominently as most victims are foreign nationals and many will not have recognised rights to live and work in Spain.

“ ...most of the women we work for are migrant women and many of them are in irregular situation or without residence or work permit in Spain so that's [migration issues] one of our main areas of work (SIP2).

Applications for residence and work permits are one element of this assistance. Participating in criminal proceedings provides the most direct route to accessing these permits, but for those who do not engage in this process there is a 'person situation route'. Legal practitioners can provide evidence that a victim cannot report their case *to the authorities*



*maybe because of fear, maybe because of the impact of the criminal defence against them, maybe because she or he doesn't have enough information available or because she is doing a recovery process and a specialized organization can report on this recovery process and how this person is getting help and so on. With our social reports, it could be possible for the person to access this residence and work permit, as a victim of trafficking based on her personal situation (SIP2).*

Furthermore, practitioners provide important information about options victims can consider if they do not want to make a complaint or their case is closed because there is no evidence of the commission of a crime. *We provide protection by advising on immigration matters and alternatives that can be offered to the situation in which victims find themselves in (SIP3).* For example, migrant victims might need international protection and practitioners can help them apply for asylum. This can entail providing relevant information about their trafficking experience in order to meet the criteria for international protection through an asylum claim.

“ ...because some of the women we work for are also in need of asylum or international protection. So that's also quite specific and that's also something we work on, very much in coordination with organizations specialized in international protection. We can provide the part that has to do with trafficking in all the reports that make the system and the asylum office understand what is there. [Including the] personal situation of this woman because we work mainly with women. And so that this trafficking situation is taken into account properly in the international protection system (SIP2).

### 6.1.3 Legal advice and support through criminal justice procedures

Legal practitioners may support victims in engaging with police based on the initial risk and needs assessment, particularly if there is a risk of danger. *If in the procedure we see that police assistance is required, coordination is made to jointly handle the case and accompany and assist in all legal procedures. We accompany and assist in the complaint (SIP1).*

Legal practitioners also play an important role in advising victims about engaging in criminal justice processes. Initially this may include information about what the process entails, how long the process might last, their rights as victims and the possible consequences of their engagement. Part of the legal advice is providing information which allows survivors to provide testimony to the police or become more fully involved in criminal justice proceedings. Another important aspect of this role is asking survivors if they want to claim *his or her rights against the traffickers. So that's when we exercise the private accusation together with the public accusation by the prosecutors (SIP1).*

Another practitioner stated their role as helping ensure survivors could claim compensation.

“ I always recommend that she becomes a party to the proceedings and be a private prosecutor, especially in order to ensure that the subsequent compensation for damages is paid (SSP2).

Some practitioners also act as legal representatives and seek to ensure the interests of the survivor are respected in the criminal justice proceedings.

“ We work with the Spanish courts and the European courts if needed to represent their [survivors] rights (SIP1).



Another way to ensure survivors' rights are protected is for practitioners to play a coordinating role with the various criminal justice actors, including their appointed lawyer, the Prosecutor's Office and the Victims' Office in the court that provides information and social help. It can include ensuring a *request for precautionary measures for the protection of minors (SIP3)*. In addition, practitioners stated they would accompany the survivor to the court in order to give them emotional support and ensure they understood what was happening.

“ ...we accompany them in each of the stages of the criminal process, like each time she has to go to court. And we would offer to accompany her, be with her and support her in terms of her being able to understand what is going on and also coordinating with all actors in terms of her safety, protection ... (SIP2).

Maintaining a relationship with the survivor during a criminal prosecution was also deemed essential because the legal practitioner could provide vital information to the appointed lawyer. This includes updates on the survivor's current circumstances, such as any emerging threats in their life or country of origin. Additionally, it allows for assessment of the survivor's psychological readiness to testify, ensuring they are adequately prepared for the legal proceedings. At the same time, it can be to ensure the survivor *understands what is going on in court. That she understands what is required from her and why, what is the role of each of the actors that she meets in court so that she is to say more prepared and empowered when she needs to take these steps (SIP2)*.

### 6.1.4 Comprehensive and holistic assistance

In addition to providing legal advice during criminal investigations and prosecutions, legal practitioners respond to the different legal issues that emerge during the recovery process. This might also extend to offering support to victims' children.

“ It can be an issue regarding gender violence. It can be an issue regarding employment. It can be an issue regarding documents. It can be an issue regarding official and formal identification. So what we do, let me say that we are the only entity doing this 360 degrees support (SIP1).

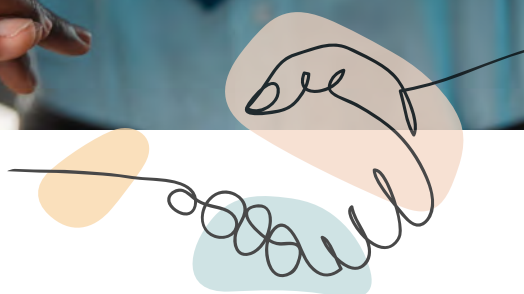
“ I thought that we need to provide the whole package. Because it's the only way... to provide the survivor with all the legal aid that they may need at the different stages of their life. So that's why we do everything we do (SIP1).

Another practitioner referred to *giving help and support before, during and after any situation (SIP3)*. Thus, lawyers working in NGOs appear to be able to work in more comprehensive and holistic ways with survivors, as they accompany them on their recovery journey and respond to their legal needs.

### 6.1.5 Collaborative approaches and multi-agency working

The work legal practitioners undertake is often in cooperation with other organisations.

“ We work pretty close with the police, with the social services and with the different legal agencies (SIP3). An example of collaboration entailed the legal practitioner accompanying the police on an operation in order to help with identification and begin to develop a relationship of respect and trust with the survivor at an early stage in their journey. This engagement is enabled under certain protocols that allow us to intervene together with a magistrate and together with the law enforcement parties under certain protocols that allow us to intervene together with a magistrate and together with the law enforcement parties (SIP1).



Collaborating with other agencies was viewed as providing a better and more effective response in supporting victims.

“ We work very closely. I think that what makes a difference in Spain is that we cooperate a lot with trusted networks with public attorneys, with prosecutors, with all the entities with social services because we do not have a legal framework limiting or telling us or instructing us of what we are allowed today (SIP1). ”

### 6.1.6 Provision of training

Almost all of the legal practitioners indicated they provide training which includes training lawyers. They pass on the expert knowledge have acquired from their extensive experience. This includes law students, practicing lawyers and other front-line professionals including police officers.

“ Well, I train a lot in law schools, and I train also law enforcement bodies and I provide a lot of training to young lawyers because it is true that in Spain there is not an official system for human trafficking training, specialist training (SIP1). ”

Undertaking this training was viewed as necessary as survivors have a right to free legal advice.

“ So, we need to train these guys. Otherwise, they will never get a specialized and high-level of professional legal assistance if the legal practitioners do not have this training (SIP1). ”





### 6.1.7 Advocacy and strategic activities

Legal practitioners also work at a strategic level. This includes the training they provide to enhance professionals' knowledge base, promote good practice and understand how to lobby for improved policy. In addition, some are members of human trafficking networks and task forces that have strategic as well as operational objectives, and some have been engaged in commenting on national and EU policy and legislation. A practitioner exemplified this work, and the importance of collaboration as follows:

“ We are part of the national NGO platform against trafficking which is integrated by more than 30 organizations. And yeah, that's interesting because we can be in contact with them when we do have cases and need to coordinate to support but also in terms of a focus on awareness raising. We do have our round tables with public actors regularly at the regional level, but also at the national level. And at European level we also participate in the EU civil society platform. And yeah, so it's not only the bilateral relationships that we build and that we keep on cases but also having these opportunities to be in present in this kind of coordination round tables or platforms or spaces (SIP2).

A key element of these networks and platforms is about advocating for change including for improved procedures and practice. This can be about *changes to protocols, or the implementation of the protection measures, rights that are already recognized but are not being well implemented (SIP2)*. Another type of advocacy is about making recommendations based on good practice in the sector.

“ It's very, very important that everything that we learn in practice in each case and the difficulties we see, and also the opportunities and good practices we see, to be able to mainstream them and share them and try to improve (SIP2).

## 6.2 Training and skill development paths for legal practitioners assisting survivors of MSHT

All legal practitioners had received formal legal education in Spain, however, their formal education did not include specialist knowledge related to human trafficking.

“ I went to a university for 4 years, then 2 more years of specialization, and one year doing a master. I can tell you, you know, all these years studying, I never had one hour spent in sensitisation [around working with people with trauma] or in human trafficking (SIP3).

One recalled having to do her own research and to take the time to attend relevant events:

“ I do not recall any specific initial legal training as a lawyer on trafficking. At the beginning of my career in this area (2010), state regulations were incipient and there was very little information on how to apply the recently passed legislation. The initial training, I received was rather generic, on the phenomenon, through reading and attending forums or events on the subject (SSR5).

Two acquired some knowledge of immigration law during their formal education, although another stated they had not received any information or training *in relation to access to migration status on the basis of human trafficking status. There is a lot of ignorance and arbitrariness in terms of deadlines and criteria (SSR5)*.



Two others acquired knowledge of criminal proceedings. Only one indicated they learned about rights to compensation or the procedures to seek compensation in their formal education. Learning about compensation came from other sources.

“ The application for compensation to victims has been a particularly difficult aspect to articulate both at the judicial and extrajudicial level. There are no criteria or tools for the assessment of damages with a view to requesting compensation in the judicial sphere. Training in this area has been provided through the implementation of European projects on access to compensation in which I have been involved as a professional. Beyond that, I have not received any other training on supporting a compensation claim for victims of trafficking (SSR5).

The experience gained as a criminal lawyer laid the groundwork, equipping one legal practitioner with the necessary knowledge and skills as she transitioned into supporting trafficking survivors.

“ I was already a criminal lawyer when I began to deal with survivors. So that was an advantage because I knew all the criminal procedures because of my career (SIP1).

It is likely that the other experts also drew on the work they had undertaken working as public defenders or with other vulnerable groups, including women who had experienced gender-based violence.

It is evident that the legal practitioners have obtained the relevant knowledge and skills as they currently have recognised expertise and provide legal assistance in these areas. Nevertheless, they used their own initiative and a variety of methods to stay updated on the latest developments and changes in legislation and policies related to human trafficking in Spain (see *Table 12*). All of the legal practitioners indicated that collaboration with other legal practitioners was an important means of staying up to date on the latest developments, followed by reviewing research and government sources. Official publications, newsletters and alerts, social media and academic papers were also regular methods of keeping informed. Only a minority relied on networking with government officials, consulting legal advisors or online policy databases for keeping abreast of changes in legislation and policies in Spain.

**Table 12: Method of staying updated**

	Survey 6: Respondents
Collaboration with Legal Professionals	100% (6)
Research and Government Sources	83% (5)
Attending seminars and Workshops	83% (5)
Subscriptions to Newsletters and Alerts	67% (4)
Social Media and Online Communities	67% (4)
Regular Review of Official Publications	67% (4)
Academic Journals and Research Papers	50% (3)
Networking with Government Officials	33% (2)
Regular Consultation with Legal Advisors	17% (1)
Online Policy Databases	17% (1)



They also participated in training events that occurred in different settings within Spain. These included the Bar Association, victim support organisations, universities and specialist training for lawyers and judges delivered by Centre Estudis Jurídics i Formació Especialitzada<sup>117</sup> but sponsored by the Spanish government<sup>118</sup>. In addition, some participated in international conferences<sup>119</sup> or training provided by the Council of Europe (including Project HELP)<sup>120</sup> and the European Asylum Agency<sup>121</sup>. 60% of the practitioners indicated they participated in two or more trainings a year while the rest stated they undertook training every two or three years.

Importantly, they also reported passing on their knowledge and skills to legal practitioners that join their organisation. This is particularly important, as new colleagues may not always know how to approach and work with victims of trafficking in an empathetic and sensitive way. They can learn this approach by shadowing experienced colleagues.

“ Well, first of all, they need to be quiet, and listen and watch. Learn how to talk with the girls, and the way that they cannot talk or address these girls. ... And also it is really important, legally speaking, how they need to handle a process and the way that they don't do it (SIP3).

One practitioner referred to how they had to approach their work as *a learning process nonstop because every single day you are learning things that you never experienced before (SIP1)*.

As well as learning on the job by shadowing senior colleagues, junior practitioners are also encouraged to enhance their knowledge by participating in training as part of their work provided by expert organisations, for example Proyecto Esperanza, Diaconía, Cruz Blanca or Feminicidios.

### 6.3 Additional support or resources that would benefit legal practitioners

Legal practitioners identified various resources to enhance their practice, including those focused on supporting victims. For example, enhanced resources to support victims, *either through direct assistance from the public administration or through improved subsidies to victim support agencies (SSR1)*, as well as practitioners receiving more extensive knowledge about the victims they were supporting.

“ The issuing of full reports by victim support agencies, to be given to victims and their lawyers for use in legal proceedings, on the indicators of trafficking detected in each case, and the harm to victims detected, as well as the needs to be met for their recovery (SSR1).

“ The current possibility of administrative identification as a victim of trafficking, based on reports from accredited entities, should be used assiduously (SSR1).

Having access to more information on human trafficking in the form of books and legal articles covering human trafficking research was viewed as useful. Access to legal judgments from Europe were also seen as beneficial. There was interest in being able to access summaries and analysis of European and international rulings on human trafficking which impact on other countries.

117 For more information see here: <https://cejfe.gencat.cat/ca/formacio/>

118 For example, a summer course was provided on Judicial intervention for women and minor victims of human trafficking.

119 5th International Legal Congress on Contemporary Forms of Slavery (ILO Andean Office) 2,3,4,9,10 and 11 March 2021

120 Human Rights Education for Legal Professionals – Courses available here: <https://help.elearning.ext.coe.int/>

121 Training activities available here: <https://euaa.europa.eu/training/training-activities>



A network of legal practitioners was identified as an entity that could help improve practice. Setting up specialised spaces would enable expert Spanish practitioners to share experiences, strategies and good practice, generate case banks and jurisprudence and think of common strategic litigation actions. Furthermore, there was an expressed need for international networks, especially those from neighbouring countries, to facilitate discourse on human trafficking legislation and procedural matters.

There was a consensus that lawyers should undergo specialist training to offer legal advice to victims of human trafficking and should be excluded from this work if they lack the adequate knowledge and skills.

“ Implement compulsory workshops in the different Bar Associations, as this is a very complex matter, and it is not advisable that, for example, lawyers who are members of the public defender's office take part in cases relating to human trafficking without first having some basic knowledge (SSR2).

## 6.4 Training provided by expert legal practitioners

Most of the legal practitioners who participated in the research provide training to legal practitioners who work with or want to work with victims of human trafficking. Some of the training leads to accreditation, while some leads to improved knowledge with the intention of improved practice.

An important form of training is provided to legal practitioners through the Bar Associations<sup>122</sup>. This includes training on access to legal aid for victims including unaccompanied minors, and *access to the public defender's office for foreigners, consisting of explaining the rights of victims of human trafficking and the procedure for accessing administrative regularisation due to their status as victims (SSR5)*. It also includes *training on the legal aspects of the crime of trafficking and exploitation crimes, and the multidisciplinary and coordinated action in defence of the victim (SSR5)*, particularly for those who want to register for the legal aid service against trafficking and other forms of exploitation. Accreditation can be obtained through training conducted by the Bar Associations.

“ I have given numerous trainings on the legal aspects of the crime of trafficking and exploitation crimes, and the multidisciplinary and coordinated action in defence of the victims (SSR1).

Another form of training focused on identification and care for victims, including instruction on trafficking indicators, as well as, information on available resources and legal pathways to address victims' needs.

“ And we have done also training for lawyers in different NGOs working on social programs who engage with vulnerable people, migrants, asylum seekers, women victims of violence, so in general, work in this kind of field but are not trained on trafficking and should understand because maybe they can also detect cases...and to refer the persons to a specialized entity like us (SIP2).

Another aspect of this training might include the relationship between trafficking and international protection.

Some training was more foundational and entailed information about the phenomenon of human trafficking and its key elements, human trafficking victims' rights within Spanish law, and working in a collaborative way with other specialised entities. It could also entail promoting a human rights, gender and intersectionality approach to addressing trafficking. One practitioner referred to the training provided in the Judicial School, which consisted of *presenting the work of assistance to victims of trafficking and the main aspects to be taken into account in the framework of criminal proceedings (SSR5)*.

122 For example, Seville Bar Association offers training that includes: indicators of trafficking, reception of victims of trafficking, memory and trauma among victims of trafficking, interviews with victims of trafficking, protection of victims of trafficking, evidence of the offence of trafficking and other related offences, criminal proceedings, coordination with entities that support victims.



## 6.5 Essential skills and knowledge for assisting victims of human trafficking

The legal practitioners with expertise in working with victims of human trafficking identified different types of knowledge needed by lawyers entering into this kind of work or for those who wanted to improve their practice. Importantly they also highlighted the approaches practitioners needed to adopt as well as different skills necessary to be effective.

Those working with victims of human trafficking *need to be given more in-depth and detailed training on the phenomenon of trafficking (SSR1)*. They also need to acquire a good understanding of indicators of human trafficking so they can detect and identify victims of trafficking for all exploitation purposes. In particular, they need to know *what are the elements of the offence that must be present in order for us to be able to decipher whether we are dealing with a possible victim of trafficking in human beings (SSR2)*. In order to provide legal assistance during criminal investigations or prosecutions, they need a good understanding of the criminal justice processes and collection of evidence.

Once identified as victims of trafficking, they have certain rights embedded in Spanish law. As a result, practitioners need to be conversant with these rights, which can include comprehensive assistance, residence permits, asylum, access to justice and reparation. In order to advise them with respect to assistance, practitioners need to be aware of the support provisions available to them. This is especially the case for victims who are foreigners from non-EU countries. For example, practitioners need to understand immigration law, and be aware that migrants with indicators of trafficking should not be subject to sanctions, they should not be locked in a detention centre, and deportation proceedings should be stopped.

Legal practitioners need a broad range of knowledge in relation to the various legal issues that survivors can face. Many of them are cross cutting issues related to immigration law, criminal law and labour law, as well as being affected by violence against women. Moreover, one practitioner stated that it requires lawyers to understand human trafficking *from a human rights perspective, from a gender perspective, from a trauma-informed perspective (SIP2)*.

Importantly, addressing different legal needs fosters trust and can enable practitioners to support survivors who decide to pursue criminal charges against their traffickers and seek criminal justice.

“ So, they need to understand immigration law, they need to understand criminal law and they need to understand what early detection and identification and risk assessment indicators are. Otherwise, the survivors are not going to trust them. And what is key here is them to be able to say and to speak up. ... And we from the civil society ... want this serious crime to end and if we want to accuse and exercise the accusation in order for crime prosecution, we need the survivors to trust us ... (SIP1).

It is not enough that legal practitioners are aware of the phenomenon of human trafficking and its indicators, they also need to understand its impact on victims. This includes the impact of trauma on survivors, notably understanding how it can affect memory, a crucial aspect for legal representatives advocating on their behalf. They also need be aware and understand the risks of re-victimisation and as a practitioner supporting them throughout the recovery journey, be able to help avoid re-victimisation.

“ Keep revictimization in mind at all times. It is essential that the factual elements that have no significance for the constitution of a legal document are removed, since repeating sensations and stories means reliving and re-victimizing the person (SIP3).

In addition, legal practitioners need to understand what it means to work in a trauma-informed way. This means they require input on how to adopt this approach in their engagement with survivors.

“ But it's about how you work with survivors so it's that care in a trauma informed, what we might call a way of working. That they have to work in a different way with survivors (SIP1).



Adopting a trauma-informed approach means that practitioners need to have the necessary social skills, such as empathy and sensitivity towards victims. This approach is essential for how they engage with survivors to collect their story. Another element of this is to learn not to *give false expectations, and to think always in the possibility of legal protection methodologies before starting a procedure that endangers the identity of the victim* (SIP3).

As discussed earlier, legal practitioners working with survivors of trafficking provide a wide range of legal assistance covering identification, protection and support, immigration issues, criminal investigations and compensation. Thus, many work in a holistic way to meet the legal needs of victims, which can change over time. It is apparent that training for legal practitioners who seek to work with victims or to become more effective practitioners need to develop awareness of what a holistic approach would entail. For those who assist with compensation claims, it is essential to acquire knowledge and understand the procedures involved in claiming compensation as a victim of human trafficking.

Knowledge of gender-based violence was also considered important as well as what it means to practitioners to adopt a gender-based approach in their work with victims of human trafficking. In addition, it was acknowledged that human trafficking cases are complex and require legal practitioners to work with other professionals.

Working in collaboration with other key stakeholders is a key skill they require. As one respondent noted: *Human trafficking cases are particularly complex and require a multidisciplinary approach* (SSR5). As a result, they also have to *understand what is the role of the specialized organizations that support victims and be able then to work very much in coordination* (SIP2). The need for multi-agency working and collaboration to support victims in a number of areas may be a challenge to lawyers whose primary focus is on the legal issues, not understanding the impact of other issues on their work. Acknowledging intersectionality and ensuring awareness of the multiple and complex needs was seen as especially pertinent given the following comment:

“ And sometimes you know your lawyers only focus on that part of the work [the law] without really understanding very much the situation of the victim, her needs, her rights and that's difficult, no? (SIP2)

Thus, practitioners need to familiarise themselves with the organisations they may need to collaborate with and undergo this learning process alongside a multi-agency, multi-disciplinary team. Practitioners suggested:

“ Multidisciplinary training on the different actors involved in the care of victims of trafficking in human beings (SSR4).

“ Specialised training of a practical nature is needed in order to provide tools that contribute to improved assistance to victims, with special emphasis on the need to act with a human rights and gender perspective, in coordination with different actors. Human trafficking cases are particularly complex and require a multidisciplinary approach (SSR5).

## 6.6 Funding

Funding social protection including legal assistance to victims of trafficking comes from a variety of sources. For example, the Spanish government provides funding to some of the specialist organisations providing shelter and support to victims. This entails the NGO providing relevant data about their work as a form of accountability.

“ They ask for information, and we give that information and based on that we receive some financial support (SIP3).

The government also underwrites the cost of free legal assistance. The regional governments, the Ministry for Migration and Ministry for Equalities supplies funding for specific programmes, largely aimed at women who victims of trafficking for sexual exploitation. Religious organisations and private donors also supply funds to help ensure NGOs can provide a full range of support to survivors. Providing pro bono legal advice in criminal proceedings is another way that legal work can be funded.



## 6.7 Good practice

A number of NGOs that provide support to victims of human trafficking were identified as providing quality care to aid victims' recovery and their socio-labour reintegration. The inclusion of legal practitioners to provide expert legal advice as part of the support system was an important component of good practice, in Fundación Cruz Blanca, Proyecto Esperanza, APRAMP, and Diaconía. The legal assistance was part of a holistic response to meet the individual needs of survivors during their journey of recovery and reintegration.

“ I think that the different NGOs working in Spain on this issue play a big role, as it is not a matter that is often seen or dealt with by private lawyers (SSR2).

Another good practice is the partnership that has developed between police and specialised NGOs in order to detect possible victims of human trafficking who arrive at Spanish airports. The police have enabled legal practitioners from these associations to undertake interviews with possible victims. Moreover, the police have agreed to take account of their advice in the formal victim identification process <sup>123</sup>.

We work in the airport with the other three national entities... we detect these cases in the airport where I am now (SIP1) The existence of a specialised criminal defence team for the criminal defence of victims of trafficking and other forms of exploitation was identified as a good practice. It was also noted that in Seville, a collaborative approach between the various entities that work with and support victims in many different ways in terms of recovery and criminal justice, and who also seek to tackle human trafficking and other forms of trafficking exemplified good practice.

In the Spanish Network Against Trafficking, several of the entities specialised in caring for victims have embedded lawyers with extensive experience in the field, both in terms of legal expertise and victim support. These professionals meet with each other in a working group and, in addition, have regular meetings with the Human Trafficking Prosecutor's Office to share good and bad practices, concerns and proposals so that the prosecutor's office can introduce improvements in its actions in the investigation of trafficking, trafficking crimes and in criminal proceedings.

The National Prosecutor's Office and its coordination team was viewed as promoting good practice across Spain. It encouraged training about human trafficking, and *they provide also instructions and codes and criteria and coordinating instructions to all the prosecutors that are working in the field on issues of trafficking, at regional level in each of the provinces. [The national prosecutor] she's very much in collaboration with NGOs for everything, so that immediately you see positive impact improvement (SIP2).*

In 2018, a "Guide to criteria for judicial action against trafficking in human beings" was developed in Spain, promoted by the Equality Commission of the General Council of the Judiciary. The Guide<sup>124</sup> was prepared collaboratively by Judges and Magistrates, Prosecutors, Security Forces and specialists from entities specialized in caring for victims of civil society. The challenge is that *the guide came out and I think it's very useful but judges are very independent and autonomous and they are not obliged to get this kind of trainings (SIP2).*

## 6.8 Challenges

Legal practitioners identified a number of challenges that undermined their work with victims of human trafficking and a more effective response to human trafficking in Spain. The challenges include the identification process, access to support which includes legal advice, lack of specialist legal practitioners, the criminal justice process and how criminal justice actors interact with victims, and public funding of support and legal advice.

### 6.8.1 Identification of victims

As discussed earlier, specialised units of the Policía Nacional and the Guardia Civil are responsible for the formal identification of victims of human trafficking. Nevertheless, a number of NGOs use their expertise to identify victims and

123 Formal identification of victims of human trafficking is the responsibility of specialised units of the Policía Nacional and the Guardia Civil.

124 Guía De Criterios De Actuación Judicial Frente A La Trata De Seres Humanos. <https://confilegal.com/wp-content/uploads/2018/11/GUIA-CRITERIOS-ACTUACION-JUDICIAL-FRENTE-TRATA-SERES-HUMANOS.pdf>



to offer support to them. In its second evaluation report GRETA urged Spanish authorities to strengthen multi-agency involvement in the identification of victims of trafficking by formally recognising the role of specialised NGOs in the decision-making process<sup>125</sup>. Despite this recommendation made in 2018, legal practitioners indicated that the promise of multi-agency cooperation for the identification of victims of human trafficking had not been fully realised.

“ We are not always involved by all the different law enforcement bodies in the formal identification. Despite having a 2011 protocol that instruct the law enforcement bodies to involve us in the formal identification. It depends, it's still depending on different human beings, different professionals. So some of them are very open and are very collaborative, others are still a bit closed (SIP1).

Practitioners also indicated that law enforcement tend to focus on identifying victims of sexual exploitation but failed to identify those who experience other forms of exploitation. A practice GRETA (2023) also noted.

“ Despite progress, there is still insufficient knowledge and awareness of trafficking, especially in relation to other purposes of exploitation beyond sexual exploitation for prostitution. This leads to under-detection and impunity, as they are neither formally identified as such, nor, much less, are they criminally classified as a trafficking offence. Sometimes, trafficking for the purpose of forced marriage or sexual servitude, for example, is prosecuted as a crime of gender-based violence (SSR5).

The identification process is also made more difficult based on *the misunderstanding amongst the police that identification has to be tied to a criminal investigation (SIP2)*. In addition, practitioners suggested that the identification process was too heavily tied to a criminal justice approach rather than to a human rights and victim-centred perspective.

“ The relationship with law enforcement agencies is always a challenge. The formal identification process is attributed solely and exclusively to the police authorities in charge of controlling migratory flows and prosecuting crime. This leads to a conflict of interests in which their police perspective takes precedence over the human rights and victim-centred perspective. In practice, formal identification depends on judicial information and evidence and not on reasonable indicators according to international standards. On the other hand, identification is often conditional on the filing of a complaint, also contrary to standards (SSR5).

## 6.8.2 Lack of access to support, including legal advice

Identification as a victim of human trafficking, whether formal or informal, is key as it is the gateway to accessing support services and a recovery period. Access to specialised support and shelters seem to be aimed at foreign national victims, and particularly to those from outside the European Union. Legal practitioners working with victims indicated that Spanish women and women from the EU had more difficulty accessing the support they needed. This had implications for practitioners' ability to work with victims around legal issues they face.

“ The legislation on trafficking in Spain is located in the law on foreigners. The precepts provided for recognising the rights of foreign victims of trafficking who are in an irregular situation. The same legislation only provides for the possibility of granting a period of reinstatement and reflection to foreigners so that, in the meantime, they cannot be expelled. It therefore excludes national or EU victims of trafficking who, despite being in a regular situation in Spain, need recognition of their status as victims in order to access their rights, as well as a period of recovery and reflection that allows them to disengage from the exploitative environment, recover, receive information, reflect and take thoughtful decisions about what they want to do with their lives and whether they want to report the facts (SSR3).

125 GRETA, 2023, p. 51





Those responsible for making decisions about residence permits also lacked knowledge about human trafficking as well as clear criteria for making decisions about victims. As a result, there was inconsistency in granting foreign national victims' residency status.

“ From a practical point of view,... I see that the criteria followed in the different Foreigners' Offices with regard to residence permits for victims of human trafficking is completely different, and that many of the offices do not know very well what the procedure to follow for this type of procedure is. There are offices that are very accustomed to this type of permit, and others that do not see it very often (SSR2).

Legal practitioners also noted the precarious situation facing many of the recognised victims of human trafficking once their recovery period had ended, a criminal investigation was closed, or a prosecution had ended in the acquittal of the defendant. There was no ongoing government funded support. As a result, the survivors would have to rely on support from charities and would be left in a vulnerable position as irregular migrants. Legal practitioners sought to help safeguard survivors by helping them find accommodation or provide advice about regularizing their immigration status over time. Nevertheless, the situation facing these survivors was the possibility of being re-exploited.



In addition, the lack of an even geographical spread of expert legal practitioners or specialist NGOs meant that some victims would not be able to access legal advice to aid them in their journey. This was especially the case if they lived or worked in a small town or rural area.

### 6.8.3 Structural issues linked to state funded legal provision

Both GRETA and RENATE mentioned problems of low pay and lack of expert knowledge amongst legal practitioners, including those funded by the State. Low pay and insufficient expertise along with large caseloads, mean that victims of human trafficking, who have complex and lengthy legal needs might not obtain the quality of legal advice they need. This was also identified as an issue by an interviewee who said:

“ And trafficking cases require a lot of time, a lot of effort continuously, so it's not only one legal assistance that I do maybe at the detention moment or at the criminal process, but it's really very complicated processes, long term. And the structure of the Bar Association, how it works and the bad payment they get. Of course, this is not a justification for doing a bad job, but the reality is that at the end, the lawyer from the Bar Association can dedicate very few hours to a case that is very, very complicated (SIP2).

A knock-on effect is that the collaboration necessary to support victims of trafficking may not be undertaken, because practitioners lack time to interact with other organisations as well as lack an appreciation of its importance.

“ I understand in other kind of crimes you don't have specialized entities, you don't have to coordinate with them. So, they [lawyers] are not used to it. Some of them are willing, some of them are open, but others see it as another problem or another waste of time to have to coordinate to other actors that they don't have any time to do (SIP2).



Although Bar Associations may provide training on human trafficking and require experience to take on human trafficking cases, which are clearly indications of good legal practice, not all lawyers follow good procedures. Moreover, it is difficult to raise issues about the performance of lawyers because within the Bar Association they are independent and autonomous. Thus, NGOs that express concerns, for example that they *have this difficulty with this lawyer or he's not taking this into account or the coordination is not being done (SIP2)*, may not see any action taken.

#### 6.8.4 Negative impact of criminal justice processes on victims

Legal practitioners identified a number of problems linked to criminal justice actors and processes that had an adverse effect on their work with victims as well as ensuring the rights of victims were implemented. For example, if police operate from a criminal justice perspective, they may ignore the needs of victims in terms of psychological support, ensuring the availability of an interpreter and time to reflect and recover. They may not ensure *that the procedural rights of the victims are complied with (SSR1)*. As a result, practitioners may have to intervene to make sure processes are properly carried out and meet the needs of survivors.

“ In judicial proceedings, people act on impulse. Suddenly there is a rush to take the victim's statement, and their lawyers are not given time to read the case file or meet the victim in depth and calmly. There are often difficulties with language and the psychological state of the victim. Forensic assessments of the psychological damage to victims are not usually carried out. We in the legal profession have to be constantly fighting for actions to be carried out that involve investigating the facts in depth, the impact of the facts on the victims,... and that they are compensated and repaired (SSR1). ”

Legal practitioners raised the problem of access to and payment of compensation. They believe *that when traffickers are sentenced to compensate the victims, they actually pay the compensation (SSR6)*.

Practitioners also felt police needed to pay more attention to the non-punishment principle. In addition, one practitioner stated that more training was needed to ensure lawyers are aware of the non-punishment clause.

“ Because we have it, a paragraph in our criminal law that... includes a measure saying that victims of trafficking that have been forced to commit crimes during this process should not be held accountable. So even if we do have it specifically, we see that many legal actors are not aware, they don't know it (SIP2). ”

GRETA<sup>26</sup> acknowledge that this principle had been applied in some instances but considered that Spanish authorities should take further action to see that the principle was fully implemented, for example through providing further training to law enforcement officers, prosecutors and judges. A point also made by research participants.

“ There are also difficulties in applying the principle of non-punishment, especially in cases where the victim has been exploited to commit crimes (SSR3). ”

Practitioners also raised concerns about the re-victimisation of survivors. For example, *in criminal proceedings, safety measures are often not taken and the victim is re-victimised through repetition of evidence or statements (SSR5)*. This is where the lack of legal weight given to expert reports produced by psychologists, doctors, and social workers is frustrating. These professionals are able to detail the victims' experiences and evidence the physical, psychological and social harm caused to them. However, they have no legal standing. As a result, victims have to tell their story again in court and to deal with insensitive and often aggressive questioning by defence lawyers. The expert report provides no legal protection in the current criminal justice system in Spain.

“ The reports made by the expert entity on human trafficking do not have much importance in the criminal procedure, and that means that the victim has to explain again her story in the complaint, in the trial and in the pre-constituted evidence (SIP3). ”

126 GRETA, 2023



In addition, the length of time for criminal justice processes can undermine survivors' recovery and reintegration.

“ It is difficult to reconcile administrative and police/judicial investigation times and deadlines, with the victims' recovery process (SSR5).

Ensuring that all Bar Associations in Spain include specialist lawyers to deal with victims of trafficking in criminal cases was mentioned as one way to ensure better experiences and outcomes for survivors.

### 6.8.5 Significant problems in relation to criminal justice actors and processes

Additional training is needed to enhance professional capabilities, particularly with the entities that legal practitioners work with.

“ We need more specialist training if we want as many people as possible on board to fight human trafficking (SIP1).

This training might be needed to highlight the importance of a trauma-informed approach to all victims of trafficking because many do not present themselves during legal processes as idealized victims. One practitioner referred to the way criminal justice professionals (lawyers and judges) *sometimes they talk in a not very professional manner because of this myth that you're going to see always a victim, you know, crying or beaten or an assaulted one (SIP3)*. In other words, when they don't see this behaviour, they may ignore the trauma victims have experienced and behave in an insensitive manner.

### 6.8.6 Funding of support and legal advice

Practitioners indicated that relying on public funding for support services and legal advice was problematic as it can change depending on the government in power and the extent to which it priorities action around human trafficking. This means there can be considerable insecurity in relation to the adequacy of monies for the kind and level of support required.

“ I mean, because one year they grant you with sufficient funds the next year they don't. It depends on the government and we know that governments can be very different regarding prostitution and how they understand human trafficking (SIP1).

Public funding can also be problematic because it is linked to specific forms of human trafficking, in particular trafficking for sexual exploitation. As a result, organisations supporting victims may find it more difficult to offer the same services to victims of other forms of human trafficking, *for example forced criminality, forced labour exploitation. So it is difficult for us sometimes to support women who are victims of this kind of trafficking. Because we cannot use public funds (SIP2)*.



### 6.8.7 Lack of awareness on human trafficking

Finally better understanding of human trafficking amongst all sectors was also seen as essential in improving the response to human trafficking in Spain. This involves not only legal practitioners but also law enforcement, healthcare providers, and civil society.

“ We need more specialist training if we want as many people as possible on board to fight human trafficking (SIP1).

By addressing the lack of awareness on human trafficking and equipping diverse sectors with the expertise and tools to identify and respond to human trafficking, stakeholders can strengthen prevention efforts, enhance victim support, and increase the likelihood of successful prosecution of traffickers. Ultimately, a joint effort to raise awareness and build capacity across sectors is essential for creating a more robust and effective response to human trafficking in Spain.

## 6.9 Recommendations

In light of the unique challenges faced by legal practitioners working with victims of trafficking in Spain, the following recommendations are proposed to enhance their capacity, collaboration efforts, and effectiveness in addressing human trafficking cases.

- **Specialist training for lawyers:** It is recommended to implement compulsory workshops and specialist training programs for legal practitioners working with victims of trafficking. Training should cover a wide range of topics including identification of trafficking indicators, victims' rights, criminal justice processes, trauma-informed approaches, and collaboration with other professionals.
- **Bar associations should provide specialist human trafficking training to some lawyers:** Bar Associations should be encouraged to ensure some of its lawyers that provide legal aid services receive specialised training so that they can advise and represent victims of human trafficking. The Bar Association in Madrid and Seville provide examples of good practice.
- **Advocate for a unified human trafficking law:** Encourage organisations to promote the passage of the Organic Law Against Human Trafficking that was introduced into Parliament on the 14<sup>th</sup> March 2024.
- **Establishment of Legal Practitioners Networks:** It is recommended to set up specialised spaces where legal practitioners can share experiences, strategies, and best practices related to human trafficking cases. International networks, particularly with neighboring countries, should be facilitated to enhance discourse on legislation and procedural matters.
- **Promote multi-agency collaboration:** Multi-agency working and collaboration between legal practitioners, law enforcement agencies, NGOs, healthcare providers, and other stakeholders should be encouraged in order to ensure a holistic response to human trafficking cases. Such collaboration can be facilitated through training and awareness-raising initiatives.





## 7. United Kingdom

Over the last few years legal assistance for victims of modern slavery and human trafficking has been recognised as an issue of concern in the United Kingdom. In 2021, GRETA, who monitor implementation of ECAT, made a number of recommendations to the UK government in order to enhance legal assistance and free legal aid<sup>127</sup>. In addition, a number of reports have been published which set out the policy frameworks in relation to the provision of legal advice for victims of human trafficking<sup>128</sup>, and indicate the importance of legal assistance in aiding their journey of recovery and reintegration. These reports also highlight the difficulties victims have in accessing legal advice, particularly quality legal advice, and free legal aid. The 2021 RENATE report *Legal Assistance for Victims of Trafficking Across Europe With Special Reference to six European Countries* refers to a number of these difficulties which are also detailed below<sup>129</sup>. Reasons for these difficulties have pointed to the low fees for legal aid work<sup>130</sup> which do not reflect the complexity of cases or their longevity. Lack of adequate remuneration can have implications for the quality of legal work undertaken, and those committed to their clients may seek to ensure quality advice by undertaking considerable unpaid work<sup>131</sup>.



Studies have also pointed to lack of capacity<sup>132</sup> which have led to legal aid 'deserts' in many parts of England and Wales<sup>133</sup>. As a result, survivors have to wait considerable periods of time to access legal advice or travel considerable distance to access it. Lack of capacity is also demonstrated by the overall reduction in legal experts in immigration and welfare and more specifically practitioners who also have knowledge of the legal framework in relation to modern slavery and human trafficking that sets out victims' legal rights and entitlements. Some of these studies also refer to the consequences of limited access to legal assistance. These include deprivation, detention, destitution, and re-trafficking as well as reducing the ability of survivors to make informed choices, for example in relation to entering the NRM<sup>134</sup>. Limited legal access can also contribute to mental health problems, homelessness and missed case deadlines<sup>135</sup>. It can also mean victims are unable to access the support they need to aid their recovery; are not being identified as victims; are being charged and convicted of an offence carried out while in a situation of duress and exploitation; are unable to challenge a negative NRM decision; or resolve various immigration issues<sup>136</sup>. In addition, they may be unable to regularise their immigration status which is the gateway to access mainstream support or employment. Currie also noted that lack of legal advice 'means that unlawful actions and decisions of the Government, particularly the Home Office, go unchallenged'<sup>137</sup>. It also impedes survivors' access to justice and compensation for harms done to them.

Access to legal advice is particularly problematic for the increasing number of British nationals who are identified as victims of modern slavery. In 2023 25% of all victims referred to the NRM were British nationals the highest number ever recorded and the majority were child victims<sup>138</sup>. However, the legal aid system is not set up to meet the needs of British nationals. Currie noted that victims are entitled to legal aid for immigration advice, if they receive a positive NRM decision<sup>139</sup>.

- 127 GRETA (2021) EVALUATION REPORT United Kingdom Third Round Evaluation Access to justice and effective remedies for victims of trafficking in human beings. Accessed 23 11 2023. <https://rm.coe.int/greta-third-evaluation-report-on-the-united-kingdom/1680a43b36>
- 128 See for example Gauci JP, Magugliani N, and Trajer J (2023) Impacts of a lack of legal advice on adults with lived experience of modern slavery: Research Report. Accessed 23 11 2023. <https://modernslaverypec.org/resources/lack-access-legal-advice>
- 129 RENATE (2021) Legal Assistance for Victims of Trafficking Across Europe With Special Reference to six European Countries. P. 45 Accessed 07 11 23. [https://www.renate-europe.net/wp-content/themes/renate/Final%20Report\\_LegalAidEurope%20FINAL%201%20korrik.pdf](https://www.renate-europe.net/wp-content/themes/renate/Final%20Report_LegalAidEurope%20FINAL%201%20korrik.pdf)
- 130 Currie S (2023) Working In The Crossfire: Legal Representation Of People With Lived Experience Of Human Trafficking: A Study Of Immigration Legal Aid Lawyers In The United Kingdom. Accessed 23 11 2023. [https://researchmgmt.monash.edu/ws/portals/files/portal/566610762/562164252\\_oa.pdf](https://researchmgmt.monash.edu/ws/portals/files/portal/566610762/562164252_oa.pdf); ATLEU (2022) 'It has destroyed me': A legal advice system on the brink. <https://drive.google.com/file/d/15xlzaXCpN2eyXSlw7Ubx2Au1lr6mRXRF/view>
- 131 Currie, 2023
- 132 Currie, 2023; Wilding J (2019) Droughts and Deserts. A report on the immigration legal aid market. Accessed 23 11 2023. [https://www.researchgate.net/publication/333718995\\_Droughts\\_and\\_Deserts\\_A\\_report\\_on\\_the\\_immigration\\_legal\\_aid\\_market](https://www.researchgate.net/publication/333718995_Droughts_and_Deserts_A_report_on_the_immigration_legal_aid_market)
- 133 Wilding, 2019
- 134 Currie S and Young M (2021) Access to legal advice and representation for survivors of modern slavery. Accessed 23 11 2023. <https://modernslaverypec.org/assets/downloads/Legal-advice-report.pdf>
- 135 ATLEU, 2022
- 136 Currie and Young, 2021
- 137 Currie, 2023, p. 23
- 138 Home Office, 2024, Modern Slavery: National Referral Mechanism and Duty to Notify statistics UK, end of year summary 2023. Accessed 08 04 2024. <https://www.gov.uk/government/statistics/modern-slavery-nrm-and-dtn-statistics-end-of-year-summary-2023/modern-slavery-national-referral-mechanism-and-duty-to-notify-statistics-uk-end-of-year-summary-2023>
- 139 Currie, 2023



British nationals do not require immigration advice. They might need other legal assistance which is not available, for example, Pre-NRM advice, advice about the NRM process and decisions, and advice about criminal justice processes. The 2023 NRM data indicates that the majority of British children referred into the NRM have been identified as victims of criminal exploitation<sup>140</sup>. As a result they may require legal assistance to raise a statutory defence with respect to crimes committed while in a situation of exploitation. Gauci et al. identified 'that a lack of quality legal advice can lead to the non-application of the so-called 'non-punishment' principle, effectively resulting in individuals being penalised for their experiences of modern slavery'<sup>141</sup>. Significant gaps in access to legal assistance was also noted in a recent study of British national survivors<sup>142</sup>. Research respondents indicated they were often deemed ineligible for such support due to having recourse to public funds, or were not signposted to legal practitioners as front-line professionals did not understand they were entitled to financial and legal support. Based on their findings, Murphy et al. recommended that: 'British nationals who are modern slavery victims must be provided with the period of recovery and reflection set out within the NRM...During this time, they should have access to shelter, legal advice, counselling, and medical care'<sup>143</sup>. In addition they recommended the development of specialist training for legal advisers in the civil, family justice and criminal justice systems.

It has also been reported that due to problems accessing quality legal advice, which incorporates modern slavery expertise, survivors may obtain poor legal assistance. This can have a number of negative consequences and may be difficult to alter, for example challenging negative decisions<sup>144</sup>.

Lack of capacity has consequences for organisations, both those who provide legal advice as well as those who offer support to survivors. Many support agencies spend significant amounts of time seeking legal aid practitioners on behalf of survivors. In fact, the Anti Trafficking and Labour Exploitation Unit (ATLEU) found 90% of the surveyed frontline support and advocacy organisations 'had struggled to find a legal aid immigration lawyer in the past year'<sup>145</sup>.

Legal advice has been identified by stakeholders and survivors as very important in aiding their identification as a victim of modern slavery in the first instance or by challenging a negative decision. A positive identification had a transformative effect on survivor's journey as it was the basis for 'achieving other legal outcomes, such as qualifying for asylum or mounting a successful defence against criminal charges'<sup>146</sup> as well as enabling access to specialist services.

Obtaining compensation for the harms caused by exploiters is an important means of obtaining one form of justice for survivors which can also help empower them economically and psychologically. However few survivors have been able to access compensation<sup>147</sup> and lack of legal assistance has been identified as one of the reasons. Despite a number of attempts by ATLEU to obtain Exceptional Case Funding from the Legal Aid Agency to support applications to the Criminal Injuries Compensation Authority, they have been refused because legal advice is deemed unnecessary<sup>148</sup>.

Gauci et al<sup>149</sup> identified four criteria that help identify quality legal advice. They were expertise, implementation of a holistic approach, communication, and timeliness. As part of the research, legal practitioners identified what expertise might look like. One aspect was to have comprehensive awareness of 'intersecting legal issues that people with lived experience of modern slavery commonly present with'<sup>150</sup>. Training for legal aid providers was seen as important to help them develop their awareness of the pertinent issues and thus improve their ability to respond. Quality legal advice also entailed looking at the full range of legal issues affecting a survivor as well as collaborating with support workers/ organisations to help ensure the needs of survivors are met. Quality services were also seen as embedding a trauma-informed, and victim-centred approach. Regular communication with clients and helping them understand their rights and options in order that they could become active participants in decision-making were other indications of quality legal provision. So too was offering timely advice, often by front-loading it.

140 Home Office, 2024

141 Gauci et al, 2023, p.35

142 Carole Murphy, Alicia Heys, Craig Barlow, Louise Gleich, Sophie Wilkinson (2022) Identifying Pathways to Support British Victims of Modern Slavery towards Safety and Recovery: A Scoping Study. Accessed 15 01 2024 <https://www.stmarys.ac.uk/research/centres/bakhita/projects/pathways-to-support.aspx>

143 Ibid, p. 27

144 see Gauci et al., 2023, ATLEU, 2023; Currie and Young, 2021

145 ATLEU, 2022, p. 3

146 Gauci et al., 2023, p. 32

147 GRETA, 2021

148 Gauci et al., 2023

149 Ibid.

150 Gauci et al., 2023, p 24



The legal aid funding system has been identified as the key cause of the crisis in obtaining legal advice for victims of human trafficking<sup>151</sup>, as there is inadequate capacity. In addition, the scope for legal aid work is too narrow and excludes advice pertaining to a number of important areas, including pre-NRM advice, advice about trafficking identification, and advice on the Criminal Injuries Compensation Scheme<sup>152</sup>.

## 7.1 Findings

In order to address the research questions about legal practitioners' work with survivors of modern slavery, their acquisition of relevant knowledge and skills, and the knowledge and skills they felt practitioners needed, interviews were conducted with 10 legal practitioners in England and Scotland who work for NGOs, the police, and different law firms. In addition, six legal practitioners from NGOs, Law Firms and a Barristers' Chambers completed the survey, based on their work in London, Manchester, Liverpool and Glasgow. They identified a range of work that encompassed advice related to immigration, the National Referral Mechanism (NRM), welfare and housing, criminal justice processes, compensation, statutory defence and public law decisions. In addition, some lawyers worked on cases that had both individual and strategic outcomes which dealt with access to support, NRM criteria, recognition of forced criminality or prevention/deterrence. Of the six that completed the survey, five provided assistance in relation to immigration status, (for example making an asylum claim or seeking leave to remain/residence permit), and two assisted with the identification process. Only one assisted with making a compensation claim. Another provided more specialist engagement about challenging adverse decisions. S/he represented survivors at statutory appeal hearings and judicial reviews. Moreover s/he was involved in preparation, case management and advice in readiness for statutory appeals and judicial reviews. What is interesting is that none of them indicated that they assisted victims in relation to criminal justice processes.

### 7.1.1 The role of support workers and advocates in NGOs

Interviewees emphasised the work was undertaken by qualified lawyers, but reference was made to support workers based in NGOs that are part of the Modern Slavery Victim Care Contract (MSVCC) or operate independently. They offer information about legal rights which is a minimum requirement under Article 6 of the of ECAT and is required under the MSVCC<sup>153</sup>. Moreover, some NGOs employ advocates who work with survivors in order to help them obtain their legal rights and/or access specialist legal practitioners. Difficulties in accessing legal practitioners described earlier mean that support workers and advocacy staff can help ensure aspects of Article 6 are implemented.

It is support workers who are responsible for the needs assessment process which is used to tailor an individual support plan. The assessment can reveal a variety of legal needs, which may require different kinds of specialist legal advice.



We would conduct a thorough assessment of the individual survivor's legal advocacy and support needs which would take into account things like safety and security, mental and physical health, training, education and work, but also around things like if somebody's got a negative NRM decision and reconsiderations or challenging those decisions and other public law issues that might arise, welfare and benefits and finance, things like identity theft ...and criminal convictions as a result of their trafficking experience (UKIP1).

151 ATLEU, 2022; Currie and Young, 2021; Wilding, 2019

152 ATLEU, 2022, Gauci et al., 2023

153 GRETA, 2021, p. 61



While support workers/advocates can provide valuable input about legal rights they are insufficient on their own as they lack legal qualifications and the specialist knowledge necessary to deal with a number of survivors' legal needs. They cannot replace legal practitioners, but they can act as a key bridge by identifying legal needs and providing an introductory referral letter to legal specialists as well as ongoing support.

“ So, in terms of them understanding their rights, their legal rights, and who they would be able to potentially to obtain advice from, because often people are from countries where you have to pay for legal ... So, it's that whole cultural competence around those issues as well, but actually what our experience is, is if people don't know they can access advice on certain things, they're not going to because they don't know they can. ... they're never going to get to a legal practitioner without those initial [assessments], and they're not going to get to legal practitioner often without somebody doing a supported referral and supporting them through that process (UKIP1).

Advocates may also work on challenging access to welfare benefits or housing, which are not preserved areas to lawyers, but are very important to survivors. These are issues that are usually addressed by legal practitioners, but lack of access to these professionals, means that some NGOs use their own experience to promote the rights of their clients in some areas. *So, there's massive gaps in, so we do welfare benefits because ... there's virtually no legal representatives left in welfare (UKIP1).* But there are also areas where they seek legal practitioners to take on the case of their clients and thus promote a partnership approach to legal issues. For example, *we will support on doing reconsiderations for negative decisions as well, in collaboration with public lawyers (UKIP1).*

Support workers/advocates who engage with survivors on a regular basis identify and, in some cases, take on board their legal needs, sometimes seeking help from external legal practitioners. This can include access to support, challenging a conviction, resolving immigration status, or seeking compensation. As no legal aid is available for making a claim to the Criminal Injuries Compensation Authority (CICA), some support workers/advocates may help survivors complete the CICA forms which have been deemed as difficult to complete, particularly if English is not the first language or the survivor is unaware of how legal processes work in the UK.

“ We often saw that people weren't given information about compensation and the different avenues that that might entail... So, we do provide support to survivors around CICA applications ... we have actually a pilot project where we're working with ATLEU who are checking through and advising on CICA applications process because again, even though there's no legal aid from the onset, it's highly complex for a victim of trafficking and legal aid should be available (UKIP1).

Some support workers/advocates provide information about the National Referral Mechanism (NRM) so that potential victims can decide if they want to be referred for identification purposes and for accessing government funded support. Good practice would require 'an explanation of support available to them and an understanding as to what accepting this support would mean. This should include exploring the benefits and risks as well as the likelihood of both of these'<sup>154</sup>.

While support workers or First Responders have to provide Pre-NRM advice in order that survivors can make an informed decision about their options, including referral into the NRM, *The Slavery and Trafficking Care Standards*<sup>155</sup> indicates that unless there are immediate safeguarding concerns, potential victims should obtain legal advice prior to making a decision about the NRM so they understand the possible legal implications of their decision. Legal practitioners interviewed felt they were best placed to provide this advice because of their understanding of the law and possible outcomes. The following exemplifies a legal practitioner perspective on advice about the NRM:

154 Roberts K (2018) *The Slavery and Trafficking Survivor Care Standards*, Human Trafficking Foundation. P. 18. Accessed 25 11 2023. <https://static1.squarespace.com/static/599abfb4e6f2e19ff048494f/t/5bc07787ec212d8f5b833504/1539340180026/HTF+Care+Standards+%5BSpreads+%5D.pdf>

155 Roberts, 2018





Very much in terms of how the NRM operates, not simply in terms of the practice in theory but in, excuse me, in practice, you know, what are the pros? What are the cons? What tended to happen was that you had individuals who were desperate for accommodation, perhaps, and they would sign up for anything. You know, they had no money, they had no accommodation. Yes, I'm happy to sign anything.

So, I can get into a system that will help me. And so, it was explaining to them, you know what that would mean in practice? You know, you wouldn't necessarily be living in London. You'd be apart from the network that you've developed. What would happen to your children? You know the length of time that the process would take, so all those were the sort of practical issues that I would talk to with persons before being referred into NRM because I think it needs to be an informed choice and you know, you speak to First Responders and they will, you know, they're sign it off as informed consent, but it's not necessarily informed consent because that's being done at a point of pressure in terms of time when the individual is faced with a number of different forms, a lot of information, no time to properly reflect on it (UKIP3).

However, the dearth of lawyers with expertise about modern slavery and who are funded to provide this advice has meant that many people make decisions without being able to access a legal practitioner. Nevertheless, there are legal practitioners who offer Pre-NRM advice if indicators of modern slavery are revealed during an asylum claim which receives legal aid support, or they are part of a funded legal service such as provided by Just Right Scotland.

## 7.1.2 Legal Assistance work with victims of human trafficking

Interviewees indicated that legal advice to clients was based on their individual needs not on their country of origin or type of exploitation. Nevertheless, nationality and immigration status did have an impact. British nationals, and EU or other nationals with settled status or right to remain had certain welfare (housing, health care, benefit) rights, but some needed help in accessing them. Survivors claiming asylum required immigration advice at a minimum, as did foreign national survivors seeking leave to remain after receiving a positive conclusive grounds decision. Practitioners stated that some foreign national survivors needed interpretation services which added to the cost and complexity of providing legal advice. Moreover, some cases were more difficult because questions had been raised about the credibility of modern slavery claims from certain nationalities. In addition, when Vietnamese were identified as victims of MSHT there tended to be cultural issues that impacted on the client - legal practitioner relationship. For example, they seemed unable to provide instructions to their legal practitioner and they often went missing. In addition, *there's a lot of inconsistencies in their accounts for reasons that we all appreciate, which I feel makes it very difficult to represent them before the Home Office and the IECA (UKIP10)*.

Culture could also play a role around identifying and responding to mental health issues or awareness of what constituted exploitation or being a victim. This could make it difficult for practitioners to act in the best interest of their clients. For example, men from some cultures did not acknowledge that they might be affected by mental health problems. *They just see you as telling them that they're crazy (UKIP1)*. This denial was considered problematic as it adversely affected the assessment of their support needs. Other survivors did not recognise that they were victims of modern slavery, because they choose to come to the UK and had a job even if paid a pittance and had terrible conditions. This belief could also make it difficult for practitioners to put in place measures to prevent re-trafficking.

The type of exploitation was also acknowledged as having the potential to affect the practitioner-survivor relationship. Some practitioners indicated that building trust with victims of sexual exploitation could be difficult and could lead to late disclosures. This had ramifications for how decision-makers might view the credibility of the survivors.

### 7.1.2.1 Ensuring adequate identification and assistance for survivors

In England and Wales there is no legal aid for providing legal advice to individuals who are potential victims of MSHT, regarding their available options, including the possibility of being referred to the NRM to access support. On the other hand, in Scotland, Just Right Scotland can offer legal assistance to potential victims at the start of their journey through the legal clinics organised by TARA and Migrant Help.

Some practitioners have been able to furnish advice in relation to identification as a victim and options in relation to support, if they have a funded project for this purpose, if it becomes part of an immigration case, or it is a case where lawyers find indicators that a suspect they are defending suggests they are a victim of MSHT. As a result, interviewees noted there were failures to identify victims by front-line professionals as well as failures to provide support. It was up to legal practitioners to challenge these failures based on national and international legal entitlements.



### 7.1.2.2 Identification

In order to access support, participate in criminal justice processes, receive compensation or remuneration or obtain discretionary leave to remain, victims of modern slavery or human trafficking have to be identified. Not all victims who have contact with front-line professionals, for example, the police, immigration enforcement or local authority staff, are identified because of lack of knowledge of modern slavery indicators or other procedural failures. As a result, legal practitioners play a role in identifying survivors, for example, during asylum claims, as defence lawyers working with suspects who reveal forced criminality arising from exploitation or when acting on behalf of detainees. They also work towards formal identification where clients have received a negative reasonable grounds decision. According to practitioners, they can use a pre-action letter indicating the policy has been misapplied or undertake a Judicial Review to challenge negative decisions made by the Single Competent Authority.

“...where we realise that there's been a negative RG decision that, more often than not, probably 99% of the time has been made incorrectly, key evidence hasn't been taken into account, or they're relying on a claim of a lack of evidence that they don't actually need when taking into account the threshold (UKIP10).

However, without an expert solicitor it is likely that the trafficking claim is abandoned, and trafficking victims remain unidentified.

It was evident from the interviews that an important part of the work of expert legal practitioners was to challenge the way in which public bodies have implemented procedures and made decisions which have resulted in victims of MSHT not being identified or not being given the support they are entitled to.

“It's mainly to ensure that public authorities act in accordance with procedure in the way that they're supposed to assess, the way that they're supposed to identify, [and to] assist. In essence, our role is to ensure that the survivors get the type of support that they're supposed to get (UKIP7).

Legal practitioners seek to assist survivors with their support needs both at the beginning of their journey when they might seek to enter the NRM, or later when they leave and seek to reintegrate into the community.

### 7.1.2.3 Immigration advice

Many survivors of modern slavery may need to access immigration advice because they are foreign nationals or are citizens of EU countries without settled status. As a result, they do not have the right to work or to housing or to support. Seeking asylum or asking to be referred into the NRM provide some forms of immediate support but maintain people in limbo while decisions are made. Victims of modern slavery can access legal aid to obtain immigration advice once they have received a positive reasonable grounds NRM decision, but in England and Wales it must be from accredited lawyers with specific immigration qualifications and with firms/charities registered with Legal Aid. These rules do not apply in Scotland where survivors may access legal practitioners with extensive knowledge and experience in immigration. This sometimes means that they end up with lawyers with limited skills.

The immigration issues that legal practitioners dealt with were asylum applications, which would include human trafficking as the criteria for a claim, or applications for discretionary leave (now temporary leave) to remain by those given a positive conclusion grounds decision by the Single Competent Authority.

“If a survivor requires assistance with leave to remain in support, we also assist with that. Also, if there are additional basis of getting leave to remain in the UK under the trafficking discretion leave policy. ...if the survivor is assisting with police investigations or requires medical assistance and required to remain in the UK while they're getting that medical support (UKIP7).



Family reunification where the survivor is a foreign national also required immigration advice and action.

Legal practitioners working with survivors on immigration issues indicated that while this might be the presenting legal issue they had to be open to other issues emerging as they worked with their client. This could often be over a long time period as asylum decisions are lengthy. They noted that other legal issues, for example related to housing or welfare, or challenging public law decisions might require different specialist legal help. Some firms like ATLEU and Just Right Scotland can call on a number of different specialists within the organisation to aid their clients. Other practitioners indicated the importance of working as part of a multi-agency team so that the various needs and legal needs of survivors could be addressed in a holistic way.

#### 7.1.2.4 Advice provided pre-engagement with law enforcement

Some legal practitioners become involved with victims of modern slavery before they have engaged with law enforcement. Their starting point is 'the best interest of the client' which means that the survivor needs to have information about what the criminal justice process entails and the impact it might have on them, prior to making a decision. An aspect of survivor recovery can be feeling that they have achieved some sort of criminal justice, but survivors also needed to be aware of the difficulties they might face. A legal practitioner illustrated the lawyer – survivor process as follows:

“ I will be able to make an assessment as to whether that person is in a position to provide good evidence to the police. I'm also able to advise a client as to what interacting with the police may involve, you know, and again, it's the practical thing, like what's the drive around. You know how intense the 'achieving best evidence' interviews are going to be. How lengthy they are and the fact that you know they're pretty much cross examined on everything that they're saying and having had conversations, perhaps with persons who are supporting an individual in terms of their mental health. And two, what the impact might be on their mental well-being. And then based on that judgment, I can have a chat with the individual and decide, OK, shall we, or shall we not contact the police and ask them to investigate this? (UKIP3).



### 7.1.2.5 Treatment of suspects who are also victims

Legal practitioners have been very important in challenging the way in which law enforcement and the Crown Prosecution Service has failed to recognize forced criminality and the way in which some suspects are simultaneously victims. The Modern Slavery Act 2015 included Section 45 which provides a defence for slavery or trafficking victims who are compelled to commit an offence while in a situation of slavery or exploitation. Section 45 finally translated into British law, Article 25 – the non-punishment provision – of ECAT which the UK government had ratified in 2008. Despite these policies many victims of trafficking were charged or convicted as these non-punishment provisions were not widely understood or applied. As a result, legal practitioners stepped in to have these cases reviewed and convictions quashed. In addition, they have sought to support their clients to make a Section 45 defence and have their modern slavery experience investigated and exploiters identified. This evidence has then been used to have criminal charges dropped in relation to crimes committed under duress. However, even with expert advice, criminal exploitation is a complex issue where a person is both a suspect and a victim, and evidence gathered from a suspect interview may be used as evidence against the victim, and charges are not dropped. This aligns with police guidance on dealing with a Section 45 defence.

### 7.1.2.6 Prevention of modern slavery

Some lawyers imbedded in police forces use their legal knowledge to influence criminal justice procedures and processes to prevent modern slavery. It can be rooted, for example, in advising on victim support arrangements prior to a police operation and to ensure victims receive care.

“ This role, it's more to make sure that the victims have... a route to a place of safety and their immediate needs are met (UKIP5).

This might well mean using an NGO who have expertise in victim-centred engagement. It can also making use of legal powers to ask for a Slavery and Trafficking Risk Order (STRO) in England and Wales or a Trafficking and Exploitation Risk Order (TERO) in Scotland, where there is not enough evidence to convict but enough evidence to place restrictions on business owners so they cannot operate in the future.

“ You would hope that it helps potential future victims that we've got, you know, six people, we've just put on these orders who will be a little bit more careful about what they do in the future in terms of exploitation (UKIP2).

These orders are being used to deter or prevent trafficking. An advantage of these civil orders is they can be more efficient, as the police can apply directly to the courts after receiving legal advice, so do not have to go through the additional barrier of the Crown Prosecution Service.

Police embedded lawyers may also make applications for other ancillary statutory instruments such as Sexual Harm Risk Orders in order to prevent harmful behaviour of an individual towards children or vulnerable adults. For example, while the individual may not be a participant in a form of modern slavery that is based on sexual exploitation, the child sexual images viewed on a phone might be a consequence of this crime.

Forced marriage has been identified as another form of modern slavery<sup>156</sup> and based on referrals from schools or police officers the lawyer can apply for a Forced Marriage Protection Order in order to prevent a forced marriage from taking place. Thus, legal practitioners can make a difference working alongside police to prevent people from being exploited and being victims of modern slavery.

“ It's you know, what we're putting in place ready to prevent future victims (UKIP2).

156 ILO, Walk Free and IOM (2022) Global Estimates of Modern Slavery Forced Labour and Forced Marriage. [https://www.ilo.org/wcmsp5/groups/public/@ed\\_norm/@ipecc/documents/publication/wcms\\_854795.pdf](https://www.ilo.org/wcmsp5/groups/public/@ed_norm/@ipecc/documents/publication/wcms_854795.pdf)



### 7.1.2.7 Assistance with compensation claims

Helping survivors obtain compensation for the harm caused by modern slavery is another specialist area that has been developed in some legal practices. Legal practitioners who work with survivors early on may raise the issue of compensation, or it may emerge if the survivor is engaged in a criminal investigation and prosecution. Legal firms like ATLEU have now been recognised as experts in making compensation claims and accept work in this area. Legal practitioners as well as NGOs refer their clients to ATLEU for compensation claims. Just Right Scotland has also developed their expertise in applying for compensation in order to assist Scottish survivors.

Legal practitioners can also make a civil compensation claim on behalf of a survivor in an Employment Tribunal. GRETA<sup>157</sup> identified significant barriers to survivors being able to use this route because cases are complex and lengthy, employers may use an 'illegality defence' against undocumented workers, and time limits on wage claims reduce the scale of compensation. Practitioners who take on such work on behalf of clients are affected by the 'at risk' nature of the case, which means they undertake the work, but the Legal Aid Agency only decides at a later date if the case was justified and what they will pay. It is generally a fee for legal help, which is considered low payment for the work involved and means that *the legal helps are very unattractive for any legal aid lawyers (UKIP8)*.

“ So, in terms of legal aid being available, it's very difficult for practitioners to do compensation against traffickers claims because of these 'at risk' issues, on claims that are very difficult anyway. You've got no proof, you're trying to build a case, just like a police investigation. You've got her (client's) word against traffickers, who are quite often much more educated, have witnesses that they'll bring out of the woodwork. It's just our word against their word. They will have the resources and the networks just to back them up. I've had some really, really nasty interactions with lawyers who are using some really underhand tactics and you're not getting funding for it (UKIP8).

The poor funding regime for civil compensation makes it unattractive for legal aid practitioners to engage in this work. As a result, pro bono lawyers may take up a case, but they have much less experience of working with vulnerable clients. Moreover, this practice undermines the need for legal aid in these cases.

Lack of legal aid for a CICA claim means that some survivors seek help from support workers or private lawyers. A personal injuries lawyer will have the knowledge and skill to make a CICA application but will have to be able to identify how exploitation induced harm in their client.



157 GRETA, 2021



“ You know there was a higher proportion than you would have expected to have had a story of some form of exploitation and you know they were unable due to the circumstances of their exploitation to actually make a claim against that person or organization. And so, you know, we [private injury lawyer] were successful at getting some of those through the criminal injuries scheme (UKIP2).

However, given the requirements of private law firms to bring in sufficient income, it was suggested that no private lawyer would take on a survivor's CICA case unless it would result in a payout of more than £10,000. Some of this would have to be paid to the lawyer for their work, which would reduce the award to the survivor.

An alternative is that some NGOs draw on internal experience to support survivors seeking to make a CICA claim, as there is no clear alternative.

“ We often saw that people weren't given information about compensation and the different avenues that that might entail... So, we do provide support to survivors around CICA applications ... we have actually a pilot project where we're working with at ATLEU who are checking through and advising on CICA applications process because again, even though there's no legal aid from the onset, it's highly complex for a victim of trafficking and legal aid should be available (UKIP1).

Gaps in legal advice from specialised lawyers means there are gaps which some NGOs seek to fill in order that survivors have information to make informed decisions and that there is someone to act as an advocate.

As well as seeking compensation for harm caused by exploiters, some legal practitioners seek compensation from public bodies on behalf of their clients for being detained unlawfully or falsely imprisoned. They use a human rights' claim or a damages claim to pursue compensation. Where legal practitioners help overturn a criminal conviction they may apply to the miscarriage of justice compensation scheme on behalf of their client.

#### 7.1.2.8 Using public law to challenge public bodies' decisions

A number of legal practitioners provide legal assistance to challenge decisions made by public bodies such as the Single Competent Authority, police, courts, and local authorities. These include seeking reconsiderations where a survivor has received a negative NRM reasonable grounds or conclusive grounds decision, or when they have been denied support which lawyers view as their right. In addition, some challenge convictions where a Sec 45 defence was not considered, and police officers and prosecutors seemed to ignore the evidence that people committed an offence while in a situation of exploitation.

Judicial Review has been used by a number of legal practitioners to challenge the lawfulness of public body decisions.





### 7.1.2.9 Other work

Loss of identify can be one of the issues facing victims of MSHT as exploiters may give them false identify documents, so that all their new documentation in the UK is with false names and birth dates. As a result, some legal practitioners have learned how to help them reclaim their real identify and move forward.

Age assessment is another area of work that some legal practitioners have taken on board as it is important for obtaining appropriate support for minors. In cases where individuals are suspected to be minors, but their age is uncertain, practitioners may advocate for age assessments to ensure they receive the necessary protection and assistance tailored to their age-specific needs.

Just Right Scotland took the initiative to organise a survivor peer to peer support group. Survivors who have recognised status and are further in their journey become peers to newer clients and provide them with advice and support about the processes and give them encouragement. Survivors are remunerated and receive appropriate level of supervision for this work and expenses are paid for newer survivors without recognised immigration status.

---

They can meet and share advice and information to them. What can they do? What is the best place to go for things and also to provide encouragement and inspiration (UKIP5).

---

### 7.1.2.10 Strategic work

Legal practitioners in the UK also work at more strategic levels. This includes taking on clients whose cases have strategic value as the outcomes can have consequences for more survivors than the individual at the centre of the case.

---

“...the speciality of our team, which is systemic, strategic policy challenges which will benefit that larger cohort of survivors. The challenge would be brought in by one person, but it would definitely have wider ramifications (UKIP7).

---

One example of this strategic practice is a case that challenged the Secretary of State's reduction of financial support to victims of MSHT during the pandemic<sup>158</sup>. The outcome of the case affected survivors as well as the individual clients entitled to back payments for this period. Other examples of court cases and use of judicial reviews for strategic cases are illustrated below.

- The European Court of Human Rights judgment in 2021, in the case of V.C.L. AND A.N. v. the United Kingdom held, unanimously, that there had been: a violation of Article 4 (prohibition of forced labour) of the European Convention on Human Rights, and a violation of Article 6 § 1 (right to a fair trial), as there had not been an investigation of trafficking prior to convictions.
- The Judicial Review of AS and BXR vs Home Office argued that the revised Modern Slavery Statutory Guidance requiring 'objective' evidence corroborating a credible account of human trafficking in order to receive a positive reasonable grounds decision', were unlawful because they: induced breaches of Article 4 of the European Convention on Human Rights; were irrational at common law (the fact of someone not having objective evidence of their trafficking circumstances at the point of referral into the NRM being not rationally connected to whether that person is a genuine victim of trafficking) and undercut the statutory purpose of the Modern Slavery Act 2015; and were procedurally unfair. The Claimants, AS and BXR, were two potential victims of trafficking who received negative reasonable grounds decisions notwithstanding giving credible accounts of being trafficked. The Secretary of State agreed to withdraw and redraft the Guidance based on the Judicial Review decision.
- The Judicial Review brought by ATLEU and QW against the Secretary of State for Justice argued that there were failings in the system of support for prisoners who were identified as victims or potential victims of modern slavery. Moreover, traffickers were often housed in close proximity to their victims of trafficking. As a result of the case the Secretary of State for Justice agreed to develop guidance on victims and potential victims of modern slavery for prison staff<sup>159</sup>.

158 <https://www.bailii.org/ew/cases/EWHC/Admin/2023/1551.html>

159 HM Prison and Probation Service (March 2023) *HMPPS Modern Slavery Guidance for prisons in England and Wales*. <https://www.gov.uk/government/publications/modern-slavery-guidance>



- The Supreme Court Case, *Basfar (Respondent) v Wong (Appellant)* [2022] UKSC 20 On appeal from: UKEAT/223/19/BA. was brought under instruction by Nusrat Uddin of Wilson's Solicitors. The Supreme Court ruled that if the facts of domestic servitude were proved, Mr Basfar, did not have diplomatic immunity in relation to the claim for wages and breaches of employment rights. The Supreme Court established for the first time worldwide, a current diplomat is not protected from claims of human trafficking. The judgment was groundbreaking with global political implications<sup>160</sup>.

Another example of strategic work entails taking a forensic look at UK policy and its implications for victims of modern slavery and for the procedures and processes around identification, support, and criminal investigations in order to develop strategic and operational responses. It could also include training to aid support workers/advocates on welfare rights issues so they can help their clients negotiate the relevant processes when the availability of legal practitioners is limited/non-existent. It could mean advocacy work with service providers. It could inform training of staff or other frontline professionals working in the field.

Lawyers working within police forces can also play a strategic role in relation to modern slavery cases. This can be about seeking to prevent modern slavery in the future and/or making workplaces safer from a modern slavery perspective.

“ My sort of legal advice is going to be more focused because I work for the Chief constable on what we can do to make those premises safer in the future (UKIP2).

Some legal practitioners working for NGOs have participated in strategic government implementation groups connected to the Home Office Modern Slavery Unit or the Scottish Government's Action Area groups linked to its Human Trafficking and Exploitation Strategy. They bring their expertise to these strategic level meetings in order to learn about or influence government actions. In addition, some are members of the Anti-Trafficking Monitoring Group - comprised of seventeen UK based anti-trafficking organisations - which plays an advocacy role to improve the anti-slavery response of the UK Government.

### 7.1.3 Good practice

A number of good practices emerged from the interviews with legal practitioners in England and Scotland. These included a holistic response to survivors' legal needs and working with support workers, providing early legal advice, being willing to take on legal challenges on behalf of clients for strategic reasons, developing legal practice to support clients who might be both a suspect and a victim of modern slavery, and developing legal practitioners' expertise.

Some legal practitioners worked in organisations where they were able to provide a holistic response to survivors' legal needs. This might be dealing with varied needs simultaneously where different specialists meet with the survivor, or it might be dealing with them consecutively as they emerge over time.

“ So we tried to do like a holistic legal service so that, you know, we'll have a client with matters open in lots of different areas of law to try to sort out lots of issues for them .And also sometimes you did like sort of step by step you know first they'll sort out their immigration problem, then once they get their status then the housing team sort help them to get like the right kind of housing, things like that (UKIP9).

The holistic response also required working with other agencies who provide support to survivors to ensure their needs were met.

“ We have to be aware of all that is required and get it in place or make those referrals and have those people part of our meetings with consent (UKIP4).

160 <https://www.supremecourt.uk/press-summary/uksc-2020-0155.html>.





This is particularly true for early advice. According to the Slavery and Trafficking Care Standards, ‘Early legal advice will mean that issues are more likely to be resolved early on, potentially preventing cases ending up in costly litigation and unnecessary trauma’<sup>161</sup>. Survivors supported by TARA and Migrant Help in Scotland have benefitted from weekly legal clinics provided by Just Right Scotland. This enables survivors to get early advice about legal issues of concern with the possibility of follow up meetings as necessary. The Scottish government has paid for this legal support as part of their Human Trafficking and Exploitation Strategy.



Some of the legal practitioners who engaged with survivors indicated that they recognized that this engagement would continue over long periods of time, often several years. Not only was this because of the length of time required to obtain refugee status or leave to remain, but also because survivors might need legal advice during the transition process as they reintegrated into the community. Reference was made to difficulties survivors can encounter as they move from a controlled environment in asylum accommodation or a safe house to living in the community where they are responsible for rent, bills and applying for work or benefits. Legal practitioners indicated that organisations responsible for housing or welfare may not have knowledge of modern slavery and exploitation. Thus, they are not aware of how to respond in terms of offering appropriate accommodation or understanding that survivors might not be able to work as a result of their trauma. As a result, good practice meant continuing to provide legal assistance to ensure that the needs of survivors are met according to the requirements of ECAT.

“ We did a project couple years ago, which was an eye opener for me, and I learned a lot from survivors, which was the actually the legal support can't all ...kick away when someone has status and it doesn't need to be at the same level, but actually a lot of supports needed around housing and access to welfare support (UKIP4).

Good practice was also about the way in which legal practitioners working with victims of MSHT continually develop their practice in order to respond to cases where rights to identification, support, leave to remain or justice have been denied. Practitioners showed willingness to seek reconsiderations of negative decisions, to use Judicial Reviews to challenge public bodies, and to take on strategic cases that might have to make their way through national or even international courts in order to seek remedies for survivors. In addition, they have had to look carefully at evidence of exploitation and help identify ‘new’ types of modern slavery and provide legal assistance to them. For example, criminal exploitation is now recognized as affecting both minors and adults. Both have been identified as suspects in criminal offences whilst victims of modern slavery who carry out criminal offences under duress. Philippa Southwell identified forced criminality amongst clients she worked with, and she developed legal practice in relation to the Sec 45 defence as well as challenging and overturning convictions where police and the judicial system had ignored indicators of modern slavery. She has been recognized as the leading expert in this field. NGOs refer clients to her practice, and she has offered training to legal practitioners and NGOs. She was the lead author in the seminal book *Human Trafficking and Modern Slavery: Law and Practice*, which is intended to help lawyers improve their practice.

It was evident from the interviewees that there is little information provided about modern slavery in legal education. The exception is the professional development required to become an accredited immigration lawyer, through the ILPA course. Thus, good practice was where law firms or legal advice NGOs had a clear programme of training in order to develop the expertise of staff who work with survivors of MSHT. This training encompassed both the acquisition of knowledge but also skills in how to engage with survivors. It might entail shadowing staff, reviewing case files, taking advantage of the training budget to attend courses and then share learning more widely, finding and reading relevant policy and practice documents. Practitioners have also built up a network within the modern slavery sector that can be approached for advice. A number of legal practitioners indicated that the ATLEU showcased good practice in their legal advice to victims of MSHT.

161 Roberts, 2018, p. 100



## 7.1.4 Funding legal advice work with survivors of modern slavery

Legal practitioners who were interviewed stated there were different funding mechanisms to cover the work they do with survivors. There is some funding within the Victim Care Contract. Information about legal rights is part of the Modern Slavery Victim Care Contract, so each survivor who is referred into the NRM should obtain this information from support workers as well as being assessed in relation to their legal needs. Where support workers have identified the need for specialist support the survivor may need to be referred to external organisations who can provide them with the advice they need. However, the funding structure has an impact on what kinds of legal advice can be provided and when. In England and Wales there is no legal aid for victims of modern slavery to aid the identification process and to be informed about the NRM prior to making a decision to enter it. Some legal practitioners have obtained short-term funding for this work, for example from the Trust for London. However, this is not a sustainable model and contrasts with the Scottish government funding of Just Right Scotland to provide legal advice to vulnerable people. This means legal advice is available to all survivors supported by TARA and Migrant Help and it can occur at an early stage.

There are a number of legal practitioners who work within charities that focus on providing legal advice. Their work is funded from legal aid contracts, a contract with the Scottish government, donations, private work that helps subsidise work with survivors, and grants from external funders.

Survivors of modern slavery cannot access legal aid support for immigration purposes until they have a positive reasonable grounds decision in England and Wales, as a result some seek out and pay for private immigration advice. This can potentially lead to confusion if a survivor is later able to obtain free legal aid for a trafficking matter. Other researchers have reported on problems related to poor advice that has to be unpicked or the debt which survivors incur which can affect their well-being<sup>162</sup>.

On the other hand, people who seek asylum can obtain legal aid to obtain immigration advice, and this might widen the scope of the advice if evidence emerged that indicated the client might be a victim of modern slavery. For example, the legal practitioner could seek to include Pre-NRM advice as part of the legal aid contracted work.

Engaging with a legal practitioner on immigration issues can also open the door to other legal issues and other funding streams, for example legal aid for housing.

Legal Aid provides a flat fee structure for immigration advice, but legal practitioners indicated that the fee structure was inadequate for the scale and scope of work involved with survivors of modern slavery. The fee does not reflect the complexity of modern slavery cases or their longevity. The low fee was one of the key factors reducing the numbers becoming specialist immigration lawyers and in law firms reducing or even eliminating some forms of legal aid work. A number of other recent reports have identified the same problems linked to legal aid<sup>163</sup>.

Legal aid for criminal defence purposes is inadequate, especially when dealing with suspects who are also victims of forced criminality. Legal practitioners undertake considerable work that is unpaid, in order to adequately represent their clients.

“ It’s mostly legally aid funded but it nowhere near covers the hours that we put into a case. I mean at my firm we have an appeals only legal aid contract, it’s quite rare for criminal firm just to do that specific type of work. We are not paid for everything that we do (UKIP6). ”

Using the escape fee clause has been identified as the way in which legal practitioners can be paid properly for the complex and lengthy work they undertake on behalf of the client. To seek escape fee<sup>164</sup> payments, the overall cost of legal advice must be worth more than two times the amount of the flat fee, and the lawyer must be able to account for the costs incurred and provide a clear rationale as to the purpose of the work. This form of funding has been used successfully by ATLEU, Wilsons and other firms and is part of the training ATLEU provides to encourage sustainable legal aid work with survivors.

Another method of obtaining legal advice is to obtain help from pro bono lawyers. It is likely that this work only represents a small proportion of the overall work and might only relate to cases that could have legal significance.

162 ATLEU, 2022; Gauci et al., 2023

163 Currie, 2023; ATLEU, 2022; Gauci et al, 2023; Currie and Young, 2021; and Wilding, 2019.

164 There is provision in legal aid to apply for higher fees than the standard available for specific legal aid work using the escape fee claim.



## 7.1.5 Training and skill development paths for legal practitioners assisting survivors of MSHT

The legal practitioners interviewed indicated that human trafficking was not mentioned within the formal education they received to obtain their qualifications to practice law. Moreover, there was no specific training available around working with victims of MSHT when they began their practice. They acquired the specialist knowledge and skills they needed through a variety of methods.

For some learning derived from practice. It was taking cases and learning from successes and failures.

“ Through acting on behalf of survivors of trafficking, that’s also a big learning curve. We learn a lot from survivors, in essence (UKIP7).

This was aided by the research they undertook in terms of developing their understanding of human trafficking and modern slavery, indicators for identifying victims, pertinent policies, for example the Modern Slavery Act and ECAT, or relevant case law. Many referred to seeking out information relevant to their cases, learning from successful legal challenges that had a strategic impact on victims of MSHT or accessing on-line/in person training related to policy changes or the outcomes of legal challenges.

“ I have to say that most of my helpful training has been from different chambers (UKIP10).

In-depth research has also developed the expertise of legal practitioners alongside their practice.

“ I was doing research on cases that I thought were miscarriages of justice and then it just snowballed. I mean, I used to write to individuals that I thought may be victims because of the indicators in the sentencing remarks... And it’s become, you know, my main practice (UKIP6).

Some indicated that the knowledge or skills acquired from working in different areas of the law could also be applied to work with MSHT clients. For example, knowledge of how to apply for compensation based on work as a personal injuries lawyer could be translated into applying for compensation for victims of MSHT.

Learning from colleagues who worked in the field was identified as key to gaining the expertise needed along with the confidence to take on new types of cases and also to take on legal challenges, for example through judicial review. Legal practitioners described shadowing colleagues, reading their case files, contacting other practitioners for advice about their cases or how to make use of relevant laws, for example Slavery and Trafficking Protection and Risk Orders. Being an effective legal advocate for clients with lived experience of modern slavery meant not just obtaining relevant information but having a chance to talk through a case with colleagues.

“ ... it’s not just receiving training, but it’s also being able to talk to different people who do the same work. [Solicitor] is a wealth of knowledge and there’s other members of our team who have done very different work. ...she predominantly works with individuals who have criminal convictions who are victims of trafficking, and I don’t do that sort of work as much. So, it’s about talking and sharing your knowledge (UKIP6).

Legal practitioners also made reference to finding, and participating in, relevant training that was provided by law firms or NGOs with expertise. For example, Garden Court Chambers sent out publicity about a training webinar in 2021 which looked at the impact of the *VCL v UK* (see box above) judgment on criminal appeals. It offered practical guidance for practitioners representing victims of modern slavery in the criminal courts who had convictions for criminal exploitation. Practitioners indicated that attending training around modern slavery had wider knock on effects as they were asked to share their learning with colleagues. The use of in-house training based on learning from specific cases, especially those that had a strategic impact was another means of skilling up practitioner colleagues.



“ We do try and do in-house training sessions for caseworkers where there are changes and or, where we’ve had a certain case that’s talked about a big change (UKIP6).

Because of the international dimension of MSHT, some sought to learn from European colleagues or to become part of European projects so they obtained a broader understanding of policy and context that shaped modern slavery but also how other legal practitioners carried out their work<sup>165</sup>.

The six practitioners who completed the survey shared many of the education and training trajectories mentioned by those interviewed. None of the six lawyers had received information related to human trafficking in their initial legal education, knowledge about supporting people in relation to their immigration status, criminal justice processes or accessing compensation as a victim of a crime. All however had sought training related to human trafficking from ATLEU, ILPA, ECPAT (Every Child Protected Against Trafficking), and barristers’ chambers. Half undertook training more than twice a year and the other half once or twice a year.

In order to identify other ways that legal practitioners keep updated about legislation and policy in the UK, those that completed the survey ticked a number of different methods. As can be seen from Table 13 two-thirds of the practitioners referred to multiple approaches which included government resources, newsletters, on-line data bases, attending seminars and consultation with legal advisers. What is notable is how few obtained useful knowledge from official government publications, academic journals, and social media. Networking with government officials was clearly not a means of enhancing and updating their legal knowledge.

Table 13: Method of staying updated

	Survey 6: Respondents
Research and Government Sources	67% (4)
Regular Consultation with Legal Advisors	67% (4)
Subscriptions to Newsletters and Alerts	67% (4)
Online Policy Databases	67% (4)
Attend seminars and workshops	67% (4)
Collaboration with Legal Professionals	50% (3)
Regular Review of Official Publications	33% (2)
Academic Journals and Research Papers	33% (2)
Social Media and Online Communities	17% (1)
Networking with Government Officials	0%

Legal practitioners who now work with survivors or who come across them in the context of their practice, are able to access the guidance published by the Law Society, *Victims of modern slavery – guidance for solicitors* in 2020<sup>166</sup>.

Currently the training available to develop the expertise needed to provide a wide range of legal advice to survivors of MSHT in the UK is ad hoc. The exception is those training as immigration lawyers. The quality of legal advice relies on legal practitioners seeking out specialist training, undertaking their own research, or working in law firms/NGOs that provide training to enhance their knowledge and skills so they can provide quality advice to their MSHT clients.

165 For example, Thomson K (undated) Upholding Rights! Early Legal Intervention for Victims of Trafficking – Best Practice Principles. Accessed 23 01 2024 <https://www.immigrantcouncil.ie/sites/default/files/2021-03/ELI-Best-Practice-Report2.pdf>; Thomson K and Yonkova N (2020) Assisting Trafficked Women: Best practice principles of gender-specific legal assistance and integration supports to third country national female victims of trafficking for sexual exploitation. Accessed 23 01 2024 [https://www.justrightscotland.org.uk/wp-content/uploads/2020/12/JRScot\\_ASSIST\\_Report-FINAL.pdf](https://www.justrightscotland.org.uk/wp-content/uploads/2020/12/JRScot_ASSIST_Report-FINAL.pdf)

166 <https://www.lawsociety.org.uk/topics/immigration/victims-of-modern-slavery-guidance-for-solicitors>



## 7.1.6 Essential Skills and Knowledge for Assisting Victims of Human Trafficking

The legal practitioners interviewed identified the knowledge and skills they felt legal professionals should have if they are providing advice to survivors of MSHT. This included particular types of knowledge but also skills needed to effectively work with survivors and with other agencies who also interact with them. Some referred to the training they offered, their systems for providing advice to third parties or resources available to improve practice.

Legal practitioners referred to understanding what is meant by modern slavery and human trafficking, the context that makes people vulnerable to MSHT, indicators that can help identify people as possible victims and the processes for identification, accessing support, and criminal justice. As many survivors are foreign nationals they need some level of awareness of common immigration issues, for example asylum and leave to remain. In addition, practitioners needed to be cognizant of the policies that frame definitions of modern slavery and human trafficking, the states' obligations, and entitlements for victims. The policy landscape not only includes UK legislation<sup>167</sup> but also international legislation such as ECAT which has been ratified by the UK government. However, policy changes, so legal practitioners need to ensure that they are updated about the changes and their implications in order that they can provide the best advice to their clients. For example, the Nationality and Borders Act 2022 and the Illegal Migration Act 2023 made significant alterations in terms of the recognition and support to victims of modern slavery in the UK which was recognized by a number of organisations who provided training to update legal practitioners, e.g. ATLEU, AG Legal, the Law Society.

Dealing with survivors of MSHT raises a huge range of complex legal issues and thus legal practitioners need to take a more holistic approach to their role, which can be contrary to the more specialized approach to legal aid. Thus, they need some awareness of the relevant policies and procedures even if they refer their clients to other specialists. For example, reference was made to understanding immigration status issues, safeguarding including child and adult protection issues, NRM processes, and compensation. However, it was not sufficient to have some awareness of these policies, but practitioners needed to be able to provide advice in a way that would enable survivors themselves to make informed choices.

Another facet of the holistic approach was practitioners recognizing that if survivors did not have their basic needs met, that they were unlikely to be able to fully engage with any issues, for example the criminal justice system or compensation. Ensuring survivors received the support they were entitled to could be viewed as the foundation to providing other effective legal advice.



I think what's really important is understanding that you're not going to get anywhere in a legal case without meeting those basic needs (UKIP8).

While confidentiality was an important part of legal training, there were some specific skills for how this might apply in working with victims of MSHT who often had significant trust issues. Confidentiality helped build trust in the client-lawyer relationship, and reduced worries about information coming to the attention of immigration enforcement with implications for detention and deportation. Moreover, legal practitioners also had to have the skill to work with clients around permission to disclose information to police, particularly when they go missing and might have been re-trafficked. One practitioner stressed the importance of



Training on how to speak to victims because we are often seen as counsellors to the victims as they build trust in us as the legal representative (UKSR4).

As legal practitioners engage with clients who are likely to have experienced trauma during their situation of modern slavery as well as before becoming a victim, they need to have an understanding of trauma and how it may impact their clients and affect their behaviour. This also means having the skill to act in a trauma-informed way with their clients, as illustrated by one practitioner.



And that's where I think it's important that the solicitor has the understanding. So, I'm not gonna put myself forward as a psychologist, but I need to be aware that someone experiences dissociation. I need to be aware that I can't schedule an appointment for them at 9:00 o'clock because they're on medication and they don't come alert until 11:00 o'clock. I need to be aware that they're having a good day or they're having a bad day, you know? (UKIP3).



Reference was made to the Helen Bamber Foundation as a source of training on a trauma-informed approach to working with survivors of MSHT, and to their code of conduct, *The Trauma-Informed Code Of Conduct For all Professionals working with Survivors of Human Trafficking and Slavery*<sup>168</sup>. In addition, practitioners need to understand how trauma might affect what constitutes appropriate support for the client they are advising. This required understanding their individual needs and listening to their views of how the support offered elicited trauma or helped reduce it.

As part of their job, legal practitioners have to listen carefully to their clients' experiences. This can result in vicarious trauma. This has been recognised in the Training Frameworks for those working with adult and child survivors of MSHT<sup>169</sup> and requires action to support practitioners.

“ I think in terms of debriefing myself and my team, because a lot of the things they see here is quite distressing, so it's helping them to work through that as well (UKIP8).

Legal practitioners generally work on behalf of a client and according to their instruction, However, they may need to develop ways of interacting with their vulnerable clients in order that they feel more empowered and are able to provide these instructions. Being agents and making decisions, is contrary to how victims of modern slavery have been treated.

So, we're used to working on a client's instructions. Vulnerable clients, on the other hand, are not accustomed to giving instructions. Very accustomed to be, you know, in receipt of instructions, so there needs to be some kind of learning around that in terms of how we build an individual's sense of agency. That comes out very nicely in Helen Bamber's trauma informed code of conduct. You know about through easy steps that you can take to build that (UKIP3).

“ A lot of the time victims have been controlled all their life, and they don't really know how to take their own agency in situations. It's really difficult to advise them as their lawyer. We don't tell them what to do, but they'll be just kind of like, "well, tell me what I need to do". I'll be like, no, no, no, you need to tell me what your instructions are, you know, you instruct me (UKIP8).

The modern slavery landscape is constantly evolving in terms of characteristics of victims, forms of exploitation, vulnerabilities, and policy. As a result, legal practitioners must have a real commitment to professional curiosity and the willingness to develop knowledge through self-directed learning.

Another important trait for legal practitioners is a willingness to challenge themselves and to take on cases that no one else is willing to accept. This means being open to seeking advice from other practitioners, trying out different strategies, accepting negative decisions but using them to learn and to try again in order to do the best for the client. Using a Judicial Review to challenge public body decisions was mentioned as a strategy that some legal practitioners employed and sought to encourage others to use. For example, ATLEU training (ATLAW) includes material on how to undertake a legally aided Judicial Review and to build a strong case, drawing on their successful practice. It also includes mentoring for practitioners who are new to this form of work. The training aims:

“ ...to give them confidence to just to challenge everything that they see, to not be shy to do judicial review. But when if they are doing a Judicial Review, make sure it's really good quality and watertight (UKIP9).

168 <https://www.helenbamber.org/sites/default/files/2022-01/HBF%20Trauma%20Informed%20Code%20of%20Conduct%202nd%20Edition.pdf>

169 [https://skillsforcareanddevelopment.org.uk/wp-content/uploads/2022/03/2022-CHILDRENS-TRAINING-FRAMEWORK\\_A4-BOOKLET.pdf](https://skillsforcareanddevelopment.org.uk/wp-content/uploads/2022/03/2022-CHILDRENS-TRAINING-FRAMEWORK_A4-BOOKLET.pdf); <https://www.skillsforcare.org.uk/resources/documents/Developing-your-workforce/Care-topics/Modern-slavery/Training-Framework-Identification-Care-and-Support-of-Victims-and-Survivors-of-Modern-Slavery-and-Human-Trafficking.pdf>



For legal practitioners working with survivors of modern slavery, there are often a number of agencies involved in providing support to the individual. Thus, practitioners who come to work in the sector need the knowledge and skills to work effectively as part of a multi-agency team. Understanding the roles of each agency and how they contribute to supporting survivors was viewed as an essential part of the knowledge landscape for practitioners. Training provided in a multi-agency setting was therefore described as aiding the development of good practice.

As some practitioners might advise survivors as they engage with the criminal justice process, they need to understand *interactions between trafficking identification and the criminal justice system for both victims and accused persons (UKSR6)*. Knowledge about compensation for damages arising from the harm caused as a victim of trafficking was also viewed as important because of its possible positive benefits for survivors. In addition, legal practitioners might need training in how to ensure the needs of survivor clients are met if they take a case before a tribunal. Victims of modern slavery have rights to special measures which need to be put to the judge.

“ We need to be putting forward the equal treatment bench book and reminding the tribunal of their responsibilities in terms of vulnerable clients (UKIP3). ”

There were a range of soft skills that emerged from the interviews which highlighted the requirements for good practice in working with survivors. The complexity of MSHT cases and the vulnerability of survivor clients meant that legal practitioners needed tenacity and patience. They also had to have good listening skills so they could really hear what clients were saying. They needed to operate from a position of belief in what survivors said so that survivors felt valued and were able to develop trust over time. They had to find a way in often very busy schedules to build the time and space to deal with complexity, trauma, and language barriers.

As well as identifying what knowledge and skills legal practitioners needed, a number of those interviewed described the training they provided for other lawyers or for other interested parties including NGOs and police. Reference was made to training provided by ATLEU, Just Right Scotland, Southwell & Partners, Duncan Lewis, and Garden Court. For example, ATLEU is running ATLAW, an online anti trafficking training and mentoring programme for lawyers, from November 2023 to March 2024<sup>170</sup>. It has been 'designed specifically for immigration and public law advisers working under a legal aid contract and committed to assisting survivors of trafficking and slavery'. The programme is intended both for people starting work in this area and for those developing their practice. It facilitates capacity building through teaching, a book of cases, and mentoring in order to give participants a chance to talk through cases. It covers: first steps in building a case and protecting the client, challenging negative decisions and failures to provide support, drafting statements on behalf of survivors of modern slavery, legal aid and escape fees cases, and obtaining medical evidence<sup>171</sup>. About 40-50 lawyers take this course, and it is funded by the Legal Education Foundation.

“ I think they [ATLEU] are the only ones who have that holistic approach.... in terms of the legal training for [working with] victims of trafficking, I would say that's the most comprehensive and certainly something that I always recommend to my team, if they're new to trafficking, to try and get onto those courses (UKIP8). ”

In addition to this specialist course, ATLEU provides one off training with participants, giving overviews of modern slavery law or common immigration issues that come up for survivors. These participants number in the hundreds for their if advertised via DG Legal.

“ ...they're great because we're really reaching out to these smaller practices around the country, which may be just kind of like ordinary High Street practices that you haven't really heard of (UKIP9). ”

170 <https://atleu.org.uk/news/2023/9/20/atlaw-2023>

171 <https://drive.google.com/file/d/1FjTsCRn0K5HmQSbLOTMt64-ZsVi50dT/view>



They also offer webinars which are advertised on their website which might have 20 or 30 participants. In order to be impactful, ATLEU as well as other legal practitioners have run courses on the changes in law that will impact on victims of MSHT. Specifically, the Nationality and Borders Act 2022 and the Irregular Migration Act 2023 have led to a number of different organisations offering training to help practitioners understand what this might mean for their work and for victims. For example, the Law Society publicised training by a Duncan Lewis solicitor which was intended to update accredited immigration and asylum practitioners<sup>172</sup>.

“...the Nationality and Borders Act changed the discretionary leave policy, from discretionary leave to temporary permission to stay. And it's basically, it's all got a little bit more strict and trickier to get that leave to remain. So, we've done a training on that and in fact we did that twice this year. And we did an overview of the Nationality and Borders Act. We did one on detention and disqualification. You know the public order disqualification (UKIP9).

More generic training is also available which can be beneficial for those practitioners working with survivors. It might be about working with vulnerable groups, working with children, and working with people who have neurodiversity linked to trauma. Trauma in youth can affect brain development. This training, which enhances knowledge and skills in working with different groups of people, enhances practitioners' ability to develop relationships with clients and work more effectively with them.

“So sometimes it's more generic stuff like that, ... that's helped me understand people's needs and understand how to kind of get the best out of my clients. Trafficking victims, as you know, are very closed-off and don't want to trust you, so you kind of need all the tools in your back pocket to be able to get them to open-up and get them to see that you understand them and can connect with them (UKIP8).

The complexity and diversity of modern slavery cases means that legal practitioners need to be willing to seek out information that can help them in their work. Thus, developing knowledge has to be an intrinsic part of legal practice for those working in the modern slavery sector which is constantly evolving. For example, one practitioner referred to organising a training event to learn how to better maintain trust and rapport *with difficult clients in complex situations, where it is quite difficult to have further relationships with. They might be quite traumatised. They might have a lot of anger and sometimes they don't want to talk about this stuff and you are having to continually talk to them about it (UKIP8).*

A different approach to developing practice was mentioned by a number of interviewees. A number of them provide advice to third parties about cases. ATLEU and Just Right Scotland advertise their advice services on their websites, while others respond directly to queries that are linked to their areas of expertise. The need to widen the pool of experts who could provide advice underpinned the creation of *The Human Trafficking & Modern Slavery Expert Directory* by Phillipa Southwell.<sup>173</sup> The development of ATHUB, a free online information resource for professionals working with victims of trafficking, means expert input can be accessed at the practitioner's convenience. It covers working with victims of trafficking, the immigration process, securing accommodation and support, making a compensation claim, and working with children and young people<sup>174</sup>.

The only specific training required is the immigration course which is mandatory. This is a requirement of being an accredited as an immigration lawyer for legal aid purposes in England and Wales. The Immigration Law Practitioner's (ILPA) course includes a module on modern slavery which covers the identification process, the support process, elements of the criminal investigation process, and discretionary leave to remain linked to human trafficking. Thus, lawyers training to undertake immigration work in England and Wales will have obtained some knowledge of modern slavery and how they may need to act in the interests of their client.

172 <https://learn.lawsociety.org.uk/product/immigration-and-asylum-update-modern-slavery-and-trafficking/>

173 <https://www.humantraffickingexperts.com/>

174 <https://atleu.org.uk/resources>





## 7.1.7 Challenges to effective responses to human trafficking

A number of challenges were identified by legal practitioners working with survivors of MSHT. The key challenge related to the funding regime for legal aid. Important areas of legal advice are not funded, and fees are low. As a result of the changes in Legal Aid which reduced funding, fewer solicitors were training to do legal aid work, and there were decreasing number of legal aid firms as it did not pay. Lack of legal aid lawyers was recognised by interviewees as presenting barriers to accessing legal advice, particularly in certain parts of the UK. These issues have also been noted in other research reports<sup>175</sup>.

Practitioners also noted lack of awareness of modern slavery within law enforcement and amongst lawyers appointed to represent suspects. This meant victims of MSHT were not identified, did not receive support and some were detained or convicted of a crime before obtaining expert legal representation and the means to rectify failures in implementing the law.

### 7.1.7.1 Inadequate legal aid funding

According to the interviewees the Legal Aid funding regime has been instrumental in decreasing the availability of legal aid lawyers and specialist lawyers in the fields of immigration, welfare and criminal defence. The flat fee structure does not present a viable option for legal practitioners.

“ I think it's practical challenges, first and foremost, we need to be we need to be paid for the work that we do because there's only so many, you know, hours we can't get paid for and I think that does affect firms. It affects the amount of firms and lawyers doing this work, making the pool very, very small (UKIP6).

“ No one wants to do it anymore. It's very hard work, very labour intensive. You know, if you're going to do it properly, and not financially rewarding (UKIP3).

They have to undertake work in their own time or limit the work they do for their clients which may have negative repercussions for them if the quality of advice is poor.

There is considerable evidence that fewer lawyers are available for legal aid work and yet the number of victims of modern slavery as documented by NRM statistics continues to increase. Legal aid practitioners interviewed for this research referred to the lack of capacity to take on many cases and the legal aid deserts in many parts of the country which require survivors to travel considerable distances to obtain support or end up having to make decisions without legal advice as illustrated by one practitioner.

“ If you go to a lawyer who's got a legal aid contract under immigration, then there will be 6 hours of legal aid available for a lawyer to actually work with that victim to see whether they should go on the NRM.... now accessing that ... six hours' worth of free legal advice in Tyneside is impossible because the nearest legal firm with an immigration legal aid contract is maybe 80 miles away. So how do you do that? Well, they just don't have it. So, they don't have any access if you like to that consultation, which the government is prepared to pay for but under very strict criteria and so they either have to make a decision based on not very much information on whether to go into the NRM or not (UKIP2).

It is not just survivors who are negatively impacted by limited legal aid capacity, it is also those practitioners who advise survivors. They have to manage heavy workloads and the pressure of being a key person in survivor's recovery journey. They also have to make decisions about who they can help. All of these generate stress<sup>176</sup>.

175 Currie, 2023 ATLEU, 2022; Gauci et al., 2023; Currie and Young, 2021; Wilding, 2019

176 See also Currie, 2023



“ ...there's such a lacuna in the legal aid sector at the moment, there's just not enough solicitors to take on all of the individual's cases. So, we've got to make a choice. Then what happens is some fall through the net because we haven't been able to do our job properly (UKIP10).

There are also challenges in working with survivors that make it difficult for legal practitioners to do the best job they can for them. The length of time it can take to build trust means that survivors may only reveal their experiences piecemeal, and this can make it difficult to build a case.

“ I think one of the biggest issues is building a rapport and gaining the trust of a victim is always very difficult. It can take many, many attendances and it can get frustrating at times because although you appreciate as a human being that this individual has had a really difficult time, you as a solicitor need to get the case down on a piece of paper for the purposes of their statement. When you know you're not getting the full information, there are many times that I've had to submit a statement of representations for client where I know I've not got the full, full picture from them, but you've just got to do the best you can (UKIP10).

#### 7.1.7.2 Difficulties managing expectations and maintaining trust

Managing expectations can also be problematic as survivors do not understand British systems and processes and how long decisions take. Being in a state of limbo regarding their NRM or immigration status, survivors might press for results from their legal advisor which are not available.

“ I find a lot of these individuals don't understand the process ...You could repeat something ten times and they'll still call you back the next day, like, when am I getting my CG decision? ...So, it can be very frustrating that it's such a convoluted process, even for us as professionals, to get our heads around, how are you meant to make somebody who doesn't understand the process, ...why it's taking [so long or], why it's another refusal. Then it's just the time, the time it's taking to get decisions is just ridiculous. I mean, you see so many clients deteriorate in that in that time period (UKIP10).

Lack of an answer can potentially undermine trust in authorities, the legal practitioner and can undermine the clients' mental health.

“ It is also difficult to explain to victims about the delays by the Home Office as they may feel completely let down and often suffer with mental health conditions whether it is diagnosed or not (UKSR4).

#### 7.1.7.3 Decreased numbers of legal aid funded experts

Legal aid funded legal advice has also become more difficult to access not just because of the reduced fees which has led to decrease in the number of lawyers but also because its scope for victims of modern slavery is limited or unclear.

“ But one of the real issues it is because the legal aid don't actually set out clearly what's covered for modern slavery victims, it's become very difficult and actually sometimes[in] our experience, law firms have had different responses from the legal aid agency about what's covered? (UKIP1)

There has also been a loss of specialists, including those who might challenge public bodies about the accommodation and support they provide survivors.



“ Certainly from when I started what you have seen is law firms shut their legal aid practices on lots of different areas, welfare benefits almost disappeared... so you've got the survivors facing the barrier of like the legal aid desert plus also it's a specialism within a specialism which makes it more acute for survivors of trafficking (UKIP1).

#### 7.1.7.4 Lack of funding for Pre-NRM advice

The interviewees noted gaps in legal aid funded assistance for providing Pre-NRM advice. Many victims of modern slavery will not obtain pre-NRM advice, for example British nationals or foreign nationals who do not apply for asylum. Asylum claimants may receive Pre-NRM advice if indicators emerge that suggest they are potential victims of modern slavery in their interaction with an immigration lawyer. While support workers may fill the information gap for some groups in order to try and ensure victims make an informed choice about the NRM, access to qualified legal practitioners is seen as the gold standard and the one thing that really enables informed decision-making.

“ ...actually if people have the legal representatives, it gives survivors much more confidence in making those [NRM] decisions and it gives them more confidence because they have a legal representative (UKIP1).

Attaching the provision of legal aid to immigration, presents a challenge to British nationals or those with settled status who need legal advice but do not need immigration advice. A recent report on the recovery needs and experiences of British victims of MSHT also identified the difficulties they faced in obtaining legal aid funded advice.<sup>177</sup>

#### 7.1.7.5 Lack of legal aid for compensation claims

Interviewees also highlighted the gap in legal aid linked to making a compensation claim from the Criminal Injuries Compensation Authority. Lack of legal aid can present a barrier to seeking compensation, particularly overcoming the many obstacles noted by the Group of Experts on Action against Trafficking in Human Being.<sup>178</sup> As a result, it means survivors may have to rely on help from support workers, or from private law firms which might take on a compensation case on a fee basis which would reduce the award for the survivor.

“ Obviously, the Criminal Injuries [Compensation] Act, they try and promote it as something you can apply for yourself. While if you're, you know you speak poor English and you know you're completely traumatized, of course you can't. And they provide no means to pay the law firm for their assistance (UKIP9).

#### 7.1.7.6 Difficulty of obtaining funding for expert reports

Another challenge noted was being able to obtain expert reports which detail survivors' trafficking experience or provide evidence of physical and psychological harms. These can be an essential part of high quality legal assistance. While legal practitioners can request these reports from experts, the ability to obtain them may be affected by the nature of the relationship between the law firm and experts. Those with longstanding relationships may be able to acquire the expert reports, as experts are willing to wait for payment as they trust the firm to pay them once it receives the legal aid fee. However smaller firms or those newer legal aid providers may not be aware of experts that work on modern slavery cases or experts may decline cases because of concerns about being paid for their work retrospectively.

#### 7.1.7.7 Lack of awareness about MSHT amongst law enforcement

Lawyers who attend suspects at police stations may be unaware of MSHT and indicators of MSHT. As a result, they may miss identifying that the suspect they are engaged with may also be a victim. Lack of training for police officers and lawyers can mean that victims are not identified and thus there are missed opportunities for them to obtain support, and

177 Carole Murphy, Alicia Heys, Craig Barlow, Louise Gleich, Sophie Wilkinson (2022) Identifying Pathways to Support British Victims of Modern Slavery towards Safety and Recovery: A Scoping Study. Accessed 15 01 2024 <https://www.stmarys.ac.uk/research/centres/bakhita/projects/pathways-to-support.aspx>

178 GRETA, 2021



to have their case treated differently including a criminal investigation into modern slavery and the application of a Sec 45 defence.

#### 7.1.7.8 Delays in asylum decisions

The length of time for asylum cases to be dealt with has significant implications for lawyers supporting their case – they are long and complex and require practitioners to stick with their clients. At the same time the long drawn-out process undermines recovery and reintegration and has a negative impact on survivors' mental well-being.

---

During that waiting period of let's say three years plus possibly persons deteriorate, their mental health deteriorates, you know the waiting and the delay have an adverse impact on their mental well-being (UKIP3).

---

This is exacerbated as there is a lack of psychological support for victims/asylum seekers which prolongs their recovery journey, but it also has consequences for legal practitioners working with them, in terms of making their work harder.

#### 7.1.7.9 Difficulties arising from use of ill-informed private lawyers

It can be a challenge where survivors are paying a private lawyer to undertake their asylum claim. Various difficulties can arise if the survivor is then referred to a legal expert to deal with the trafficking claim as the two may not be adequately linked. The preference is for those with expertise to deal with both issues, because survivors are not having to manage at least two sets of lawyers and legal appointments. Immigration lawyers also might not have the expertise to understand how modern slavery might help shape the asylum claim, as a result the claim might not be as strong as it could be. Moreover, they might not push the asylum claim and wait for the NRM conclusive grounds decision which can prolong the asylum process.

#### 7.1.7.10 Limited Capacity Strains

Lack of legal aid solicitors means workloads are heavy and as a result some survivors fall through the net. The heavy workload at legal aid firms (which are necessary to be sustainable) also has costs to the practitioners. They are under considerable pressure and have little space to breathe and to decompress from the daily interaction with clients who share traumatic stories or are at points of crisis and need a rapid response as they face homelessness or deportation.

---

“ Like I said, if you're working on these cases day in day out, which aren't changing the world, they are literally just changing the world of an individual client, which is still super important, but it's really, yeah, it's quite soul destroying sometimes and I think that's the hardest thing (UKIP8).

---

Concern was expressed about the next generation and if they will be willing to take on this poorly paid and stressful work, which is made more difficult by legal aid bureaucracy and the attitudes of decision-makers that affect the futures of survivors.

---

“ You have to do all this ridiculous stuff to prove these people, who are obviously vulnerable and destitute, are actually vulnerable or destitute to justify this work. There's just a million plates spinning all the time and then you don't have enough time for self-care (UKIP8).

---

#### 7.1.7.11 Hostile rhetoric from the government

A final key challenge is the different points of view held by the government and those who are at the front-line providing legal advice to survivors. The policy of the government and speeches made by many Ministers suggest that survivors are abusing the Modern Slavery Act while legal practitioners seek to ensure that vulnerable people who have experienced modern slavery are identified and supported according to the promise of the law.

---

“ I think the UK government, for example, thinks of the victims as people who know what trafficking is and they're just kind of putting on because they want to get free resources from the state. But what we find is actually it's very much the opposite and people don't know what they're entitled to, don't know their rights and therefore are falling through the gaps because of that (UKIP8).

---



## 7.2 Recommendations

In light of the identified challenges and gaps in legal support for victims of modern slavery and human trafficking in the UK, the following recommendations are proposed to address critical deficiencies and enhance legal assistance provisions.

- **Expansion of Legal Aid Services:** Advocate for the inclusion of free legal advice in the Modern Slavery Victim Care Contract as it is due for renewal. This change would improve victims' access to legal advice and enable them to make an informed decision about entering the NRM. It would also help them deal with other legal issues they face. This change would enable British nationals to seek free legal assistance at an early stage.
- **Advocate for the provision of legal assistance to British national victims of modern slavery:** The current legal aid system ignores the legal needs of British victims despite their entitlement to legal assistance under ECAT.
- **Promote awareness of the legal needs of British national survivors:** As a result of the increasing number of British national survivors it is necessary to encourage the development of specialist training aimed at front-line professionals including legal practitioners about the legal needs and entitlements of British nationals or those with settled status.
- **Training for Legal Professionals:** Promote training in modern slavery for lawyers who act on behalf of defendants in police stations, so they can identify whether the suspect they are working with is also a victim of MSHT. This knowledge might mean they would suggest to their client to make a Section 45 defence and to encourage the relevant police force investigates a crime of modern slavery.
- **Knowledge Sharing Forums:** Advocate national legal associations (such as the UK's Law Society) Promote knowledge sharing forums for members.
- **Expansion of Legal Aid Coverage:** Advocate for legal aid to include free legal aid to apply for compensation through ClCA as currently the UK has a poor record of victims obtaining compensation as a result of harm.
- **Use of Slavery and Trafficking Prevention Orders:** Advocate for the wider use of Slavery and Trafficking Prevention Orders or Slavery and Trafficking Risk Orders as disruption tools through targeted awareness programmes aimed at lawyers embedded within police forces as well as operational police teams.

## 8. Conclusion

The research commissioned by RENATE has produced a rich account of the legal assistance provided in five European countries. It is valuable as it explores in some detail the work legal practitioners undertake with survivors of human trafficking and modern slavery. It illustrates the holistic response to survivors' legal needs that most legal practitioners who participated in the research seek to provide. Based on their accounts it is evident that their roles and the legal assistance they provide has clear benefits for survivors. Legal practitioners play a pivotal role in various aspects, including identifying individuals as victims of modern slavery and human trafficking, raising awareness about their rights and entitlements, providing information regarding available care and support options, assisting with immigration matters, offering guidance on engagement with criminal justice processes, and facilitating access to compensation. Moreover, as a trusted professional they accompany survivors on their recovery journey and in some cases continue to provide advice and advocacy in relation to emerging legal issues as they reintegrate into society.

This study is important as it documents the pathways to knowledge and skills that most legal practitioners have had to take in order to become more expert and effective legal practitioners who work with survivors of MHST. It reveals that formal legal education has not included knowledge about human trafficking and modern slavery in the curriculum, except in Albania, and has not included skills required to work with survivors. As a result, the legal practitioners in these five countries sought out relevant training on human trafficking, did their own research and reading about relevant legal frameworks, indicators of trafficking, and the phenomenon of human trafficking. Moreover, they had to learn about human trafficking and how to approach victims/survivors from colleagues and in turn they have trained other legal practitioners. Legal practitioners indicated their engagement in training once or twice a year, driven by changes in laws and policies, and the evolving landscape of human trafficking. This commitment to continuous learning highlights the necessity of staying updated in this field. Moreover, due to their strong commitment to their work, the practitioners had developed a variety of strategies to help improve legal practice including upskilling members of the legal profession.

The research also delineated the specific knowledge and skills essential for legal practitioners working with survivors of human trafficking and modern slavery to acquire. In fact, there are many similarities in the knowledge and skills required across the five countries. For example, practitioners stressed the importance of understanding national and international legal frameworks that dealt with human trafficking or modern slavery as well as understanding indicators of MSHT, and



what the phenomenon of MSHT looked like in their country. Significantly they also referred to the ways in which legal practitioners had to approach working with survivors and referred to being victim-centred and trauma informed. Being able to approach survivors with humility and respect were also recognized as skills that had to be acquired alongside the ability to build rapport and trust with survivors and to work in partnership with other organisations that also worked with the survivor.

Some of the legal practitioners who participated in the research are recognised as experts both nationally and internationally. This has enabled them to work at a strategic level. They have sought to improve the legal framework in their countries. For example, legal practitioners have played important roles in Albania and Spain in the development and advocacy for a unified human trafficking law. They have also developed guidance to improve the professional practice of lawyers, prosecutors and judges, and contributed to professional training in national and international contexts. The research also identified a number of common challenges. Practitioners in all five countries indicated that practitioners should embody a sense of compassion and humanity, as they provide holistic, empathetic, and high quality support to victims of MSHT. However, currently there are an insufficient number of lawyers with these skills. As a result, there is a lack of capacity to provide quality legal assistance to survivors. It was acknowledged that some form of accredited training for legal practitioners who work with survivors of human trafficking would be one remedy, particularly for those who are part of the legal aid provision.

In addition, legal practitioners with MSHT expertise are not available throughout some of the countries. Thus, there are geographical locations where access to human trafficking legal experts is limited. This situation was highlighted in both the UK and Albania.

In contrast to the UK, which has a unified law against human trafficking (the Modern Slavery Act 2015), the other countries, under scrutiny in this research lack unified laws specifically targeting MSHT. Legal practitioners in these countries noted how this absence made the work of identifying and supporting victims of trafficking harder. As a result, some legal practitioners, particularly in Albania and Spain reported being actively engaged in activities aimed at improving the legal framework in their countries. By seeking to create and pass unified laws on MSHT, these legal practitioners aim to achieve greater clarity and focus in addressing human trafficking within their respective jurisdictions.

In all the countries studied survivors of MSHT have a right to access compensation under article 15 of ECAT, however none of the five countries demonstrated that victims of the crime of trafficking or modern slavery received compensation for the harm done to them. Lack of access to free legal aid to make claims for compensation, bureaucratic procedures and lack of State funded compensation schemes accessible to victims of MSHT meant that the important outcomes GRETA noted have not been achieved:

“ Compensation fulfils multiple purposes: payment of reparation for injury, loss or harm caused by the offender, access to justice, empowerment of victims, as well as being seen as a form of punishment and deterrence of traffickers. As such, compensation plays a crucial role in the fight against human trafficking, not only as an instrument of restorative justice, but also by way of prevention and recognition by States of their failure to meet their human rights obligations<sup>179</sup>.

These challenges alongside the good practices developed by legal practitioners in their work with survivors have underpinned the country specific recommendations that have been made at the end of each chapter. It is hoped that the evidence provided in each country chapter along with the recommendations can help those with an interest improve legal practice in their country. In addition, to help aid this work, the legal practitioners who contributed to this research have suggested useful resources and training programmes they found valuable. These resources and trainings are provided in the Appendix 3.

179 GRETA (2023) EVALUATION REPORT SPAIN Third Round Evaluation Access to justice and effective remedies for victims of trafficking in human beings. P. 22. Accessed 08 01 24. <https://rm.coe.int/greta-evaluation-report-on-spain-3rd-evaluation-round-greta-2023-10-ac/1680ab8d0f>



**The recommendations proposed for each country aim to address critical gaps in legal assistance, collaborative responses, compensation schemes, and victim-centred support...**

The recommendations proposed for each country aim to address critical gaps in legal assistance, collaborative responses, compensation schemes, and victim-centred support for survivors of modern slavery and human trafficking. In Albania, the focus is on advocating for mandatory training programs for legal practitioners funded by legal aid, organising regular workshops for collaboration among professionals, and advocating for the establishment of a state compensation scheme. Holistic victim support also needs to be further promoted to ensure survivors receive comprehensive assistance. Promoting a unified human trafficking law is another key recommendation.

Bulgaria's recommendations emphasise enhanced legal support for victims of human trafficking, collaborative practices through specialist workshops and the establishment of a network of lawyers.

In Romania, there is an emphasis on the need for continuous professional development for legal practitioners, training on ethical conduct, advocacy for improvements in the legal framework, and regular updates on trafficking dynamics.

Spain's recommendations include the implementation of specialist training programs for legal practitioners, ensuring lawyers providing legal aid services receive specialised training, establishing networks for knowledge sharing, and promoting multi-agency collaboration to ensure a holistic response to human trafficking cases. In addition, promoting the organic human trafficking law introduced into Parliament in 2024 is another key recommendation.

In the United Kingdom, there is a pressing need to expand legal aid services by advocating for the inclusion of free legal advice in the Modern Slavery Victim Care Contract and by promoting training for legal professionals to identify and support victims of trafficking. Additionally, knowledge sharing forums and the wider use of Slavery and Trafficking Prevention Orders are recommended to enhance legal support and protection for victims.

These recommendations, if implemented, would contribute significantly to addressing the challenges faced by survivors of MSHT and improving the legal assistance and support available to them in each respective country.

Finally, based on the findings of this report and the ongoing work, the following recommendations are proposed to support RENATE.



## 8.1 Recommendations for RENATE going forward

1. RENATE could use the UN mechanisms e.g. the Universal Periodic Review (UPR), or Convention on Rights of the Child (CRC) and others to campaign / challenge each researched country specifically on their commitment to:
  - a. Ongoing continuous professional development / training in MSHT by way of upskilling all legal advocates who want the very best for all their clients.
  - b. Challenge the low level of funding made available to legal representatives of victims of trafficking that means that many lawyers must take on many cases in order to break even.
  - c. Ensure that all potential VoTs are given immediate legal aid in order to be able to understand and make the most appropriate decisions for themselves and their families.
  - d. Enable and credit those lawyers who are part of the much needed and growing pro-bono legal advocacy that comes to the assistance of so many VoTs.
  - e. That all researched countries might allow for the identification of VoTs by more than the police as this is not the case at the moment.
  - f. That all countries would work to be sure that those who are identified as VoTs are not stigmatised, ignored, sneered at, shamed, disregarded and their experience discounted as is evident in some of the countries researched.
2. RENATE would continue to press for the improved visibility of the issues that relate to MSHT at the Council of Europe especially at the Conference of INGOs.
3. That RENATE might build on this research by:
  - a. Looking to prepare and research what might be considered best practice across Europe as a precursor to advocating and campaigning for much needed change.
4. That RENATE would take up the challenge to create:
  - a. a database / hub of services across Europe
  - b. a Database of pro-bono legal advocates in all the RENATE countries and cover both rural and urban areas.
5. That RENATE would do all in its power either alone or with other networks to work to ensure that the growing migration concerns are not conflated with MSHT and that VoTs are identified and supported, including the provision of legal assistance.
6. That RENATE would continue its preventative work by working at raising awareness in schools across Europe so that teachers in places of care can be advocates and people of sanctuary where they suspect HT in the full knowledge that prevention will have the greatest impact on all situations.





## Appendix 1: Interview questions

### Interview questions for Legal Practitioners

1. Can you tell me about the legal assistance work you do with victims of human trafficking? Seeking to know which of the following form(s) of assistance they provide:
  - assistance through the identification process
  - assistance in relation to immigration status, for example making an asylum claim or seeking leave to remain/residence permit.
  - assistance while a victim considers participating in a criminal investigation and/or during a criminal investigation and prosecution.
  - assistance when a victim seeks compensation.
2. About how many victims of human trafficking have you provided legal assistance for in the last few years (over the last two, three, four or five years, depending on how long they have been doing this work)?
3. Do you work with victims who have experienced different forms of exploitation? Which forms? Do victims come from different countries? Which countries? Do forms of exploitation or nationality have an impact on your legal assistance? Can you explain how?
4. Can you tell me about the training you received which has helped you provide legal assistance to victims of trafficking?
5. Have you had any specialist training? Can you tell me what it is? When did you get it? Who provided it? What is/was the cost of training / how accessible it is?
6. Do you have to have any specific training or qualification to provide legal assistance to victims of human trafficking in (country)?
7. What training do you think legal practitioners should have to better support victims of trafficking:
  - for identification purposes
  - to deal with immigration and leave to remain issues
  - to support victims in the criminal justice process
  - or to seek compensation for victims?
8. Are there any specific resources or training available in your country or at an international level that you would recommend for legal practitioners who are or want to provide legal assistance for victims of human trafficking.
9. Have you helped develop and/or provide training around human trafficking to legal professionals? If yes, please provide a short description of this training and if it leads to a recognized qualification.
10. How are trafficking cases funded? Who covers your costs to work on a trafficking case (how might these cases differ from other type of cases)?
11. What are some of the key practical challenges you face when working on a trafficking case? (For example, is there lack of funding for expert reports/difficulties with interpretation/translation?)



## Appendix 2: Survey questions

### Part I

Country (tick box)

- UK
- Albania
- Germany
- Spain
- Romania
- Bulgaria

Town \_\_\_\_\_

Organisation (tick box)

- Legal Firm
- NGO
- Statutory Body
- Law Enforcement
- Other \_\_\_\_\_

### Part II

1. Can you tell us about the legal assistance work you do with victims of human trafficking. Please tick all those below that apply.

- provide assistance through the identification process
- provide assistance in relation to immigration status, for example making an asylum claim or seeking leave to remain/residence permit.
- provide legal assistance while a victim considers participating in a criminal investigation and/or during a criminal investigation and prosecution.
- provide legal assistance when a victim seeks compensation.
- Other \_\_\_\_\_

2. We would like to know about the initial education/training you received which has helped you provide legal assistance to victims of human trafficking. Please answer the questions below.

- 2.1 Did you receive information about human trafficking in your training as a legal practitioner?  Yes |  No
- 2.2 Did you receive information about supporting asylum seekers or dealing with immigration status issues in your training as a legal practitioner?  Yes |  No
- 2.3 Did you receive information about supporting a victim of a crime in the criminal justice process in your training as a legal practitioner?  Yes |  No
- 2.4 Did you receive information about supporting an application for compensation for victims of a crime in your training as a legal practitioner?  Yes |  No



3. Have you received training on human trafficking and modern slavery?  Yes |  No  
 (If yes go to question below)

How many times have you accessed training in the last three years?

- a) Once a year
  - b) Twice a year
  - c) More than twice a year
  - d) Once every 2/3 years
4. How do you stay updated on the latest developments and changes in legislation and policies related to human trafficking in your country?

5. We would like to know about any specialist training you have undertaken in order to help you provide legal assistance for victims of human trafficking.

- 5.1 Did you receive any specialist training about human trafficking so you could provide legal assistance to help with the identification of a person as a victim of human trafficking?  Yes |  No

If yes, who provided it? \_\_\_\_\_

- 5.2 Did you receive any specialist training in how to support asylum seekers with their asylum claim or in dealing with immigration status issues?  Yes |  No

If yes, from whom? \_\_\_\_\_

- 5.3 Did you receive any specialist training about supporting a victim of a crime in the criminal justice process?  Yes |  No

If yes, from whom? \_\_\_\_\_

- 5.4 Did you receive information about supporting an application for compensation for victims of a crime in your training as a legal practitioner?  Yes |  No

- 5.5 Are there any particular areas within your legal practice that you feel would benefit from additional support or resources when dealing with cases of human trafficking?



6. Have you helped develop and/or provide training around human trafficking to legal professionals? If yes, provide a short description of this training and if it leads to a recognised qualification:  Yes |  No

7. Tell us what training you think legal practitioners need to improve the legal assistance to victims of human trafficking in your country:

8. We are seeking to create a database of training and other resources that would aid legal practitioners in their work with victims of human trafficking. We would appreciate it if you could provide us with information about training or resources we could share (title and web link):

9. What are some of the key practical challenges you face when working on a trafficking case?

10. Finally, are there any specific examples of legal practitioners or practices that provide legal assistance to victims of human trafficking that you believe exemplify good practice?



## Appendix 3: Resources and training recommended by legal practitioners in five European countries

The resources and training events that were shared by legal practitioners are listed below and are organized based on the recommendations made in each country. What is evident is that some of these resources and training events are not country specific but may be of use to practitioners from other countries.

Legal practitioners in all countries referred to the Human Rights Education for Legal Professionals (HELP) courses for lawyers which highly recommended to those seeking to improve their practice in working with victims of human trafficking.

### European Resources and Training

Useful resources
OSCE (2022) <i>National Referral Mechanisms – Joining Efforts to Protect the Rights of Trafficked Persons: A Practical Handbook</i> – Second Edition. <a href="https://www.osce.org/files/f/documents/f/5/510551_2.pdf">https://www.osce.org/files/f/documents/f/5/510551_2.pdf</a>
Justice At Last: Know your rights to claim compensation. <a href="https://www.justiceatlast.eu/">https://www.justiceatlast.eu/</a>
Useful training
Human Rights Education for Legal Professionals (HELP) of the Council of Europe. This free online course is primarily addressed to legal professionals (criminal judges, prosecutors, lawyers or senior court staff) and law enforcement and other state authorities as well as NGOs dealing with individuals affected by trafficking in human beings. The course is designed to equip practitioners to effectively apply the standards developed under the Council of Europe Convention on Action against Trafficking in Human Beings (the CoE Convention) in their daily work. <a href="https://www.coe.int/en/web/anti-human-trafficking/help-online-training-course">https://www.coe.int/en/web/anti-human-trafficking/help-online-training-course</a> See background and summary of course. <a href="https://help.elearning.ext.coe.int/pluginfile.php/123144/course/section/19148/HELP%20Course%20brief%20Combating%20Trafficking%20in%20Human%20Beings.pdf">https://help.elearning.ext.coe.int/pluginfile.php/123144/course/section/19148/HELP%20Course%20brief%20Combating%20Trafficking%20in%20Human%20Beings.pdf</a>
Kids in Need of Defence, Training on trauma-informed care for unaccompanied migrating children: <a href="https://www.youtube.com/watch?v=h4I3KtNfESQ&amp;list=PL3BUz-X6eFcopggVO4b9NqprkcO2ij-nX">https://www.youtube.com/watch?v=h4I3KtNfESQ&amp;list=PL3BUz-X6eFcopggVO4b9NqprkcO2ij-nX</a>



## Albania

### Useful resources

**Different & Equal** (2019) *Study Report On The Need Of Drafting A Special Law For The Protection Of Victims Of Trafficking In Albania.*

<https://differentandequal.org/wp-content/uploads/2019/10/Study-report-on-the-need-of-drafting-a-special-law-for-the-protection-of-victims-of-trafficking-in-albania.pdf>

<https://differentandequal.org/en/raport-studimor-mbi-nevojen-e-hartimit-te-nje-ligji-te-vecante-per-mbrojtjen-e-viktimave-te-trafikimit-ne-shqiperi/>

**Different & Equal** (2022) [manual for lawyers working with victims of crime] Udhëzues për avokatët dhe juristët që ofrojnë ndihmë ligjore për viktimat e krimit. <http://differentandequal.org/en/udhezues-per-avokatet-dhe-juristet-qe-ofrojne-ndihme-ligjore-per-viktimat-e-krimit/>

**Different & Equal** (2022) *Participation and Representation of Victims of Trafficking.*

<https://differentandequal.org/wp-content/uploads/2022/11/Participation-and-Representation.pdf> OR

<https://differentandequal.org/en/pjesemarrja-dhe-perfaqesimi-i-viktimave-te-trafikimit>

**Human Rights in Democracy Center** (HRDC) is non-governmental, non-partisan and non-profit organization aiming to work for the respect, protection and fulfilment of human rights in Albania, and awareness of the Albanian society on the rule of law and human rights, with particular focus on vulnerable groups of society, such as women/girls, minors, minorities, etc. <https://www.hrdc.al/index.php>

**Reclaim Your Safety: the PREVICT awareness campaign**

PREVICT – Victim Support Europe ([victim-support.eu](http://victim-support.eu))

### Useful training

Legal practitioners referred to organisations providing training on human trafficking, but some recommended the type of training they had participated in.

**School of Magistracy Albania** organises training courses for judges, prosecutors and lawyers on topics related to trafficking in person. The link is to a training event which covered human trafficking as a serious crime, the instruments of the European council and European Union in fighting it with a comparative picture with Albanian law. The situation of victims, and use of technology in gathering evidence.

<https://www.magjistratura.edu.al/sq/lajme/aktivitete/aktivitet-trajnuet:-%22trafikimi-i-qenieve-njerezore-personave-te-rritur-dhe-te-mitur%22/>

<https://www.magjistratura.edu.al/sq/programi-i-trajnimeve>

**OSCE**, Simulation Training for Identification, Referral And Protection Of Victims And Proactive Trafficking Investigation Of Human Beings, 2021

[https://www.osce.org/files/f/documents/c/4/513904\\_0.pdf](https://www.osce.org/files/f/documents/c/4/513904_0.pdf)



## Bulgaria

### Useful training

#### Council of Europe HELP online platform

There are several courses, which I think are relevant: Combating Trafficking in Human Beings, Procedural Safeguards in Criminal Proceedings and Victims' Rights, Violence Against Women and Domestic Violence, Child-friendly Justice, Access to Justice for Women, International Cooperation in Criminal Matters. <https://help.elearning.ext.coe.int/>



## Romania

### Useful resources

Promotion of the Rights of Trafficked Persons in Bulgaria, Romania and Slovakia with Emphasis on Legal Support – A Human Rights-Based Approach. <https://www.nhc.nl/finishedprojects/promotion-rights-traffickedpersons-bulgaria-romania-slovakiaemphasis-legal-support-humanrights-based-approach/>

Strengthening Legal Knowledge for Better Protection of Victims of Human Trafficking Rights in Judicial Proceedings <https://humanrightslawyers.eu/eu-projects/strengthening-legal-knowledge-for-a-better-protection-of-victims-of-human-trafficking-rights-in-the-judicial-proceedings/>

*Manual For Lawyers, Prosecutors And Judges: Strengthening Legal Knowledge For A Better Protection Of Victims Of Human Trafficking Rights In The Judicial Proceedings*, April 2017 <https://project-ecjusticeprogram.prorefugiu.org/wp-content/uploads/2017/05/WS2-D7.1.Legal-Manual-EN.pdf>

### Useful training

Legal practitioners referred to organisations providing training on human trafficking, but some recommended the type of training they had participated in.

OSCE's live simulation training courses "Combating Human Trafficking along Migration Routes", and CEPOL 57/2022 "Victim protection" and CEPOL 6/2023 "Child trafficking, forced criminality and forced begging". <https://www.osce.org/combating-human-trafficking>

Two trainings, for Romanian and Bulgarian lawyers, prosecutors and judges, were organized in Bucharest Romania (10 May 2017 -12 May 2017) (20 October 2017 – 21 October 2-017) as part of the transnational project Strengthening lawyers' legal knowledge and cooperation with prosecutors and judges, to protect victims of human trafficking rights in the judicial proceedings, implemented with the financial support of the European Commission, the Justice Program JUST/2015/JTRA/AG/EJTR/8686. <https://project-ecjusticeprogram.prorefugiu.org/wp-content/uploads/2017/10/WS3-D13.1.Training-Modules-EN.pdf>



### Useful resources

Guía De Criterios De Actuación Judicial Frente A La Trata De Seres Humanos  
<https://confilegal.com/wp-content/uploads/2018/11/GUIA-CRITERIOS-ACTUACION-JUDICIAL-FRENTE-TRATA-SERES-HUMANOS.pdf>

**INTERVENCIÓN JURÍDICA CON VÍCTIMAS DE TRATA** – Proyecto Esperanza- hacemos\_sensibilizacion\_formacion\_Intervencion\_juridica\_web.pdf  
[https://www.proyectoesperanza.org/wp-content/uploads/2019/05/hacemos\\_sensibilizacion\\_formacion\\_Intervencion\\_juridica\\_web.pdf](https://www.proyectoesperanza.org/wp-content/uploads/2019/05/hacemos_sensibilizacion_formacion_Intervencion_juridica_web.pdf)

**CENDOJ** (Judicial Documentation Centre) database of case law on victims of trafficking in human beings.  
[https://www.poderjudicial.es/portal/site/cgpj/menuitem.87fc234e64fd592b3305d5a7dc432ea0/?vgnextoid=719a3f6f872b6510VgnVCM1000006f48ac0aRCRD&vgnnextlocale=en&lang\\_chosen=en](https://www.poderjudicial.es/portal/site/cgpj/menuitem.87fc234e64fd592b3305d5a7dc432ea0/?vgnextoid=719a3f6f872b6510VgnVCM1000006f48ac0aRCRD&vgnnextlocale=en&lang_chosen=en)

The websites of NGOs providing care and support for victims of human trafficking were considered useful places to obtain information.

**Escuela Diaconía**  
<https://escueladiaconia.es/>

**Fundación Cruz Blanca**  
<https://www.fundacioncruzblanca.org/aula-formacion>

**APRAMP**  
<https://apramp.org/documentos/>

**Proyecto Esperanza**  
<https://www.proyectoesperanza.org/apoyo-integral-especializado/>

### Useful training

**Proyecto Esperanza** Offer of specialized courses #contralatrata  
 Seven training lines for professional groups  
<https://www.proyectoesperanza.org/sensibilizacion-en-la-lucha-contra-la-trata-de-personas/formacion/>

Course on the protection of victims of trafficking at the illustrious Bar Association of Madrid.  
[https://www.icam.es/cursos/cache/P\\_CEI\\_descripcion\\_24460.html](https://www.icam.es/cursos/cache/P_CEI_descripcion_24460.html) and all trainings. <https://formacion.icam.es/ya-disponible-la-nueva-programacion-formativa-del-centro-de-estudios-del-icam-para-2024/>

Bar Association of Sevilla

**HELP Online Training Course** – A free online course on human trafficking has been developed by the European Programme for Human Rights Education for Legal Professionals (HELP) of the Council of Europe.  
<https://help.elearning.ext.coe.int/course/view.php?id=1936>






## United Kingdom

### Useful resources

**ANTI TRAFFICKING AND LABOUR EXPLOITATION UNIT (ATLEU):** ATHUB: The anti-trafficking information resource. <https://athub.org.uk>

**ATLEU** Advice Line. <https://atleu.org.uk/advice/line>

**Crown Prosecution Service**, (2020, updated 2022) *Modern Slavery, Human Trafficking and Smuggling Guidance*. This guidance provides practical and legal guidance to prosecutors dealing with cases of modern slavery, human trafficking and smuggling. This guidance also deals (below) with the application of the statutory defence set out in section 45 of the Modern Slavery Act 2015 and its interplay with other non-punishment principles <https://www.cps.gov.uk/legal-guidance/modern-slavery-human-trafficking-and-smuggling>

Patricia Hynes, Helen Connolly and Laura Durán (2022) *Creating Stable Futures: Human Trafficking, Participation and Outcomes for Children*. <https://www.ecpat.org.uk/Handlers/Download.ashx?IDMF=7c28a8bd-c9f8-4082-8d3a-aec642798eb3>

IBA Legal Policy & Research Unit and British Institute of International and Comparative Law (2023) Human trafficking and the rights of trafficked persons: An exploratory analysis on the application of the non-punishment principle. <https://www.ibanet.org/document?id=IBA-BIICL-Non-punishment-principle-report>

**Independent Anti-Slavery Commissioner's website, includes a wide range of resources and reports.** <https://www.antislaverycommissioner.co.uk/>

Philippa Southwell, Michelle Brewer, Ben Douglas-Jones QC (2018) *Human Trafficking and Modern Slavery: Law and Practice*, London: Bloomsbury Professional

Mark Symes (ed.) (2016) *Immigration and Asylum Handbook A Guide to Publicly Funded Legal Work under the Immigration and Asylum Accreditation Scheme*, 'Ch 6: Victims of Trafficking', London: The Law Society

**The Human Trafficking & Modern Slavery Expert Directory.** The Human Trafficking & Modern Slavery Expert Directory was established to bring together the world's leading professionals working in counter-human trafficking and modern day slavery. Our directory provides access to specialists from around the globe, from all different professions and disciplines that work in this sector. <https://www.humantraffickingexperts.com/>

**The Law Society** (2020) Victims of modern slavery – guidance for solicitors. <https://www.lawsociety.org.uk/topics/immigration/victims-of-modern-slavery-guidance-for-solicitors>

Rachel Witkin and Katy Robjant (2018) *The Trauma-Informed Code Of Conduct For all Professionals working with Survivors of Human Trafficking and Slavery*, London: Helen Bamber Foundation. <https://www.helenbamber.org/sites/default/files/2022-01/HBF%20Trauma%20Informed%20Code%20of%20Conduct%202nd%20Edition.pdf>

### Useful training

**ATLEU** <https://atleu.org.uk/training>

**ATLEU ATLAW** <https://atleu.org.uk/news/2023/9/20/atlaw-2023> and ATLAW Nov 23 to March 24 Programme Outline. <https://drive.google.com/file/d/1FjTsCRn0K5HmQsbLOTMt64-ZsVi50dT/view> and short course

**The Law Society** – 2023 course on Immigration and Asylum Update 2023: Modern Slavery and Human Trafficking. <https://learn.lawsociety.org.uk/product/immigration-and-asylum-update-modern-slavery-and-trafficking/>

**DG Legal** <https://dglegal.co.uk/training/>



**Contact RENATE Foundation**

[www.renate-europe.net](http://www.renate-europe.net)

[www.facebook.com/renateurope](https://www.facebook.com/renateurope)

[communications@renate-europe.net](mailto:communications@renate-europe.net)

**Founded and based in Den Bosch,  
The Netherlands**

**Chamber of Commerce Number 17271216**

Generously Supported by



CONRAD N. HILTON  
FOUNDATION



9 789694 892429