



Detecting and protecting victims of trafficking in hotspots

Ex-post evaluation

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Detecting and protecting victims of trafficking in hotspots

Study

This study was requested by the Committee on Women's Rights and Gender Equality (FEMM) in November 2018 and is a follow-up to a European implementation assessment carried out by EPRS in 2016 on the Human Trafficking Directive (2011/36/EU). It goes into greater detail than an EPRS briefing on the topic published in February 2019.

The study focuses on the issue of trafficking in human beings in the specific context of hotspots, i.e. first reception facilities for migrants and/or refugees in Greece and Italy. During the course of the eighth parliamentary term, the European Parliament stressed the need to improve early identification of victims of trafficking at EU borders and to adopt more gender-sensitive policies in this context. This study presents the state of play relating to these challenges.

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Executive summary

Trafficking in human beings occurs in every country in the world, and has strong gender dimensions. In Europe, sexual exploitation is the most widespread form of trafficking, followed by forced labour. Women and girls comprise the majority of all victims of trafficking. At EU level, most victims of trafficking are detected in their countries of citizenship. However, trafficking can also have strong cross-border dimensions.

This study focuses on the issue of trafficking in human beings in the first reception facilities for migrants and/or refugees coming into the EU by sea that are operated in Greece and Italy as part of the EU 'hotspot approach' launched in 2015. Currently nine hotspots are located on the EU's external borders under this approach, for the initial reception, identification and registration of asylum-seekers and other migrants: five are located in Greece and four in Italy.

In the context of the ongoing migration crisis, it is more than likely that among the migrants and refugees seeking international protection after reaching EU shores by sea (a large number of whom come from conflict zones), many have been victims of trafficking already in their countries of origin. Furthermore, during their journeys to Europe, asylum-seekers and migrants are exposed to additional risks of exploitation. Therefore, the study analyses the difficulties related to victim detection in hotspots.

While in theory this stage in a migrant or refugee's arrival in Europe provides the first opportunity to detect victims of trafficking and ensure an adequate follow-up procedure, the task of detecting victims of trafficking is fraught with many practical difficulties. Furthermore, the risks of trafficking do not disappear when migrants and refugees reach EU soil. While waiting in hotspots for their papers to be processed, they are still at risk of falling victim to exploitative individuals and/or networks. Most of the hotspots are not designed in a protection-sensitive manner and all people staying in hotspot facilities, but especially women and children, can end up in dangerous situations. The study therefore looks at the extent to which measures are taken to prevent exploitation and violence.

At EU level, trafficking in human beings is recognised as a violation of fundamental rights and is explicitly prohibited by the EU Charter of Fundamental Rights. Many efforts have been made to step up the fight against trafficking, and since 2009 these efforts have been coordinated by an EU anti-trafficking coordinator. In the specific context of hotspots, Member States have full responsibility for setting up and managing reception and registration infrastructure. When it comes to the detection of victims of trafficking, they nonetheless have to comply with a number of EU requirements, as set out in the Anti-Trafficking Directive, the Reception Conditions Directive and the Qualification Directive.

In practice, a considerable number of actors are involved in the procedures for identifying vulnerabilities. These include national authorities, non-governmental organisations (NGOs), EU agencies and international organisations. As the hotspot is usually the first place where migrants have a chance to have their vulnerability recognised, the roles of the actors involved in the process of vulnerability screening is key. The identification and referral of vulnerable people is thus a shared responsibility of all actors operating in the hotspots.

The living conditions in hotspots in Italy and Greece are very different, and the study takes due consideration of these specificities.

The situation in Greece

The five Greek hotspots are located on the islands of Chios, Kos, Leros, Lesbos and Samos. In March 2016, an agreement was concluded between the EU and Turkey (the 'EU-Turkey Statement'), according to which all new irregular migrants and asylum-seekers arriving from Turkey on the Greek

islands and whose applications for asylum have been declared inadmissible should be returned to Turkey. The application of the EU-Turkey Statement led to longer stays in the hotspots. Whereas before the adoption of the Statement, migrants arriving were transferred to the mainland once the initial identification, registration and fingerprinting had been completed in the hotspots, the situation changed with application of the Statement's provisions. New arrivals to Greece were, from then on also, in addition to the above-mentioned formalities, to lodge their asylum application directly at the hotspot; this requirement changed the transit period from a few days to several months (until a decision is taken). Furthermore, despite the application of the EU-Turkey Statement, the Eastern Mediterranean route (from Turkey to Greece) has remained a busy migratory route into Europe and accounted for more than half of irregular migrants detected at EU borders in April 2019. As a result, the Greek hotspots are affected by overcrowding, and the already poor reception and living conditions in the hotspots have worsened. As regards victims of trafficking, this has important consequences.

First, many migrants who are nationals of countries prejudged to be producing 'economic migrants' rather than 'refugees' are automatically detained and expected to be returned to Turkey. They are examined under an accelerated procedure that can affect opportunities for vulnerability screening. Furthermore, a lack of professional staff in hotspots leads to challenges in the detection of victims of trafficking, in addition to significant procedural delays.

Moreover, the extremely precarious living conditions in Greek hotspots (overcrowding, lack of dedicated space for children and single women, etc.) increase the risks of further exploitation for vulnerable groups while they are waiting for their papers to be processed and/or their transfers to other locations to be effective. Children represent the largest vulnerable group on the Greek islands and the security gaps in the hotspots affect them, and women, disproportionately.

Overall, in spite of recent efforts to detect victims of trafficking in hotspots (including the adoption of dedicated procedures and of a functioning system of guardianship for unaccompanied children), in Greece there is a high probability that many victims remain undetected.

The situation in Italy

The four Italian hotspots are located in Lampedusa, Messina, Pozzallo and Taranto. In February 2017, in an attempt to reduce the number of arrivals of asylum-seekers and migrants on its shores, Italy signed a memorandum of understanding with Libya, committing to provide support to the Libyan authorities to stem the influx of migrants. This led to a significant decrease in arrivals on Italian shores. In February 2019, two of the hotspots (Lampedusa and Pozzallo) were empty and the one in Messina hosted only 23 people. The current situation in the Italian hotspots is thus very different from the one in Greece.

However, challenges in the detection of victims of trafficking persist, and there is still a lack of clear dedicated procedures to identify and protect victims. Nevertheless, the reception conditions on the other hand have improved. In contrast with Greece, Italian hotspots only serve registration, security screening and immediate assistance purposes. People usually stay in hotspots only a few days before being transferred to other facilities. As in Greece, Italy recently adopted a law for the protection of unaccompanied children.

The overall improvement in the reception conditions in Italy is closely linked to the situation in Libya. At many levels, cooperation with Libya has shifted many of the issues related to trafficking from the European shores to Libya. Recent reports show that migrants and refugees who reach Libya endure dreadful situations there, such as arbitrary detention, gang rape, slavery and human trafficking. Italy and the EU have been called upon on many occasions to ensure that their cooperation with and assistance to the Libyan authorities is in line with international human rights and refugee law.

Indeed, this cooperation entails risks of violating the fundamental principle of international law of 'non-refoulement', which could apply to victims of trafficking.

The position of the eighth parliamentary term and the challenges ahead

On the issue of trafficking in the context of migration, during its eighth term, Parliament stressed that asylum-seekers, refugees and migrants are particularly vulnerable to trafficking. It also noted the key role of EU agencies in the early identification of victims at EU borders and emphasised that the hotspot approach should 'not be limited to quick processing and clearing of backlogs, but should include a proportionate anti-trafficking component geared towards the effective referral of potential victims'.

Under the 'hotspot approach', several European agencies are deployed in hotspots to assist Italy and Greece in their tasks. In particular, the European Asylum Support Office (EASO) support teams help to process asylum cases as quickly as possible and the European Border and Coast Guard Agency (Frontex) helps Member States by coordinating the return of irregular migrants. During the course of the last parliamentary term, the European Commission proposed a revision of EASO's mandate, as part of the overall reform of the common European asylum system (CEAS). However, Council and Parliament failed to reach a compromise on this package. Furthermore, the negotiations took place in a context where the application of the EU-Turkey Statement in Greece and the extent of the tasks performed by EASO in hotspots have been rather controversial, with formal complaints submitted to the European Ombudsman. It remains to be seen how the reform of the asylum system – and the hotspot approach – will be handled by the new European Commission and the MEPs of the ninth term.

As regards the gender-related aspects of the issue, the Committee on Women's Rights and Gender Equality was particularly active during the last term. There is a pressing need for gender-sensitive procedures for victim identification and protection, especially in the field of trafficking, which is highly gendered. Whereas much effort has been made and guidance provided to mainstream this dimension at EU level, further improvement (such as more female staff in hotspots, prevention of gender-based violence, better gender mainstreaming in practices) and political support are required.

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List of acronyms

AMIF	Asylum, Migration and Integration Fund
CEAS	Common European Asylum System
CEPOL	EU Agency for Law Enforcement Training
CoE	Council of Europe
EASO	European Asylum Support Office
ECA	European Court of Auditors
ECRE	European Council on Refugees and Exiles
EIGE	European Institute for Gender Equality
EMN	European Migration Network
EU ATC	EU Anti-Trafficking Coordinator
Eurojust	EU Judicial Cooperation Unit
Europol	European Police Office
FRA	EU Agency for Fundamental Rights
Frontex	European Border and Coast Guard Agency
GRETA	Group of experts on action against trafficking in human beings
IOM	International Organization for Migration
NGO	non-governmental organisation
NREMs	EU network of national rapporteurs or equivalent mechanisms
OSCE	Organization for Security and Co-operation in Europe
SOPs	standard operating procedures
UN	United Nations
UNHCR	Office of the United Nations High Commissioner for Refugees
UNODC	United Nations Office on Drugs and Crime

Methodological note

This ex-post evaluation was requested by the Committee on Women's Rights and Gender Equality (the FEMM committee) in November 2018. It focuses on the issue of trafficking in human beings in the specific context of hotspots, i.e. first reception facilities for migrants and/or refugees.

The study therefore focuses on the nine hotspots currently operating in Italy (located in Lampedusa, Messina, Pozzallo and Taranto) and in Greece (located on the islands of Chios, Kos, Leros, Lesvos and Samos). Other reception facilities for migrants arriving by sea in Europe are also operated in Spain (notably in the enclaves of Ceuta and Melilla), but as the Spanish authorities have not requested any EU support for these facilities, they are not operated as 'hotspots' and are thus outside the scope of this study.

During the course of the eighth parliamentary term, the European Parliament stressed the need to improve early identification of victims of trafficking at EU borders and the need to adopt more gender-sensitive policies in this context. It also stressed that the hotspot approach should include an anti-trafficking component geared towards the effective referral of potential victims to competent authorities and services. These aspects are the guiding threads of this study. Furthermore, in accordance with the FEMM committee's mandate, this study pays special attention to the gender-related aspects of the issues presented.

The analysis is based on primary sources and official EU documentation, including reports and studies published by the European Commission under the EU legal and policy framework to address trafficking in human beings, and relevant EU agencies. It also builds on reports by regional organisations (such as the Council of Europe and the Organization for Security and Co-operation in Europe (OSCE)), international organisations (the Office of the United Nations High Commissioner for Refugees – UNHCR, the United Nations Office on Drugs and Crime – UNODC, and the International Organization for Migration – IOM, in particular), and non-governmental organisations (NGOs). It also uses academic research and media sources, while taking into consideration information and inputs from the Office of the EU Anti-trafficking Coordinator and other relevant services of the European Commission.

The study was peer-reviewed internally by colleagues from EPRS and submitted for comments to the FEMM committee secretariat.

1. Trafficking in the context of hotspots: background and scope

Trafficking in human beings is defined at global level as:

'the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs'.¹

According to the UN, trafficking in human beings occurs in every country in the world and, notwithstanding significant variations across countries and regions, trafficking for the purpose of sexual exploitation is the most commonly detected form of exploitation, followed by forced labour. Other forms of trafficking include forced marriage (more commonly detected in south-east Asia), trafficking of children for illegal adoption (recorded in Central and South America), trafficking for forced criminality (mainly reported in western and southern Europe), trafficking for organ removal (primarily detected in north Africa, central and south-eastern Europe, and eastern Europe), and trafficking for exploitation in begging or for the production of pornographic material (reported in various parts of the world).²

Some common factors conducive to human trafficking are difficult local conditions, such as poverty, lack of social or economic opportunity, and dangers arising from conflict or instability, all of which push populations to seek safety and security elsewhere. According to the December 2018 Global report on trafficking in persons by the United Nations Office on Drugs and Crime (UNODC),³ conflict and accompanying conditions, such as weak rule of law, lack of access to basic needs, exploitation by armed groups, etc., is particularly instrumental in increasing people's vulnerability to trafficking. The report also notes that most victims of trafficking are detected in their countries of citizenship. Nevertheless, trafficking of human beings can also have strong cross-border dimensions, and wealthy countries are more likely to be destinations for victims that are detected.

1.1. EU framework

At EU level, trafficking in human beings is recognised as a violation of fundamental rights and is explicitly prohibited by the EU Charter of Fundamental Rights in its Article 5.⁴

The main instrument at EU level for tackling trafficking in human beings is Directive 2011/36/EU⁵ (hereafter referred to as the Anti-trafficking Directive), adopted in 2011. The directive was intended to extend the scope of Framework Decision 2002/629/JHA⁶ and of the two key international legal

¹ Article 3 of the [UN Protocol to Prevent, Suppress and Punish Trafficking in Persons](#).

² UN 2018 [global report on trafficking in persons](#). As underlined in the report, the detection of forms of trafficking may partly reflect the ways in which countries have chosen to criminalise different forms of exploitation.

³ Ibid.

⁴ [Charter of Fundamental Rights of the European Union](#).

⁵ [Directive 2011/36/EU](#) on preventing and combating trafficking in human beings and protecting its victims.

⁶ [Council Framework Decision](#) of 19 July 2002 on combating trafficking in human beings.

instruments in this field: the 2000 United Nations (UN) Palermo Protocol⁷ and the 2005 Council of Europe Convention.⁸ Indeed, the international and European framework before the entry into force of the 2011 directive allowed for reservations in crucial areas such as extraterritorial jurisdiction.⁹ It was also insufficient when it came to ensuring that criminals were brought to justice and that victims received adequate assistance, protection and compensation.¹⁰

The Anti-trafficking Directive established minimum standards (notably in the definition of criminal offences and sanctions) and introduced common provisions to strengthen the prevention of the crime and the protection of victims. It also reinforced the role and mandate of the EU Anti-trafficking Coordinator¹¹ (EU ATC, established as part of the Stockholm programme).¹² The EU ATC is responsible for improving coordination and coherence among EU institutions, EU agencies, Member States and international actors, and for developing existing and new EU policies to address trafficking in human beings.

The EU network of national rapporteurs or equivalent mechanisms (NREMs) was established in response to Council conclusions of June 2009.¹³ The European Commission, via the office of the EU ATC, has since worked to facilitate and strengthen the work of the EU network of NREMs, in order to allow for enhanced information sharing and exchange of best practice, as well as to ensure the best possible coordination of tasks at EU and national level.

In 2012, to complement the directive and support its implementation, the European Commission also adopted the EU strategy towards the eradication of trafficking in human beings¹⁴ for the 2012-2016 period. The EU civil society platform against trafficking in human beings,¹⁵ bringing together around 100 NGOs from all over the EU and beyond, was launched in 2013 as one deliverable of the EU strategy.

Building on the strategy and ongoing efforts to fully implement the directive,¹⁶ in December 2017 the European Commission adopted the communication 'Reporting on the follow-up to the EU strategy towards the eradication of trafficking in human beings and identifying further concrete actions',¹⁷ focusing on a set of targeted priorities: countering the culture of impunity by disrupting the business model and untangling the trafficking chain of this complex crime; improving victims'

⁷ The [Protocol](#) to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (the Palermo Convention) has been ratified by all EU Member States, as well as the EU.

⁸ The [Council of Europe Convention](#) on Action against Trafficking in Human Beings has been ratified by all EU Member States.

⁹ These include reservations relating to Article 31 of the Council of Europe Convention. To date, 21 EU Member States have applied the right not to apply the jurisdiction rules laid down in the convention partly or in full. See: [Chart of signatures and ratifications](#) of Treaty 197.

¹⁰ European Commission, [Impact Assessment](#) accompanying the proposal for a Council Framework Decision on preventing and combating trafficking in human beings, and protecting victims, repealing Framework Decision 2002/629/JHA, SEC(2009) 358, p. 11.

¹¹ For further details: European Commission's dedicated [webpage](#).

¹² The [Stockholm programme](#) – An open and secure Europe serving and protecting the citizens – was adopted in 2009 and provided a framework for EU action on the issues of citizenship, justice, security, asylum, immigration and visa policy for the 2010–2014 period.

¹³ See [EU network](#) of national rapporteurs or equivalent mechanisms on trafficking in human beings.

¹⁴ European Commission, the [EU strategy](#) towards the eradication of trafficking in human beings 2012-2016.

¹⁵ See [EU civil society platform](#) and ePlatform against trafficking in human beings.

¹⁶ See European Commission, [overview](#) of EU anti-trafficking action 2012-2016.

¹⁷ European Commission, communication [Reporting on the follow-up to the EU strategy towards eradication of trafficking in human beings and identifying further concrete actions](#), COM(2017) 728 final.

access to their rights; and ensuring that the European Union's internal and external actions provide a coordinated response. Two further cross-cutting actions include gathering statistical data and ensuring that EU funding matches policy priorities and objectives.

In addition, the fight against trafficking in human beings in the EU for all forms of exploitation is one of the priorities of the EU policy cycle for organised and serious international crime 2018-2021,¹⁸ as adopted by the Council on 18 March 2017.¹⁹

The role of relevant EU agencies in the matter has moreover been significantly stepped up. In 2011, seven EU JHA agencies²⁰ issued a joint statement, with the commitment to address trafficking in human beings in a coordinated, coherent and comprehensive manner.²¹ The statement was renewed in June 2018, in accordance with the above-mentioned 2017 communication,²² with the additional involvement of three EU agencies.²³

The gradual increase in measures coordinated at EU level considerably improved data collection and provided grounds for evidence-based policies. The gathering and reporting of statistics on trafficking in human beings is explicitly required by Articles 19 and 20 of the Anti-trafficking Directive.

However, although data collection has improved vastly across the EU, the data provided hereafter reflect the cases that have come to the attention of the authorities: they do not account for all the trafficked people who have not been identified. Indeed, trafficking remains a crime that is still very much under-reported. This under-reporting might be due to its coercive nature. It might also be due to low self-identification: victims of trafficking may not be aware that they are 'victim of trafficking' per se, i.e., they may not have an adequate understanding of the concept of this crime and hence the protection they are entitled to. As a result of under-reporting, many victims still go undetected.

1.2. Trafficking in the EU

As noted above, at EU level a clearer understanding of the phenomenon has been enabled by the increasing improvement in data collection across the Member States and better exchange of

¹⁸ The policy cycle is a methodology adopted in 2010 to address the most important criminal threats affecting the EU. Each cycle lasts four years and optimises coordination and cooperation on chosen crime priorities. See, for further information, the Council [dedicated webpage](#).

¹⁹ Europol, [EU policy cycle – Empact](#). It should be however noted that the European Commission's second progress report on the fight against trafficking in human beings (2018) indicates that, while the majority of Member States' reports mention trafficking for sexual exploitation as the most frequent form, information on the actions taken in the Member States demonstrate a tendency to focus on other forms of exploitation. See: European Commission, [Second report on the progress made in the fight against trafficking in human beings](#), SWD(2018) 473 final, December 2018, p.3.

²⁰ European Asylum Support Office (EASO), European Police Office (Europol), EU Judicial Cooperation Unit (Eurojust), European Institute for Gender Equality (EIGE), European Border and Coast Guard Agency (Frontex), EU Agency for Fundamental Rights (FRA), EU Agency for Law Enforcement Training (CEPOL).

²¹ [Joint statement](#) of the Heads of the EU Justice and Home Affairs Agencies, 2011.

²² European Commission, Communication '[Reporting on the follow-up to the EU Strategy towards eradication of trafficking in human beings and identifying further concrete actions](#)', COM(2017) 728 final, see Priority C: Intensifying a coordinated response within and outside the EU.

²³ i.e., the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA), European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (eu-LISA) and the European Foundation for the Improvement of Living and Working Conditions (Eurofound). See: [Joint Statement](#) of the Heads of EU Justice and Home Affairs Agencies, 2018.

information and coordination at EU level through the work of the European Commission, under the mandate of EU ATC.

1.2.1. Victims of trafficking in the EU: global overview

In its second progress report,²⁴ the European Commission underlined that in the 2015-2016 period Member States registered over 20 000 victims of trafficking and reported approximately 5 000 prosecutions and 3 000 convictions for trafficking in human beings. Among the registered victims:

- more than half (56 %) were victims of trafficking for sexual exploitation;
- around a quarter (26 %) were victims of labour exploitation²⁵ while other forms (such as forced begging, organ removal) made up the remainder (18 %);
- women and girls represented over two-thirds (68 %) of the registered victims,²⁶ while children accounted for almost one quarter (23 %);
- EU citizens represented almost half (44 %) of registered victims, coming mostly from Romania, Hungary, the Netherlands, Poland and Bulgaria;
- the non EU victims (56 %) came mostly from Nigeria, Albania, Vietnam, China and Eritrea.

These figures confirm that the EU is not immune to trafficking. Furthermore, sexual exploitation is the most widespread form of trafficking, thus affecting mostly women and girls (see Section 1.2.4). These findings also highlight that almost half of the victims are EU citizens, mostly from eastern Member States. More than half of the total number of registered victims between 2014 and 2016 were third country nationals. While trafficking in human beings is not a migration-related phenomenon per se, third countries victims certainly face particular challenges. The situation of migrants, and more specifically refugee women, must be addressed as a matter of priority, as they face more serious challenges across all spheres of integration, including access to rights and protection. Being aware of these issues is important for assessing vulnerability, as many victims may have been subjected to violence and exploitation before and/or during their migration to Europe,²⁷ as described below.

1.2.2. Victims of trafficking in the context of migration

In the context of migration, victims of trafficking (mainly women and girls trafficked for sexual exploitation) also arrive in the EU as part of 'mixed migration flows', defined as 'complex migratory population movement including refugees, asylum-seekers, economic migrants and other types of migrants as opposed to migratory population movements that consist entirely of one category of migrants'.²⁸

Since the beginning of the refugee crisis, the routes used to reach Europe by sea by migrants and refugees seeking international protection have shifted to reflect increased cooperation with third countries on migration management.

²⁴ European Commission, [Second report on the progress made in the fight against trafficking in human beings](#), SWD(2018) 473 final, December 2018. The data are based on the following study: European Commission, [Data collection on trafficking in human beings in the EU](#), 2018.

²⁵ Ibid. The Commission notes that the majority (61 %) of the registered victims of trafficking for labour exploitation are found in the UK, so data from the UK significantly changes the proportion of trafficking that is for labour at EU level. If the UK data are not included, then the proportions change to: sexual 65 %, labour 15 % and other 20 %.

²⁶ NB: When UK data are not included this rises to 77 %.

²⁷ European Institute for Gender Equality (EIGE), *Gender-specific measures in anti-trafficking actions*, 2018, p.20.

²⁸ European Commission glossary, [mixed migration flow](#).

At the beginning of the crisis, the two main routes used to reach Europe were the central Mediterranean route (from North Africa to Italy) and the eastern Mediterranean route (from Turkey to Greece, Bulgaria and Cyprus).

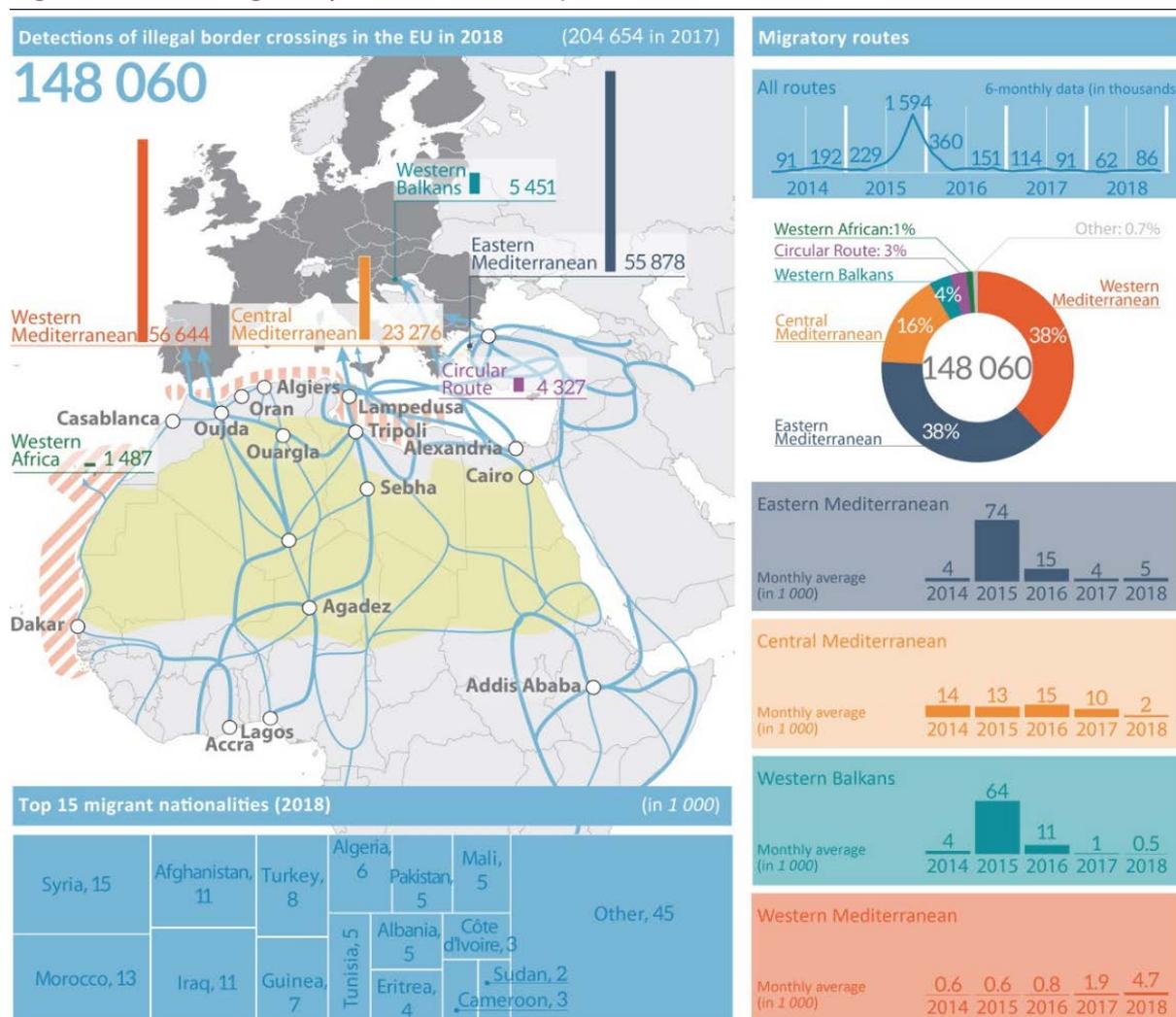
In March 2016, an agreement was concluded between the EU and Turkey (the EU–Turkey Statement), according to which all new irregular migrants and asylum-seekers arriving on the Greek islands from Turkey and whose applications for asylum have been declared inadmissible should be returned to Turkey.²⁹ As a result, the central Mediterranean route became the primary entry point into Europe for most people departing from Libya.

However, in February 2017, Italy, in an attempt to reduce arrivals of asylum-seekers and migrants on its shores, signed a memorandum of understanding with Libya, committing to provide the Libyan authorities with support to stem the influx of migrants.³⁰ As a result of this policy, Spain (in particular its enclaves of Ceuta and Melilla on the northern shores of Morocco) has now become the key entry point via the western Mediterranean route.

²⁹ [EPRS legislative train schedule, on the EU-Turkey Statement](#).

³⁰ [Memorandum of understanding](#) on cooperation in the fields of development, the fight against illegal immigration, human trafficking and fuel smuggling and on reinforcing the security of borders between the State of Libya and the Italian Republic (unofficial translation of the Odysseus Network – the original version is available [here](#)). See, for a detailed analysis of the memorandum: Anja Palm, [The Italy-Libya Memorandum of Understanding: The baseline of a policy approach aimed at closing all doors to Europe?](#), October 2017.

Figure 1 – Main migratory routes into Europe



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Victims of trafficking are commonly found in mixed migration flows arriving in Europe. Moreover, studies have shown that migrants and refugees are particularly at risk of trafficking in key transit points to Europe (i.e. in Turkey and Libya).

By way of illustration, in 2018, the IOM presented the results of a series of interviews conducted with over 9 000 migrants and refugees travelling along the central and eastern Mediterranean routes.³¹ Questions were notably asked with a view to measuring the prevalence of human trafficking. Four questions in particular were included in the survey to capture information about whether or not the respondents had, during their journey:

- worked or performed activities without getting the expected payment;
- been forced to perform work or activities against their will;
- been approached by someone with offers of an arranged marriage (for the respondent or anyone in his or her family);

³¹ IOM, [Flow monitoring surveys: The human trafficking and other exploitative practices indication survey](#), January 2018

- been kept at a certain location against their will.

Of those travelling via the central Mediterranean route, almost two thirds of men and women respondents answered 'yes' to at least one of the four questions, based on their own direct experience.³²

For those travelling via the eastern Mediterranean route, the majority of both male and female migrants (coming from central, southern, west or eastern Africa) had also experienced at least one situations of trafficking.

For the migrants and refugees traveling via the eastern Mediterranean route, the incidents relating to a direct experience of human trafficking were reported to have taken place mostly in Turkey (78 % of all cases). For those traveling via the central Mediterranean route, traumatic individual experiences of this kind were reported to have taken place mainly in Libya (92 % of all cases).

In its Risk Analysis for 2018,³³ Frontex reports the following key features of victims of trafficking in mixed migration flows:

- Women comprise the majority of the victims of trafficking in human beings, followed by children, especially girls.
- The phenomenon of child trafficking has been exacerbated by the ongoing migration crisis. Of particular concern are third-country children who arrive in the EU within the migratory flow unaccompanied or separated from their families. In early 2016, around 40 % of the total number of migrants arriving in Greece by sea were children (a figure that comprised both accompanied and unaccompanied children). In the central Mediterranean, this figure proved even higher, with 92 % of all children arriving in Italy by sea in 2016 and the first two months of 2017 believed to be unaccompanied. Upon arrival in Europe, these children become the perfect targets for traffickers.
- Trafficking in human beings from Nigeria has become of particular concern to law enforcement authorities across the EU. From Nigeria, trafficked victims (mostly women and increasingly girls) are forced to travel overland to Libya or Morocco through the city of Agadez in Niger. On the way to Europe, victims are subjected to further violence and exploitation and/or sold to different traffickers during the journey. Once in Europe, the victims are usually placed in open reception centres where they are picked up by the traffickers soon after their arrival. The great majority of the victims who make it across the Mediterranean are victims of sexual exploitation in the streets of Europe, including to pay their traffickers an excessively high debt. This trend has been confirmed by the IOM, which estimates that about 80 % of Nigerian women and girls arriving by sea in Italy are likely to be victims of trafficking for sexual exploitation in Italy or in other EU countries.³⁴

In addition, reports from Member States of the exploitation of vulnerable people in the context of asylum procedures are on the rise.³⁵ Europol notes that criminal groups involved in trafficking often exploit asylum provisions in order to traffic non-EU nationals into the EU.³⁶ Traffickers provide victims with counterfeit documents in order to conceal their real identities and to enable entry to

³² 76 % of men and 67 % of women. Some 48 % of men and 30 % of women responded positively to at least two of the four questions.

³³ Frontex, [Risk Analysis for 2018](#), see p.36 and seq.

³⁴ IOM, [Human trafficking through the central Mediterranean route](#), 2017.

³⁵ European Commission, [Second Progress report](#), op.cit.

³⁶ Europol, [Situation Report](#) Trafficking in human beings in the EU, 2016.

the EU, either with fraudulently obtained visas or as asylum-seekers. In some cases, victims are placed in refugee shelters following their asylum application, from where they suddenly disappear and are transferred to other Member States by their traffickers. As mentioned above, victims may also be forced to apply for protection with a false story in order to legalise their stay so that the exploitation can continue, and girls are often instructed to say they are adults.

It is important here to note the importance of maintaining a distinction between two different legal concepts: the smuggling of migrants on the one hand, and the trafficking in persons on the other. As pointed out by the European Commission, although they are linked, smuggling of migrants and trafficking in persons are different crimes that require different responses with regard to the protection and assistance needs of trafficking victims and smuggled migrants.³⁷ While the two concepts are closely interconnected in practice, European and international legal frameworks do not entitle victims of smuggling to the same level of protection afforded to victims of trafficking. Therefore, it is key to bear in mind the differences between these phenomena, as trafficking in human beings is a grave violation of human rights.

Recently, several organisations in the field have pointed to an increasing focus of competent authorities on the detection of smuggling, often to the detriment of detection of victims of trafficking. This could mean that 'hundreds of new arrivals who have been in a situation of trafficking, or who continue to be at risk of exploitation, remain unidentified, and, therefore, unprotected'.³⁸ These aspects are developed below in Sections 2 and 3.

1.2.3. The context of hotspots

This study focuses on the issue of trafficking in the context of hotspots, i.e. first reception facilities, where mixed migration flows are typically found. Hotspots are currently operated in two Member States: Italy and Greece.

The 'hotspots approach' was launched as part of the European agenda on migration of April 2015.³⁹ It was adopted with the aim of addressing the immediate challenges relating to the refugee crisis and to equip the EU with the tools to manage migration more effectively in the medium and long term. In that context, a number of hotspots were set up to establish streamlined cooperation on the ground between Member States on the frontline of asylum seeker and other migrant arrivals and the relevant EU agencies, in order to provide for swift identification, registration and fingerprinting.

³⁷ European Commission, [Second Progress report](#), p.22.

³⁸ OSCE, [From Reception to Recognition: Identifying and Protecting Human Trafficking Victims in Mixed Migration Flows](#), 2017.

³⁹ [European Commission webpage](#) on the Agenda on Migration.

Figure 2 – Map of hotspots in Greece and Italy as of February 2018



Source: Fundamental Rights Agency (2018).

There are currently nine hotspots located on the EU's external borders for the initial reception, identification and registration of asylum-seekers and other migrants coming into the EU by sea: five in Greece (on the islands of Chios, Kos, Leros, Lesvos and Samos) and four in Italy (in Lampedusa, Messina, Pozzallo, Taranto). There was previously a tenth hotspot in Trapani, but it was converted into a pre-removal detention centre under Italian law in late 2018.

In addition to the nine hotspots, in Italy the relevant actors also apply the hotspot approach to arrivals in other southern ports, using arrangements also referred to as 'mobile hotspots'.⁴⁰ Furthermore, reception facilities are also operated in Ceuta and Melilla, as well as in the south of the Iberian Peninsula.⁴¹ However, as the Spanish authorities have not requested any EU support for these facilities, they are not operated as 'hotspots' and are thus outside of the scope of this study.

The hotspots concentrate many challenges as regard fundamental rights, first and foremost for vulnerable groups,⁴² as described below in Sections 2 and 3.

1.2.4. The gender dimension of trafficking

At EU level, women and girls represent 96 % of the victims of trafficking for purposes of sexual exploitation and the majority (75 %) of victims of trafficking for all purposes. They represent 26 % of those trafficked for labour exploitation and 52 % of those trafficked for other forms of exploitation.⁴³

Trafficking in human beings is therefore a crime with a strong gender dimension. The harm from trafficking is also gender specific. Women and men are not trafficked in the same way or for the same purpose, and their experience of trafficking can be very different. Arguably, 'the whole trafficking

⁴⁰ Fundamental Rights Agency (FRA), Update of the 2016 opinion of the FRA on fundamental rights in the 'hotspots' set up in Greece and Italy, [Opinion 3/2019](#), March 2019, p.15.

⁴¹ ECRE, [Types of accommodation in Spain](#).

⁴² FRA, Update of the 2016 opinion of the FRA on fundamental rights in the 'hotspots' set up in Greece and Italy, [Opinion 3/2019](#), March 2019.

⁴³ European Commission, [Study on the gender dimension of trafficking in human beings](#), 2016, p.8.

cycle is highly gendered, from the root causes that make women and girls more vulnerable, through to policy approaches and measures aimed at combating trafficking'.⁴⁴ The EU recognises trafficking in human beings for the purpose of sexual exploitation as structural violence against women and girls.⁴⁵

Furthermore, in the context of mixed migration flows, women and children are especially likely to fall victim to traffickers. They can end up being trafficked and exploited through document confiscation, threats of violence towards family members, psychological control, forced confinement and debt bondage to those who arranged their passage. Women often have to repay their debt by working as prostitutes or in domestic services. Due to their status as illegal immigrants, they face additional barriers to escaping such slavery and to accessing help or services.⁴⁶ It should however be noted that men and boys are also vulnerable to all forms of exploitation, including sexual exploitation.

1.3. EU requirements in hotspots towards victims of trafficking

In the specific context of hotspots, Member States have full competence over the setup and management of reception and registration infrastructures. They nonetheless have to comply with a number of EU requirements. The following instruments are of direct relevance for victims of trafficking:

- the 2013 Reception Conditions Directive,⁴⁷ which is aimed at ensuring better standards of reception conditions for asylum-seekers throughout the Union;
- the 2011 Qualification Directive,⁴⁸ which sets out criteria for applicants to qualify for refugee status or subsidiary protection;
- the above-mentioned 2011 Anti-trafficking Directive (see Section 1.1),⁴⁹ which aims to improve protection for victims of trafficking, including third country nationals.

Article 21 of the Reception Conditions Directive explicitly recognises victims of trafficking as 'vulnerable groups'.⁵⁰ While disparities remain across the EU in the definition of vulnerability in the asylum process, in both Italy and Greece victims of trafficking are recognised by law as being particularly vulnerable⁵¹ and relevant national authorities are expected to carry out all the procedural steps aimed at detecting presumed victims of trafficking at the earliest possible stage,

⁴⁴ Sofija Voronova and Anja Radjenovic, [The gender dimension of human trafficking](#), EPRS, February 2016.

⁴⁵ This is supported by the [Council of Europe's conclusions](#), 'Preventing and combating all forms of violence against women and girls, including female genital mutilation', Justice and Home Affairs Council meeting Luxembourg, 5 and 6 June 2014.

⁴⁶ Ibid.

⁴⁷ [Directive 2013/33/EU](#) laying down standards for the reception of applicants for international protection.

⁴⁸ [Directive 2011/95/EU](#) on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted.

⁴⁹ [Directive 2011/36/EU](#) of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims.

⁵⁰ Other categories of vulnerable groups include minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, persons with serious illnesses, persons with mental disorders and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, such as victims of female genital mutilation

⁵¹ European Council on Refugees and Exiles (ECRE), [The concept of vulnerability in European asylum procedures](#), August 2017, p.16

thereby ensuring their appropriate referral and preventing their automatic return to their countries of origin without their vulnerabilities having been adequately addressed.

Furthermore, while not all victims of trafficking are refugees, depending on the circumstances, some victims of trafficking could qualify for refugee status under both the UN Refugee Convention⁵² and the EU Qualification Directive. As underlined by the European Migration Network (EMN),⁵³ there are a variety of reasons for which victims of trafficking might be granted refugee status or subsidiary protection:⁵⁴

- They may be applying for protection due to fear of further persecution/exploitation should they be returned to their country of origin (by their traffickers for instance).
- They may be applying for protection as a victim of trafficking in human beings because they are in need of assistance and protection (even if they may not necessarily be at risk of persecution or harm in their country of origin).
- They may be applying for protection with a false story under the duress of their traffickers in order to legalise their stay so that the exploitation can continue.

The Network also notes that the applicant may not be aware that she or he is a 'victim of trafficking' per se, i.e., they may not have an adequate understanding of the concept of this crime and the sorts of status and protection it can entail if they are identified as such. Article 11 of the Anti-trafficking Directive provides in this respect that victims are to be informed of the possibility of being granted international protection pursuant to the Qualification Directive.

The Anti-trafficking Directive moreover contains specific provisions relating to the protection of victims of trafficking who are third country nationals:

- The directive requires Member States to take the necessary measures to ensure that a person is provided with assistance and support as soon as the competent authorities have a reasonable-grounds indication for believing that the person might be a victim of trafficking.
- In accordance with Directive 2004/81/EC,⁵⁵ third-country nationals who are victims and who cooperate with the competent authorities⁵⁶ should be granted a residence permit in the EU (and therefore are to be protected from expulsion).
- The directive applies to all victims of trafficking in human beings, regardless of their nationality or status.

⁵² Inter-Agency Coordination Group against Trafficking in Persons (ICAT), [Trafficking in persons and refugee status](#), Issue Brief 3, 2017.

⁵³ The [European Migration Network](#) is an EU network of migration and asylum experts who work together to provide policy-relevant information. The EMN was legally established under [Council Decision 2008/381/EC](#), as amended. The European Commission ([Directorate-General for Migration and Home Affairs](#)) coordinates the European Migration Network. The EMN is funded through the [Asylum, Migration and Integration Fund](#).

⁵⁴ Subsidiary protection is a complementary form of protection that may apply to those who would be at risk of serious harm if returned to their home country, but who do not fit the strict definition of a refugee. It is provided by the Qualification Directive. See European Migration Network Study, [Identification of victims of trafficking in human beings in international protection and forced return procedures](#), March 2014.

⁵⁵ [Council Directive 2004/81/EC](#) of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities.

⁵⁶ The [staff working document](#) accompanying the European Commission 2018 Second report on the progress made in the fight against trafficking in human beings, as required under Article 20 of Directive 2011/36/EU, includes an annex on the implementation of Directive 2004/81/EC.

- The directive requires the Member States, in accordance with their legal systems, to take the necessary measures to ensure that competent national authorities are entitled not to prosecute or impose penalties on victims of trafficking in human beings for their involvement in criminal activities, which they have been compelled to commit as a direct consequence of being subject to trafficking. The directive on that regard specifies that 'the aim of such protection is to safeguard the human rights of victims, to avoid further victimisation and to encourage them to act as witnesses in criminal proceedings against the perpetrators'.

The EU legal framework thus covers the third-country victims of trafficking comprehensively. The ways in which the EU requirements are implemented in practice in hotspots are analysed in Sections 2 and 3.

It should be noted that two of the EU instruments outlined above (the Reception Conditions Directive and the Qualification Directive) were to be revised during the eighth parliamentary term as part of the reform of the common European asylum system (CEAS). However, the Council and the Parliament failed to reach a compromise.⁵⁷

1.4. Role and mandate of EU agencies in hotspots

In accordance with the 'hotspot approach' outlined above, several European agencies are deployed in hotspots to assist Italy and Greece in their tasks. The approach provides that those claiming asylum are immediately channelled into an asylum procedure where the European Asylum Support Office (EASO) support teams help to process asylum cases as quickly as possible. For those not in need of protection, the European Border and Coast Guard Agency (Frontex) helps Member States by coordinating the return of irregular migrants, while Europol and Eurojust assist the host Member State with investigations to dismantle the smuggling and trafficking networks.⁵⁸ To ensure the proper safeguard of fundamental rights, the Fundamental Rights Agency (FRA) assesses the situation on the ground regularly.⁵⁹

More specifically, EASO has been mandated to support the national authorities on many operational aspects, including in the processing of applications in the relevant procedures (e.g. fingerprinting, screening, debriefing) and in the regular asylum procedure.⁶⁰ The latest operating plan agreed by Greece and EASO envisages the deployment in 2019 of over a hundred EASO caseworkers deployed in hotspots to support the processing of applications for international protection at first instance falling under the border procedure (i.e. the implementation of the EU-Turkey Statement - see Section 1.2.2) and a hundred more for processing those falling under the regular procedure.⁶¹ In Italy, the operating plan for 2019 envisages the deployment of 50 interim EASO caseworkers to support the lodging of the asylum requests and a hundred caseworkers deployed in territorial commissions to support the processing of first instance decisions and follow-up with regard to appeals.⁶²

⁵⁷ See for further details the EPRS legislative train schedule: [Reform of the Qualification Directive](#) and Reform of the [Reception Conditions Directive](#).

⁵⁸ See European Commission, [Best practices on the implementation of the hotspot approach](#), SWD(2017) 372 final.

⁵⁹ FRA, [Update of the 2016 Opinion on fundamental rights in the hotspots set up in Greece and Italy](#), March 2019.

⁶⁰ See EASO's [dedicated webpage](#): Operational support: Types of operations.

⁶¹ [2019 Operating Plan](#) agreed by EASO and Greece, December 2018.

⁶² [2019 Operating Plan](#) agreed by EASO and Italy, December 2019.

The hotspot is usually the first place where migrants have a chance to have their vulnerability recognised. Therefore, in its supporting mission of conducting preliminary interviews, the EASO plays an important role in the identification of victims alongside the Member States' relevant authorities.

The extent of the tasks performed by EASO, especially in Greece, is key in a context where the revision of EASO's mandate was widely discussed during the eighth parliamentary term (see the box below).⁶³ The proposal to revise EASO's mandate would have given the agency a key role in strengthening convergence in the assessment of applications for international protection across the EU and in coordinating practical cooperation.

EASO revision during the eighth parliamentary term

In May 2016, the European Commission submitted a proposal for a regulation on the European Union Agency for Asylum (EUAA) repealing the Regulation establishing EASO (439/2010). The aim of the proposal was to revise the EASO mandate in order to have a fully-fledged EU agency. The proposal included links to other proposals pending in the context of the reform of the common European asylum system (the 'CEAS package').

Parliament's Committee on Civil Liberties, Justice and Home Affairs (LIBE) adopted a negotiating mandate in December 2016 and the co-legislators reached a political agreement in June 2017. In December 2017 Council endorsed the agreement reached on the entire text of the proposal in first reading, including the recitals, but excluded the text placed in square brackets referring to other proposals of the CEAS.

On 12 September 2018, the Commission proposed further changes to its initial proposal, aimed at reinforcing further the operational capacity of the planned EU agency for asylum.

The amended proposal was the subject of a lively discussion in the LIBE committee, resulting in a [report](#) released in December 2018. The committee underlined that no precedent was known to the European Parliament of 'a Commission amended proposal being submitted under the same procedure number after the point where Parliament had already adopted its mandate'.

In addition to Parliament's negative reaction to the Commission's updated proposal (both on the procedure and on the content), no compromise was reached at Council level. In February 2019, the Presidency considered that all possibilities had been exhausted at technical level on this file. It remains to be seen how the reform of the asylum system will be handled by the new European Commission and MEPs from the ninth parliamentary term.

In addition to these controversies regarding the revamping of EASO, the increasing involvement of its staff in vulnerability screening in Greece has been challenged by NGOs. On 28 April 2017, the European Centre for Constitutional and Human Rights (ECCHR) submitted a complaint to the EU Ombudsman on EASO's involvement in admissibility decisions in Greece.

The details of the case cast doubt on the proper conduct of the vulnerability assessment in Greek hotspots and the extent to which EASO guidelines (including those related to vulnerabilities) were followed properly by its staff on the ground. In July 2018, despite genuine concerns, the Ombudsman decided to close the case, primarily because decisions on individual asylum

⁶³ OEIL, European Union Agency for Asylum, Procedure reference [2016/0131\(COD\)](#). See the [EPRS legislative train schedule](#).

applications rest with the national authorities.⁶⁴ A request to review this decision was submitted by the complainant organisation in September 2018.⁶⁵ The Ombudsman replied to the complainant's request for a review of the decision in April 2019. After carefully re-examining the case in full, the Ombudsman confirmed her conclusion.⁶⁶

The concerns raised here as regards EASO's role in vulnerability screening are particularly important in a context where many shortcomings are found in the early identification of victims of trafficking in hotspots, as detailed in Section 2 below.

Alongside EASO and Frontex, other EU agencies play a role in hotspots. In 2016, in the field of the prevention of criminal activities (including trafficking in human beings), Europol approved the deployment of 200 investigators to migration hotspots.⁶⁷ These experts were seconded from the Member States' national services; 50 of them were deployed at key points on the EU's external border to bolster security checks on inward flows of migrants.

As indicated in the Commission's March 2018 progress report on the implementation of the European Agenda on Migration,⁶⁸ 19 Europol guest officers and 2 Europol staff were deployed in the Greek hotspots, and 16 guest officers and 2 Europol staff were deployed in the Italian hotspots to conduct secondary security checks. The European Migrant Smuggling Centre (EMSC), established in early 2016, complements these efforts by using operational capabilities, combining regional task forces deployed at migration hotspots, on the one hand, with EU mobile investigation and analysis support teams, on the other. These combined teams provide on-the-spot operational and analytical support.

In Greece and in Italy, central operational coordination of hotspots is carried out by EU regional task forces (EURTF) based in Piraeus (for Greece) and Catania (for Italy). These inter-agency coordination meetings bring together the various national authorities, the Commission, the EU agencies and the main international organisations.

As indicated in the Commission's second progress report on trafficking,⁶⁹ efforts have been made to support national authorities in addressing trafficking in human beings in the context of the hotspots approach. Two thematic workshops have been organised in close cooperation with the EU regional task forces in Italy and Greece, including relevant EU agencies and national authorities (on 13 December 2017 and 7 May 2018 respectively). The focus was placed on operational efforts to improve early detection and appropriate referral of presumed victims, ensuring a gender-specific and child-sensitive approach, and on enhancing investigations of cases of trafficking in human beings in mixed migration flows.

⁶⁴ European Ombudsman, [Decision in case 735/2017/MDC](#) on the European Asylum Support Office's involvement in the decision-making process concerning admissibility of applications for international protection submitted in the Greek hotspots, in particular shortcomings in admissibility interviews, July 2018.

⁶⁵ ECCHR, [European Ombudsperson should not close inquiry into maladministration by EASO in Greek hotspots](#), September 2018.

⁶⁶ The Ombudsman sent a copy of her decision on the request for review to the European Parliament (LIBE Secretariat) on 12 April 2019.

⁶⁷ Europol, [press release](#): Europol setting up team of 200 investigators to deploy to migration hotspots, 12 May 2016.

⁶⁸ European Commission, Communication: [Progress report on the implementation of the European agenda on migration](#), COM(2018) 250 final, March 2018.

⁶⁹ European Commission, [Second report on the progress made in the fight against trafficking in human beings](#), SWD(2018) 473 final, December 2018.

1.5. Parliament's position and scope of the analysis

During the course of the eighth parliamentary term, the European Parliament assessed proper implementation of EU action in the field of trafficking regularly. In 2016 in particular, the FEMM committee drew up a report on the implementation, from a gender perspective, of the above-mentioned Anti-trafficking Directive.⁷⁰ Parliament's implementation report was drafted with the support of factual evidence provided by the European Parliamentary Research Service (EPRS).⁷¹

On the issue of trafficking in the context of migration flows, Parliament noted that asylum-seekers, refugees and migrants were particularly vulnerable to trafficking. It also pointed out the key role of EU agencies in the early identification of victims at EU borders and stressed the need for more gender-trained agency officers, especially in those Member States faced with increased mixed migratory flows. It finally emphasised that the hotspot approach should 'not be limited to quick processing and clearing of backlogs, but should include a proportionate anti-trafficking component geared towards the effective referral of potential victims'.

The aspects underlined in the Parliament's implementation report are the focus of the current analysis. The sections that follow cover the following issues in particular:

- Identification of victims: as described above and in the context of mixed migration flows, it is more than likely that among the migrants and refugees seeking international protection, a large number of whom come from conflict zones in sub-Saharan Africa, north Africa and the Middle East, many have been victims of trafficking in their countries of origin. Furthermore, during their journeys to Europe, asylum-seekers and migrants are exposed to additional risks of exploitation. Section 2 thus focuses on difficulties relating to victim detection, whether the victims were trafficked in their country of origins or en route to EU shores.
- Protection of vulnerable groups: the above-mentioned risks of trafficking do not disappear when migrants and refugees reach EU soil. While waiting for their papers to be processed, they are still at risk of falling victim to exploitative individuals and/or networks. Section 3 thus looks at the extent to which reception facilities prevent trafficking from taking place, and how protection measures and follow-up procedures are properly implemented.

It should be noted that the scope of this analysis (with a focus on third-country nationals) should not minimise the equal need to support victims who are EU nationals and who have been trafficked within the EU, not least in the light of the key figures highlighted in Section 1.2.1.

⁷⁰ European Parliament, [Report on implementation of the Directive 2011/36/EU](#) on preventing and combating trafficking in human beings and protecting its victims from a gender perspective (2015/2118(INI)), April 2016.

⁷¹ Amandine Scherrer and Helmut Werner (eds), [Trafficking in Human Beings from a Gender Perspective](#), April 2016.

2. Arrival in hotspots: detection of victims

2.1. Challenges relating to the assessment of vulnerabilities

The hotspot is usually the first place where the vulnerability of refugees and migrants arriving by sea can be picked up. This is where identification and registration of asylum-seekers and migrants is normally conducted, in the form of screening interviews. It is also at this stage that unaccompanied children are identified.

As the legal settings in which the hotspots operate in Greece and Italy differ, significant variations in these processes need to be taken into account. In Greece, after the EU-Turkey Statement of March 2016, the examination of the asylum claims often takes place while people stay in the hotspots. In Italy, the hotspots are only used for registration, security screening and immediate assistance purposes.⁷² As developed in Section 3, the length of the stay in hotspots does have an impact on the protection of vulnerable people, including victims of trafficking.

Opportunities for detecting victims when they have arrived in hotspots are also affected by a number of practical issues.⁷³

- At the disembarkation stage, the procedures in place include preliminary medical screening. Whereas theoretically this stage could be the first opportunity to identify vulnerable people (where national police, with the support of Frontex, carry out the initial screening procedure), the screening forms currently used in Greece and Italy only serve to collect identity data and do not contain questions allowing vulnerabilities to be flagged.⁷⁴
- In hotspots, there is very limited space for a personalised approach: interviews are often conducted very quickly, in a limited number of languages, and often in ways that are not adequate given the level of stress, shock and anxiety refugees and migrants are experiencing.
- If and when a refugee or a migrant has shared information with doctors and healthcare providers giving grounds to believe that such a person is a possible victim of trafficking, the lack of clear referral procedures and an extreme workload have often prevented doctors from taking this information any further.
- Even if a person has been identified as a victim, there is often no explicit path of protection for them.

Therefore, the task of detecting victims of trafficking is fraught with many difficulties. These shortcomings have raised many concerns, as properly identifying a migrant as a victim of trafficking will determine the follow-up procedures that will apply to them, as detailed in Section 3.2.

However, as described hereafter, efforts have been made to clarify and strengthen the procedures in place in hotspots in order to improve vulnerability screening.

⁷² Ibid, p.16.

⁷³ OSCE, [From reception to recognition: Identifying and protecting human trafficking victims in mixed migration flows](#), 2017.

⁷⁴ FRA, [Update of the 2016 opinion on fundamental rights in the hotspots set up in Greece and Italy](#), March 2019.

2.2. Key actors and procedures

At national level, responsibility for identifying victims of human trafficking and overseeing related assistance ultimately lies with a specifically mandated government agency. However, procedures relating to the identification of vulnerabilities are in reality implemented by a considerable number of actors, including national authorities, NGOs, EU agencies and international organisations.⁷⁵ As a result, identification and referral of vulnerable people is a shared responsibility of all actors operating in the hotspots.⁷⁶ As reported in the European Commission's second progress report, Member States experiencing arrivals of mixed migration flows (such as Italy and Greece) point to difficulties in establishing the identities of migrants and detecting victims or potential victims of trafficking.⁷⁷

2.2.1. Greece

Despite the EU-Turkey Statement, the eastern Mediterranean route (from Turkey to Greece – see Section 1) has remained a busy migratory route into Europe and accounted for more than half of irregular migrants detected at EU borders in April 2019.⁷⁸ Therefore, in 2019, the level of overcrowding still remains a significant concern in the Greek hotspots (particularly on the islands of Samos and Lesbos). When the FRA visited Samos in December 2018, the hotspot was hosting over 4 000 people, more than six times its intended capacity.

In Greece, the authority responsible for the management of the hotspots is the Reception and Identification Service (RIS). As described by the FRA, despite efforts to coordinate each hotspot, there are many challenges when it comes to improving reception conditions. These relate to unclear procurement procedures and short-term and precarious staffing. Furthermore, the RIS does not provide most of the services provided on the ground directly.⁷⁹

As regards efforts in the field of anti-trafficking, the National Centre for Social Solidarity (EKKA) is the principal government agency coordinating the work of all anti-trafficking stakeholders in the framework of the Greek national referral mechanism (implemented in 2017).⁸⁰ The latter became fully operational in January 2019. The FRA notes significant improvements in identifying vulnerable people since its first opinion in 2016:

- Where a lack of clear standard operating procedures (SOPs) was reported in 2017,⁸¹ Greece has now adopted SOPs for the hotspots; these define the role and responsibilities of each actor.
- The relevant actors working in the Greek hotspots have agreed on a vulnerability template, which, together with an accompanying operational manual, helps ensure a coordinated response to the protection needs of people identified as vulnerable.

⁷⁵ Ibid. For instance, the army is responsible for food distribution and for the purchase of non-food items, while social, psychosocial and medical services are provided by the Hellenic Centre for Disease Control and Prevention (KEELPNO). UNHCR provides cash assistance, while security is the responsibility of the police.

⁷⁶ FRA, [Update of the 2016 opinion on fundamental rights in the hotspots set up in Greece and Italy](#), op.cit.

⁷⁷ European Commission, Second progress report, op.cit.

⁷⁸ Frontex, [Migratory situation in April](#) – Fewer migrants reach Europe, 2019.

⁷⁹ FRA, [Update of the 2016 opinion on fundamental rights in the hotspots set up in Greece and Italy](#), p.27.

⁸⁰ Council of Europe, Group of Experts on Action against Trafficking in Human Beings (GRETA), [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Greece](#), First evaluation round, October 2017.

⁸¹ ECA, [Special report no 06/2017](#): EU response to the refugee crisis: the 'hotspot' approach, April 2017.

- The Hellenic police have appointed focal points for trafficking in human beings on each island.
- NGOs carry out awareness raising sessions on the islands and provide support in individual cases. A number of asylum caseworkers have thus received training on detecting, during the asylum interview, indications that an applicant is a possible victim of trafficking in human beings.

However, the FRA mitigates the impacts of these measures on the ground, underlining a lack of professional staff in hotspots, including doctors, psychologists and interpreters, which in addition leads to significant procedural delays in some hotspots.⁸² As a result, the number of victims identified in Greece remains extremely low. Attempts to address the lack of trained professionals are currently being made through a specific EU-funded project (Project Philos, funded by the Asylum, Migration and Integration Fund – AMIF), whereby the Hellenic Centre for Disease Control and Prevention (KEELPNO) aims to recruit dedicated staff on the ground. In addition to these difficulties, the living conditions in hotspots and the lack of provision of safe accommodation on the islands before the transfer to safe houses on the mainland remains challenging (see below in Section 3).

In relation to the supporting role of EU agencies and under the conditions laid down in the Article 13 of the EASO Regulation, EASO conducts large operations in the Greek hotspots, as mentioned in Section 1.4.

EASO performs a wide range of operational activities including support with the processing of applications under the border and the regular asylum procedure, information provision, the handling of outgoing Dublin 'take charge' requests,⁸³ the enhancement of the Greek Asylum and Reception system and the training of Greek personnel.⁸⁴ Since 2016, the Greek government has made a number of amendments in its legislative *acquis* in order to allow EASO to support the asylum procedure and the annual operating plans outline the activities planned and the dedicated support provided by EASO.⁸⁵

These successive operating plans set out the role and tasks performed by EASO in Greece. These include:⁸⁶

- legal advice to Greek authorities on vulnerabilities with a view to handling outgoing Dublin requests to other Member States;
- the training of selected caseworkers on vulnerable groups and practical support to enhance the identification and quality of the Asylum Service and Reception and Identification Service (RIS) response to vulnerable applicants, which includes the development of standard operating procedures for carrying out vulnerability assessments in the asylum procedure and reception system;
- furthermore, EASO plays a key role in the implementation of the EU-Turkey Statement, where vulnerability assessment is explicitly stated as a deliverable in order to identify vulnerable persons and refer them to the appropriate procedure. In practice, EASO

⁸² FRA, [Update of the 2016 opinion on fundamental rights in the hotspots set up in Greece and Italy](#), p.47.

⁸³ A 'take charge request' is a request to another Dublin country to take charge of your application (to accept responsibility for it).

⁸⁴ EASO: [Types of operations](#) (section on Greece).

⁸⁵ [2019 operating plan agreed by EASO and Greece](#), Valletta Harbour and Athens 19 December 2018. To be updated with the EASO next annual report - 24 June 2019.

⁸⁶ ECRE, The concept of vulnerability in European asylum procedures, p.29.

assists Greece with identifying vulnerable applicants on the eastern Aegean islands, as these are exempt from the fast-track border procedure applicable since 20 March 2016.

In May 2018, a reform introduced the possibility for Greek-speaking EASO personnel to take part in the regular procedure.⁸⁷ The law provides that in the event of urgent need, EASO personnel can carry out any administrative procedure needed for processing applications. EASO caseworkers have conducted interviews under the regular procedure since the end of August 2018.

As detailed in Section 1.4., the expanding role of EASO, especially in Greece, has led to controversies. It should be however noted that EASO has recently deployed efforts to mainstream aspects relating to vulnerable groups in all its activities, to encourage policy coherence in this field, including in the context of operational support.⁸⁸ EASO has for instance developed a specific tool with national experts, EU representatives, UNHCR and the European Council on Refugees and Exiles (ECRE): the tool for identification of persons with special needs (IPSN),⁸⁹ to facilitate the timely identification of people with special procedural and/or reception needs. It can be used at any stage of the asylum procedure and at any stage in the reception process. This tool is an interactive platform that allows relevant staff to identify special needs by detecting certain indicators that may be observed or come across based on different pieces of evidence (information in the application for international protection, medical evidence, statements during the personal interview, etc.). In addition to identification indicators, the tool suggests generic guidance on the special procedural guarantees and reception support that could be offered to the applicant in the EU context.

The tool generates a report summarising the identification information and outlining the potentially necessary action to take. While the report has editable fields to include further information, they are not processed or saved in the online tool and are therefore protected from interference.

The categories of persons with special needs in this tool include those explicitly mentioned in the above-mentioned Article 21 of the Reception Conditions Directive (see Section 1.3), as well as two categories added based on the information collected regarding current EU practices, in particular LGBTI applicants and people with gender-related special needs.

In addition, EASO has developed new training modules, focusing on vulnerable applicants, such as children, victims of trafficking or persons at risk, because of their gender or sexual orientation.⁹⁰ In 2018 EASO launched the 'Expert Network on Vulnerability', incorporating activities formerly implemented under the EASO Network on Activities on Children (ENAC) and the EASO Expert Network on Trafficking in Human Beings (EASO THBNet) and held its first meetings. The purpose of this network is to improve the identification and response to the special needs of vulnerable persons by reinforcing practical cooperation between members on issues relating to vulnerable persons in need of international protection in a mainstreamed manner.⁹¹

Finally, in addition to these recent efforts of EASO, the FRA plays an important role in ensuring respect for fundamental rights in hotspots. This includes work carried out in the context of the updated opinion and the preparation of short videos on fundamental rights for EASO and Frontex experts deployed in the hotspots. Furthermore, the FRA regularly participates in meetings of the EU regional task force (EURTF) in Greece where fundamental rights issues are discussed. The European

⁸⁷ ECRE, [Country report for Greece](#) (updated version from December 2018).

⁸⁸ EASO Single Programming Document, Multiannual Programming 2019-2021, [Work Programme 2019](#).

⁸⁹ EASO, [Presentation of the IPSN](#).

⁹⁰ To be updated with the new EASO annual report –24 June.

⁹¹ EASO [Annual Report on the Situation of Asylum in the EU 2018](#), June 2019.

Commission has deployed an expert to Athens focusing on vulnerable people who also prepares updates on child protection for the EURTF meeting.

As mentioned above (Section 1), the Commission organised two thematic workshops in close cooperation with the EU regional task forces in Italy and Greece, including relevant EU agencies and national authorities (on 13 December 2017 and 7 May 2018 respectively). The focus was placed on operational efforts to improve early detection and appropriate referral of presumed victims, ensuring a gender-specific and child-sensitive approach, and on enhancing investigations of cases of trafficking in human beings in mixed migration flows.

2.2.2. Italy

In Italy, the Department for Equal Opportunities under the Presidency of the Council of Ministers is responsible for the overall system of identification, assistance and protection of victims of trafficking, combining law enforcement and services run by public social bodies and NGOs.

The IOM, UNHCR, and Save the Children have contracts with the Ministry of the Interior for entire areas of competence such as legal information, identification of vulnerable persons and child care.⁹²

The IOM plays a key role in Italian hotspots. The organisation intervenes in three main areas: early identification of potential victims of trafficking at landing points and in the reception centres; assistance and referrals to the competent authorities; and training and capacity-building activities. Through the Aditus project,⁹³ IOM has deployed mobile teams to facilitate the early identification and referral of victims of trafficking among new arrivals. Areas of intervention include legal counselling activity at landing points for all migrants (thus promoting early identification and protection of victims of trafficking and unaccompanied minors), as well as the provision of training on counter trafficking and counter-exploitation schemes and the monitoring of reception standards.

EASO is furthermore mandated in Italian hotspots to support the Italian authorities on a defined range of provisions. In December 2018, EASO, the Italian Ministry of the Interior and the Ombudsperson for Children and Adolescents signed a new operating plan valid for 2019.⁹⁴ In this framework, EASO currently provides the Italian authorities with support in the following areas:

- designing an information provision system and developing SOPs, referral pathways and a monitoring system for Dublin cases;
- lodging applications for international protection;
- processing of first instance decisions and follow-up with regard to appeals at territorial commissions;
- processing of the Dublin procedures at the Dublin Unit
- strengthening the Italian country of origin information (COI) unit in standardising high quality COI used in the asylum decision process;
- implementing a system to monitor and manage the reception system;
- supporting the Italian Ombudsperson for Children and Adolescents with capacity building activities for volunteer guardians;
- organising training activities aimed at boosting the technical capacity of immigration police in registering asylum requests.

⁹² ECRE, [Country report for Italy](#) (updated version from December 2018).

⁹³ Further details can be found on the [IOM website](#). The Aditus project is co-funded by the Italian Ministry of the Interior and the EU, through the Asylum Migration and Integration Fund.

⁹⁴ [Operating plan agreed by EASO and Italy](#), Valletta Harbour and Rome 19 December 2018.

In the course of 2018, the agency deployed 373 different experts in Italy, who performed a variety of tasks, including vulnerability assessment.⁹⁵

Coordination among different actors tasked with responding to the needs of vulnerable people has improved at many levels since the beginning of the refugee crisis and the implementation of the first hotspots. The reduced number of arrivals in Italy since July 2017 has also resulted in better conditions in the hotspots (see Section 3.1.2 below). However, the Council of Europe monitoring body on trafficking in human beings (GRETA) recently underlined the lack of dedicated procedures to identify and protect victims of trafficking in human beings upon arrival.⁹⁶

Challenges in early detection of potential victims have important consequences as regard the implementation of referral procedures. They furthermore persist in a context in which fundamental rights concerns are growing concerning the ways the current Italian authorities are managing migration issues. These aspects are developed below.

⁹⁵ Information supplied to ECRE by EASO - Information provided by EASO, 13 February 2019.

⁹⁶ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Italy](#), January 2019, para148.

3. Reception, protection and referral procedures in hotspots

In addition to difficulties relating to victim identification at an early stage upon arrival on EU shores, the living conditions in reception centres increase the risks of further exploitation for vulnerable groups while they are waiting for their papers to be processed and/or their referrals to be effective.

Many concerns have been raised about the reception conditions in hotspots with respect to the effectiveness of vulnerability screenings, the availability of interpreters and mediation services, the number of people accommodated at the facilities, and their access to healthcare.⁹⁷

3.1. Reception conditions and risks of trafficking/exploitation

As described above (Section 1.3), the Reception Conditions Directive explicitly recognises in its Article 21 victims of trafficking as 'vulnerable groups'. While Member States are expected to provide reception conditions in line with the directive, these conditions differ significantly in Greece and Italy. In both Italy and Greece (but to a different extent due to the length of stay in hotspots), concerns have been raised as regard the lack of safe spaces exposing the most vulnerable to the risk of abuse and violence. Consequently, it is not only victims of trafficking arriving on EU shores who are at risk of further exploitation: stays in hotspots can also produce new victims of trafficking and exploitation.

3.1.1. Greece

Overall reception conditions

The situation in the Greek hotspots continues to raise many concerns as regards the reception and living conditions of migrants, which remain sub-standard. The UNHCR recently reiterated these concerns and reported on the 'abhorrent' conditions in the centres in Samos and Lesbos. It called on the authorities in Greece to take urgent steps to address the humanitarian situation for around 11 000 asylum-seekers on these islands.⁹⁸ In its 2019 opinion of the hotspots, the FRA echoed these concerns, underlining the 'undignified conditions' in which refugees and migrants are 'trapped'.⁹⁹

The FRA outlines several contributing factors to this worrisome situation. These include procurement, staffing and coordination challenges, as detailed in Section 2.2.1. It also stresses that the application of the EU-Turkey Statement of 18 March 2016 led to longer stays in the hotspots, thus compounding already poor reception and living conditions. Whereas before the adoption of the Statement, migrants arriving were transferred to the mainland once the initial identification, registration and fingerprinting had been completed in the hotspots, the situation changed with the application of the Statement's provisions. New arrivals to Greece were from then on also to lodge their asylum application directly at the hotspot; this requirement changed the transit period from a few days to several months (until a decision is taken).

On average, people stay over five months on the eastern Aegean islands. Since the infrastructure and the services offered in the hotspots are not designed for long-term stays, problems with overpopulation and poor material conditions in the transit camps have increased. These conditions

⁹⁷ Wouter van Ballegooij and Cecilia Navarra, [The cost of non-Europe in asylum policy](#), EPRS, October 2018; Médecins sans Frontières, [Confronting the mental health emergency on Samos and Lesbos](#), 2017.

⁹⁸ UNHCR, [UNHCR urges Greece to accelerate emergency measures to address conditions on Samos and Lesbos](#), November 2018.

⁹⁹ FRA, [Update of the 2016 opinion on fundamental rights in the hotspots set up in Greece and Italy](#), p.22.

increase the risks of further exploitation for vulnerable groups while they are waiting for their papers to be processed and/or their transfers in other locations to be carried out.

Related risks of trafficking and exploitation

As noted in Section 2.2.1, the persisting challenges relating to early identification of victims of trafficking mean that the number of victims of trafficking identified in Greece as part of mixed migration flows remains extremely low. It therefore remains hard to assess whether victims of trafficking are subject to further exploitation once they arrive in hotspots.

However, what is certain is that stays in hotspots present many safety-related challenges and risks of exploitation, especially for vulnerable groups. The FRA notes in this respect that children represent the largest vulnerable group on the Greek islands and that security gaps in the hotspots affect them, and women, disproportionately.

When it comes to children, according to UNHCR, some 14 700 refugees and migrants are currently residing on the eastern Aegean islands. Women account for 20 % and children for 31 %, of whom more than 60 % are under 12 years old. Approximately 18 % of the children are unaccompanied.¹⁰⁰

Whereas, in principle, vulnerable groups are supposed to be transferred to other facilities, new arrivals in Greece, including children, stay in the hotspots until a place for them in another reception facility becomes available.¹⁰¹ In that respect, the FRA notes that whereas the overall number of unaccompanied children in Greece has increased sharply since 2017, the number of places available in long-term accommodation has decreased significantly in the last two years, thus resulting in longer stays for children in hotspots.

Frontex recently underlined how the context of migration had further exacerbated children's vulnerabilities. Its 2018 report describes how, upon arrival in Europe, unaccompanied children become the perfect target for traffickers and how they are exposed to severe risks of trafficking and subsequent exploitation. The report also stresses that hotspots 'increase the vulnerability of these children, particularly where the centres lack adequate conditions (i.e. weak or non-existent protective structures) or the children share overcrowded facilities with adults not related or unknown to them'.¹⁰² The FRA furthermore casts doubt on the proper and overall application of the EU requirement to vet the staff working with children in Greek hotspots, in order to make sure that persons who have been convicted for certain offences against children are not in contact with them.¹⁰³

In the absence of their parents, unaccompanied children need a guardian to support them during their stay, safeguarding the child's best interests and his/her general wellbeing. This is a requirement of the Convention on the Rights of the Child and Article 24 of the Charter. In that regard Greece has now adopted new guardianship laws. The European Commission is funding a transitional programme bringing together UNHCR, the Greek Ministry of Labour and the Greek NGO Metadrasí to fill the gap until the new law is fully implemented on the ground.¹⁰⁴

Despite these improvements, as most of the hotspots are not designed in a protection-sensitive manner, stays in hotspots can lead to dangerous situations for all the people staying in these facilities, but especially for women and children. In its 2017-2018 annual report and its country

¹⁰⁰ UNHCR, Aegean Islands Weekly Snapshot, [4-10 February 2019](#).

¹⁰¹ FRA, [Update of the 2016 opinion on fundamental rights in the hotspots set up in Greece and Italy](#), p.41.

¹⁰² Frontex, [Risk Analysis for 2018](#), p.37 and seq.

¹⁰³ FRA, [Update of the 2016 opinion on fundamental rights in the hotspots set up in Greece and Italy](#), p.45.

¹⁰⁴ FRA, [Update of the 2016 opinion on fundamental rights in the hotspots set up in Greece and Italy](#), p.40.

report on Greece, Amnesty International drew attention to the fact that security was the main source of concern in many of the Greek hotspots, affecting mostly women and children.¹⁰⁵ The UNHCR has expressed similar concerns on numerous occasions, especially in relation to the high number of reports it has received of sexual and gender-based violence being perpetrated against women.¹⁰⁶

The prevention of sexual and gender-based violence is required by Article 18 (4) of the Reception Conditions Directive. In its assessment of the proper implementation of this provision in the Greek hotspots, the FRA notes that while genuine efforts have been made in this area (there is more awareness about the issue, including as part of the standard operating procedures in all reception facilities in Greece, as described above), the impact of these efforts remains limited. This is due to the fact that hotspots are constantly overcrowded in Greece. As a result, people are sometimes obliged to sleep rough inside the hotspot or are placed in the same containers together with unrelated men and women. The FRA moreover notes that access to sanitary facilities for women and girls at night remains dangerous for those who do not stay in containers that have toilets and showers. Furthermore, victims are often hesitant to report violence due to a lack of female reporting officers.

3.1.2. Italy

Overall reception conditions

While the challenges analysed in Section 2.2.2 persist in relation to the lack of dedicated procedures to identify and protect victims of trafficking in human beings upon arrival in hotspots in Italy, reception conditions on the other hand have improved in the last two years. The implementation of the memorandum of understanding with Libya (see 1.2.2.) has led to fewer arrivals since July 2017. By way of illustration, on 25 February 2019, two of the hotspots (Lampedusa and Pozzallo) were empty and the one in Messina was hosting only 23 people.¹⁰⁷ While in its 2017 report, GRETA highlighted concerns relating to overpopulation in Italian hotspots,¹⁰⁸ the current situation is thus very different.

In Italy, as already mentioned, hotspots serve only registration, security screening and immediate assistance purposes. Therefore, people usually stay in the hotspots for up to a few days only.¹⁰⁹

Children who are unaccompanied are in most cases swiftly transferred to open facilities and child protection measures by the agency managing the hotspots have significantly improved. However, again, unaccompanied children may stay in hotspots for a prolonged time until an appropriate place

¹⁰⁵ See: Amnesty International, [Annual report 2017/2018](#), 2018.

¹⁰⁶ UNHCR, [UNHCR urges Greece to accelerate emergency measures to address conditions on Samos and Lesbos](#), November 2018. In 2017, UNHCR received reports from 622 survivors of sexual and gender-based violence (SGBV) on the eastern Aegean islands, of which at least 28 % experienced such forms of violence after arriving in Greece. Women reported inappropriate behaviour, sexual harassment and attempted sexual attacks as the most common forms of sexual and gender-based violence.

¹⁰⁷ FRA, [Update of the 2016 opinion on fundamental rights in the hotspots set up in Greece and Italy](#).

¹⁰⁸ Council of Europe's Group of Experts on Action against Trafficking in Human Beings, [Report on Italy](#) under Rule 7 of the Rules of Procedure for evaluating implementation of the Council of Europe Convention on Action against Trafficking in Human Beings, GRETA(2016)29, January 2017.

¹⁰⁹ FRA, [Update of the 2016 opinion on fundamental rights in the hotspots set up in Greece and Italy](#), p.16.

to accommodate them has been found.¹¹⁰ As in Greece, Italy recently adopted a law for the protection of unaccompanied children.¹¹¹

GRETA refers to a report by the national guarantor for the rights of persons deprived of their liberty (*Garante nazionale e dei diritti delle persone private della libertà*), Italy's national preventive mechanism set up in application of the Optional Protocol to the UN Convention against Torture (OPCAT). The report raises concerns with regard to unaccompanied children arriving in Italy by sea, who, owing to the absence of places in dedicated structures, end up being held in hotspots for lengthy periods of time (on average 13 days in Taranto, 15 in Lampedusa and 17.5 in Pozzallo). In response to these concerns, the Italian authorities have stressed that, as a result of the decreasing number of arrivals by sea, this situation has been resolved and the authorities responsible have managed to transfer all unaccompanied children to first reception shelters and have opened up new places. The authorities acknowledge that unaccompanied children still transit through the hotspots, but state that no cases have been reported of prolonged stays.¹¹²

Current fundamental rights concerns

The overall improvement in the reception conditions in Italy is closely linked to the situation in Libya. At many levels, the cooperation with Libya has shifted many of the issues related to trafficking from the European shores to Libya. As explained above (Section 1.2.2), the data available show that migrants and refugees are particularly at risk of trafficking in key transit points to Europe, including Libya. The dreadful situation of migrants and refugees crossing Libya in their efforts to reach EU soil has been described on many occasions by international organisations and NGOs.¹¹³ In December 2018 the UN Support Mission in Libya and UNHCR released an alarming report shedding light on the 'unimaginable horrors' faced by migrants and refugees in Libya, such as arbitrary detention, gang rape, slavery and human trafficking.¹¹⁴ The report details abuses committed by state officials, armed groups, smugglers and traffickers. The current political situation in Libya is exacerbating the problems, with over 82 000 individuals displaced since April due to the clashes taking place in and around Tripoli.¹¹⁵

The above-mentioned UN report called on European states to reconsider the human costs of their policies (as exemplified, for instance, by the signing of the above-mentioned memorandum of understanding between Libya and Italy and by the steps taken at EU level to reinforce EU-Libya migration cooperation¹¹⁶) and to ensure that their cooperation with and assistance to the Libyan authorities is in line with international human rights and refugee law.

¹¹⁰ FRA, [Update of the 2016 opinion on fundamental rights in the hotspots set up in Greece and Italy](#), p.42.

¹¹¹ Italy, [Law No. 47 of April 7, 2017](#), Provisions on protective measures for unaccompanied foreign minors, *Gazzetta Ufficiale*, 21 April 2017.

¹¹² Council of Europe, Group of experts on action against trafficking in human beings, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Italy](#), January 2019, para 185.

¹¹³ IOM, [Human trafficking through the central Mediterranean route](#), 2017; OXFAM [Media Briefing](#), August 2017; Human Rights Watch, [No Escape from Hell. EU Policies Contribute to Abuse of Migrants in Libya](#), January 2019

¹¹⁴ United Nations Support Mission in Libya and the Office of the High Commissioner for Human Rights, [Desperate and dangerous: Report on the human rights situation of migrants and refugees in Libya](#), December 2018.

¹¹⁵ [UNHCR update](#), May 2019.

¹¹⁶ European Union assistance to the Libyan coastguard is provided through two civilian and military missions under the [common security and defence Policy \(CSDP\)](#): European Union Border Assistance Mission Libya ([EUBAM Libya](#)) and European Union Naval Force Mediterranean Operation Sophia ([EUNAVFOR MED Operation Sophia](#)). EUBAM Libya contributes to the development of border management and security Libya's land, sea and air borders while

The FRA already alerted national and European authorities regarding fundamental rights concerns resulting from increased cooperation with third countries on migration management in December 2016 and provided guidance on the matter.¹¹⁷ In particular, the FRA underlined that some EU Member States are increasingly involved in border management activities on the high seas (Italy and Greece), within – or in cooperation with – third countries. Such activities entail risks of violating the principle of non-refoulement.¹¹⁸ In accordance with international law, this principle could apply to victims of trafficking, who might fear persecution or other serious harm in his or her country of origin. This could include re-trafficking, reprisals from traffickers or criminal networks, ostracism, social exclusion or discrimination to an extent that would amount to persecution, harassment, threats or intimidation.¹¹⁹ As explained in Section 1.3., victims of trafficking can indeed qualify as refugees.

Furthermore, the extent to which Italian hotspots could provide decent reception conditions in the event of new incoming migrants is very hard to assess. ECRE for instance notes that recent decisions taken by the Italian authorities have lowered the tender specification requirements for the provision of services in reception centres. The tender specification schemes only guarantee basic needs and no longer cover integration services. Furthermore, legal support was replaced by a 'legal information service' with reduced accessibility. Services for vulnerable people are no longer provided, thus leaving the protection of these people to purely voluntary contributions.¹²⁰

3.2. Prevention of return and referral procedures

As detailed above (Section 2), the Reception Conditions Directive provides that Member States are expected to carry out all the procedural steps aimed at identifying presumed victims of trafficking at the earliest possible stage. They must prevent their automatic return to their countries of origin without their vulnerabilities having been adequately addressed and ensure their proper referral. In practice, there are many challenges when it comes to proper application of these provisions.

3.2.1. Prevention of return

Properly identifying – or failing to identify – a migrant as a victim of trafficking will determine the follow-up procedures that will apply to them, i.e. protection and asylum application, relocation to another Member State (where appropriate) or return to the country of origin. The many difficulties in ensuring early identification of victims in hotspots stressed in Section 2 thus have important consequences for the future of migrants and asylum-seekers who have been exploited or are at risk of becoming so.

Greece

In Greece, application of the EU-Turkey Statement's provisions has had many consequences in this respect.

EUNAVFOR MED Operation Sophia was launched to disrupt human smuggling and trafficking networks in the Southern Central Mediterranean.

¹¹⁷ FRA, [Guidance on how to reduce the risk of refoulement in external border management when working in or together with third countries](#), December 2016.

¹¹⁸ Under international human rights law, the principle of non-refoulement guarantees that no one should be returned to a country where they would face torture, cruel, inhuman or degrading treatment or punishment and other irreparable harm. This principle applies to all migrants at all times, irrespective of migration status. See UNHCR, [The principle of non-refoulement under international human rights law](#), 2018.

¹¹⁹ UNODC, Toolkit to Combat Trafficking in Persons, [Tool 7.9](#), 2008.

¹²⁰ ECRE, [Country report for Italy](#) (updated version from December 2018).

According to some NGOs, many migrants who are nationals of countries prejudged to be producing 'economic migrants' rather than 'refugees' are automatically detained and expected to be returned to Turkey.¹²¹ They are examined under an accelerated procedure (the so-called 'fast-track procedure'), that can affect opportunities for vulnerability screening. As a result, some migrants and asylum-seekers whose applications have been rejected and returned to Turkey could include undetected victims of trafficking, for instance from Nigeria. The fast-track border procedure was introduced as an extraordinary and temporary procedure. However, its application is repeatedly extended and remains in force to date.¹²² Due to the extremely short duration of this procedure, vulnerabilities often go unnoticed.¹²³ The identification of vulnerability is a lengthy process that needs to be conducted by specialised staff and cannot effectively be managed in a fast-track 'mode'.¹²⁴

Concerns relating to the extent to which vulnerability screening is affected by a policy significantly focused on return have been raised on many occasions since the application of the Statement with Turkey. Notably, NGOs¹²⁵ have urged the European Commission to carry out a human rights impact assessment of the Statement on the human rights of the asylum-seekers and migrants subject to return to Turkey (especially women and children). In the view of the Commission, such an assessment was not required for the Statement because of its political nature.¹²⁶ The NGOs subsequently turned to the Ombudsman. In its inquiry, the Ombudsman took the view that the political aspect of the Statement should not 'absolve the Commission of its responsibility to ensure that its actions are in compliance with the EU's fundamental rights commitments'.¹²⁷ The Ombudsman closed the case with the suggestion to the Commission that it deal more explicitly with the human rights implications in its future reports on the agreement. The FRA in this respect contributes significantly to the assessment of the impact of the Statement with its detailed opinions.

This case brought to the Ombudsman was followed by the one brought in relation to EASO's role in the conduct of vulnerability assessments in Greek hotspots, as seen in Section 1.4. Concerns are thus multiplying in relation to the application of the Statement's provisions with Turkey, in particular when it comes to the proper assessment of vulnerabilities, which is key for the detection of victims, the prevention of further exploitation and for the implementation of adequate referral procedures.

In July 2018, the NGO Advocates Abroad submitted an additional complaint against EASO to the Ombudsman. The complaint concerned EASO's failure to reply to the complainant's correspondence. The complaint also alleged misconduct of EASO staff when conducting interviews with asylum-seekers in the Greek hotspots. Investigations of this case are still ongoing.¹²⁸

¹²¹ Amnesty International, [Annual Report](#), 2017.

¹²² ECRE, [Fast-track border procedure \(Eastern Aegean islands\)](#).

¹²³ ECRE, [Country report for Greece](#) (updated version from December 2018), p.25.

¹²⁴ Yiota Masouridou and Evi Kyprioti, [The EU-Turkey Statement and the Greek hotspots](#), Report for the Green Group in the European Parliament, June 2018.

¹²⁵ The complainants were the Spanish Committee for Helping Refugees – CEAR, the Spanish Association of Young Lawyers, Women's Link Worldwide and Spanish individual citizens.

¹²⁶ See: Mauro Gatti and Andrea Ott, 'The EU-Turkey Statement: legal nature and compatibility with EU institutional law', *Constitutionalising the External Dimensions of EU Migration Policies in Times of Crisis*, 2019.

¹²⁷ European Ombudsman, [Decision of the European Ombudsman](#) in the joint inquiry into complaints 506-509-674-784-927-1381/2016/MHZ against the European Commission concerning a human rights impact assessment in the context of the EU-Turkey Agreement, January 2017.

¹²⁸ [Case 1139/2018/MDC](#): The European Asylum Support Office's (EASO) failure to reply to correspondence alleging misconduct of EASO staff when conducting interviews with asylum seekers in the Greek 'hotspots', July 2018.

Italy

In Italy, people arriving at the Italian hotspots are classified as asylum-seekers or economic migrants depending on a summary assessment, mainly carried out either by using questionnaires (*foglio notizie*) filled in by migrants at disembarkation, or by orally asking questions relating to the reason why they have come to Italy. As in Greece, these people are often classified solely based on their nationality. Migrants coming from countries informally considered as safe (such as Tunisia) are classified as economic migrants, prevented from accessing the asylum procedure and handed removal decisions.¹²⁹

Furthermore, these *foglio notizie* only serve to collect identity data and do not contain questions allowing vulnerabilities to be flagged. A significant number of people moreover do not seem to receive information on their legal status in the hotspots prior to completing the *foglio notizie*. In this respect, the FRA notes that information on trafficking often emerges only during the asylum interview, which points to early identification failures.¹³⁰

These shortcomings point to strong probabilities that many victims of trafficking – whether or not they come from a safe country of origin, go undetected. Back in 2017, GRETA reported on the expulsion of 64 Nigerian women, who had disembarked on the Sicilian coast, despite strong indications that they had been victims of trafficking. Of the 64 women who had claimed asylum, only four received positive replies.¹³¹

The current situation in Italy regarding asylum-seekers and migrants who manage to arrive in Italy despite increasing attempts by the Italian authorities to prevent them from reaching its shores has raised many concerns, in particular in relation to the guarantee of procedural rights. Recent legislative reforms have introduced several significant changes to the asylum procedure. Among other elements, humanitarian protection status, frequently granted before the 2018 law reform, has been abolished.¹³² These legislative changes, which have major implications for asylum-seekers and vulnerable groups in particular, combine with increasing fundamental rights challenges relating to the above-mentioned cooperation with Libya, refusals to let rescue ships dock, and the penalisation of civil society organisations deploying rescue vessels in the central Mediterranean.¹³³

In both Greece and Italy, as underlined by the European Commission in its second progress report on human trafficking, civil society reports that effective victim protection is difficult when these provisions are in conflict with return procedures or the application of the Dublin III Regulation, which determines which Member State is responsible for examining an asylum application. The Commission here notes that victims of trafficking are a particularly vulnerable group in the EU asylum *acquis*: it is therefore of paramount importance that the asylum systems communicate with national referral mechanisms for victims of trafficking.¹³⁴

¹²⁹ ECRE, [Country report for Italy](#) (updated version from December 2018).

¹³⁰ FRA, [Update of the 2016 opinion on fundamental rights in the hotspots set up in Greece and Italy](#).

¹³¹ Council of Europe's Group of Experts on Action against Trafficking in Human Beings, [Report on Italy](#) under Rule 7 of the Rules of Procedure for evaluating implementation of the Council of Europe Convention on Action against Trafficking in Human Beings, GRETA(2016)29, January 2017.

¹³² ECRE, [Country report for Italy](#) (updated version from December 2018).

¹³³ FRA, [Update of the 2016 opinion on fundamental rights in the hotspots set up in Greece and Italy](#), p.7.

¹³⁴ European Commission, [staff working document](#) accompanying the second report on progress made in the fight against trafficking in human beings, SWD(2018) 473 final, December 2018, p.54.

3.2.2. Referral procedures and follow-up

Once victims of trafficking have been registered (i.e. if they have been identified at an early stage and if they have not been returned), in principle referral mechanisms allow for the necessary assistance to be provided, as required by the Anti-trafficking Directive. However, in practice gaps and obstacles also persist in this area.

The FRA notes for instance that, in the case of Italy, there is not yet a system for the proper mapping of vulnerabilities, designed to ensure that vulnerable persons or persons at risk are transferred to appropriate reception facilities that can offer the follow-up services needed. Efforts are however underway, as the UNHCR currently supports the relevant authorities in mapping existing referral mechanisms and best practices at regional level. Based on the information published in the Commission's second report on the fight against trafficking in human beings, Italy reported that the territorial commissions use guidelines developed in 2016 with UNHCR for identifying and granting victim status. The Italian authorities furthermore reported that a national referral mechanism has been introduced for victims of trafficking, with standard operating procedures (SOP) to ensure full 'step-by-step' assistance.¹³⁵ In January 2019, GRETA urged the Italian authorities to introduce a national referral mechanism and to ensure that frontline staff adopt a proactive approach to detecting and identifying victims of trafficking.¹³⁶

In Greece, as noted above, the national referral mechanism for victims of trafficking became fully operational in January 2019. Furthermore, standard operating procedures on trafficking in human beings have been adopted for hotspots. However, in spite of these efforts, the FRA notes that the number of victims identified - and thus protected, remains extremely low.¹³⁷ Therefore, in both Italy and Greece, the referral of victims to appropriate services, in particular safe housing, remains challenging.

Once victims of trafficking have been identified, local NGOs usually play a critical role in accommodating, assisting and protecting these victims within programmes that are implemented outside hotspots, during the second-line reception stage. At this point of time in the journey of recognised and referred victims of trafficking, the challenges encountered are no longer specific to the context of hotspots and reflect general shortcomings found at national level.

Here, civil society organisations report difficulties in relation to the issuing of residence permits to victims of trafficking who are non-EU nationals.¹³⁸ As analysed in Section 1, Directive 2004/81/EC regulates the granting of a temporary residence permit to third-country national victims of trafficking in human beings who cooperate with the authorities for the investigation and prosecution of the alleged traffickers. The European Commission recently provided an updated assessment of the proper implementation of the related provisions.¹³⁹ The findings point to several shortcomings in the application of this instrument, such as lack of training and the sharing of best practices, the gap between the law and its actual implementation, the lack of incentives for victims to come forward. On the latter, the Commission underlines the limits inherent in the 'conditionality'

¹³⁵ European Commission, [staff working document](#) accompanying the second report on the progress made in the fight against trafficking in human beings, SWD(2018) 473 final, December 2018, p.56

¹³⁶ Council of Europe's Group of Experts on Action against Trafficking in Human Beings, [Report on Italy](#), January 2019, para. 3.

¹³⁷ ECRE reports that in 2018, only one asylum-seeker – a woman – was registered by the Asylum Service as a victim of trafficking: ECRE, [Country report for Greece](#) (updated version from December 2018), p.86.

¹³⁸ European Commission, [Staff Working Document](#) accompanying the second report on the progress made in the fight against trafficking in human beings, SWD(2018) 473 final, December 2018, p.54.

¹³⁹ Ibid, see Annex 1 (p.84 and seq.).

aspect of permit delivery as set out in the Directive, as victims are often too afraid to cooperate with the authorities and therefore tend to fall outside of the system.

In its latest country report on Italy, GRETA, while commending the work of civil society organisations and local actors in providing victims with assistance, urged the Italian authorities to ensure that assistance is not made conditional on victims' co-operation in the investigation and criminal proceedings, and that long-term funding is provided to organisations running victim assistance projects.¹⁴⁰ GRETA reports furthermore its concerns in relation to victims of trafficking who have been convicted of criminal offences, in particular linked to irregular migration. In Greece, legislative reform now provides for granting of residence permits for, among others, victims of trafficking who do not cooperate. Victims of trafficking in human beings who do not cooperate with the competent authorities, are granted, free of charge, a residence permit for humanitarian reasons according to a decision of the migration minister.¹⁴¹

Furthermore, in the context of the Commission's assessment, most Member States report on having established shelters for victims and appropriate accommodation. However, across the EU, civil society remains critical on the accessibility, availability, and appropriateness (with respect to gender, age and consequences of the form of exploitation victims have been subjected to) of such accommodation. In the case of Italy, GRETA notes that while the number of shelter places funded by the Italian authorities increased from 700 to 1 500 in 2 years (2017-19), the available places are still not commensurate with the number of presumed victims of trafficking.¹⁴²

For Greece, as underlined above, increasing efforts have been made by operationalising a national referral mechanism. Nevertheless, in Greece NGOs play a crucial role in the state's efforts to assist victims of trafficking. In this respect, it is difficult to assess how much funding is spent on victim protection, and NGOs have expressed concerns regarding government funding shortfalls caused by Greece's seven-year economic crisis and fiscal measures imposed as part of its international bailout.¹⁴³

¹⁴⁰ Council of Europe's Group of Experts on Action against Trafficking in Human Beings, [Report on Italy](#), January 2019.

¹⁴¹ European Commission, Together Against Trafficking, [Country Report for Greece](#).

¹⁴² Council of Europe's Group of Experts on Action against Trafficking in Human Beings, [Report on Italy](#), January 2019, para. 165.

¹⁴³ United States Department of State, [2017 Trafficking in Persons Report - Greece](#), June 2017.

4. Conclusions

People leaving their countries in search of safety or a better life (asylum-seekers and migrants – some of whom are already fleeing exploitation in their home countries) and arriving in Europe by sea face significant risks of exploitation of various forms (sexual exploitation, forced labour) during their journey to a safer haven. These risks do not disappear when they reach EU soil: while waiting for their papers to be processed, people are still at risk of being exploited.

Overall, as detailed throughout this study, the proper detection and protection of victims of trafficking in hotspots remain challenging at every step of refugees' and migrants' arrival in Europe. These shortcomings are particularly worrying, as proper identification – or failure to do so – of victims of trafficking will determine the types of follow-up procedures that will apply to them. Persons identified as victims will, in principle, be offered assistance and protection, while undetected victims might be relocated to another Member State (where appropriate) or returned to their country of origin without having had their needs assessed.

In this context, the study has shown that vulnerability screening is a prerequisite in the identification of victims and has stressed the related challenges. Protection of vulnerable groups in hotspots is equally important.

On these aspects the FRA, in its updated opinion on the hotspots, underlines real improvements in both Italy and Greece over the last two years: better and clearer standard operating procedures, functioning systems of guardianship for unaccompanied children and better awareness of the issue of trafficking. These efforts have been significantly supported by the European Commission and relevant EU agencies.

As regards the gender-related aspects of the issue, there is an urgent need for gender-sensitive processes of victim identification and protection,¹⁴⁴ especially in the field of trafficking, which, as the study has shown, is highly gendered. As mentioned above, efforts have been made to integrate this dimension in the training materials produced at EU level and supplied to the competent national authorities on the ground. Furthermore, guidance has been provided to adopt gender-specific measures in anti-trafficking measures.¹⁴⁵

However, further efforts in this field are required: the FRA notes for instance that female staff are still insufficient in hotspots. Presence of female police staff and interpreters not only helps to safeguard the dignity of women during entry checks including body searches, first registration and other procedures in the hotspots: it also plays an important role in facilitating the reporting of sexual and gender-based violence.¹⁴⁶ Furthermore, the FRA reports that while there is now more awareness on the need to prevent sexual and gender-based violence (including in the way a camp is designed and managed), the overall problem of overcrowding, especially in Greece, strongly mitigates these efforts.

The latter aspect (overcrowding) points to a more general issue relating to hotspots: conceived as a temporary measure to face significant numbers of refugees and migrants arriving at external borders, they concentrate many challenges, including many related to fundamental rights. The future of hotspots (and more generally the reform of common European asylum system) will certainly be key in the discussions and debates of the new parliamentary term.

¹⁴⁴ European Commission, [Study on the gender dimension of trafficking in human beings](#), 2016.

¹⁴⁵ EIGE, [gender-specific measures in anti-trafficking actions](#), 2018.

¹⁴⁶ FRA, [Update of the 2016 Opinion on fundamental rights in the hotspots set up in Greece and Italy](#), p.49.

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During the course of the eighth parliamentary term, the European Parliament stressed the urgent need to improve early identification of victims of trafficking at EU borders and to adopt more gender-sensitive policies. This study explores these aspects in the specific context of hotspots. It focuses on the processes in place to facilitate the detection of victims of trafficking when they arrive by sea on Greek and Italian shores. It also assesses the protection granted to victims detected and to vulnerable groups at risk of exploitation while staying in hotspots.

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