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## UN & CoE

January

5 February – Portugal becomes the first European Union (EU) Member State to ratify the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention)

February

March

April

May

June

July

August

5 September – International Labour Organization (ILO) Convention concerning decent work for domestic workers enters into force

September

17 October – Council of Europe Group of Experts on Action against Trafficking in Human Beings (GRETA) publishes the Third General Report on its activities

October

November

9 December – Council of Europe and the French government organise a hearing on 'Access to Justice for Women Victims of Violence'

December

## EU

January

February

March

6 April – Deadline for transposition into national law of the Directive on preventing and combating trafficking in human beings and protecting its victims

15 April – Eurostat publishes its report *Trafficking in human beings in the European Union*

April

May

12 June – European Parliament and Council of the European Union adopt the Regulation on mutual recognition of protection measures taken in civil matters

13 June – Council of the European Union adopts conclusions on an EU framework for the provision of information on the rights of victims of trafficking in human beings

June

July

August

September

15 October – FRA (European Union Agency for Fundamental Rights) issues an *Opinion on the Framework Decision on Racism and Xenophobia – with special attention to the rights of victims of crime*

October

12–13 November – FRA holds its annual Fundamental Rights Conference on 'Combating hate crime in the EU: Giving victims a face and a voice'

November

6 December – Justice and Home Affairs (JHA) Council adopts conclusions on combating hate crime in the EU, proposing concrete actions to improve efforts to combat hate crime at EU and national level

December



# 9

## Rights of crime victims



*In 2013, EU Member States worked to transpose the EU Victims' Directive, which was adopted in October 2012, into national law with a view to implementation by the 16 November 2015 deadline. Some Member States made considerable progress in strengthening procedural rights and support provisions for victims in line with the directive. The Czech Republic, for example, guaranteed many of the rights set out in the directive at the legal level, while France stands out as having established a comprehensive victim support service structure across the country. Other Member States, however, need to make a significant effort in the coming months if the targets outlined in the directive, including the provision of victim support services, are to be met on time. The Regulation on mutual recognition of protection measures taken in civil matters upon request of the person at risk, adopted on 12 June 2013, aims to ensure that protection measures in civil matters issued by one Member State will be easily recognised by and applied in other Member States. A number of Member States reformed laws and enhanced victims' rights.*

### 9.1. EU Member States take steps to enhance victims' rights

Some EU Member States overhauled victims' rights legislation in 2013, driven by the obligation to transpose the EU Victims' Directive into national legislation by November 2015. Some governments also enforced their responsibility to make victims' access to justice effective in practice, in particular by initiating, coordinating and funding the establishment of support services by state and non-state actors. Despite progress in enforcing victims' rights, gaps remain across various Member States, including continuing low numbers of victims granted compensation, lack of coordination of support services and the insufficient funding of and coverage provided by such services.

In the **Czech Republic**, a comprehensive Victims' Rights Act came into force on 1 August.<sup>1</sup> The

#### Key developments in the rights of crime victims

- The European Parliament and the Council of the European Union adopt a Regulation on mutual recognition of protection measures taken in civil matters upon request of the person at risk, aiming to ensure that all protection measures taken in civil matters in one Member State can be applied throughout the European Union.
- Member States continue efforts to implement Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime (EU Victims' Directive) by amending criminal legislation to include measures that protect and empower victims and by strengthening victim support structures. Many gaps remain, however, such as a lack of coordinated support structures and inadequate funding of support organisations.
- The deadline for transposing Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims (Trafficking Directive) is reached on 6 April 2013.
- Three EU Member States ratify the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention). A further three Member States signed the Convention in 2013, bringing the total number of EU signatories to 17.

- The JHA Council adopts conclusions on combating hate crime in the EU, inviting Member States to ensure that bias motives are taken into consideration throughout criminal proceedings; to take appropriate measures to facilitate victims' reporting of hate crimes; to look at measures to build trust in police and other state institutions; and to collect and publish comprehensive and comparable data on hate crime.

act regulates the position of victims of crime, making special provision for "particularly vulnerable victims", for example victims of crimes involving racial hatred or prejudice. All victims have the right to access to information concerning their rights and obligations, will have the chance to file a criminal complaint and are to be informed about where they can seek assistance. There are also measures ensuring that particularly vulnerable victims will be interviewed by someone who is specially trained and that the same person will conduct hearings.

**Poland** amended its Criminal Code of Procedure to bring it in line with the Victims' Directive.<sup>2</sup> Crucially, the new law introduces the formal obligation to inform victims about their specific rights in preparatory proceedings. The amendment also gives victims and suspects equal rights to access case files in pre-trial proceedings. Victims must be informed about this right at the beginning of the investigation. The new law also introduces the right to interpretation for non-Polish-speaking victims.<sup>3</sup>

In the **United Kingdom** (England and Wales), the Criminal Procedure Rules were restated in October 2013. The resulting revised Criminal Practice Directions were amended in line with the Code of Practice for Victims of Crime, requiring, for the first time, that Victim Personal Statements be read to the court if the victim so requests, subject to judicial discretion.<sup>4</sup>

While not all countries took concrete steps to transpose the Directive in 2013, some Member States paved the way for progress. The **Lithuanian** Ministry of Justice, for example, adopted a framework plan of implementation, which sets out plans to amend the Criminal Procedure Code and introduce other measures to improve the protection of rights of all victims of crimes in accordance with the directive.<sup>5</sup> **Ireland** also announced plans for a Criminal Justice (Victims' Rights) Bill.<sup>6</sup>

### 9.1.1. Governments take greater responsibility towards victims

Governments are becoming increasingly aware of their responsibility to make victims' access to justice effective in practice, in particular by initiating, coordinating and funding the establishment of support services by state and non-state actors in line with Articles 8 and 9

of the EU Victims' Directive on the provision of victim support services (see the FRA 2012 Annual report). Governments are thus increasing their influence on the provision of services by non-governmental organisations (NGOs). The following trends can be identified across Member States in 2013:

- the adoption of joint government strategies ensuring a comprehensive and coordinated approach to the implementation of victims' rights (for example, in **Finland, Ireland** and the **Netherlands**);
- the creation or strengthening of organisations tasked with coordinating efforts to support victims (for example, in **Denmark** and **France**);
- the introduction of mechanisms to recognise, certify or accredit generic or specialised support services on the basis of explicit standards and criteria (for example, in **Austria, Belgium** and the **Czech Republic**).

In **Finland**, the government took steps to ensure adequate implementation of the EU Victims' Directive by setting up a commission to prepare a Victims Strategy to cover all victim-related activities.<sup>7</sup> A new policy document, *To do justice to victims*, presented to the **Dutch** parliament in 2013 sets out proposals to increase training on victims' rights for various actors; improve information supply and adapt it to the differing needs of victims; secure rights of victims in cross-border cases; simplify compensation claims; and further the professionalisation of victim support and the mandatory contribution of perpetrators to victim support.<sup>8</sup>

The **Irish** government established the Victims' Rights Alliance, an association of victim support and human rights organisations. The alliance aims to ensure that the EU Victims' Directive is implemented within the proposed time frame, covering all victims of crime. The alliance provides a platform for victims' rights NGOs in Ireland to engage with relevant interest groups, including the government, on the implementation of the directive. In late 2013, the **Croatian** government announced plans to adopt a new national strategy for victim and witness support for the period 2014-2017.<sup>9</sup>

In **Denmark**, a new law establishes a Victims' Fund for the benefit of victims of crime and traffic accidents, funded by fines imposed on convicted offenders. Through grants to victim support services, research, projects on education, information and development, the fund will support activities in the area of victim support.<sup>10</sup>

**France** set up general victim support offices, as stipulated by a 2012 decree<sup>11</sup> and a 2013 circular.<sup>12</sup> These NGO-run services are conceived as 'one-stop' offices for victim information, guidance and support throughout the criminal procedure. Since piloting 12 such offices



in 2009, France opened another 50 between 2010 and 2012 and established a further 90 in 2013.<sup>13</sup> Furthermore, the Victim Support Service of the Ministry of Justice is conducting two pilot projects concerning the implementation of Article 22 of the Victims' Directive, which obliges Member States to ensure that victims receive "a timely and individual assessment [...] to identify specific protection needs".<sup>14</sup>

In the **United Kingdom** (England and Wales), since 2012 Police and Crime Commissioners have been responsible for deciding and allocating the budget for most victim support. In October 2013, the Ministry of Justice published the government's response to the consultation *Improving the Code of Practice for Victims of Crime*. The code introduces the notion of an enhanced service for victims in most need.

The **Czech Republic's** newly adopted Victims' Rights Act creates a requirement for the Ministry of Justice to accredit support services. State grants then support and finance such organisations. Victim support is granted to any natural person who is a victim of crime. It comprises social, psychological and legal services provided by qualified people.

In **Austria**, since January NGOs providing support and protection in cases of domestic violence have performed their work on the basis of service contracts, the result of the first EU-wide public procurement procedure. This procedure has not resulted in a change in the NGOs selected; the organisations providing the service have been operating on the basis of public grants since the late 1990s. It has, however, necessitated the definition of performance criteria and performance indicators. It has also strengthened the link between the government and NGOs providing support to victims of domestic violence and it has enhanced the transparency of that cooperation.

**Belgium** adopted criteria that organisations need to fulfil to be recognised as specialised organisations in the area of reception and accompaniment of victims of human trafficking and several severe forms of smuggling of human beings (see [Chapter 2](#) on border control and visa policy). Only Belgian-based non-profit organisations that have as their main purpose offering care, guidance and housing to victims of trafficking and aggravated forms of trafficking can be recognised as specialised centres. Centres must provide administrative and legal follow-up support for victims, and they must have a strategic and operational plan explaining the administrative, psychosocial, legal and medical support available. In addition, each centre must issue an annual report with comparable statistical data on the care of victims of trafficking, including the number of victims, their age and gender, and the form of exploitation that they experienced. Recognised centres obtain the right to act as a civil party in defence of victims

of human trafficking. Three centres were recognised as specialised centres after the entry into force of the royal decree in April 2013: PAG-ASA (Brussels), Payoke (Antwerp) and Sürya (Liège).<sup>15</sup> These centres, however, do not benefit from structural funding.

### 9.1.2. Many gaps remain, including a lack of coordination of support services and insufficient funding

Despite progress, many EU Member States still lack a coordinated approach to implementing measures to safeguard the rights of victims, and in more than half of Member States the coverage provided by support services is far from satisfactory. The European Institute for Gender Equality issued a report recently that supports this finding. The report, which focuses on specialised support services for women victims of intimate partner violence, finds that the level of provision of support services to such victims varies substantially within the EU in approach, capacity, quality and geographical distribution.<sup>16</sup> Many Member States need to make a significant effort if they are to meet the November 2015 target date for implementation of the EU Victims' Directive. In **Slovakia**, for example, the government has not yet begun any of the necessary preparatory activities.<sup>17</sup> **Cyprus** lacks a holistic approach to victim support, with victims' rights and measures to support them laid out in various laws and no specific body in charge of victim support coordination.

### 9.1.3. The role of victims in the sentencing phase

Several EU Member States reformed laws to strengthen the role of victims in sentencing after an offender's conviction. For example, **Austria** amended its Penal Procedure Code so that victims of sexual offences and sexually motivated violent offences have the right to express their views on the electronically monitored house arrests of offenders.<sup>18</sup> In **Belgium**, a bill has been introduced to give victims more rights in debates about the release of offenders. These rights include permission to attend and express their views at the special court sessions that decide on the execution of sentences that concern them.<sup>19</sup> The Bill stops short, however, of granting victims the right to appeal against a sentence they consider too lenient, an omission which some have criticised.

In the **United Kingdom** (England and Wales), the independent Victims' Commissioner reviewed the statutory Victim Contact Scheme covering victims of offenders convicted of certain sexual and violent offences.

The Victims' Commissioner, in her review of the scheme (the responsibility of probation services, using victim liaison officers), argued for better victim-oriented training for liaison officers and parole board members, more information for victims about parole board decisions and a more open and transparent parole board.<sup>20</sup> Since 2007, victims have had the right to make a Victim Personal Statement for the parole board, but the new Code of Practice for Victims of Crime granted victims for the first time a statutory right to make such a statement and apply to read it to the board in person.

#### 9.1.4. Funding cuts hit support services

Cuts in funding and other austerity measures driven by the economic crisis are affecting victim support organisations across many Member States, including both generic and specialised victim support providers. In 2013, for example, the NGO Victim Support Slovakia, the only organisation in **Slovakia** providing services to all victims of crime, did not receive any public funds. As a result, the organisation drastically curtailed its services, suspending its official website and cutting its helpline operating hours to four per day. **Italy** decreased funding for victim support services by 300 % between 2011 and 2013. In 2011, specific support services were allocated €11.3 million; this fell to €9.3 million in 2012 and €3.5 million in 2013.<sup>21</sup>

#### FRA ACTIVITY

##### Mapping EU victim support services

In 2013, FRA completed research on victim support services across the EU, and in 2014 it will publish comparative findings, including:

- a comparative overview of the 28 Member States, concerning the extent, nature and context of victim support service provision;
- information on different models of victim support service provision, analysing Member State similarities and differences;
- promising practices that could offer models for adoption in different settings/Member States.

For further information on the project, see <http://fra.europa.eu/en/project/2012/victim-support-services-eu-overview-and-assessment-victims-rights-practice>

In contrast, the **Dutch** government increased funding to Victim Support Netherlands, from €22 million in 2012 to over €23.2 million in 2013, with a structural subsidy for the specialised care of victims of severe violent crimes and sexual offences.<sup>22</sup>

## 9.2. Member States enhance victims' access to compensation

The numbers of victims' compensation claims continue to be low and are even declining across the EU. The EU Victims' Directive obliges states to ensure that competent authorities provide victims (at first contact) with information on how and under what conditions they can access compensation.<sup>23</sup> Victims are also entitled to obtain a decision on compensation by the offender within a reasonable time during criminal proceedings, and Member States should also promote measures to encourage offenders to provide adequate compensation to victims.<sup>24</sup>

While some Member States have taken steps to help improve victims' access to compensation, the low numbers of applications and awards are a matter of concern in many EU countries, indicating that much needs to be done to assist and encourage victims to exercise their right to access compensation. According to **German** statistics, for example, only about 10 % of victims of violent crime apply for compensation under the Crime Victim's Compensation Act, and less than two in five of these victims (3.7 %) receive compensation.<sup>25</sup> This figure remained stable in 2011 and 2012. In the first nine months of 2013, only 22 crime victims in **Romania** received compensation.<sup>26</sup>

In **Slovenia**, the number was even lower, with only 19 compensation awards (resulting from 72 claims), totalling €42,183, being granted to crime victims in 2013. Thirteen of the 72 claims remain unresolved. In **Cyprus**, from 2012 to November 2013, 19 applications for compensation were received, nine of which were rejected while the rest remain under examination. In the **Czech Republic**, only one application had been received and acted upon by November 2013.<sup>27</sup> One of the reasons for the low numbers of claims, in addition to reasons reported in the FRA 2012 Annual report, is the short time frame many Member States apply for victims to claim compensation. The FRA 2012 Annual report also referred to the possibility that either many victims do not consider compensation a main concern or they have insurance. In some cases, victims must first exhaust the possibility of receiving compensation from the offender before they can apply for state compensation.<sup>28</sup>

The numbers of claims and awards are also extremely low in **Bulgaria**, prompting discussions in the National Council for Assistance and Compensation of Victims of Crimes about the legal amendments to the Assistance and Financial Compensation of Victims of Crime Act necessary to make it effective in protecting victims of crime.

Although the system of compensation for crime victims in the **United Kingdom** is considered to be one of the most advanced in the EU, there was an almost 15 % reduction in applications, to 47,889, received by the Criminal Injuries Compensation Authority in 2012–2013. The decline is attributed in part to a new scheme, introduced in 2012, which tightened the eligibility criteria.<sup>29</sup> The 10 % decrease in recorded crime between 2012 and 2013, indicating fewer crime victims in 2013 than in 2012,<sup>30</sup> could also help explain the decline in compensation applications.

**Finland**, the **Netherlands** (see the [Promising practice box on advancing compensation payments to all victims of crime](#)) and **Sweden** took steps in 2013 to better compensate crime victims. **Finland** introduced an amendment to its criminal code concerning forfeiture, making it easier for victims to receive compensation. After the proceeds of a crime have been ordered forfeit to the state, the victim may turn directly to the State Treasury and apply for compensation without being forced to take the issue to court. This procedure is considered much less complicated than a normal civil case.<sup>31</sup> **Sweden** simplified the application procedure for criminal injuries compensation by producing a simplified, electronic form.<sup>32</sup>

#### Promising practice

##### Advancing compensation payments to all victims of crime

The Netherlands announced in 2013 that it would expand the current advance payment provision for compensation of victims to victims of all crimes in 2016 and that it would also prolong the current three-year request submission period. One way the Netherlands provides for advance payment is through the Central Judicial Collection Agency, which is responsible for seizing perpetrators' property and using it to compensate victims. A further promising practice is that victims can apply for compensation with help from Victim Support Netherlands, which recently made it possible to apply for such compensation online.

*For more information, see [www.rijksoverheid.nl/documenten-en-publicaties/kamerstukken/2013/07/23/beleidsreactie-pamflet-vvd-fractie-inzake-slachtofferbeleid.html](http://www.rijksoverheid.nl/documenten-en-publicaties/kamerstukken/2013/07/23/beleidsreactie-pamflet-vvd-fractie-inzake-slachtofferbeleid.html)*

Criminal courts continue to refuse to take decisions on victims' civil law claims in several Member States. In **Slovakia**, for example, victims can lodge indemnification claims with the civil court only after the court or other entitled authority reaches judgment in the criminal proceeding.<sup>33</sup>

## 9.3. Member States move to strengthen rights of victims of domestic violence and violence against women

### 9.3.1. Istanbul Convention and related developments at EU Member State level

Three EU Member States (**Austria**, **Italy** and **Portugal**) ratified the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention, CETS No. 210) in 2013. A further three signed the convention in 2013, bringing the total number of EU Member States that have signed but not yet ratified the convention to 17 (for the full list, see [Chapter 10](#) on EU Member States and international obligations).<sup>34</sup> Efforts to ratify the convention prompted legal reforms in several Member States in 2013, including **Croatia**, **Denmark**, **Finland**, **France**, **Italy**, **Luxembourg** and the **United Kingdom**.

In **Croatia**, the amendments are extensive and include the introduction into Croatian law of definitions of female genital mutilation, forced marriage and many aggravated offences committed against a 'close' person. The criminalisation of non-consensual sexual intercourse was extended beyond crimes involving the use of violence or threat.<sup>35</sup> **Finland** included a definition of stalking in its criminal code.<sup>36</sup> **France** added to its criminal law definitions relating to forced marriage and inciting female genital mutilation.<sup>37</sup> **Denmark** amended its law, extending the statute of limitations in cases of child victimisation.<sup>38</sup>

In **Italy**, 2013 reforms to the Code of Criminal Procedure introduced a number of important measures for victims of domestic violence, sexual abuse, sexual exploitation and stalking, focusing on victims' procedural rights. Under the new provisions, the public prosecutor and police are legally obliged to inform victims that a lawyer may represent them during criminal proceedings and that victims or their lawyers may ask for a protected hearing.<sup>39</sup> They are also required to inform victims about the possibility of accessing legal aid and the conditions under which such aid is granted. In addition, the law provides that investigations into alleged crimes must be concluded within one year after they are reported to the police, and residence permits are to be extended to foreign nationals who are victims of violence, including undocumented migrants.

In addition, **Croatian** substantive criminal law now takes into account the long-term nature of relations of domestic violence. The fact that a violent offence has been committed against a 'close person', including an intimate partner, is now considered an aggravating factor. Similarly, the **Hungarian** parliament adopted a definition (Article 212a of the Hungarian Criminal Code) specifically covering violence in relationships; it entered into force on 1 July 2013.

These definitions are in line with the recent case law of the European Court of Human Rights (ECtHR). Until 2009, the court had dealt with non-lethal cases of domestic violence mainly as violations of the right to privacy under Article 8 of the European Convention on Human Rights (ECHR), with the notable exception of *Opuz v. Turkey*, which concerned a case of lethal domestic violence and where the court found violations of Articles 2, 3 and 14.<sup>40</sup> In a series of decisions taken in 2013, the court re-evaluated domestic violence cases, stressing the particularly degrading aspects of intimate violent relationships.

In a case against **Lithuania**,<sup>41</sup> an applicant alleged that in one month alone her live-in partner had beaten her up on five occasions, and she argued that her complaints should be examined under Article 3 of the convention, which provides that no one shall be subjected to torture or to inhuman or degrading treatment. The government objected that the injuries sustained by the victim were of a "trivial nature". However, the court pointed out that in previous cases treatment had been considered inhuman and degrading when it was such as to arouse in its victims feelings of fear, anguish and inferiority, capable of humiliating and debasing them and possibly breaking their physical or moral resistance. Accordingly, the court now stressed that over a certain period of time the applicant had been exposed to threats to her physical integrity and that this psychological impact is an important aspect of domestic violence. On this basis, the court concluded that the applicant's ill-treatment, which on five occasions caused her physical injuries, combined with her feelings of fear and helplessness, was sufficiently serious to reach the minimum level of severity under Article 3 of the convention on prohibition of torture and thus triggered the government's positive obligation under this provision. The court upheld this assessment in the later *Eremia v. the Republic of Moldova* case.<sup>42</sup> In the *D. P. v. Lithuania* case, the government acknowledged a violation of the Article 3 of the convention, and the court, taking note of the government's declaration under Article 3, decided to strike the complaint from its case list.<sup>43</sup>

Given the particular significance of Member States' obligations under the ECHR to prohibit torture or inhuman or degrading treatment and to redress violations, the ECtHR's view that relationships of domestic violence can amount to inhuman or degrading treatment

places additional emphasis on states' obligations to acknowledge fully the severe rights violations that victims of domestic violence experience, sometimes over long periods.

### 9.3.2. Sexual violence

The Istanbul Convention defines sexual violence, including rape, as "non-consensual acts of a sexual nature", where consent must be given voluntarily "as the person's free will assessed in the context of the surrounding circumstances".<sup>44</sup> This is in line with ECtHR case law, according to which Member States have an obligation to "enact criminal-law provisions effectively punishing rape and to apply them in practice through effective investigation and prosecution".<sup>45</sup> The ECtHR highlighted this view in the *M. C. v. Bulgaria* case in 2003, which concluded that by requiring proof of resistance by the victim against the offender the criminal justice system fell short of punishing all forms of rape and sexual abuse. The obligations deriving from the ECHR prohibition on torture and inhuman or degrading treatment (Article 3) and from the right to respect for private and family life (Article 8) must be seen as "requiring the penalisation and effective prosecution of any non-consensual sexual act, including in the absence of physical resistance by the victim".<sup>46</sup>

Some EU Member States, such as **Belgium, Croatia, Ireland** and the **United Kingdom**, have introduced reforms to extend definitions of sexual violence to include all forms of non-consensual sexual acts. The criminal codes of most Member States, however, contain definitions of sexual violence that afford protection not on the basis of lack of consent to sexual acts but only if certain additional requirements are met, including specific means of coercion or the victim's particular state of dependency or defencelessness. **Portugal**, the first EU Member State to ratify the Istanbul Convention, is taking steps to strengthen support for victims of sexual violence by establishing its first rape crisis centres.

The FRA survey on violence against women sheds light on the importance of criminalising marital rape. Member States must afford married women the same protection through criminal law provisions as unmarried women. Currently, the **Bulgarian** criminal code does not meet this standard.

### 9.3.3. Measures to enhance protection of women from domestic violence

Some EU Member States have focused reforms on further improving the protection of women against





domestic violence. The **Luxembourg** Act on Domestic Violence of 30 July 2013 extended the powers of the police, public prosecutors and courts to ban an offender from the victim's home and extended the time frames of protection measures.<sup>47</sup>

The **United Kingdom** rolled out Domestic Violence Protection Orders and the Domestic Violence Disclosure Scheme nationally in June 2013, following a successful 2012 pilot.<sup>48</sup> In July, the **French** government brought forward draft legislation aimed at furthering gender equality and including improvements to protection orders, mainly by speeding up proceedings, extending the time frame from four to six months and making it a rule that it is the victim who is allowed to stay in the home previously shared with the offender.<sup>49</sup>

A new **Italian** law gives the local police commissioner the power to issue an official restraining injunction and to temporarily revoke a perpetrator's driving licence in cases of severe aggression or verbal threats. It also makes it possible for police, subject to a public prosecutor's authorisation, to remove the perpetrator from the home as a precautionary measure in cases of severe forms of aggression.<sup>50</sup> The law also introduces a legal obligation, in cases of violent crime, to inform social services and the victim's lawyer, or the victim personally if they are not represented by a lawyer,

about a judge's decision to withdraw or revise restrictive measures applied to the offender.<sup>51</sup> In addition, judicial police can order the offender to leave the family home immediately in cases of sexual exploitation, sexual abuse, personal injury, domestic violence and stalking. Electronic devices can be used to monitor whether the perpetrator adheres to the injunction to leave the house.<sup>52</sup>

In a second reading in June, the **Latvian** parliament adopted amendments to the law on the police, allowing police to ban a presumed offender from the victim's home for up to eight days. This power is, however, dependent on the victim's written application.<sup>53</sup>

Given the rapid legislative developments in protection measures against domestic violence in many Member States, a thorough assessment of the practical effectiveness of such measures is good practice. An evaluation in the **Netherlands** found that restraining orders correlate with a lower rate of recidivism in domestic violence cases, in part at least because victims are provided with better support following the issuing of a restraining order.<sup>54</sup>

In **Poland** in July, the Supreme Audit Office published the results of an audit assessing the steps taken by public

## FRA ACTIVITY

### Surveying violence against women

In March 2014, the FRA launched the results of its survey on violence against women, covering all 28 EU Member States. The survey is based on face-to-face interviews with a representative sample of 42,000 women. The interviews were carried out in 2012 by trained interviewers, who asked respondents questions concerning their personal experiences of violence, including physical and sexual violence, psychological violence by a partner, stalking, sexual harassment and violence in childhood. To ensure comparability, the same questions were asked in all Member States, using a structured questionnaire developed by the FRA and translated into the national languages.

The FRA report on the survey results presents a comprehensive overview of women's experiences of violence from the age of 15 and in the 12 months before the interview. Overall, the survey found that one woman in three (33 %) surveyed had experienced physical and/or sexual violence by a (current or previous) partner or non-partner since the age of 15. The survey also showed that 8 % had experienced this type of violence in the 12 months before the survey.

The results highlight the vulnerability and special needs of victims of sexual violence. Women who have experienced sexual violence indicate a number of psychological consequences. They were also more likely to say – compared with victims of physical violence – that they felt ashamed, embarrassed or guilty about what had happened, which can result in victims of sexual violence not reporting these incidents to the authorities. Depending on the type of violence and perpetrator, some 61 % to 76 % of women did not report the most serious incident of physical and/or sexual violence to the police or contact any other support services. The survey compared the experiences of victims who contacted some service or organisation for support. Victims were least satisfied with the assistance they received from the police, compared with other services such as healthcare, social support or victim support services, particularly in relation to crimes of sexual violence. The FRA opinions refer to the need for multi-agency cooperation, involving police and other services providers, to address violence against women, as well as further specialised victim support services in line with the EU Victims' Directive and the Council of Europe Istanbul Convention.

See: <http://fra.europa.eu/en/publication/2014/vaw-survey-main-results>

authorities to address domestic violence. According to the findings, the legal reform enacted in 2010 and 2011, which introduced the so-called 'Blue Card' procedure, failed to significantly improve the situation of domestic violence victims, in part because the procedure was overly bureaucratic.<sup>55</sup> A monitoring report published in **Romania**, assessing the initial implementation of its 2012 legal reform, revealed certain shortcomings, including lengthy proceedings and a lack of public awareness of the protection orders available to domestic violence victims.

In **Lithuania**, some particularly disturbing homicides sparked debates on the effectiveness of protection measures. In March, a woman called the police's emergency response centre for help, saying that her violent husband had returned in violation of a restraining order. Six hours later, the victim's brother called again to inform the police that his sister was dead. A number of similar cases occurred. NGOs held a press conference stressing that protection does not work in practice.<sup>56</sup> On a similar note, NGOs in **Hungary** voiced frustration that, despite legislative reforms, little progress has been achieved. They pointed out that victims often complain that police officers' attitudes fail to live up to the police service's brief, and that this discourages victims from seeking their help.<sup>57</sup>

In **Slovenia**, recent legislative changes resulted in the criminal offence of threatening another person in cases of domestic violence being prosecuted only on the basis of a motion made by the victim. Victims must also pay for legal representation if they wish to prosecute offenders for such offences.<sup>58</sup> **Bulgaria**, **Latvia** and **Slovenia** also stipulate, in certain cases, that protection measures, investigation or prosecution depend on the initiative of the violent crime victim. In contrast, an amendment to the **Lithuanian** criminal code ensures that domestic violence offences can be investigated and prosecuted even without the victim's consent.<sup>59</sup>

Following the institution of legislative reforms relating to the EU Victims' Directive, Member States have an obligation to assess whether the victims' situation has improved, by monitoring the reforms' impact and looking at how victims have accessed the rights set out in the directive.<sup>60</sup> The conclusions of the Council of Europe hearing on 'Access to Justice for Women Victims of Violence' on 9 December 2013 emphasised that lengthy criminal proceedings, high levels of attrition, corruption, low conviction rates and discriminatory practices constitute serious barriers to women victims of violence seeking justice and that Council of Europe member states should continue to address these issues.

## 9.4. EU focuses on enhancing rights of hate crime victims

Starting with the informal meeting of JHA ministers on 17–18 January 2013 in Dublin, EU action countering hate crime, racism, antisemitism, xenophobia and homophobia was in focus throughout 2013 (see also ► **Chapter 6** on racism, xenophobia and related intolerance). In March, the European Parliament called on the European Commission, the Council of the European Union and the Member States to strengthen the fight against hate crime and discriminatory attitudes and behaviour, and called for a comprehensive strategy for fighting hate crime, bias violence and discrimination.<sup>61</sup> Similarly, the European Parliament urged Member States to act against hate crime and to promote anti-discrimination policies, if necessary by strengthening their national antidiscrimination bodies and promoting training within public authorities.<sup>62</sup>

On 6 June, the JHA Council adopted conclusions on fundamental rights, the rule of law and the European Commission's 2012 *Report on the application of the Charter of Fundamental Rights of the European Union*, which refers to hate crimes and the need to assess the effectiveness of the EU legal norms in fighting hate crimes.<sup>63</sup>

In October 2013, at the request of the Council of the European Union, FRA submitted an *Opinion on the Framework Decision on Racism and Xenophobia – with special attention to the rights of victims of crime*. The following month, following discussions on the legal and policy framework and in view of the decision's revision, scheduled for the end of 2013, FRA used its Fundamental Rights Conference in November 2013 to explore effective strategies to combat hate crime. The conference, organised in cooperation with the Lithuanian Presidency, brought together over 400 decision makers and practitioners from across the EU. In December 2013, acknowledging the important role of FRA in providing expert independent analysis, the Council of the European Union adopted its conclusions on combating hate crime in the EU, inviting Member States to ensure that bias motives are taken into consideration throughout criminal proceedings; take appropriate measures to facilitate the reporting of hate crimes by victims, including looking at measures to build trust in police and other state institutions; and collect and publish comprehensive and comparable data on hate crime.<sup>64</sup> The Council conclusions call on FRA to facilitate the exchange of good practices amongst Member States (Action 19). FRA will hold a seminar on hate crime in 2014, designed to set up a community of practice. The seminar, which will take



place on 28–29 April 2014 in Thessaloniki in cooperation with the Greek Presidency, will aim at promoting continuous engagement with Member State authorities, mandated national human rights institutions and civil society organisations.

## FRA ACTIVITY

### Going further in combating hate crime

At the request of the Council of the European Union, FRA submitted, in October, an *Opinion on the Framework Decision on Racism and Xenophobia – with special attention to the rights of victims of crime*.

In its opinion, FRA suggested that:

- legislation adopted at Member State level should deal with all forms of discrimination on an equal footing;
- due attention should be paid to making the bias motivation underlying hate crimes visible throughout criminal proceedings, including to the public;
- legislation allowing courts to deal with bias-motivated offences on the basis of increased penalties is a particularly reliable means of ensuring that discriminatory motives are taken into account;
- Member States are encouraged to facilitate the reporting of hate crimes and to encourage victims and witnesses to report such crime, such as by looking into measures that could simplify bureaucratic procedures and reporting;
- on the basis of clear and comprehensive guidelines, Member States together with Eurostat should, on an annual basis, collect and publish data pertaining to crimes committed with a discriminatory motive.

The FRA opinion is available at: <http://fra.europa.eu/en/opinion/2013/fra-opinion-framework-decision-racism-and-xenophobia-special-attention-rights-victims>

With regard to the recognition of different forms of hate crime, Member States shifted focus in 2013 from racism to include sexual orientation, gender identity and transgender expressions. As part of this trend, the **Portuguese** parliament, for example, unanimously approved a revision of the criminal code that will ban discrimination and hate crime against transgender people. The parliament also added 'gender identity' alongside 'sexual orientation' to the list of discriminatory motives leading to an increased penalty for murder.<sup>65</sup> The parliament also stressed the reprehensibility of crimes motivated by the perceived sexual orientation or gender identity of a victim. It is therefore looking at making penalties more severe.<sup>66</sup>

In **Belgium**, the Minister of Justice, the Minister of Internal Affairs and the College of Prosecutors General issued a joint circular in June with the aim of establishing a unified investigation and prosecution policy for discrimination and hate crimes, including discrimination on the basis of gender.<sup>67</sup> In addition, the criminal code was amended, introducing increased penalties for manslaughter and intentional personal injury motivated by hate and introducing the new criterion of hatred of 'sex reassignment as an aggravating motivation for these offences.'<sup>68</sup>

**Croatia** also introduced changes to its criminal code in 2013, adding provisions on acts committed out of hatred and incitement to violence against groups or their members based on racial, religious, national or ethnic affiliation, skin colour, sex, sexual orientation, gender identity, disability or other traits.<sup>69</sup> **Slovakia** amended its Criminal Statute and Code of Criminal Procedure to introduce stricter punishments for all criminal offences motivated by national, ethnic or racial hatred as well as hatred based on victims' complexion and hatred based on victims' sexual orientation.<sup>70</sup> **Hungary** also amended its criminal code to include an increased penalty, ranging from two to eight years' imprisonment, in cases of violence against a member of a community, national, ethnic or racial group, or against "other social groups", particularly based on disability, gender identity or sexual orientation (see Section 6.2.1 for information on the FRA Thematic situation report *Racism, discrimination, intolerance and extremism: Learning from experiences in Greece and Hungary*).<sup>71</sup>

The **Italian** legislature also focused on the regulation of repression and prevention of gender violence and homophobic crimes through criminal law in 2013, with parliament passing a bill to protect against homophobia and transphobia. The bill extends to the grounds of homophobia or transphobia the crimes of: discrimination or incitement to discrimination (the Reale Law) and violence or incitement to violence. It also considers as aggravating circumstances those crimes committed for purposes of discrimination or hatred (the Mancino Law).

In **France**, a proposal to extend the limitation period from three months to one year for prosecution of offences concerning sexual orientation, sex, gender identity or disability reached the parliament in 2013.<sup>72</sup>

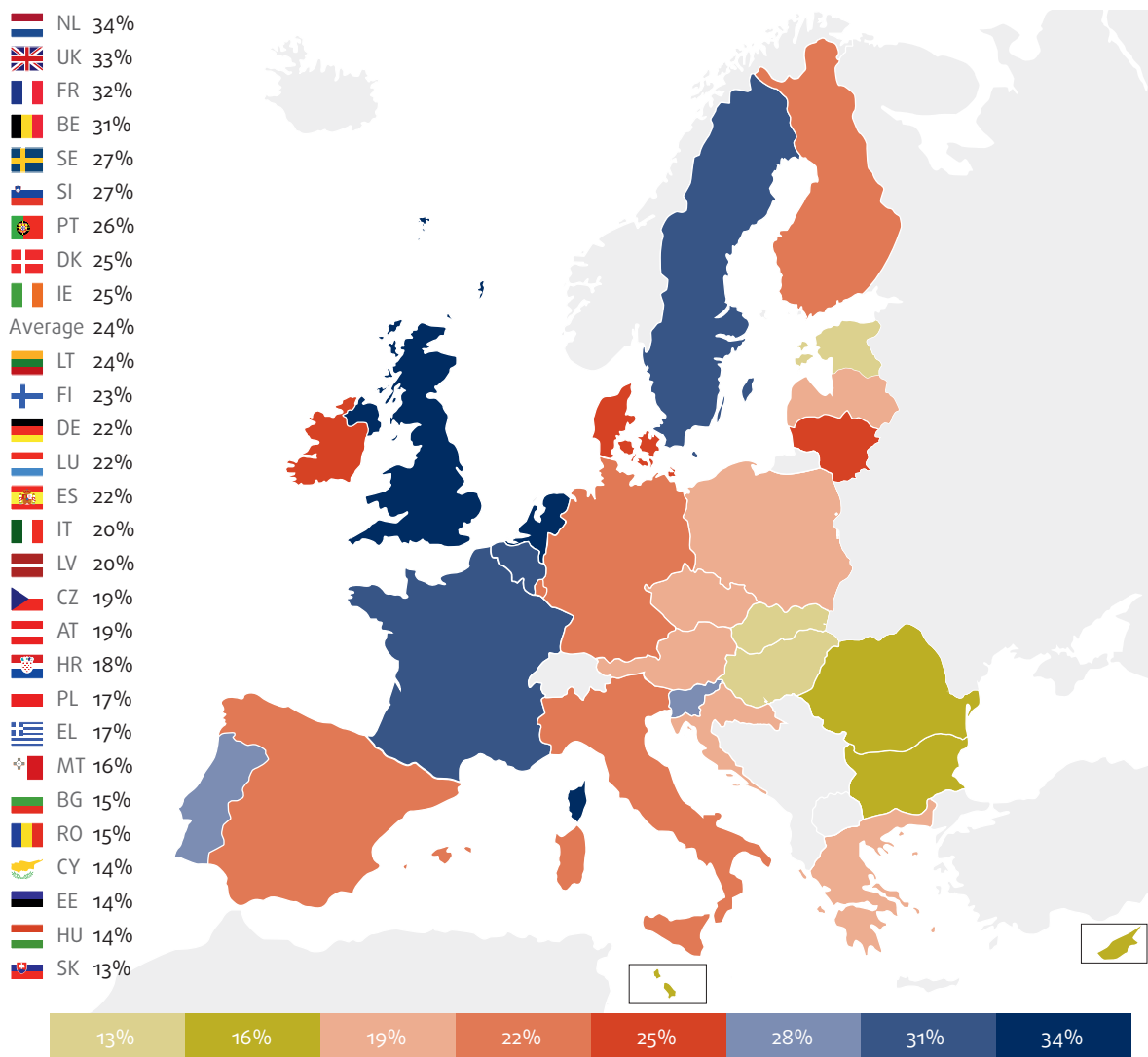
In the **United Kingdom** (England and Wales), the government asked the Law Commission to look into the possible extension of hate crime to offences committed on grounds of discrimination including disability, sexual orientation and gender identity. The Law Commission launched a public consultation, which ran from June to September 2013, to analyse the case for reforming the existing statutory offences.<sup>73</sup>

**Greece** amended its criminal code in March, transposing Article 4 of the Framework Decision on Racism and Xenophobia which requires that a racist motive for a crime be considered an aggravating circumstance. The amendment provides that, for judicial sentencing, “the commission of an act of hatred caused due to race, colour, religion, descent, national or ethnic origin or sexual orientation or gender identity of the victim constitutes an aggravating circumstance and the sentence is not suspended”.<sup>74</sup> In November, the Ministry of Justice submitted a bill intended to implement Article 1 of the same Framework Decision concerning public incitement to bias crimes. Sexual orientation and gender identity are not included as protected grounds, although all the other grounds covered by the previous amendment of the criminal code are included in the draft bill.

### 9.4.1. The need to tackle under-reporting by victims

FRA research has consistently pointed to victims’ systemic under-reporting to police and to the need to facilitate victims’ effective access to criminal justice. As victims of hate crime are often unable or unwilling to seek redress against perpetrators, many crimes remain unreported, unprosecuted and therefore invisible. In such cases, the rights of victims of crime may not be fully respected or protected and EU Member States may not be upholding their duty to protect fundamental rights, including their legal obligations to protect and support crime victims as set out in the EU Victims’ Directive.

**Figure 9.1: Violence and harassment: most serious physical/sexual attack or threat of violence – did you or anyone else report it to the police?**



Source: FRA, 2013; EU-LGBT survey data are available at: [http://fra.europa.eu/DVS/DVT/lgbt.php?locale=EN&dataSource=LGBT&media=png&width=740&plot=heatMap&topic=3.+Violence+and+harassment&question=fa2\\_11&superSubset=1&subset=AllSubset&subsetValue=01--All&answer=01--Yes](http://fra.europa.eu/DVS/DVT/lgbt.php?locale=EN&dataSource=LGBT&media=png&width=740&plot=heatMap&topic=3.+Violence+and+harassment&question=fa2_11&superSubset=1&subset=AllSubset&subsetValue=01--All&answer=01--Yes)

FRA survey findings show that victims of crime often do not report crimes, whether to law enforcement agencies, the criminal justice system, NGOs or victim support groups.<sup>75</sup> Three quarters (76 %) of the Jewish people who say they were victims of antisemitic harassment in the past five years, for example, did not report the most serious incident to the police or to any other organisation.<sup>76</sup> The FRA LGBT survey found that just one in five (22 %) of the most serious incidents of violence which had happened to respondents in the same time period because they were LGBT were brought to the police's attention (see [Figure 9.1](#)).<sup>77</sup>

Victims' trust in the police and in their ability to react to reports of victimisation in a manner sensitive to victims' rights and needs is crucial. In **Bulgaria**, a three-year programme, 'European police and human rights', focuses on discrimination prevention as well as on police performance in the light of international human rights standards. One specific focus of the project's training courses is on victims of bias-motivated crime and preventing their secondary victimisation.<sup>78</sup> Another measure to improve a police service's responsiveness and sensitivity is the creation of specialised units or contact officers.<sup>79</sup>

In **Belgium**, the police must appoint 'reference officers' to support their work on discrimination and hate crimes, on the basis of a June 2013 circular. These officers are tasked with raising public awareness, providing training and information to their colleagues and monitoring the police service's performance in discrimination and hate crime cases.<sup>80</sup> Enabling victims to report crimes to the police online is another way to increase reporting.

#### Promising practice

##### Reporting hate crime online

The police in the Netherlands developed an online tool in 2013 to enable victims of hate crime to report the incident to the police anonymously. The website explains the concept of hate crimes and encourages reporting. Victims are invited to see a police office and are informed about their rights and legal proceedings.

This tool was inspired by True Vision, a web facility providing information for victims and facilitating the reporting of hate crimes, implemented by the Association of Chief Police Officers in the United Kingdom (England and Wales).

For more information, see [www.hatecrimes.nl/info-en-links/achtergrond](http://www.hatecrimes.nl/info-en-links/achtergrond) and [www.report-it.org.uk/home](http://www.report-it.org.uk/home)

Increasing the public visibility of hate crime and holding perpetrators accountable is another area in which Member States must make progress if they are to combat hate crime successfully.<sup>81</sup> The objectives of

acknowledging victims and increasing the visibility of hate crimes lie at the heart of a royal decree the **Spanish** government adopted in September, on the recognition and comprehensive protection of victims of terrorism. The decree also aims to improve victim support and public administration coordination in relation to victims of terrorism.<sup>82</sup> **Belgium** increased the maximum penalty for all crimes motivated by discriminatory attitudes through legislation that entered into force in February 2013.<sup>83</sup>

#### Promising practice

##### Tackling discrimination and hate crime – a police manual

In Poland, a practical guide to antidiscrimination measures for the police defines and describes various forms of discrimination. The manual of good antidiscrimination practices advises on how to deal with hate crime and discrimination cases in a sensitive manner. The manual, published by the National Network of Police Plenipotentiaries for Human Rights Protection and funded by the Polish police, benefited from the input of a number of stakeholders, including the Polish Human Rights Defender, the Government Plenipotentiary for Equal Treatment and several civil society organisations representing LGBT people, religious minorities, people with disabilities and the elderly.

For more information, see: Poland, Plenipotentiary of the Commander Chief of Police for the Protection of Human Rights (Pełnomocnik Komendanta Głównego Policji ds. Ochrony Praw Człowieka) (2013), *Human first* (Po pierwsze człowiek), Warsaw 2013, available at: <http://isp.policja.pl/isp/prawa-czlowieka-w-poli/aktualnosci/4344,dok.html>

## 9.5. Member States address rights of victims of trafficking and severe forms of labour exploitation

In 2013, EU Member States continued to implement measures outlined in EU legislation tackling human trafficking and labour exploitation, including: Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims (Trafficking Directive); the [EU Strategy](#) towards the Eradication of Trafficking in Human Beings 2012–2016; the EU Victims' Directive; Directive 2009/52/EC providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals (Employers' Sanctions Directive); and the ► draft Seasonal Workers Directive (see also [Chapter 2](#) ► on border control and visa policy, and [Chapter 4](#) on the rights of the child and the protection of children).

At the international level, the entry into force of the Convention concerning decent work for domestic workers in September 2013 marked a major milestone in the domestic work sector. Adopted in 2011 by the ILO, the convention sets standards to protect domestic workers, covering the right to claim rest days, the right to clear terms and conditions of employment, the right to a minimum wage and the right to social security coverage. The convention also lays out measures concerning children's rights, including the abolishment of child labour.<sup>84</sup>

At the EU level, the JHA Council, at its 6–7 June 2013 meeting, prioritised for 2014–2017 the tackling of organised criminal groups involved in trafficking for labour exploitation and sexual exploitation, including those groups using legal business structures to facilitate or disguise their criminal activities.<sup>85</sup> The deadline for Member States to transpose the Trafficking Directive into national law was reached in April. Negotiations on the draft Seasonal Workers Directive come to an end, with the Council of the EU and the European Parliament reaching a political agreement on the text. The directive was adopted in February 2014 (see also Chapter 1 on asylum, immigration and integration). It should harmonise the conditions of entry and residence and the rights of migrant workers coming to the EU for seasonal work, protecting them from labour exploitation.

The EU Anti-Trafficking Coordinator continued to monitor the implementation of the EU Strategy towards the Eradication of Trafficking in Human Beings 2012–2016. Closely linked to the strategy, the EU Civil Society Platform against Trafficking in Human Beings was launched in May 2013. The Europe-wide platform, set up by the European Commission, will serve as a forum for the exchange of experiences and concrete ideas on how best to assist victims, expand their networks and prevent others from falling victim to this crime. The platform comprises over 100 civil society organisations working at European, national and local levels in the field of human rights, children's rights, women's rights and gender equality, migrants' rights and shelters.

Eurostat published a report, *Trafficking in Human Beings in the European Union*, that reveals that 62 % of victims are trafficked for sexual exploitation and 15 % of victims are children. The report, issued in April, is based on statistical data from all EU Member States.

### 9.5.1. Most Member States increase efforts to tackle human trafficking

The majority of Member States took positive steps in 2013 to strengthen national legislation to tackle human trafficking and labour exploitation and

provide support to those who are victimised, in line with EU legislation.<sup>86</sup>

Compensation was extended to victims of trafficking in several Member States, in line with Directive 2011/36/EU, including **Austria, Estonia, Greece, Latvia<sup>87</sup> and Luxembourg.**

As a result of amendments to the **Austrian** Crime Victim Act in 2013, third-country nationals who are victims of human trafficking now have access to compensation and a right of residence for special protection.<sup>88</sup> The state is now also obliged to pay for psychological treatment for victims and surviving dependents up to a certain maximum amount in cases of crisis intervention.<sup>89</sup> Amendments to **Estonia's** Victim Support Act also provide for victims' – and on some occasions their relatives' – access to victim support, social services and state compensation, in addition to creating a preliminary measure allowing victims of trafficking to stay and settle in Estonia.<sup>90</sup>

**Belgium** amended its criminal code in 2013, significantly extending the definition of human trafficking.<sup>91</sup> As the Council of Europe's Group of Experts on Action against Trafficking in Human Beings (GRETA) observed in its recent report on Belgium, the 'means' element of trafficking – coercion, threat, deception – no longer forms part of the definition of trafficking under Belgian law; rather, such methods are considered aggravating circumstances. While acknowledging that this may contribute to making the prosecution of traffickers easier in terms of evidential requirements, GRETA stressed that this extension may lead to confusion with other criminal offences, or to difficulties regarding mutual assistance with other countries in the anti-trafficking field.<sup>92</sup>

In **France**, a law enacted in August 2013 provides a new definition of human trafficking and modifies the criminal code,<sup>93</sup> defining organ retrieval, forced labour or services and slavery as forms of exploitation that can characterise human trafficking.

In July 2013, **Ireland** passed criminal law legislation that extended the scope of exploitative activities to comply fully with the provisions of Directive 2011/36/EU.<sup>94</sup> Other key provisions include: the commission of a human trafficking offence by a public official shall be treated as an aggravating circumstance for sentencing purposes; and the adoption of the definition of the term 'forced labour' to match the definition contained in ILO Convention No. 29 of 1930 on Forced or Compulsory Labour, in other words "all work or service which is exacted from any person under the menace of any penalty and for which the person has not offered



himself voluntarily". The 2008 Criminal Law (Human Trafficking) Act did not define the term.

In **Italy**, the parliament passed a law empowering the government to transpose the Trafficking Directive in August 2013. The law provides measures to facilitate coordination between the institutions responsible for the protection and assistance of victims of trafficking and those who have expertise on asylum, resulting in improved referral mechanisms.

**Portugal** also transposed Directive 2011/36/EU into the national legal system in 2013.<sup>95</sup> The 2013 GRETA report<sup>96</sup> notes, however, that room for improvement remains. GRETA said that Portugal could do more to ensure the effective identification of victims; take a more proactive approach to support through, for example, proactive labour inspections and the training of inspectors in this area; and strengthen its focus on supporting male victims of labour exploitation and child victims of trafficking. As a positive step in that direction, in May 2013, the NGO Health in Portuguese opened the first refuge in Portugal for the support and protection of male victims of trafficking.

In the **United Kingdom** in December 2013, new draft legislation proposed tackling human trafficking and severe forms of labour exploitation by, for example, increasing prison sentences for convicted slavery and trafficking offenders. It also suggested introducing Slavery and Trafficking Prevention Orders and Slavery and Trafficking Risk Orders to restrict the activity of those who pose a risk and those convicted of slavery and trafficking offences, so that they cannot cause further harm. It proposed establishing a legal duty for police, immigration authorities and other public sector staff to report potential victims of trafficking to the National Crime Agency.<sup>97</sup>

In **Malta**, amendments to the criminal code increased fines and prison terms with the aim of deterring potential trafficking offenders.<sup>98</sup> Any person who engages in or makes use of the services or labour of a trafficked person shall be liable to punishment by imprisonment. Moreover, when an offence is committed for the benefit, in part or in whole, of a body corporate, the legal person responsible will be subject to punishment in addition to the judicial winding up and/or temporary or permanent closure of the establishment concerned.<sup>99</sup>

### 9.5.2. Member States still bring few prosecutions

Despite considerable efforts to identify and investigate cases of human trafficking, few victims are identified and prosecution and conviction rates are low, raising concern across Member States.

GRETA, in its latest country reports (2013), has highlighted the problem of low numbers of cases prosecuted and offenders convicted in several EU Member States, including Ireland, Latvia, Malta, Poland, Portugal and Spain.<sup>100</sup>

Low success rates in identifying victims and convicting offenders show that measures to reach out to victims in many Member States are simply ineffective. National statistics on numbers of victims seeking support or advice reinforce this view. In **Romania**, for example, in 2013, only three calls concerning possible cases of human trafficking were placed to the national hotline, and not a single non-national contacted the hotline, according to information provided by the National Agency against Trafficking in Persons.<sup>101</sup>

For only the third time, the **Czech Republic's** High Court ruled in 2013 on a case related to labour exploitation.<sup>102</sup> An important aspect of this judgment is the clarification of the term 'abuse of situation of dire straits'. The perpetrators in this case knew that the victims faced child custody issues and were therefore particularly vulnerable. They offered the victims travel to the United Kingdom and promised paid employment. Upon arrival, however, the victims were required to work 12-hour shifts in a bakery, endured poor living conditions and were forced to give the perpetrators a significant part of their income. The victims eventually escaped and asked for help at the Czech embassy, which assisted in their return to the Czech Republic. A Czech Republic regional court described this situation as "trafficking in human beings". Although past judgments have dealt with poor living conditions, this was the first court ruling in the Czech Republic to consider that such conditions infringed fundamental human rights.<sup>103</sup> The four perpetrators received unconditional sentences of up to nine years in prison.

### 9.5.3. Concern that victims may be prosecuted for 'crimes'

Discussions in several Member States in 2013 focused on the risk that victims of trafficking could be prosecuted for public order offences which they have committed under duress. This issue was also raised in a 2013 report by the Organization for Security and Co-operation in Europe (OSCE) Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, entitled *Policy and legislative recommendations towards the effective implementation of the non-punishment provision with regard to victims of trafficking*.<sup>104</sup>

In its annual report on human trafficking and smuggling of human beings, the Centre for Equal Opportunities and Opposition to Racism in **Belgium**, for example, criticised the Belgian police and judicial authorities

over their handling of human trafficking. According to the centre, victims of human trafficking who have committed crimes under coercion are often prosecuted, but the wider phenomenon of human trafficking is not tackled and the crimes committed by people who bear the greatest responsibility go unpunished. This can, in part, be explained by victims' fear of making incriminating statements and the fact that some victims do not perceive themselves as such.

Several EU Member States altered their legislation to prevent the criminalisation of victims of trafficking and introduced measures for their empowerment and protection, thus bringing national law in line with the Trafficking Directive.

**Bulgaria**, for example, amended its criminal code in 2013 by adding a new provision stating that when a person who is a victim of trafficking is forced, as a victim, to commit a crime, the crime is not

intentional.<sup>105</sup> The amended Combating Trafficking in Human Beings Act also affords special protection to victims, and it expands on the definition of exploitation. It is now defined as "the exploitation or the prostitution of others or other forms of sexual exploitation, forced labour or services, including begging, slavery or practices similar to slavery, servitude, or the exploitation of criminal activities, or the removal of organs".<sup>106</sup> An important change was also made to **Slovakia's** Code of Criminal Procedure, allowing attorneys to abandon criminal prosecution of victims of human trafficking, sexual abuse or sexual exploitation, provided that the victims have been forced to participate in the criminal activity as a direct result of said crimes.<sup>107</sup> Similar amendments to the **Latvian** criminal law entered into force in April 2013, providing that a person may be released from criminal liability if the offence was committed at a time when the person was subjected to human trafficking and the person was forced to commit the offence.<sup>108</sup>

## FRA ACTIVITY

### Addressing severe forms of labour exploitation

FRA began research in 2013 into criminal forms of work exploitation of migrants across the EU, involving fieldwork in 21 EU Member States.

The project focuses on:

- Access to justice for migrants who have become victims of labour exploitation, including the punishment of offenders and victims' claims under civil and labour law. In this respect, the objective is to identify factors which support or hinder victims of labour exploitation in accessing justice.
- Risk factors contributing to labour exploitation of migrants, and preventative measures as a means of reducing risk.
- The type and frequency of incidents of labour exploitation and the framework in place to tackle it.

The project is linked to other FRA research, in particular to work on migrants in an irregular situation employed in domestic work and on child victims of trafficking, as well as the victim support services project.

The first phase of the project, which was completed in 2013, aimed to obtain a general overview of the situation of victims of labour exploitation in all Member States, including the general preconditions that enable victims of labour exploitation to access justice.

The second phase of the project (to be completed in 2014) aims to explore further the situation in selected Member States through social fieldwork research with representatives from professions such as labour inspectors, health and safety officers and recruitment and employment officers. Fieldwork in the first round of countries (Austria, Belgium, Bulgaria, the Czech Republic, Finland, Ireland, Italy, Poland, Portugal and the United Kingdom) began in the second half of 2013, and a further 11 countries (Croatia, Cyprus, France, Germany, Greece, Hungary, Lithuania, Malta, the Netherlands, Slovakia and Spain) were selected in late 2013.

Desk research in all 28 Member States in 2014 will further elaborate on legal and institutional questions relating to severe forms of labour exploitation. The project aims to shed more light on Member States' implementation of the Employers' Sanctions Directive, addressing issues such as the liability and sanctioning of legal persons, back payments to exploited migrant workers and the facilitation of complaints.

Using the information and evidence collected in 2014 by the FRA research network, Franet, the FRA will prepare a comparative report based on the research findings.

*For more information, see: FRA (2009), Child Trafficking in the European Union Challenges, perspectives and good practices, Luxembourg, Publications Office, FRA (2011), Migrants in an irregular situation employed in domestic work: Fundamental rights challenges for the European Union and its Member States, Luxembourg, Publications Office. and FRA (2012), Fundamental rights: challenges and achievements in 2012, FRA Annual report, Luxembourg, Publications Office, Section 9.3*



#### 9.5.4. Labour exploitation – action needs to be stepped up

GRETA, which is responsible for monitoring the implementation of obligations under the Council of Europe's Convention on Action against Trafficking in Human Beings, recommended in 2013 that action against trafficking for labour exploitation be stepped up. GRETA evaluated the following eight EU Member States in 2012–2013: **Belgium, France, Ireland, Latvia, Malta, Poland, Portugal** and **Spain**. Key findings include:

- At the moment, the key focus in most Member States is on trafficking for sexual exploitation. This should shift to clearly include trafficking for labour exploitation (France, Latvia, Spain) and existing policies should be adapted accordingly (Poland, Portugal).
- A more proactive approach towards combating trafficking for labour exploitation is needed (Ireland, Latvia, Malta, Poland, Portugal, Spain).
- More awareness raising is needed regarding trafficking for labour exploitation (Ireland, Poland, Portugal, Spain).
- More research into trafficking for labour exploitation is needed (France, Portugal, Spain).

A FRA project on severe forms of labour exploitation aims to address this gap in both policy and research, increase awareness about criminal forms of labour exploitation beyond trafficking and provide concrete suggestions on preventative measures and steps to support victims.

*“In some countries evaluated by GRETA, victims of trafficking appear to be treated first and foremost as irregular migrants rather than victims in need of specific assistance and protection as guaranteed by the Convention.”*

*“The absence of effective regulation of certain labour market segments is one of the factors that help to create an environment in which it is possible and profitable to use trafficked labour.”*

*International Organization for Migration, Anderson, B. and O’Connell Davidson, J. (2003), Is trafficking in human beings demand driven? A multi-country pilot study, Migration Research Series No. 15, quoted in: Council of Europe, 3rd General Report on GRETA’s activities, Strasbourg, CoE, p. 48*

## Outlook

Member States have an obligation to victims of crime to ensure that the EU Victims’ Directive is implemented in practice by November 2015. Developments in 2013 have been positive, but much remains to be done if fundamental rights are to become a reality for victims of crime. The true test of the effectiveness of this legislation will be whether victims and legal professionals are aware of it and can apply it in practice.

The Istanbul Convention is set to enter into force in 2014, with, as of the end of 2013, just two further ratifications needed. Its entry into force will have a positive effect on the enforcement of the rights and protection of women across those Council of Europe member states that ratify the convention. The publication of findings from the FRA survey on violence against women on 5 March 2014 sheds light on women’s experiences of physical, sexual and psychological violence across Europe. It provides valuable comparable data on violence against women as a basis for developing evidence-based policy responses at national and EU level.

The 2013 Council of the European Union conclusions on combating hate crime provide a new impetus to the EU, its institutions and Member States to ensure that the values enshrined in Article 2 of the Treaty on European Union are fully respected in line with the EU Charter of Fundamental Rights. As a follow-up, a seminar organised under the aegis of the Greek Presidency, will look to identify actions and exchange good practices that EU institutions and Member States can implement to combat hate crime in policy and practice. The onus will be on increasing acknowledgement and recognition of hate crime among law enforcement agencies, public authorities and local authorities, and ensuring that victims can access justice and seek redress. In view of the upcoming European Parliament elections in May 2014, the seminar, together with other initiatives, offers an opportunity to engage directly with political actors in relation to their roles and responsibilities in combating hate crime in the EU.

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## Endnotes

All hyperlinks accessed on 30 April 2014.

- 1 Czech Republic, *Zákon o obětech trestných činů*, 30 January 2013, [www.zakonyprolidi.cz/cs/2013-45](http://www.zakonyprolidi.cz/cs/2013-45).
- 2 Poland, *Ustawa z dnia 27 września 2013o zmianie ustawy Kodeks Postępowania Karnego*, 27 September 2013.
- 3 *Ibid.*
- 4 United Kingdom, Judiciary (2013), Criminal Practice Directions (Amendment No. 1) EWCA Crim 2328, 10 December 2013, paras. F1–F3, [www.bailii.org/ew/cases/EWCA/Crim/2013/2328.html](http://www.bailii.org/ew/cases/EWCA/Crim/2013/2328.html).
- 5 Lithuania, *Teisingumo ministerija* (2014), Communication from the FRA's Lithuanian National Focal Point, 9 January 2014.
- 6 Ireland, Department of the Taoiseach, Legislation programme for Autumn Session 2013, [www.taoiseach.gov.ie/eng/Publications/Publications\\_2013/LEGISLATION\\_PROGRAMME\\_FOR\\_AUTUMN\\_SESSION\\_2013.html](http://www.taoiseach.gov.ie/eng/Publications/Publications_2013/LEGISLATION_PROGRAMME_FOR_AUTUMN_SESSION_2013.html); Ireland (2013), Speech by Alan Shatter TD, Minister for Justice, Equality and Defence at the launch of the Victims' Rights Alliance, 15 November 2013, [www.merrionstreet.ie/index.php/2013/11/speech-by-alan-shatter-t-d-minister-for-justice-equality-and-defence-at-the-launch-of-the-victims-rights-alliance-on-friday-15-november-2013-at-the-mansion-house-dublin/?cat=66](http://www.merrionstreet.ie/index.php/2013/11/speech-by-alan-shatter-t-d-minister-for-justice-equality-and-defence-at-the-launch-of-the-victims-rights-alliance-on-friday-15-november-2013-at-the-mansion-house-dublin/?cat=66).
- 7 Finland, *Kansallinen rikosuhripolitiikka ja uhrien tukipalvelut -hanke*, information retrieved from the Ministry of Justice website. The proposal is due by the end of 2014.
- 8 Netherlands, Staatssecretaris voor Veligheid en Justitie (2013), 'Visie op slachtoffers', letter to the House of Representatives, No. 348461, 22 February 2013, [www.rijksoverheid.nl/documenten-en-publicaties/rapporten/2013/02/23/visie-op-slachtoffers.html](http://www.rijksoverheid.nl/documenten-en-publicaties/rapporten/2013/02/23/visie-op-slachtoffers.html).
- 9 Croatia, Ministarstvo pravosuđa (2013), written response to request for information during the preparation of the FRA Annual report, 21 November 2013.
- 10 Denmark, Act No. 603 of 12 June 2013 on the Victim Fund, [www.retsinformation.dk/Forms/R0710.aspx?id=152108](http://www.retsinformation.dk/Forms/R0710.aspx?id=152108); Denmark, *Bekendtgørelse nr. 1588 af 19. December 2013 om forretningsorden for Rådet for Offerfonden, indgivelse af ansøgning om tilskud og behandling af sager om tilskud*, [www.retsinformation.dk/Forms/R0710.aspx?id=161042](http://www.retsinformation.dk/Forms/R0710.aspx?id=161042). The fund was officially established on 1 January 2014.
- 11 France, *Décret n° 2012-681 du 7 mai 2012 relatif aux bureaux d'aide aux victimes*, [www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000025822780&dateTexte=&categorieLien=id](http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000025822780&dateTexte=&categorieLien=id).
- 12 France, Ministère de la Justice (2013), *Circulaire du 9 janvier 2013 relative à la présentation des bureaux d'aide aux victimes et des conditions de mise en oeuvre de leur généralisation*, [www.textes.justice.gouv.fr/art\\_pix/JUST1301453C.pdf](http://www.textes.justice.gouv.fr/art_pix/JUST1301453C.pdf).
- 13 France, *Code de procédure pénale*, Art. D. 47-6-15, [www.legifrance.gouv.fr/affichCode.do?sessionid=2D521C125FF4644282401CB98FBEE620.tpdj005v\\_1?idSectionTA=LEGISCTA000006150959&cidTexte=LEGITEXT000006071154&dateTexte=20130511](http://www.legifrance.gouv.fr/affichCode.do?sessionid=2D521C125FF4644282401CB98FBEE620.tpdj005v_1?idSectionTA=LEGISCTA000006150959&cidTexte=LEGITEXT000006071154&dateTexte=20130511).
- 14 Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, OJ 2012 L 315, Art. 22(1).
- 15 Belgium, *Koninklijk besluit inzake de erkenning van de centra gespecialiseerd in de opvang en begeleiding van slachtoffers van mensenhandel en van bepaalde zwaardere vormen van mensensmokkel en inzake de erkenning om in rechte op te treden/Arrêté royal relatif à la reconnaissance des centres spécialisés dans l'accueil et l'accompagnement des victimes de traite et de certaines formes aggravées de trafic des êtres humains et à l'agrément pour ester en justice*, 18 April 2013, [www.ejustice.just.fgov.be/cgi\\_loi/change\\_lg.pl?language=fr&la=F&cn=2013041814&table\\_name=loi](http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&cn=2013041814&table_name=loi).
- 16 European Institute for Gender Equality (2012), *Review of the implementation of the Beijing platform for action by the EU Member States: Violence against women victim support*, Luxembourg, Publications Office of the European Union (Publications Office).
- 17 Information provided by the Slovakian Ministry of Justice (*Ministerstvo spravodlivosti SR*) on 6 November 2013.
- 18 The right to be informed about the upcoming release is restricted to victims who filed the petition. Austria (2013), 2. *Bundesgesetz: Änderung des Strafvollzugsgesetzes, der Strafprozessordnung 1975, des Jugendgerichtsgesetzes 1988 und des Bewährungshilfegesetzes*, BGBl. 2/2013, 10 January 2013, [www.ris.bka.gv.at/Dokumente/BgblAuth/BGBLA\\_2013\\_I\\_2/BGBLA\\_2013\\_I\\_2.pdf](http://www.ris.bka.gv.at/Dokumente/BgblAuth/BGBLA_2013_I_2/BGBLA_2013_I_2.pdf).
- 19 Belgium, no official legislation available yet; *Gazet van Antwerpen* (2013), 'Kamer geeft slachtoffers meer rechten', press release, 7 November 2013.
- 20 United Kingdom, Ministry of Justice (2013), 'Victims' Commissioner calls for more "open and transparent" parole board hearings', [www.justice.gov.uk/news/press-releases/victims-com/victims-commissioner-calls-for-more-open-and-transparent-parole-board-hearings](http://www.justice.gov.uk/news/press-releases/victims-com/victims-commissioner-calls-for-more-open-and-transparent-parole-board-hearings); United Kingdom Victims' Commissioner (2013), *How the Victim Contact Scheme is operational in practice: Initial findings*, May, [www.justice.gov.uk/downloads/about/victims-commissioner/letter-vc.pdf](http://www.justice.gov.uk/downloads/about/victims-commissioner/letter-vc.pdf).
- 21 Italy, 2013 preliminary budget of the Presidency of the Council of Ministers, [www.governo.it/trasparenza\\_valutazione\\_merito/bilancio/bilancio\\_2013/nota\\_preliminare\\_2013.pdf](http://www.governo.it/trasparenza_valutazione_merito/bilancio/bilancio_2013/nota_preliminare_2013.pdf).
- 22 Netherlands, Slachtofferhulp Nederland (2013), 'Meer geld voor slachtoffers van ernstige geweldsmisdrijven', Press release, 20 February 2013, [www.slachtofferhulp.nl/actueel/meer-geld-voor-slachtoffers-van-ernstige-geweldsmisdrijven/](http://www.slachtofferhulp.nl/actueel/meer-geld-voor-slachtoffers-van-ernstige-geweldsmisdrijven/).
- 23 Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, OJ 2012 L 315, Art. 3(e).
- 24 *Ibid.*, Art. 16.
- 25 Germany, Weißer Ring (2013), *Staatliche Opferentschädigung in Deutschland im Jahr 2012*, [www.weisser-ring.de/fileadmin/content/Intranet/NEUDZF/OEG\\_Statistik\\_2012\\_neu.pdf](http://www.weisser-ring.de/fileadmin/content/Intranet/NEUDZF/OEG_Statistik_2012_neu.pdf).
- 26 Romania, Ministerul Justiției (2013), Annex to letter No. 94148 of 3 December 2013 of the Ministry of Justice.
- 27 Some of the information in this chapter is based on FRA desk research for this Annual report.
- 28 See Chapter 9 of the FRA 2012 Annual report: FRA (2013), Luxembourg, Publications Office, pp. 257–274.
- 29 United Kingdom, Criminal Injuries Compensation Authority (2013), *Annual report and accounts 2012–13*, June, [www.justice.gov.uk/downloads/publications/corporate-reports/cica/cica-annual-report-2012-13.pdf](http://www.justice.gov.uk/downloads/publications/corporate-reports/cica/cica-annual-report-2012-13.pdf).
- 30 Most recent statistics show that recorded crime has fallen by 10 % (September 2012–September 2013). United Kingdom, Office for National Statistics/TNS BMRB, Crime Survey for England and Wales, [www.crimesurvey.co.uk/](http://www.crimesurvey.co.uk/).

- 31 Finland, *Hallituksen esitys eduskunnalle laeiksi rikoslain 10 ja 44 luvun sekä sakan täytäntöönpanosta annetun lain muuttamisesta*.
- 32 Sweden, *Enklare för brottsoffer*, [www.brottsoffermyndigheten.se/pressmeddelande/enklare-for-brottsoffer](http://www.brottsoffermyndigheten.se/pressmeddelande/enklare-for-brottsoffer).
- 33 Slovakia (2013), 'Odškodňovanie osôb postihnutých násilnými trestnými činmi', Pro Bono, July 2013.
- 34 The 17 countries are Belgium, Croatia, Denmark, Finland, France, Germany, Greece, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Slovakia, Slovenia, Spain, Sweden and the United Kingdom.
- 35 Croatia, *Kazneni zakon*, Art. 152, *Narodne novine*, Nos. 125/11 and 144/12, 2011.
- 36 Finland, *Hallituksen esitys eduskunnalle laeiksi rikoslain, pakkokeinolain 10 luvun 7 §:n ja poliisilain 5 luvun 9 §:n muuttamisesta*, 2013.
- 37 France, *Code pénal*, Art. 222-14-4, stipulates that "forcing a person into a marriage contract or a union abroad, using fraudulent tactics in order to convince them to leave French territory is punished by three years imprisonment and a €45,000 fine", [www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXTO00006070719&idArticle=LEGIARTL000027809362&dateTexte=&categorieLien=cid](http://www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXTO00006070719&idArticle=LEGIARTL000027809362&dateTexte=&categorieLien=cid); France, *Code pénal*, Art. 227-24-1.
- 38 Denmark, *Forslag L 76 af 20. November 2013 til lov om ændring af straffeloven (Gennemførelse af Europarådets konvention til forebyggelse og bekæmpelse af vold mod kvinder og vold i hjemmet)*, [www.ft.dk/Rlpdf/samling/20131/lovforslag/L76/20131\\_L76\\_som\\_fremsat.pdf](http://www.ft.dk/Rlpdf/samling/20131/lovforslag/L76/20131_L76_som_fremsat.pdf).
- 39 Italy, Law 119/2013 of 15 October 2013, *Misure urgenti in materia di sicurezza e per contrastare la violenza di genere*, [www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:2013-10-15;119](http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:2013-10-15;119).
- 40 European Court of Human Rights (ECtHR), *A. v. Croatia*, No. 57164/08, 14 October 2010; ECtHR, *Hajduova v. Slovakia*, No. 2660/03, 30 November 2010; ECtHR, *Kalucza v. Hungary*, No. 57693/10, 24 April 2012; and ECtHR, *Opuz v. Turkey*, No. 33401/02, 9 June 2009.
- 41 ECtHR, *Valiulienė v. Lithuania*, No. 33234/07, 26 March 2013.
- 42 ECtHR, *Eremia v. the Republic of Moldova*, No. 3564/11, 28 May 2013; ECtHR, *B. v. the Republic of Moldova*, No. 61382/09, 16 July 2013; ECtHR, *Mudric v. the Republic of Moldova*, No. 74839/10, 16 July 2013; and ECtHR, *N. A. v. the Republic of Moldova*, No. 13424/06, 24 September 2013.
- 43 ECtHR, *D. P. v. Lithuania*, No. 27920/08, 22 October 2013 (Decision).
- 44 Council of Europe, Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), CETS No. 210, 2011, Art. 36.
- 45 ECtHR, *M. C. v. Bulgaria*, No. 39272/98, 4 December 2003, paras. 150 and 153.
- 46 *Ibid.*, para. 166.
- 47 Luxembourg, *Code de procédure civile*, 30 July 2013.
- 48 Regioplan (2013), *Effectief uit huis geplaatsts? Effect evaluatie van de Wet tijdelijk huisverbod*, Amsterdam, Regioplan, [www.rijksoverheid.nl/documenten-en-publicaties/rapporten/2013/11/16/effectevaluatie-van-de-wet-tijdelijk-huisverbod.html](http://www.rijksoverheid.nl/documenten-en-publicaties/rapporten/2013/11/16/effectevaluatie-van-de-wet-tijdelijk-huisverbod.html).
- 49 France, Ministère des Droits des femmes (2014), *Projet de loi pour l'égalité entre les femmes et les hommes*, Press file, <http://femmes.gouv.fr/wp-content/uploads/2014/01/Dossier-de-presse-Projet-de-loi-pour-l-e-galite-entre-les-femmes-et-les-hommes.pdf>.
- 50 Italy, Law 119/2013, of 15 October 2013, *Misure urgenti in materia di sicurezza e per contrastare la violenza di genere*, [www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:2013-10-15;119](http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:2013-10-15;119). [www.gazzettaufficiale.it/eli/id/2013/10/15/13G00163/sg](http://www.gazzettaufficiale.it/eli/id/2013/10/15/13G00163/sg).
- 51 *Ibid.*, Art. 299.
- 52 *Ibid.*, Art. 384.
- 53 Latvia, *Likumprojekts 'Grozījumi Likumā par policiju'*, [http://titania.saeima.lv/LIVS11/SaeimaLIVS11.nsf/0/40c2d9d4c086389dc257b82002c2bb6/\\$FILE/613\\_prez.pdf](http://titania.saeima.lv/LIVS11/SaeimaLIVS11.nsf/0/40c2d9d4c086389dc257b82002c2bb6/$FILE/613_prez.pdf).
- 54 Regioplan (2013), *Effectief uit huis geplaatsts? Effect evaluatie van de Wet tijdelijk huisverbod*, Amsterdam, Regioplan, [www.rijksoverheid.nl/documenten-en-publicaties/rapporten/2013/11/16/effectevaluatie-van-de-wet-tijdelijk-huisverbod.html](http://www.rijksoverheid.nl/documenten-en-publicaties/rapporten/2013/11/16/effectevaluatie-van-de-wet-tijdelijk-huisverbod.html).
- 55 Poland, Najwyższa Izba Kontroli (2013), *Przeciwdziałanie przemocy w rodzinie przez administrację publiczną*, [www.nik.gov.pl/plik/id,5094,vp,6609.pdf](http://www.nik.gov.pl/plik/id,5094,vp,6609.pdf).
- 56 Lithuania, Lietuvos rytas (2013), 'Visuomenininkai nirsta – moterys namuose užmušamos dėl valstybės vangumo', press release, 25 March 2013, [www.lrytas.lt/lietuvos-diena/aktualijos/visuomenininkai-nirsta-moterys-namuose-uzmušamos-del-valstybes-vangumo.htm](http://www.lrytas.lt/lietuvos-diena/aktualijos/visuomenininkai-nirsta-moterys-namuose-uzmušamos-del-valstybes-vangumo.htm).
- 57 The NGO statement is available at: <http://noierdek.hu/?p=10579>.
- 58 Slovenia, Act amending the Criminal Code of 10 November 2011.
- 59 Lithuania, Seimas (2013), *Baudžiamojo kodekso 140, 145, 148, 149, 150, 151, 165 straipsnių pakeitimo ir papildymo įstatymas*, No. XII-501, 2 July 2013.
- 60 Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, OJ 2012 L 315, Art. 28.
- 61 European Parliament, Resolution of 14 March 2013 on strengthening the fight against racism, xenophobia and hate crime, [www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P7-TA-2013-0090&language=EN&ring=B7-2013-0121](http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P7-TA-2013-0090&language=EN&ring=B7-2013-0121).
- 62 European Parliament, Resolution of 4 July 2013 on the impact of the crisis on access to care for vulnerable groups, [www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A7-2013-0221&language=EN](http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A7-2013-0221&language=EN).
- 63 Council of the European Union, Council conclusions on fundamental rights and rule of law on the Commission 2012 Report on the application of the Charter of Fundamental Rights of the European Union, Justice and Home Affairs Council meeting, Luxembourg, 6 and 7 June 2013, [www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/jha/137404.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/jha/137404.pdf).
- 64 Council of the European Union, Council conclusions on combating hate crime in the European Union, Justice and Home Affairs Council meeting, Brussels, 5 and 6 December 2013, [www.consilium.europa.eu/uedocs/cms\\_Data/docs/pressdata/en/jha/139949.pdf](http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/jha/139949.pdf).
- 65 Portugal, *Lei 19/2013*, 29.ª alteração ao Código Penal, 21 February 2013, <http://dre.pt/pdf1s/2013/02/03700/0109601098.pdf>.
- 66 Littauer, D. (2013), 'Portugal passes trans hate crime law', 21 January 2013, [www.gaystarnews.com/article/portugal-passes-trans-hate-crime-law210113](http://www.gaystarnews.com/article/portugal-passes-trans-hate-crime-law210113).
- 67 Belgium, *Omzendbrief betreffende het opsporings- en vervolgingsbeleid inzake discriminatie en haatmisdrijven (met inbegrip van discriminaties op grond van het geslacht)/Circulaire relative a la politique de recherche et de*

- poursuite en matière de discriminations et de délits de haine (en ce compris les discriminations fondées sur le sexe)*, 17 June 2013, [www.om-mp.be/omzendbrief/5198967/omzendbrief.html](http://www.om-mp.be/omzendbrief/5198967/omzendbrief.html).
- 68 Belgium, *Wet tot wijziging van artikel 405quater van het Strafwetboek en artikel 2 van de wet van 4 oktober 1867 op de verzachtende omstandigheden/Loi modifiant l'article 405quater du Code pénal et l'article 2 de la loi du 4 octobre 1867 sur les circonstances atténuantes*, 14 January 2013, [www.ejustice.just.fgov.be/cgi\\_loi/change\\_lg.pl?language=fr&la=F&cn=2013011406&table\\_name=loi](http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&cn=2013011406&table_name=loi).
- 69 Croatia, *Zakon o izmjenama i dopunama Kazenog zakona, Narodne novine* No. 144/12, 2012, [http://narodne-novine.nn.hr/clanci/sluzbeni/2012\\_12\\_144\\_3076.html](http://narodne-novine.nn.hr/clanci/sluzbeni/2012_12_144_3076.html); Croatia, *Kazeni zakon, Narodne novine* No. 125/11 and 144/12, 2011, Art. 117 and 325, [http://narodne-novine.nn.hr/clanci/sluzbeni/2011\\_11\\_125\\_2498.html](http://narodne-novine.nn.hr/clanci/sluzbeni/2011_11_125_2498.html) and [http://narodne-novine.nn.hr/clanci/sluzbeni/2012\\_12\\_144\\_3076.html](http://narodne-novine.nn.hr/clanci/sluzbeni/2012_12_144_3076.html).
- 70 Slovakia, Ministerstvo vnútra SR (2013), *Dôvodová správa k návrhu zákona, ktorým sa mení a dopĺňa zákon č. 300/2005 Z.z. Trestný zákon v znení neskorších predpisov a ktorým sa menia a dopĺňajú niektoré zákony*.
- 71 Hungary, 2012 évi C törvény a Büntető törvénykönyvről, Art. 216.
- 72 France, *Loi du 29 juillet 1881 sur la liberté de la presse*, Art. 65-3, [www.legifrance.gouv.fr/affichTexte.do?cidTexte=LEGITEXT000006070722&dateTexte=20080312](http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=LEGITEXT000006070722&dateTexte=20080312).
- 73 United Kingdom, Law Commission (2013), *Hate crimes: The case for extending the existing offences – a consultation paper*, [http://lawcommission.justice.gov.uk/docs/cp213\\_hate\\_crime\\_amended.pdf](http://lawcommission.justice.gov.uk/docs/cp213_hate_crime_amended.pdf).
- 74 Greece, Art. 66 of Law 4139/2013 (Gazette A 74/20.3.2013), amended Art. 79 para. 3 of the Criminal Code.
- 75 FRA (European Union Agency for Fundamental Rights) (2013), *Opinion of the European Union Agency for Fundamental Rights on the Framework Decision on Racism and Xenophobia – with special attention to the rights of victims of crime*, Luxembourg, Publications Office, p. 12.
- 76 FRA (2013), *Discrimination and hate crime against Jews in EU Member States: Experiences and perceptions of antisemitism*, Luxembourg, Publications Office.
- 77 FRA (2013), *EU LGBT survey: Results at a glance*, Luxembourg, Publications Office, p. 24.
- 78 Bulgaria, Ministry of Interior (Министерство на вътрешните работи) (2010), 'European police and human rights', Press release, [www.psychology.mvr.bg/EU\\_Programi\\_Proekti/Proekti/GDOP.htm](http://www.psychology.mvr.bg/EU_Programi_Proekti/Proekti/GDOP.htm).
- 79 *Ibid.*
- 80 Belgium, Circular of 17 June 2013 COL 13/2013 of the Minister of Justice, the Minister of Internal Affairs, and the Assembly of Attorney-Generals at the Court of Appeal, [www.om-mp.be/extern/getfile.php?p\\_name=4499864.PDF](http://www.om-mp.be/extern/getfile.php?p_name=4499864.PDF).
- 81 FRA (2012), *Making hate crime visible in the European Union: Acknowledging victims' rights*, Luxembourg, Publications Office.
- 82 Spain, Act 29/2011 of 22 September on the Recognition and Comprehensive Protection of the Victims of Terrorism, [www.poderjudicial.es/cgpj/es/Poder\\_Judicial/Audiencia\\_Nacional/Actividad\\_de\\_la\\_AN/Victimas\\_del\\_terrorismo/Informacion\\_basica](http://www.poderjudicial.es/cgpj/es/Poder_Judicial/Audiencia_Nacional/Actividad_de_la_AN/Victimas_del_terrorismo/Informacion_basica).
- 83 Belgium, *Wet tot wijziging van artikel 405quater van het Strafwetboek en artikel 2 van de wet van 4 oktober 1867 op de verzachtende omstandigheden/Loi modifiant l'article 405quater du Code pénal et l'article 2 de la loi du 4 octobre 1867 sur les circonstances atténuantes*, 14 January 2013, [www.ejustice.just.fgov.be/cgi\\_loi/change\\_lg.pl?language=fr&la=F&cn=2013011406&table\\_name=loi](http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&cn=2013011406&table_name=loi).
- 84 United Nations (UN), Non-Governmental Liaison Service (2013), *Domestic workers' movement gains momentum*, [www.un-ngls.org/spip.php?article4366](http://www.un-ngls.org/spip.php?article4366).
- 85 European Criminal Law Associations' Forum (Eucrium) (2013), p. 82, [www.mpicc.de/eucrium/archiv/eucrium\\_13-03.pdf](http://www.mpicc.de/eucrium/archiv/eucrium_13-03.pdf).
- 86 Including Austria, Belgium, Bulgaria, Denmark, Estonia, France, Greece, Ireland, Italy, Latvia, Luxembourg, Malta, the Netherlands, Portugal, Romania, Slovakia and the United Kingdom, all of which instituted legal reforms in 2013.
- 87 Latvia, *Grozījumi likumā 'Par valsts kompensāciju cietušajiem'*, 15 November 2012; Latvia, *Likumprojekta 'Grozījumi likumā Par valsts kompensāciju cietušajiem' sākotnējās ietekmes novērtējuma ziņojums (anotācija)*, <http://titania.saeima.lv/LIVS11/SaeimaLIVS11.nsf/o/E84E7920FF27DC2DC2257A87003AB03C?OpenDocument>.
- 88 Austria, *Aufenthaltsrecht für besonderen Schutz*, § 69a (Niederlassungs- und Aufenthaltsgesetz).
- 89 Austria (2013), *58. Bundesgesetz: Änderung des Verbrechensopfergesetzes*, BGBl 58/2013, 17 April 2013, [www.ris.bka.gv.at/Dokumente/BgblAuth/BGBLA\\_2013\\_I\\_58/BGBLA\\_2013\\_I\\_58.pdf](http://www.ris.bka.gv.at/Dokumente/BgblAuth/BGBLA_2013_I_58/BGBLA_2013_I_58.pdf).
- 90 Estonia, Riigikogu (2013), 'Riigikogu võttis vastu ohvriabi seaduse muudatused', Press release, 28 March 2013.
- 91 Belgium, Art. 2 of the Act amending Article 433 *quinquies* of the Penal Code with a view to clarifying and expanding the definition of human trafficking, 29 April 2013, [www.ejustice.just.fgov.be/cgi\\_loi/change\\_lg.pl?language=fr&la=F&cn=2013042915&table\\_name=loi](http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&cn=2013042915&table_name=loi).
- 92 Council of Europe, Group of Experts on Action against Trafficking in Human Beings (GRETA) (2013), *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Belgium (first evaluation round)*, Strasbourg, Council of Europe, 25 September 2013, para. 53, p. 20.
- 93 France, Law No. 2013-711 bringing a number of provisions into line with the community in the field of justice, 5 August 2013, [www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000027805521&dateTexte=&categorieLien=id](http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000027805521&dateTexte=&categorieLien=id).
- 94 Ireland, Criminal Law (Human Trafficking) (Amendment) Act 2013, [www.irishstatutebook.ie/2013/en/act/pub/0024/print.html](http://www.irishstatutebook.ie/2013/en/act/pub/0024/print.html).
- 95 Portugal, *Lei nº 60/2013, transpondo para a ordem jurídica interna a Directiva nº 2011/36/UE, do Parlamento Europeu e do Conselho, de 5 de Abril, relativa à prevenção e luta contra o tráfico de seres humanos e à protecção das vítimas*, 23 August 2013, <http://dre.pt/pdfis/5C2013/5C08%5C16200%5C0508805090.pdf>.
- 96 Council of Europe, Group of Experts on Action against Trafficking in Human Beings (GRETA) (2013), *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Portugal (first evaluation round)*, Strasbourg, Council of Europe, 12 February 2013.
- 97 United Kingdom, Home Office (2013), *Draft Modern Slavery Bill*, [www.gov.uk/government/news/modern-slavery-white-paper-published](http://www.gov.uk/government/news/modern-slavery-white-paper-published).
- 98 Malta, House of Representatives (2013), Bill 16 of 2013, the Criminal Code (Amendment No. 2) Act, <http://justiceservices.gov.mt/DownloadDocument.aspx?app=lp&itemid=25493&i=1>. The bill passed its second reading in Parliament and is currently with the Committee for the Consideration of Bills.

- 99 Some of the information in this chapter is based on FRA desk research for this Annual report.
- 100 Council of Europe, Group of Experts on Action against Trafficking in Human Beings (GRETA) (2013), Country Evaluation Reports concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings, [www.coe.int/t/dghl/monitoring/trafficking/Docs/Publications/Evaluations\\_en.asp#TopOfPage](http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Publications/Evaluations_en.asp#TopOfPage).
- 101 Some of the information in this chapter is based on FRA desk research for this Annual report.
- 102 Czech Republic, Decision of the High Court in Prague of 5 March 2013, ref. 10 To 4/2013.
- 103 La Strada International (2013), *Newsletter*, Issue 28, March 2013.
- 104 Organization for Security and Co-operation in Europe (OSCE), Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings (2013), *Policy and legislative recommendations towards the effective implementation of the non-punishment provision with regard to victims of trafficking*, [www.osce.org/secretariat/101002](http://www.osce.org/secretariat/101002).
- 105 Bulgaria, *Наказателен кодекс*, 1 May 1968, Art. 16a, Art. 116a (1), item 8a, Art. 131 (1), item 8a, Art. 159a, Art. 159c, amendments <http://dv.parliament.bg/DVWeb/showMaterialDV.jsp?idMat=79027>.
- 106 Bulgaria, *Закон за борба с трафика на хора*, adopted on 20 June 2003, Art. 23, Art. 31, and para. 1 of the additional norms, items 1 and 2, amendments <http://dv.parliament.bg/DVWeb/showMaterialDV.jsp?idMat=79027>.
- 107 Slovakia, *Ministerstvo vnútra SR*, information on amending the Criminal Statute and the Code of Criminal Procedure, 5 August 2013.
- 108 Latvia, *Grozījumi Kriminālprocesa likumā*, 20 December 2012, Section 13; Latvia, *Grozījumi Krimināllikumā*, 13 December 2012, Section 13.

