



EMN Ad-Hoc Query on CY Ad-Hoc Query on State Compensation to victims of trafficking in human beings

Requested by Tania CHARALAMBIDOU on 29th February 2016

Trafficking

Responses from Austria, Belgium, Croatia, Czech Republic, Estonia, Finland, France, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Slovak Republic, Slovenia, Spain, Sweden, United Kingdom, Norway (22 in total)

Disclaimer:

The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

Background information:

Cyprus is currently considering the allocation of state funds to compensate victims of trafficking in human beings (THB), independently from Court procedures. We would be interested in other Member States’ practices/policy/law regarding the provision of state compensation to officially recognized victims of THB. More specifically:

Do you provide state compensation to victims of THB?

2. If yes:

a) under which circumstances (e.g. is state compensation provided to victims of THB only when it was not possible for them to receive compensation from other sources (e.g. through Court procedures), or is it provided to all victims irrespectively?

b) Is there a maximum or minimum sum which is provided as state compensation to victims of THB?

c) How is the amount of compensation calculated?

Questions

1. Do you provide state compensation to victims of THB?

2. If yes:



a) under which circumstances (e.g. is state compensation provided to victims of THB only when it was not possible for them to receive compensation from other sources (e.g. through Court procedures), or is it provided to all victims irrespectively?


b) Is there a maximum or minimum sum which is provided as state compensation to victims of THB?


c) How is the amount of compensation calculated?


Responses

	Country	Wider Disseminat ion	Response
--	---------	----------------------------	----------

	Austria	Yes	<p>1. Yes, if the criminal act has taken place in Austria (Art. 1 para 7 and Art. 15 Victims of Crime Act).</p> <p>2. a) In general, compensation is only granted if the victim has suffered bodily harm or a damage to health (Art. 1 para 1 in conjunction with Art. 1 para 7 Victims of Crime Act). Further, compensation to third-country nationals is only granted if the victim was legally staying in Austria at the time of the criminal act. However, if the illegal stay in Austria has been caused by trafficking in human beings, aid is granted as long as the victim is entitled to a Residence Permit for Individual Protection (Aufenthaltsberechtigung besonderer Schutz) or subsequently legally stays in Austria having an habitual residence in this country (Art. 1 para 7 Victims of Crime Act). b) In particular, there are maximum amounts regarding the compensation for lost earnings (Art. 3 Victims of Crime Act). Further, lump sums are provided as compensation for pain suffered (Art. 6a Victims of Crime Act). However, there are no maximum amounts for medical aid (Art. 4 Victims of Crime Act). c) The compensation for lost earnings depends on the actual earnings lost due to the bodily harm or damage to health suffered, but is limited by the abovementioned maximum amounts (Art. 3 para 1 Victims of Crime Act). Compensation for the costs of medical aid incurred by the victim depends on the costs incurred if the medical aid were provided in the framework of statutory health insurance (Art. 4 para 4 Victims of Crime Act).</p>
	Belgium	Yes	<p>1. In Belgium, since 2004, victims of human trafficking can submit an application for financial aid from the Commission for Financial Aid for Victims of Deliberate Acts of Violence.</p> <p>2. a) The financial aid that the above-mentioned Commission can award via the Fund for financial aid to victims of deliberate acts of violence and rescuers is solely subsidiary in nature and is subject to various conditions. ELIBILITY: In order to be able to apply for financial aid, the victim must demonstrate (1) that a deliberate act of violence was committed; (2) that (s)he has suffered physical harm or serious mental harm and (3) that this harm is the direct consequence of this deliberate act of violence. The Commission must therefore always check whether the acts perpetrated on the victim's person can be categorized as 'acts of physical stress exerted on persons and leading to serious physical or mental harm.' CONDITIONS: The law provides for several conditions in order to call upon the Fund: - The principle of territoriality requires that the act of violence be perpetrated in Belgium. However, if the violence were to take place in other countries, then the reference points would be examined in order to consider, on a case-by-case basis, whether the aid should be granted by Belgium. - The Fund intervenes according to the principle of</p>



			<p>subsidiarity. The applicant may therefore not have access to other possible ways of obtaining compensation. Taken into account here will be the solvency and the potential payments of the perpetrator, the intervention of the mutual health insurance fund or the insurer for occupational accidents or compensation based on private insurance. The condition of subsidiarity is not absolute, however. Essentially, the applicant is expected to exercise his rights to the maximum extent vis-à-vis the person responsible or the insurance. The Commission nevertheless emphasizes the fact that the victim does not have to wait until the end of long and expensive procedure to request financial aid. The victim does not therefore have to be in a position whereby payment of compensation by the perpetrators is absolutely impossible. - In order to apply for primary aid, there should be: 1) if the preparer is known, a criminal conviction of the perpetrator or 2) if the perpetrator is unknown, a non-case procedure or a one year delay as from the date of application as civil party. In order words, the system responds if there is some link with legal proceedings. b) Three types of aid can be awarded by the Commission: - The primary aid is the amount that the Commission awards as financial assistance for the damage suffered. The primary aid is only awarded if the damage is assessed at between 500 euros and 62,000 euros. - The emergency aid can be issued when a delay in the provision of the primary aid could cause the applicant considerable damage. The emergency aid applies to damage between 500 euros and 15,000 euros. The emergency aid can be requested once the civil suit is initiated or the complaint is filed. - The supplementary aid can be granted when the harm suffered by the victim is found to have increased subsequent to the granting of the primary aid. c) The amounts are calculated by the Commission, according to the damages presented by the applicant (case by case assessment). The aid for the damage suffered can be calculated based on moral damage (taking into account the temporary or permanent disability), the medical expenses and temporary or permanent disability, loss or reduction of income due to temporary or permanent incapacity to work, the cosmetic damage, litigation costs, material costs (clothing, transport costs, etc.), the damages resulting from the loss of one or more years of schooling, etc.</p>
	Croatia	Yes	<p>1. In relation to the right of victims to compensation for damages, a victim of trafficking in human beings has the right to compensation from the perpetrator (in criminal or civil proceedings) and the right to compensation from the state.</p> <p>2. a) Pursuant to the Act on Compensation for Victims of Criminal Offences (Official Gazette, no. 80/08 and 27/11) the victim of a violent criminal offence committed with intent on the territory of the Republic</p>

			<p>of Croatia, after 1 July 2013, has the right to receive compensation if: • he/she is a citizen of the Republic of Croatia or is resident in the Republic of Croatia, • the citizen of a member state of the European Union or is resident in a member state of the European Union, • if he/she suffered serious physical injury or serious damage to health as a result of a criminal offence • or if he/she is a close blood relative of a deceased victim • if the criminal offence was registered or reported to the police or public prosecution service within six months of the day the criminal offence was committed, • if he/she filed a written application on the official form and enclosed the necessary documentation. b) • if he/she suffered serious physical injury or serious damage to health as a result of a criminal offence (they he/she has the right to compensation of medical costs, and compensation for lost earnings in a lump sum of 35,000.00 HRK, approximately 4 616 euros) • or if he/she is a close blood relative of a deceased victim (then they have the right to compensation due to loss of statutory maintenance up to 70,000.00 HRK and funeral costs up to 5,000.00 HRK). • a special category of victim, which includes victims of the criminal offence of trafficking in human beings, have the right before being interviewed to talk to an advisor at the expense of the budget. c) In relation to the right of victims to compensation for damages, a victim of trafficking in human beings has the right to compensation from the perpetrator (in criminal or civil proceedings) and the right to compensation from the state. No requests for compensation from victims of THB have so far been received within the framework of the Act on Compensation for Victims of Criminal Offences. Note that such compensation concerns only victims who have sustained serious injuries and does not cover nationals of countries other than Croatia or EU states.</p>
	Czech Republic	Yes	<p>1. The system of compensation for the victims of trafficking in human beings is not specially regulated beyond the general system of compensation designed for the victims of criminal acts. The compensation of these persons is regulated by the Act No. 45/2013 Coll., on Victims of Crime, as amended. Moreover, as an especially vulnerable group of victims, the victims of trafficking in human beings are entitled to special treatment – for example they are entitled to professional help/assistance.</p> <p>2. a) According to the Act No. 45/2013 Coll., on Victims of Crime, four following groups of victims are entitled to apply for financial compensation: 1) Victim who suffered – as a result of criminal act – bodily harm. 2) Victim who suffered – as a result of criminal act – grievous bodily harm. 3) Bereaved person of a victim who has died as a result of criminal act if that person was his/her parent, spouse, registered partner, child or sibling and if that person – at the time of his/her death – had lived with the deceased person, or a</p>


			<p>person to whom the deceased person was providing or was obliged to provide sustenance. 4) Victim of criminal act against human dignity in the sexual sphere and a child who is a victim of torture from the side of a guardian. b) c) 1) Regarding bodily harm, the victim is provided with the lump sum of 10,000 CZK, or with the sum which corresponds to the real claim of a victim, to the maximum amount of 200,000 CZK. 2) Regarding grievous bodily harm, the victim is provided with the lump sum of 50,000 CZK, or with the sum which corresponds to the real claim of a victim, to the maximum amount of 200,000 CZK. Regarding the real claim, it is necessary to submit for example all the confirmations/receipts on the lost earnings, on the expenses and costs related to treatment etc. The sums which a person received on the grounds of a financial compensation are deducted from this claim – if that happened at the time of submission of the application. 3) In case of criminal act which resulted in the death, the victim is provided with a lump sum of 200,000 CZK (if that person is a sibling, then the lump sum accounts to 175,000 CZK). If there are more bereaved persons, then the sum of maximum 600,000 CZK in total is provided and it is divided according to the number of bereaved persons. 4) Regarding criminal acts against human dignity in the sexual sphere and regarding criminal acts of torture of a child from the side of a guardian the costs related to psychotherapy and physiotherapy or other professional care/assistance to the maximum amount of 50,000 CZK is provided.</p>
	Estonia	Yes	<p>1. Yes.</p> <p>2. a) According to Article 7 of the Victim Support Act compensation shall be paid to victims of crimes of violence committed in the territory of the Republic of Estonia and to their dependents. Likewise, the person who bears the expenses relating to the medical treatment or funeral of a victim has the right to be compensated for the expenses pursuant to the Victim Support Act. Compensation shall be paid if the victim sustains serious damage to his or her health, sustains a health disorder lasting for at least six months or dies as a result of a crime of violence. Among others the victims of human trafficking or sexually abused minors, regardless of whether they have a legal basis to stay in Estonia, are entitled to the compensation (Article 9 (2)). According to Article 16 of the Victim Support Act compensation shall not be paid if: 1) the victim caused or facilitated the commission of the crime or the occurrence of the damage by his or her intentional or reckless behavior; 2) the victim fails to give notice of the crime within 15 days, although he or she would have been capable of doing so, and the police have not become aware of the crime in any other way; 3) the victim has been convicted of the commission of a crime of violence or</p>

			<p>being a member of criminal organization or forming of criminal organization (according to Penal Code Articles 255(1) and 256 (1)) and information concerning his or her punishment has not been deleted from the punishment register pursuant to the Punishment Register Act; 4) payment of compensation would be unfair or unjustified for other reasons. Compensation shall not be paid to a dependent if circumstances specified above were present in his or her behavior. Regardless of the circumstances specified above, compensation may be paid to a dependent whose monthly income is below the subsistence level established by the Government of the Republic on the basis of the minimum consumption expenditure. Payment of compensation may be refused if the applicant for compensation has refused to co-operate with the law enforcement authorities in ascertaining the facts relating to the criminal offence, identifying or apprehending the criminal offender or proving the damages. An application for compensation shall be submitted to the Social Insurance Board within three years as of the commission of the crime or the date of death of the victim, except in the cases provided for in subsection (2) of this section. (2) An application submitted later shall be reviewed if: 1) the dependent became aware of the death of the victim more than one year after the date of death and the application is submitted within three years as of the date of becoming aware of the death of the victim; 2) the applicant for compensation sustained a health disorder which lasted longer than one year and timely submission of the application was not possible due to his or her state of health and if the application is submitted within three years as of his or her state of health improving; 3) the basis for applying for compensation is a sexual offence and the application was submitted within three years after the victim became an adult unless the reason for the criminal proceedings became evident before he or she became an adult. b) Pursuant to the Victim Support Act, the amount of compensation shall be 80% of the material damage but no more than a total of 9590 euros to one victim and all his dependents. The amount of compensation shall be determined on the basis of the following material damage caused by a crime of violence: 1) damage arising from incapacity for work; 2) expenses for the medical treatment of the victim; 3) damage arising from the death of the victim; 4) damage caused to spectacles, dentures, contact lenses and other appliances substituting for bodily functions and to clothes; 5) the victim's funeral expenses. Any amounts which an applicant for compensation receives or is entitled to receive as compensation for damage resulting from a crime of violence from a source other than the person liable for the damage caused by the crime shall be deducted from the damage serving as the basis for determining the amount of compensation. In determining the amount of the compensation, the compensation paid to the applicant by the person liable for the damage caused by the crime shall be taken into account to the extent of the amount paid before the determination</p>
--	--	--	---

			<p>of compensation on the basis of Victim Support Act. c) Damage arising from incapacity for work is that part of income which is not received due to temporary or permanent incapacity for work arising as a result of a crime of violence. The amount of said compensation shall be determined on the basis of the victim's average income per calendar day. The average income per calendar day shall be calculated from the victim's income subject to social tax of the previous six months. (Described more precisely in Article 11 of the Victim Support Act (available in English: https://www.riigiteataja.ee/en/eli/504022016006/consolide) Expenses for the medical treatment of the victim are as follows: 1) Expenses for medical treatment and acquisition of medicinal products and appliances substituting for bodily functions; 2) Expenses related to the alleviation of post-traumatic complications, teaching him or her a new speciality suitable for his or her state of health; 3) Essential travel expenses related to the circumstances specified above. 4) Expenses for up to 10 sessions of psychological counselling and up to 15 sessions of psychotherapy are also deemed to be expenses for the medical treatment of a victim. Compensation for expenses for the medical treatment of a victim shall be paid to the person bearing the expenses. The dependants of a victim who dies as a result of a crime of violence shall receive compensation based on the victim's previous income calculated as follows: 1) 75 % of the income in the case of one dependant; 2) 85 % of the income in the case of two dependants; 3) a total of 100 % of the income in the case of three or more dependants. Compensation for the victim's funeral expenses shall be paid in the amount of 448 euros to the person who bears the expenses relating to the funeral of a victim of a crime of violence.</p>
+	Finland	Yes	<p>1. Yes.</p> <p>2. a) Victims of THB may claim for compensation based on the Finnish Tort Liability Act. The claim for compensation is made to the perpetrator/human trafficker within the criminal process. The State Treasury will provide the compensation if the perpetrator is deemed without funds or is not reached, which is most often the case. Compensation is generally granted only if requested from the perpetrator in court. Compensation may be obtained from the State Treasury also without a court decision, but so far there are no such precedents related to human trafficking - cases. Compensation may be claimed, for instance, for personal injuries, the costs of medical treatment, pain and suffering, a permanent handicap or mental anguish. b) The recommendations for the amount of compensation paid to victims of different types of crime are laid out By the (Personal) Injury Advisory Board under the Ministry of Justice. The</p>



			recommended compensation for a victim of human trafficking is 5 000-30 000 Euro. In addition, the victim may claim for compensation for instance for personal injuries. A victim of work related trafficking may also claim for unpaid wages. c) As mentioned above, there are recommendations regarding compensation for different kinds of personal injury and suffering laid out by the Ministry of Justice. The recommendations are based on a range of material gathered from criminal proceedings in Finland.
	France	Yes	<p>1. NO</p> <p>2. N/A</p>
	Hungary	Yes	<p>1. Yes.</p> <p>2. II. a) Victim support services are available for victims of every type of crimes regardless of gender, age or disability but only victims of violent intentional crimes may be eligible for state compensation. Trafficking in human beings is in the practice of the Hungarian Victim Support Service intentional and violent crime against persons therefore the victim may receive compensation by the fulfilment of other conditions. In case the crime took part in Hungary, the person identified as victim of human trafficking is entitled to victim assistance services and to state compensation. According to Act CXXXV of 2005 on Crime Victims Support and State Compensation, Section 6 - Crime Victims Eligible for Compensation (1) A needy natural person shall be eligible for compensation a) who has been victimized by a violent deliberate crime and, as a direct consequence thereof, suffered severe injury physically or mentally, b) who is a direct relative, adoptive or foster parent, adopted or foster child, spouse or common-law spouse of the victim injured or died in consequence of a crime referred to in Paragraph a) above, and was living at the time of the crime with the victim as a domestic partner, and c) whom the victim injured or died in consequence of a crime referred to in Paragraph a) above is or was obliged to maintain pursuant to the provisions of a legal regulation, an enforceable court order or official decision or a valid contract d) has arranged for the funeral of a victim who died as a result of a deliberate, violent crime against the given person. (2) A crime victim shall be considered to be in need (and therefore hereinafter referred to as 'needy') when his/her net monthly income, or the per capita household income does not exceed the basic sum by a factor of two. (3) A crime victim shall be considered to be needy irrespective of his/her earnings if a) he/she receives regular social aid or social welfare payments provided for the elderly, b) he/she is</p>

			<p>eligible for debt management services or home maintenance allowance, c) he/she cares for a child in his/her family, whose eligibility for regular child protection allowance has been established, d) his/her socially needy status and thereby eligibility for healthcare services is established on the basis of means test conducted by the mayor's office of the local authority, e) he/she receives attendance allowance, public healthcare provision and invalidity allowance, f) he/she is eligible for aid to the mentally impaired, personal annuity due to the blind and the visually impaired or increased family allowance, g) he/she is a homeless person in need of temporary accommodation in lodging facilities or overnight refuge, h) he/she is a person in need of temporary accommodation in a home for children or families, i) he/she is a person whose application for asylum in Hungary is pending. Section 7 - Forms and Amount of Compensation: (5) The payment of allotments to a victim shall be terminated if a) the victim's eligibility for regular social services or pension insurance benefits has been officially established with a view to the crime, and disbursement of such benefits commenced, b) the victim has been granted annuity payments for damages by a non-appealable court order, and disbursement of such annuity has commenced, c) an insurance company starts disbursing annuity benefits to the victim, d) the victim's disability to work came to an end, or e) the victim was absent from the compulsory expert medical examination without proper justification. II. b-c) Yes. According to Act CXXXV of 2005 on Crime Victim Support and State Compensation: Section 7 - Forms and Amount of Compensation (1) Compensation shall be made available in the form of lump-sum cash payment or in regular monthly instalments. (2) A crime victim may apply for lump-sum cash payment as total or partial compensation for the economic loss he/she has incurred through the crime. The amount of lump-sum compensation shall equal: a) 100 percent for any loss not exceeding the fivefold of the basic sum, b) the fivefold value of the basic sum plus 75 percent for the portion over the fivefold thereof for any loss ranging in value between the fivefold and the tenfold of the basic sum, c) the 8.75-fold of the basic sum plus 50 percent for the portion over the tenfold thereof for any loss exceeding the tenfold of the basic sum, in any case not to exceed the 15-fold of the basic sum. (3) A crime victim may apply for partial compensation for the loss in his/her regular income in the form of regular payments if the crime resulted in his/her disability to work for an estimated period of over 6 months. The amount of allotment payable on a monthly basis shall equal: a) 75 percent of the certified loss of income if the victim is below 18 years of age or is in need of care by others, or b) 50 percent of the certified loss of income if the victim is not in need of care. (4) The maximum amount of monthly allotment shall equal the basic sum. The allotment may be granted for a period of not more than three years.</p>
--	--	--	--

	Ireland	Yes	<p>1. There are a number of methods to obtaining compensation currently available to victims in Ireland as follows: • Court Order for payment of compensation under Section 6 of the Criminal Justice Act 1993; • Civil Action to claim damages taken either under legislative or common law rules which may relate to an employment situation or personal injuries; • State bodies dealing specifically with work related rights and entitlements i.e. Workplace Relations Commission, Labour Court; • Criminal Injuries Compensation Tribunal.</p> <p>2. There is a Criminal Injuries Compensation Tribunal Scheme in Ireland. a) Under which circumstances (e.g. is state compensation provided to victims of THB only when it was not possible for them to receive compensation from other sources (e.g. through Court procedures), or is it provided to all victims irrespectively? The Tribunal will deduct from the amount of an award under this Scheme any sums paid to or for the benefit of the victim or his dependants by way of compensation or damages from the offender or any person on the offender’s behalf following the injury. Those injured as a result of a crime, including the crime of human trafficking, may be eligible for compensation under the Scheme of Compensation for Personal Injuries Criminally Inflicted. The scheme is funded by the Department of Justice, Equality and Law Reform and administered by the Criminal Injuries Compensation Tribunal. The scheme pays compensation for expenses and losses (essentially out of pocket expenses and bills) suffered as a direct result of a violent crime or while assisting or trying to assist in preventing a crime or saving a human life. There is a time limit of three months between the crime and making a claim to the Tribunal. However, this time limit may be extended if the victim can provide a reasonable explanation as to the delay. In order to progress with compensation, a report from the Gardaí (Irish police) is required and therefore the crime should to be reported as quickly as possible. In cases was there is a delay in reporting the crime, compensation may be denied. However, the claim may proceed if the tribunal deems that the victim has fully co-operated with the Gardaí. The amount of compensation a victim of crime receives can vary according to factors such as • The amount of social welfare or salary received while on sick leave • The amount of compensation paid by or on behalf of the assailant. The Tribunal compensates victims based on loss of earnings and a victim who was in receipt of social welfare payments as their main form of income would not be eligible for compensation. It should also be noted, that any earnings which are not deemed legal, for example earnings not declared to the revenue commissioners, (Irish tax authorities), will not be taken into consideration when calculating compensation. No compensation will be paid; • if the loss is of a very small amount, • if the claimant and the author of the crime are living together as part of the same household when the injury was incurred, • for lost or damage of property (except some medical items) and</p>
---	---------	-----	--





• no compensation will be paid on the basis of pain and suffering incurred by the victim. b) Is there a maximum or minimum sum which is provided as state compensation to victims of THB? The Criminal Injuries Compensation Tribunal Scheme has been designated by the State as a “cash-limited grant scheme”. This means that the Tribunal has no capacity or authority to pay out more funds in any one year than has been voted by the Dáil, (Irish Parliament). Thus, if the Tribunal’s funding becomes exhausted before the end of a financial year it has to wait until the next financial year, when it is again put in funds, before making any further payments to applicants. c) How is the amount of compensation calculated? The Tribunal compensates victims based on loss of earnings and expenses. When calculating the amount of compensation to be awarded, a victim may be asked to provide evidence to demonstrate their previous earnings. In situations where this is not appropriate, for example in the case of a student, then consideration is given to the potential future earnings of the victim which may be calculated on the basis of their exam results. In some cases where the claimant is a foreign national then consideration may be given to their earnings or educational achievements in their country of origin. The type and extent of the injury the victim receives is also important in determining the amount of compensation awarded to the victim. These types of injury can be divided into three different categories (i) Personal Injuries with Short-Term Effects. The victim will be paid for their actual loss of earnings, actual medical expenses (including dentist's expenses), reasonable travelling expenses (e.g., going to and from the doctor), medication and eyeglasses. (ii) Personal Injuries with Long-Term Effects The victim will be paid for their estimated future loss of earnings, estimated future medical expenses, estimated future expenses as a result of the disability (e.g., future care or special equipment) and estimated future loss of earning potential. (iii) Death of the Victim due to Criminal Injury The family of the victim will be paid the actual loss of earnings and expenses that may have been incurred before the death, future loss of support or maintenance for anyone who was dependent on the victim, funeral and burial expenses and mental distress money for immediate family members. When awarding compensation to victims who are minors (-18 years old) the Tribunal may decide to invest the money until the victim is 18 years. Being a foreign national does not exclude a victim from making an application. However, the Tribunal would need to discuss this matter further if the person in question was not legally resident in the country, although it would also take into consideration the fact that the victim was trafficked into the country. The Link to the Scheme of Compensation for Personal Injuries Criminally Inflicted is below:


<http://www.justice.ie/en/JELR/Scheme%20of%20Compensation%20for%20Personal%20Injuries%20Criminally%20Inflicted%20->


			%20Cash%20Limited.pdf/Files/Scheme%20of%20Compensation%20for%20Personal%20Injuries%20Criminally%20Inflicted%20-%20Cash%20Limited.pdf
	Italy	Yes	<p>1. Yes. Article 6 of Legislative Decree No 24/2014, implementing Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA, established that the Fund for measures to combat trafficking in human beings, funding social assistance and integration programmes for victims of THB, is also intended for the compensation of such victims.</p> <p>2. a) According to Article 6 of the above-mentioned Decree No 24/2014, compensation may be claimed only after a judgement against the exploiters has been passed, with such judgement recognising the right to compensation. Any compensation claim should be lodged within five years from the judgement. Moreover, compensation may only be granted if the victim has not already received any compensation from the offender. If the offender is unknown, a compensation claim should be lodged within one year from registration of the decision to dismiss the case. The right to compensation cannot be exercised by those who have been convicted by a final judgement, nor by those who, at the time of claim submission, are facing prosecution for very serious crimes, such as crimes against the State, crimes relating to participation in mafia-type organisations (including foreign organisations) or slaughter. b) The Budget Law usually establishes the amount of the Fund for measures to combat trafficking in human beings on a yearly basis. c) Under Article 6, the amount of compensation is equivalent to € 1,500 for each victim, within the limits of the yearly financial allocations of the Fund for measures to combat trafficking in human beings, minus any amounts that may have been paid to the victims by public entities. If there is not enough money in the Fund, the compensation claims that are accepted but not paid will be covered as priority by the allocations of the following financial year.</p>
	Latvia	Yes	<p>1. Yes.</p> <p>2. a) On 1 January 2013 amendments to the “Law on State Compensations to Victims” came into force supplementing Section 3 Paragraph 4 with a new legal provision – the right to the State compensation shall exist, if as a result of an intentional criminal offence the victim is a victim of trafficking in human beings. b) Since 1 January 2014 maximum amount of State compensation to be paid to one victim of a</p>


		<p>criminal offence has been raised – five minimum monthly wages laid down in the Republic of Latvia. The compensation shall be paid if the victim is a victim of trafficking in human beings – in the amount of 70%. According to this Law the victim has the right to the State compensation also if a perpetrator of a criminal offence or a joint participant thereof has not been identified or he or she in accordance with the Criminal Law shall not be held criminally liable. It should be mentioned that the rights to the State compensation victims can realize voluntarily – a person who is the victim of trafficking in human beings shall submit a request for the State compensation to the Legal Aid Administration – a completed form of the request for the State compensation, the sample of which is approved by the Cabinet - in order to receive the State compensation. The victim may receive the form of the request for the State compensation, as well as information regarding completion of the form, free of charge in the Legal Aid Administration. The “Law on State Compensations to Victims” provides the legal regulation on co-operation when paying a compensation for the injury that has occurred as a result of a committed criminal offence in the territory of Latvia and co-operation when paying a compensation for the injury that has occurred as a result of a criminal offence in the territory of another European Union Member State. The Legal Aid Administration shall take the decision on the request of a long-term resident of another European Union Member State to pay a compensation regarding the injury that has occurred as a result of a criminal offence in the territory of Latvia. The request shall be submitted in Latvian or English. The documents that are to be submitted to the Legal Aid Administration need not be legalised and equal formality shall not be applied thereto. The Legal Aid Administration shall, within seven days from the day of the receipt of the request, provide to the victim, but if the request has been received from a competent authority of another European Union Member State – also to it the following information: 1) the confirmation of the receipt of the request for the State compensation or a refusal to accept the request for the State compensation; 2) a period of time for the taking of the decision; 3) information regarding additional documents necessary for the examination of the request or other information if all documents have not been submitted; and 4) the contact information of such official of the Legal Aid Administration, who is responsible for the taking of the decision in relation to the payment of the State compensation. The decision to pay compensation or to refuse to pay the compensation shall be sent by the Legal Aid Administration to the victim who is a long-term resident of another European Union Member State, as well as to the competent authority of the relevant European Union Member State if the request has been received from it. c) The Criminal Procedure Law Section 22. Rights to Compensation for Inflicted Harm provides that a person upon whom harm has been inflicted by a criminal offence shall, taking into account the moral injury, physical suffering, and financial loss thereof,</p>
--	--	--



			<p>be guaranteed procedural opportunities for the requesting and receipt of moral and financial compensation. A victim, taking into account the amount of financial loss, physical suffering, and moral injury caused to him or her, shall submit the amounts of such harm, and use his or her procedural rights for acquiring moral and material compensation. Compensation is payment specified in monetary terms that a person who has caused harm with a criminal offence pays to a victim as atonement for moral injury, physical suffering, or financial loss. Compensation is an element of the regulation of criminal-legal relations that an accused pays voluntarily or on the basis of a court adjudication. If a victim believes that the entire harm caused to him or her has not been compensated with a compensation, he or she has the right to request the compensation thereof in accordance with the procedures laid down in the Civil Procedure Law. In determining the amount of consideration, the compensation received in criminal proceedings shall be taken into account. A victim has the right to submit an application regarding compensation for a caused harm in any stage of criminal proceedings up to the commencement of a court investigation in a court of first instance. The application shall justify the amount of the requested compensation for financial losses, but the amount of compensation for moral injury and physical suffering – shall just be indicated. An application may be submitted in writing or expressed orally. An oral application shall be recorded in the minutes by a person directing the proceedings. During pre-trial proceedings, a public prosecutor shall indicate a submitted application and the amount of requested compensation, as well as his or her opinion thereon in the document regarding the completion of pre-trial proceedings. The failure to ascertain a person being held criminally liable shall not be an impediment to the submission of a compensation application. An application for compensation shall be examined regardless of the presence of a victim. A victim has the right to recall a submitted compensation application at any stage of criminal proceedings up to the moment when the court retires to make a judgment. The refusal of compensation of a victim may not be grounds for the revocation or modification of prosecution, or a justifying judgment. A court shall determine the amount of compensation by assessing the application of a victim, and by taking into account: 1) the amount of financial losses caused; 2) the seriousness of a criminal offence, and the nature of the committing thereof; 3) the caused physical suffering, permanent mutilation, or loss of ability to work; 4) the depth and publicity of a moral injury; 5) mental trauma. The causer of harm may voluntarily agree to the amount of compensation specified by the victim, or such causer and victim may determine such amount by mutual agreement. Such agreement shall be drawn up in writing, or such agreement shall be recorded, on the basis of a request of both parties, in the minutes of the procedural action. A court may impose the duty to pay compensation upon the following: - an accused of legal age who has been found</p>
--	--	--	---


			guilty of the committing of a criminal offence; - a legal person who has been applied a coercive measure has been applied. In other cases compensation shall not be determined, but the compensation of harm shall take place in accordance with civil-legal procedures.
	Lithuania	Yes	<p>1. Yes</p> <p>2. A) Compensation can be provided if the perpetrator was convicted under the penal code article on human trafficking and if the court has determined the need for compensation, if the crime was undertaken in the territory of Lithuania and the damage was not compensated for the victim. B) Yes. The maximum amount for material loss is 60 minimal living standards (approx. 2300 EUR) and non-material loss is 80 minimal living standards (approx. 3000 EUR).</p>
	Luxembourg	Yes	<p>1. NO. In Luxembourg, victims of human trafficking are not compensated with state funds. However, article 6 of the Law of 8 May 2009 on the Assistance, Protection and Security of Victims of Trafficking in Human Beings establishes that the Grand-Ducal Police will inform the victim on the different possibilities to file a civil complaint and bring a criminal indemnity action before the competent judge as well as on the stages of the criminal proceedings.</p> <p>2. a. N/A. b. N/A. c. N/A.</p>
	Malta	Yes	<p>1. Please refer to attached.</p> <p>2. Please refer to attached.</p>
	Netherlands	Yes	<p>1. Yes</p> <p>2. a) The Criminal Injuries Compensation Fund is an independent part of the Ministry of Security and Justice, and provides one-off payments to people who have suffered serious physical or psychological injuries from a violent crime. The Fund has its own laws and policies. To qualify for a payment from the Fund all requirements of the Injuries Compensation Law have to be met. It is not necessary that the victim tried civil or criminal compensation first. Each victim can apply. However, when the Fund makes its</p>

			<p>payment, the compensation that the victim received via civil, criminal or another way, is taken into account. The requirements of the Fund are: 1. Deliberately committed violent crime: An application may only be filed for a deliberately committed violent crime in the Netherlands. Human trafficking is always an intentional violent crime. It is not necessary that the victim is actually exploited or their organs are removed. The use of coercion or the intention to exploit a person, without actual exploitation is sufficient. 2. Likelihood of violent crime: A violent crime must be proved. A statement from the victim alone is insufficient to establish plausibility. 3. Serious injuries as the result of violent crime: The violent crime must have caused serious physical or psychological injury. The severity of the injury is determined on the basis of the nature and consequences of the injury. The Fund sees injuries as severe if it is prolonged or if there are permanent severe medical consequences. As indicated, the Fund uses an injury list to put the sustained injuries in one of the six categories. 4. No share in the violent crime The payment may be omitted or be set at a lower amount if the damage is partly a consequence of the victim's own actions. In practice, this is (almost) never the case of applications for human trafficking. b) The Fund uses six categories of injury, in which six incremental amounts are linked. Injury category 1 amounts to € 1,000.00 and the maximum benefit from injury category 6 is € 35,000.00. The allowance is paid from tax money and is not intended to cover all damages. c) On the basis of an injury list the Fund determines in which category the injuries that are sustained fit. The corresponding amount is the compensation that is provided to the victims to overcome suffering and any financial loss. See appendix</p>
	Poland	Yes	<p>1. Poland has regulations concerning state compensation. Compensation may be granted to a victim, based on the provisions of the Act of 7 July 2005 on state compensation for victims of certain offences. The act was recently amended to fulfil the obligations under the Council directive 2004/80/EC relating to compensation to crime victims. The amendment being in force since 13 January 2015 broadened the scope of entitled victims. The Ministry of Justice assesses that under those regulations number of victims seeking compensation may reach 12 800 per year.</p> <p>2. a) Compensation is applicable if the offense was committed on Polish territory, against a person residing in Poland or other EU Member State and resulted in death or physical or mental injury or disorder lasting more than 7 days, in case when there is no possibility to receive damages from the perpetrator/perpetrators, insurance or social assistance. Compensation is not granted if the victim was an accomplice committing the offence from which he/she derives his/her right to compensation and if the</p>

			<p>court establishes that the offence did not take place. In case when the offence resulted in death the compensation may be granted to husband/wife or spouse or child/stepchild or a parent of the victim. The victim must apply for compensation within 3 years since the disclosure of the offence's negative result but no later than 5 years since the offence was committed. b) The compensation is granted in the amount corresponding to lost earnings or other means of support or costs of treatment and rehabilitation or costs of burial. The compensation may be reduced if the victim contributed to the commitment of the offence. The compensation may not exceed 25 000 PLN and 60 000 PLN if the offence resulted in death of the victim. c) The amount should strictly correspond to lost earnings etc. (as in point b). If there is no way of calculating the amount precisely the court may assess it based on the information given by the victim. 1 EUR=4,20 PLN</p>
	Slovak Republic	Yes	<p>1. Yes. According to the Slovak legislation, it is possible to provide a one-off state compensation to a person who suffered bodily harm caused intentional violent crime. It includes bodily harm, grievous bodily harm, death caused by a crime of another person or a moral harm caused by rape, sexual violence or a sexual abuse by another person. This means that a victim of trafficking in human beings is entitled to a state compensation if he/she also suffered a bodily injury or he/she was also victim of rape, sexual violence or sexual abuse. Due to the fact that this system does not comply with international obligations of the Slovak Republic (GRETA), it can be expected to change in the near future.</p> <p>2. a) State compensation is provided only when it is not possible for the victims to receive compensation from other sources. b) The total amount of compensation cannot exceed 50 times the minimum wage (50 x 400 = 20 000 euro). c) The amount of compensation is calculated according to the legislation regulating provision of compensation for harm as well as compensation for social inclusion – medical examiner and point system. The person aggrieved from rape, sexual violence or sexual abuse is entitled to compensation for the moral harm amounting to 10 times the minimum wage (i.e. approximately 4000 euro).</p>
	Slovenia	Yes	<p>1. Yes, Pursuant to the provisions of the National Referral mechanism , the authorities and organisations and NGOs that in the course of their work identify a victim of trafficking in human beings or are in some other way involved in the procedures of identifying victims of trafficking in human beings, must inform the victims also on the requirements they have to fulfil to be entitled to compensation and how they can receive reimbursement of the costs incurred by their participation in criminal proceedings. - Victim of</p>

			<p>criminal offence may in the course of criminal proceedings seek damages through indemnification claim. - In addition, there is a separate procedure for victims of violent criminal offences (including THB) to seek some indemnification from the state - procedure under the Crime Victim Compensation Act (explained below).</p> <p>2. a) The compensation for victims of THB is provided under the circumstances of "Crime Victim Compensation Act". The act governs criminal restitution for the victims caused by the criminal acts. The act has been relevant only as it regards the compensation of victims of the criminal offences in in the area of trafficking in human beings. Article 4 Beneficiaries The applicant shall be eligible for the compensation hereunder if the formal and the material conditions specified herein have been duly fulfilled (hereafter: the beneficiary). Article 5 Formal conditions Formal conditions for access to the compensation he render are fulfilled if the applicant is a: – Citizen of the Republic of Slovenia or – Citizen of any other Member State of the European Union. Material conditions Article 6 (1) The material conditions for access to the compensation hereunder are: – That there are reasonable grounds for suspicion the applicant was a victim of a violent intentional crime (hereafter: the crime), – The crime was committed on the territory of the Republic of Slovenia, on a Slovene ship or on a Slovene aircraft, regardless of the victim's locate on when the crime is committed, – That the act was detected and reported to the competent authority and dealt with as a criminal offence, – There are no circumstances on the part of the applicant for which no application for compensation may be submitted under the Code of Obligations, – Due to the crime the applicant sustained a bodily injury, impairment of health or suffering, – Due to the crime the applicant incurred the damage recognized herewith, – If it is probable that the offender of the act will not be able to pay compensation for the damage referred to in the preceding indent. (2) If the crime invoked in the preceding paragraph results in a person's death, the rights hereunder may be enforced by the respective dependants, unless otherwise specified by law.</p>
	Spain	Yes	<p>1. The Spanish legislation does not foresee an express compensation at the expense of the State, in favour of the victims of trafficking in human beings. Only in the measure in which these victims could be considered to be included in the budgets of the Law 35/1995, of 11th December, of helps and assistance to the victims of violent crimes and against the sexual freedom, they will be able to request someone of the compensations that this Law contemplates.</p>

			2. -
	Sweden	Yes	<p>1. There are no special rules for victims of THB but this is covered by general rules for compensation for victims of crime. Normally the state is not paying any compensation since a person who commits a crime is in principle obligated to pay for the damage or injury caused by the crime. This is known as damages. If the victim has insurance, some of the damages or injuries he/she has suffered may be covered. If the offender cannot pay the damages and if the victim does not have insurance that fully covers the damage or injury sustained, the victim may in certain cases be able to receive financial compensation from the state, known as criminal injuries compensation. Trafficking in human beings is a crime that entitles the victim to compensation for violation of personal integrity. For more information please see the following information leaflet (which is also attached as a supporting document): http://www.brottsoffermyndigheten.se/Filer/Broschyret/Andra%20språk/Information%20to%20crime%20victims.pdf</p> <p>2. a. See question 1. The state is only paying compensation if the offender cannot pay and if the victim has no insurance covering this. b. c. A claim for damages is usually assessed by the court at the same time that it assesses whether or not the defendant is guilty of the crime.</p>
	United Kingdom	Yes	<p>1. Yes. However, being a victim of trafficking does not in itself mean an award will be paid. Compensation may be payable under the Criminal Injuries Compensation Scheme (CICS) 2012, a statutory scheme approved by Parliament. The Scheme sets out various criteria for eligibility for compensation. The Scheme expressly provides that victims of trafficking can apply for compensation. Applications from victims of trafficking are then treated exactly the same way as all other applications. The applicant must have suffered a physical and/or psychological injury which was sustained in and directly attributable to a crime of violence occurring in Great Britain. Compensation is based on the injuries sustained and not how the injury was caused. Being a victim of trafficking therefore does not in itself mean an award will be paid. There are various other criteria that must be met for an award to be paid. For example, the incident resulting in the injury must be reported to the police and the victim must co-operate in bringing the assailant to justice. See the answer to question 2(c) for further details. Any application should be made within two years of the incident. People who have suffered very serious</p>

			<p>injuries that have left them with no, or very limited capacity to work may also get compensation for loss of earnings. Additional awards can also be made for costs associated with care and supervision.</p> <p>2. a) Victims of human trafficking who have suffered an injury as a result of a crime of violence have to apply for compensation. The CICS is a Scheme of last resort, so where other sources of compensation may be available a victim is expected to seek recompense from those. As explained in our response to question 1 and 2(c), there are various other eligibility criteria which apply to all applicants. b) [Please see response to question c) for context of maximum and minimum awards] The maximum award under the 2012 Scheme is £500,000. The minimum tariff award is £1,000, but that may be reduced on eligibility grounds. c) There is a tariff of injuries which forms part of the Scheme, Annex E. The level of awards ranges from £1,000 to £250,000. The injury award is calculated in accordance with the tariff of injuries. Where the injury is so serious that the victim has been left with no, or very limited, capacity to work for at least 28 weeks they may also get compensation for loss of earnings. This is payable to those with an employment history, or good reason for not having such, at a rate in line with the current value of statutory sick pay. For those so seriously injured additional awards can also be made for costs associated with ongoing needs including care and supervision. A fatal injury award, where applications are made as a result of a fatality caused by a crime of violence, may be made up of: • a bereavement award of £5,500 for each applicant who qualifies, or £11,000 if there is only one qualifying applicant; • compensation for financial dependency; • in the case of a child under 18, compensation for the loss of parental services; and • the reasonable cost of a funeral. We may withhold or reduce an award, or payment of special expenses (paragraphs 22-29), based on the applicant's: • reporting of the incident; • cooperation in bringing the assailant to justice; • assisting a claims officer or other body; • conduct (or the deceased's conduct in fatal cases); • unspent convictions; • character (or the deceased's character in fatal cases). The maximum award we can make to an eligible applicant under the 2012 Scheme before any reduction is £500,000.</p>
	Norway	Yes	<p>1. Yes. Norway provides state compensation to victims of trafficking through the Compensation for Victims of Violent Crimes Act (act. no. 13/2001). Trafficking (THB) is regarded as a violent crime. A claim for criminal injuries compensation must be submitted to the Criminal Injuries Compensation Authority. Submitting a claim is free. All procedural steps take place in writing. Decisions on state compensation can be appealed to the Compensation Board for Victims of Violent Crime.</p>

		<p>2. a) Compensation can be provided to victims regardless of there being a court case or not. State compensation is awarded in two ways: Either the Compensation Authority pays the victim according to the decision of a court conviction or, when there is no court case, the Compensation Authority can award compensation based on their assessment of the case. The crime must have been reported to the police. There are certain conditions that victims of trafficking have to meet to be able to access state compensation, including that it must be demonstrated that THB occurred in Norway. Victims of trafficking that have been exploited while in Norway can present a claim to the Norwegian Criminal Injuries Compensation Authority, also after leaving Norway. There must be a preponderance of evidence indicating that THB has been committed. It must be substantiated that the injury for which compensation is sought actually was a result of the crime. Normally, a claim for criminal injuries compensation will not be processed until the criminal case has been finally settled. A person may be eligible for compensation even if the criminal case is dropped or does not result in a conviction for the accused. The Criminal Injuries Compensation Authority will conduct an independent assessment of the evidence in the case. Free legal aid is provided to victims seeking state compensation and the level of compensation awarded to victims of trafficking is similar to that given to victims of crimes of similar gravity. Once the level of compensation is determined, any funds received from other parties are subtracted, such as national insurance benefits, pension benefits, private insurance benefits or compensation received from the trafficker. The offender is not considered party to a case involving criminal injuries compensation. The Criminal Injuries Compensation Authority will determine whether the criminal injuries compensation is to be sought recovered from the offender. If so, the offender would be party to the recovery case, and would be entitled to access relevant documents from the compensation case. If a victim was complicit in the situation that led to the injury, the compensation may be reduced or the right to compensation may lapse entirely. It is the responsibility of the lawyers providing free legal aid to victims of trafficking to explain to them the possibilities of compensation, but also the police shall provide information. A victim may be eligible for compensation for financial loss or permanent and significant injuries (compensation for permanent injury), damages for non-economic loss, or survivor's compensation in connection with homicide or death as the result of a criminal offence. Compensation for financial loss • Costs in connection with medical treatment, user fees and medication and travel expenses in connection with treatment. • Dentist costs in connection with repairing damaged teeth. • Damaged clothes and other personal effects • Sustained and future loss of income as a result of the injury. Compensation for permanent and significant injury To qualify, a specialist must conclude that the victim has sustained a degree of medical disability of</p>
--	--	---

			<p>at least 15 percent, and that this condition will persist for at least 10 years. It could take some time before anyone can conclude whether an injury will be permanent. In general, at least 2 years must have passed since the date of injury. In such cases, one may claim compensation for permanent injury at a later date.</p> <p>Damages for non-economic loss A lump sum paid as compensation for pain, suffering and non-economic loss. The level of compensation in damages for non-economic loss is based on administrative and legal precedents. b) If the injury happened in 2011 or later, one is eligible for up to 60 times the National Insurance basic amount (G) at the date of injury. The basic amount is adjusted as of 1 May every year (per 1.5.2015 G was set at NOK 90 068 or 9, 637 euro). Under certain circumstances, compensation in excess of this may be paid if it is deemed necessary to maintain a reasonable standard of living. Other limits for maximum compensation apply to injuries sustained before 2011. In 2014, the Compensation Authority awarded compensation in five THB cases (amounts varied between NOK 100 000 and NOK 707 000 or 10, 636 to 75, 198 euro). In all cases the amount has been effectively provided to the victim. c) Compensation calculations depend on which type of compensation is claimed and the documentation provided. See comments above. There is no hard and fast rule. Each case is reviewed individually. For more information contact the Compensation Authority: The Criminal Injuries Compensation Authority www.voldsoffererstatning.no E-mail: post@voldsoffererstatning.no Telephone: +47 78 98 95 00 Mailing address: Kontoret for voldsoffererstatning PO Box 253 9951 Vardø Norway</p>
--	--	--	---