

SIAK-Journal – Journal for Police Science and Practice



Planitzer, Julia/Probst, Evelyn (2020):

Compensation for Trafficked Persons. Legal obligations and their implementation in practice

SIAK-Journal – Journal for Police Science and Practice (International Edition Vol. 10), 19-29.

doi: 10.7396/IE_2020_B

Please cite this article as follows:

Planitzer, Julia/Probst, Evelyn (2020). Compensation for Trafficked Persons. Legal obligations and their implementation in practice, SIAK-Journal – Journal for Police Science and Practice (International Edition Vol. 10), 19-29, Online: http://dx.doi.org/10.7396/IE_2020_B.

© Federal Ministry of the Interior – Sicherheitsakademie / NWV, 2020

Note: A hard copy of the article is available through the printed version of the SIAK-Journal published by NWV (<http://nwv.at>).

published online: 9/2020

Compensation for Trafficked Persons

Legal obligations and their implementation in practice

This article shows that although victims of human trafficking are granted legal rights to claim compensation, in practice there are gaps in implementation. Compensation for victims of human trafficking is important in order to obtain justice for the exploitation experienced and to cope with the trauma. Although there are several legal obligations and guidelines at international level on compensation for victims of human trafficking, practice shows that there are obstacles to actually obtaining compensation. Compensation procedures can take several years and in European countries it can be observed that victims of human trafficking are often referred to civil proceedings, which often means an additional burden for them. If compensation is awarded in proceedings, these judgements may not be executed due to a lack of tangible assets. It is therefore difficult in practice to obtain compensation from the offender, among other things because the offender can no longer be found, the existing assets are moved to third parties or because no legal assistance is available to execute the judgement. The article discusses how compensation is obtained from offenders in the context of Austrian criminal proceedings based on a specific human trafficking case. In this case, the victims were awarded amounts of compensation in criminal proceedings.

1. INTRODUCTION

A man from the Czech Republic worked in the cleaning sector in Great Britain for twelve to sixteen hours a day for three years and was paid only small amounts of money on an irregular basis. Despite criminal proceedings, he was not awarded any compensation. A young woman from Bulgaria was sexually exploited for about nine months and occasionally received pocket money during that time. In the criminal proceedings she was awarded a sum of 4,000 euros, equivalent to a quarter of the amount of compensation claimed. In 2011, a woman was exploited when she was working in a household in Ireland; in

2016 she was awarded compensation, but she has not yet received it.¹ These brief descriptions show how different cases of human trafficking can be and how long compensation procedures can take. The following article provides information on the legal framework for compensation for victims of human trafficking and also presents recent experiences and challenges of implementing it in Austria, with the focus on compensation in criminal proceedings and compensation from the state.

In international human rights protection, the term “compensation” is embedded in the “Basic Principles and Guidelines on the Right to a Remedy and Reparation



JULIA PLANITZER,
*Senior Researcher at the
Ludwig Boltzmann Institute
of Human Rights.*



EVELYN PROBST,
*Head of the Intervention
Centre for Trafficked Women
(LEFÖ-IBF).*

for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law”.² Victims of serious human rights violations should have access to effective legal remedy.³ The state should provide a legal framework that allows access to reparation. Furthermore, the state must make reparation for acts or omissions that constitute violations of international human rights standards. Although human trafficking involves one person or a group of persons exploiting another person, the resulting violation of the rights of individuals may be attributable to the state based on the state’s positive obligations.⁴

Basic Principles on Remedy and Reparation refer to different forms of reparation: restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.⁵ In the Basic principles on the right to an effective remedy for victims of trafficking persons, it is stressed that the right to an effective remedy includes the substantive right to remedies, but also procedural rights in order to ensure access to remedies.⁶ Among the various forms of reparation, compensation plays the most important role in the area of trafficking in human beings.⁷

This article shows that obligations regarding the right to compensation are implemented in the legal framework of states, but in practice gaps are visible in access to compensation. An analysis made in eleven European countries in 2012 showed that access is challenging for several reasons. On the one hand, it was shown that victims are not adequately supported in the process of obtaining compensation. Moreover, law enforcement and the judiciary do not focus on compensation. Free legal aid is essential to achieve access to compensation, but comprehensive legal aid is not ensured in all states. Amounts awarded are often very small and it is difficult to actually execute them.⁸

At the same time, in Austria a study was conducted on compensation for victims of human trafficking. The study analysed 76 cases where there were criminal charges or indictments in connection with the offences of “human trafficking” (Section 104a of the Austrian Penal Code [Strafgesetzbuch, StGB]) and “cross-border prostitution trafficking” (Section 217 StGB). In total, compensation was received only in five of all cases analysed.⁹

2. LEGAL FRAMEWORK FOR COMPENSATION FOR VICTIMS OF HUMAN TRAFFICKING

From an international perspective, the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (“Palermo Protocol”)¹⁰ is a key instrument since, among other things, it defines human trafficking and formulates the rights of the victims of human trafficking. With respect to compensation, the Palermo Protocol states that each State Party must ensure that “its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered”¹¹. This means that states have to provide the statutory means for compensation but are not obliged to ensure that victims of human trafficking actually receive compensation.¹² This gap between effective protection in the legal framework and its implementation in practice is partly filled by the Council of Europe Convention on Action against Trafficking in Human Beings¹³, which entered into force eight years later.

The relevant article on compensation in the Council of Europe Convention goes further and also requires states to provide for compensation from offenders. In addition, however, states must “guarantee compensation for victims in accordance with the conditions under its internal law”¹⁴.

It is left to the states to determine the specific measures to ensure compensation.¹⁵ As examples, Article 15(4) of the Council of Europe Convention specifies establishment of a fund for victim compensation or measures for social assistance and social integration of victims.

At EU level, the Directive on preventing and combating trafficking in human beings¹⁶ states that victims of trafficking in human beings must have access to existing schemes of compensation to victims of violent crimes of intent. Hence, this directive does not follow the higher standard of the Council of Europe Convention, which provides a guarantee of compensation. However, the Directive establishing minimum standards on the rights, assistance and protection of victims of crime¹⁷, supports the notion that offenders must compensate victims in criminal proceedings. In criminal proceedings, victims therefore have the right to obtain a decision on compensation from the offender within a reasonable time, unless a decision has to be taken in another judicial procedure under national law. States should also support measures that promote adequate compensation of victims from offenders.¹⁸

In Austria, the obligations resulting from Article 15 of the Council of Europe Convention are implemented through several measures:

Psychosocial and legal assistance constitutes the central instrument. Victims who have been subjected to violence or dangerous threats as a result of an intentionally committed crime shall be entitled to psychosocial and judiciary support. In addition, victims whose sexual integrity and self-determination have been adversely affected or whose personal dependency may have been exploited by a crime are also entitled.¹⁹ For the right to psychosocial and legal assistance, the residence status is irrelevant and applies to all forms of

exploitation in the context of human trafficking²⁰, including labour exploitation.

In Austria, the Intervention Centre for Trafficked Women (LEFÖ-IBF)²¹ is the only nationally recognised victim protection service that operates on behalf of the Federal Ministry of the Interior and the Federal Chancellery and is partly funded by the Ministry of Justice. Within the framework of psychosocial and judiciary support, the Intervention Centre for Trafficked Women (LEFÖ-IBF) offers victims of human trafficking professional counselling throughout the entire process and assists in the enforcement of compensation claims. Prior to the criminal proceedings, the Intervention Centre for Trafficked Women (LEFÖ-IBF) prepares the victims and supports them in connection with the psychological stress of the proceedings.

Pursuant to Section 67 of the Code of Criminal Procedure [Strafprozessordnung, StPO], any victim may participate in the criminal proceedings as a civil claimant. Civil claimants can make civil law claims in the course of criminal proceedings. In the event of a sentence, the court also decides on the civil law claims. If, however, no information is available to reliably judge the claims, civil claimants are referred to civil proceedings. In order to facilitate the award of civil law claims in criminal proceedings, experts assessing bodily injury or damage to health should in addition also determine the corresponding periods of pain.²²

The obligation resulting from Article 15(4) of the Council of Europe Convention to provide compensation is fulfilled in Austria by the Victims of Crime Act [Verbrechensopfergesetz, VOG]²³. Persons are entitled to compensation on the basis of the Victims of Crime Act if it is likely that bodily injury or damage to health has been caused by an offence that is punishable by more than six months' imprisonment.²⁴ If

the offences “human trafficking” (Section 104a StGB) and “cross-border prostitution trafficking” (Section 217 StGB), which are relevant here, are committed in Austria, persons from Austria and EU member states are eligible. Whereas in general victims from third countries must be lawfully resident in Austria at the time of the crime in order to be eligible for compensation, victims of human trafficking are exempted. If the unlawful residence at the time of the crime was a consequence of human trafficking, victims are entitled to compensation, as long as they have a residence for special protection (pursuant to Section 57(1) 2 of the Asylum Act [Asylgesetz, AsylG]) or a subsequent residency status.²⁵

Pursuant to Section 2 of the Victims of Crime Act, claims under the Victims of Crime Act include, among other things, compensation for loss of earnings, medical care, rehabilitation costs and lump-sum compensation. Pursuant to the Victims of Crime Act, applications can already be made during the police investigations or during the criminal proceedings. Claims under the Victims of Crime Act do not depend on previous failures to obtain compensation from the offender.²⁶

3. CHALLENGES IN IMPLEMENTATION IN EUROPE

In the framework of a project on compensation called “Justice at Last”, 60 cases of human trafficking were analysed in ten European countries. “Justice at Last” analyses existing barriers to accessing compensation and raises awareness among relevant stakeholders in order to improve access.²⁷ 60 % of cases relate to human trafficking for sexual exploitation, while 5 % of cases deal with human trafficking for labour exploitation. More than half of the cases relate to compensation from the offender or in criminal proceedings.²⁸ Although compensation was awarded in

40 cases, no compensation was actually paid in the majority of these cases: In 29 cases, victims did not receive any compensation during the time frame of the study.²⁹

There are several challenges for trafficked persons until a compensation can be obtained:

The cases analysed in the project “Justice at Last” demonstrate that compensation proceedings can last a long time. Whereas in one case the decision could be obtained within one year, in another case the corresponding proceedings lasted nine years.³⁰ An important factor for the success of these proceedings is that the victims of human trafficking are granted residence in the country for the duration of the proceedings. Within the framework of monitoring the implementation of the Council of Europe Convention, states are therefore recommended to ensure access to compensation through residence.³¹

The monitoring mechanism for the implementation of the Council of Europe Convention, “GRETA”, has also noted in numerous country reports that the right to legal assistance and free legal aid is not fully guaranteed in all State Parties of the Convention.³² GRETA shows that in general limited information is available on compensation³³ and therefore recommends collecting statistical data, such as the number of applications or the amount of compensation awarded.³⁴

With regard to the 60 cases analysed in ten countries within the framework of the “Justice at Last” project, the civil claimant model appears to be the most frequently used one in practice (in 60 % of the cases analysed).³⁵ The amount of compensation awarded varies greatly between countries, ranging from 180,000 euros to 800 euros for human trafficking for sexual exploitation. The factors identified for assessing non-material damages include, among other things guidelines for assessing

periods of pain, medical reports, age of the person, duration of the exploitative situation and the use of force, threats or measures restricting freedom.³⁶

Apart from the different assessment factors used, it is shown that an explanation of the reasoning concerning the amount of compensation awarded is not always provided, which may have a negative impact on further compensation proceedings for the victims.³⁷

In the countries studied, “Justice at Last” shows that the actual amount of compensation is usually determined in civil proceedings. Victims of human trafficking face several challenges in civil proceedings. In general, victim protection measures are not available to the same extent as in criminal proceedings, and a second procedure is also an emotional obstacle for the victims. Legal aid cannot be ensured in all countries.³⁸ Also in Austria, referring victims of trafficking to civil courts can be burdensome and disadvantageous due to the possibility of having to make further statements, the burden of proof and the cost risk, and should therefore be avoided.³⁹

If compensation is awarded in proceedings, practice shows that, for example, these judgements may not be executed due to a lack of tangible assets. It is therefore difficult in practice to obtain compensation from the offender, among other things because the offender can no longer be found, the existing assets are not available anymore or because no legal assistance is available to execute the judgement.⁴⁰ Also in Austria, the possibilities for seizure (Section 110 (1) 2 of the Code of Criminal Procedure) and confiscation (Section 115(1) 2 of the Code of Criminal Procedure) on the basis of claims under private law, as well as the securing of, among other things, forfeiture and other orders relating to assets (Sections 110(1) 3 and 115(1) 3 of the Code

of Criminal Procedure), should be further exhausted in order to enhance compensation paid by the offender.⁴¹

In order to guarantee compensation despite these challenges, as stipulated in Article 15(4) of the Council of Europe Convention, states must implement further measures, including the establishment of a state compensation fund. Most European countries have set up compensation funds for victims of crimes, which can also be used to compensate victims of human trafficking. However, access criteria can present an obstacle in different countries. The evaluations carried out by GRETA therefore recommend that these funds should be accessible to all victims of human trafficking, regardless of lawful residence, form of exploitation or form of violence.⁴²

4. ACCESS TO COMPENSATION: CASE EXAMPLE FROM AUSTRIA

In the following, a recent case of human trafficking in Austria is used to illustrate the important role of cooperation between the individual actors and psychosocial and judicial support for protecting victims and accessing compensation.

4.1 Case background

In March 2018, a female victim contacted the police, reported her exploitation and was thus identified as a victim of human trafficking. The police immediately informed the Intervention Centre for Trafficked Women (LEFÖ-IBF), ensuring from the outset that the person concerned would receive psychosocial support during the criminal proceedings. The woman accepted the offer of safe and secret accommodation provided by the Intervention Centre for Trafficked Women (LEFÖ-IBF), allowing her to find a safe place to settle down.

The police, in particular the Investigation Department 10 of the Lower Austrian State Criminal Police Office, started

investigations based on the statement of this woman. In June 2018, the preliminary investigation resulted in the arrest of five suspects. On the same day, 13 more victims were identified and questioned.⁴³ As a result of close cooperation between the police and the Intervention Centre for Trafficked Women (LEFÖ-IBF), the latter was able to support all the victims. Right from the beginning, they were supported during the interrogations and were also taken to safe, secret emergency shelters.

Based on interviews with the women concerned and a wiretapping system, the offenders' methods and the extent of the crime are as follows: At least 20 women were exploited in the escort sector and in private apartments for a period exceeding two years. A woman, known in the country of origin of the victims as a beauty queen, recruited the women for high-end escort services in Austria. In Austria, the women found themselves forced into a situation where they had no say over their working hours, working conditions or pay. The five persons accused exercised control and power over the victims by repeatedly explaining to them the hopelessness of their situation. The accused threatened to tell the families of the women that they were working as prostitutes in Austria. Not having a secure place to stay was a further means of pressure in the exploitative situation, so that the victims were afraid of turning to the police.

The importance of excellent communication and cooperation between the Intervention Centre for Trafficked Women (LEFÖ-IBF), the police and the public prosecutor's office became evident shortly after the police intervention. Based on the excellent cooperation it was possible to carry out an adversarial questioning of four women at short notice so that they could quickly return to their country of origin for personal reasons. Despite their

prompt return, the four women were able to participate in the proceedings as a result of the adversarial questioning. As civil claimants, they were also able to submit their claims for compensation, which were subsequently enforced through legal support during the proceedings. Their claims for compensation against the accused were enforced without them having to stay in Austria for several months.

Until the indictment, several attempts to intimidate the women were made. Private photos were posted on various social media accounts so that family members could access them. The children of the victims in the country of origin were threatened, but these threats were so subtle that no charges could be filed. The resulting fear experienced by the women was taken seriously by the involved parties in Austria, such as the public prosecutor's office, which encouraged them to continue to participate in the criminal proceedings.

In April 2019, all accused were sentenced to prison terms of between three and six years for human trafficking (Section 104a(1) and (4) of the Penal Code), cross-border prostitution (Section 217(1) StGB), exploitation of foreigners (Section 116(1) of the Alien's Police Act [Fremdenpolizeigesetz, FPG]), dangerous threats (Section 107(1) StGB), smuggling people (Section 114 StGB) and other offences. None of the convicted persons has appealed against the judgement.⁴⁴

4.2 Fulfilment of the criteria of exploitation

The means applied pursuant to Section 104a(2) StGB include intimidation, threats, deception and exploitation of situations of distress. The women received wrong information about conditions of prostitution in Austria. They were promised to be able to keep half of their earnings and that as escorts they would be able to freely choose their clients. The offenders took advantage

of the difficult situation of the victims due to the challenging economic situation in their country of origin. Furthermore, some of them were undocumented in Austria. The women did not speak German, they were financially dependent and shame prevented them from returning to their families.⁴⁵

The existence of sexual exploitation pursuant to Section 104a(3) of the StGB is set out in the judgment through a detailed description of the women's working conditions. The women were allowed to retain a maximum of 20 % of their earnings and had to work at prices set for them. They had no day off during the week, they were not allowed to refuse customers or sexual practices, and even on days when they were menstruating or sick they had to have sexual intercourse with customers for a fee. The ruthlessness was shown, among other things, by the fact that a victim had to continue working despite vaginal inflammation.⁴⁶ Sexual exploitation was exacerbated by control, constant humiliation and degradation.

In order to question the credibility of the victims with regard to the sexual exploitation during the trial, the court was presented with photos showing the women in a cheerful mood. Experience in similar cases shows that this method is strategically used and that photos of the victims are intentionally taken in a relaxed and cheerful atmosphere. However, the court judged these photos to be snapshots "from which it is in no way possible to draw the generalised conclusion that the witnesses felt particularly 'comfortable'". The finding that victims have been sexually exploited by unfair means does not preclude "that there may have been periods of 'cheerfulness' during their free time".⁴⁷

This judgement can be considered significant with regard to the assessment of sexual exploitation, as primarily the actual

working conditions were used for the assessment. Although some of the female victims had about 800 euros a month at their disposal and although direct physical violence was not used in all cases and they knew in advance that they would be working in the sex industry, the actual working conditions and the withholding of at least 80 % of their earnings were considered to be decisive for the establishment of sexual exploitation in the context of human trafficking.

4.3 Compensation for victims in the case study

In the present case, 16 victims were awarded a total of EUR 281,800 of compensation, which can be considered a success in view of the generally existing obstacles to accessing compensation.

Compensation is a part of restorative justice for victims of a criminal offence. The award of compensation is a form of acknowledgement of the suffering experienced. It is a form of justice for victims of human trafficking that offenders must pay part of the assets previously gained through exploitation as compensation for unpaid wages and non-material damage. All women in the present case were in a worse situation than they were before the crime. In addition to their unchanged or worse economic situation, they now had to struggle with the trauma they had suffered. This trauma manifests itself, for example, in anxiety, which means that they cannot be alone, or they have panic attacks.

One of the first important steps for the award of compensation in this case was taken during the preliminary hearings. The hearings showed how much money women had earned and how much they then had to pass on to the accused. In the course of the preliminary proceedings, bank account documents, contracts, ATM cards, cash, cars and mobile phones

were seized. These financial investigations served to assess the existence of a criminal organisation. These investigations were also very important for the compensation claim, as they substantiated the statements regarding the withheld earnings. The investigations abroad in the USA, Canada, Colombia, Panama, Venezuela and Spain showed the extensive scope of action of the accused. Finally, approximately 50,000 euros were declared forfeited and other items were confiscated in this case.

This case shows that it is generally difficult to identify the exact amount of money earned by the victims but withheld from them. It is challenging for the victims to remember exactly when and how much money was withheld in an exploitative situation. Therefore, only an approximate amount could be calculated before the court proceedings. As part of the psychosocial and judicial support during the proceedings, the amounts were determined together with the victims. The total amount of compensation calculated for all 16 women was 711,800 euros.

Once compensation has been awarded, the actual receipt of the compensation is very important. Only then can victims take their next steps. One of the women would like to invest the compensation awarded in her own small business in order to be independent. Others want to use it to pay for further education and training. Others want to pay off their debts they had to make by supporting their families in their country of origin.

5. CONCLUSION AND RECOMMENDATIONS

Identifying human trafficking and identifying indicators of exploitation are the first steps towards enabling victims of human trafficking to access compensation. However, public portrayals of trafficked women are often based on prevailing stereotypes

that show a so-called “ideal victim”: Young, naive women who did not know beforehand that they would be working in prostitution are taken to another country by a criminal network. However, this portrayal of victims does not apply to all victims.⁴⁸ The case discussed earlier also shows that victims of human trafficking may know before the exploitative situation that they will work in this field but have been deceived about the conditions. Also women with higher education can be exploited. It is important to examine individual vulnerabilities, which are dynamic and contextual and cannot be rigidly fixed to individual indicators.

The experiences in the case discussed earlier have underlined that a well-functioning cooperation between law enforcement authorities and organisations for the protection of victims is essential in order to enforce claims for compensation. Moreover, this case has shown that the involvement of the respective units responsible for financial investigations is of great importance in order to obtain a comprehensive picture of the existing cash flows of the offenders and the assets generated by their exploitation. This is an important factor in determining the claims amount of the victims.

Furthermore, this case also demonstrates that a focus on understanding the working conditions of the victims in the course of investigations and criminal proceedings can help determine the amount of money made through exploitation, in other words, the amount of the withheld earnings of the victims.

Although compensation was awarded in the criminal proceedings, in practice it is difficult for the victims to actually receive these awards, as the award cannot be executed for various reasons.⁴⁹ The assets declared forfeited must be claimed by the victims in the case described above. This requires legal support, which, how-

ever, is not covered by legal assistance. In order to implement further necessary steps towards enforcing the claims arising from, for example, forfeited assets, it would be helpful if these legal measures would be also covered by the psychosocial and legal assistance during proceedings.

Expert opinions in criminal proceedings would be necessary to assess the pain suffered so that the amount of compensation can be determined. Expert opinions would be helpful, for example, to assess the existence of a specific circumstance pursuant to Section 104(4) StGB, for example the existence of a “particularly serious disadvantage”. However, practice shows that

expert opinions are requested in only a few cases.⁵⁰ In this regard, an analysis of relevant cases in 2012 already recommends a more precise justification of the amount of awards and their composition in criminal judgements.⁵¹

A model that was set up in the Netherlands in 2011 will help victims access awarded compensation sums more quickly. If the offender does not pay compensation, or does not pay it in full, within eight months of the judgement becoming final, the state will pay the amount to the victim. The state then reclaims the amount from the offender.⁵²

¹ These case reports were taken from the human trafficking cases compiled in the context of the project “Justice at Last” and are available at <https://www.justiceatlant.eu/cases>.

² In the following text “Basic Principles on Remedy and Reparation”, Resolution of the UN General Assembly under the title “Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious

Violations of International Humanitarian Law”, 16 December 2005, UN-Doka/RES/60/147.

³ The basic principles of legal protection and reparation, para. 12.

⁴ See ECHR 07.01.2010, 25965/04, Rantsev/Cyprus and Russia, paras. 286–288 and paras. 342 and 343.

⁵ The basic principles of legal protection and reparation, para. 18.

⁶ UN General Assembly, Report of the Special Rapporteur on trafficking in per-

sons, especially women and children, 06.08.2014, UN doc A/69/269, Annex, para. 5.

⁷ McKay (2013) 934. See also UN General Assembly, Report of the Special Rapporteur on trafficking in persons, especially women and children, Joy Ngozi Ezeilo, 13.04.2011, UN doc A/HRC/17/35, para. 29.

⁸ Comp.act (European Action for Compensation for Trafficked Persons) (2012) 42–47.

⁹ Planitzer/Probst/Steiner/Unterlerchner (2011) 79; *ibid.*, 88.

¹⁰ Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime, A/RES/55/25, entered into force on 25.12.2003, see also Federal Law Gazette III No. 2005/220. In the following text, “Palermo Protocol”.

¹¹ Article 6(6) of the Palermo Protocol.

¹² UN General Assembly, Report of the Special Rapporteur on trafficking in persons, especially women and children, Joy Ngozi Ezeilo, date, UN doc A/HRC/17/35, para. 29.

¹³ Council of Europe Convention on Action against Trafficking in Human Beings, CETS No 197, entered into force on 01.02.2008, see Federal Law Gazette III No. 2008/10. In the following text, “Council of Europe Convention”.

¹⁴ Article 15(4) of the Council of Europe Convention.

¹⁵ Council of Europe Convention on Action against Trafficking in Human Beings, para. 198.

¹⁶ Directive 2011/36/EU of the European Parliament and of the Council of 05.04.2011 on preventing and combating trafficking in human beings, and protecting its victims, replacing Council Framework Decision 2002/629/JHA, OJ L 2011/101, 1, Article 17.

¹⁷ Directive 2012/29/EU of the European Parliament and the Council of 25.10.2012 establishing minimum standards on the rights, assistance and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, OJ L 2012/315, 57.

¹⁸ Article 16 of Directive 2012/29/EU.

¹⁹ See Section 65(1) a of the Code of Criminal Procedure, Federal Law Gazette No. 1975/631, as amended by Federal Law Gazette I No. 2018/70.

²⁰ GRETA, GRETA(2018)26_AUT_rep (2019) 7.

²¹ Latin American women living in exile in Austria.

²² Explanatory note to government bill 1565, supplement No. 22. GP 15 f.

²³ Federal Law Gazette No. 1972/288 as amended by Federal Law Gazette I No. 2018/100.

²⁴ Section 1 of the Victims of Crime Act (VOG).

²⁵ Section 1(7) of the Victims of Crime Act. See explanatory notes to the government bill 2137, supplement No. 24. GP 2. According to the explanatory notes, illegal residence may be caused by the offences of “trafficking in human beings” and “cross-border prostitution”.

²⁶ GRETA, GRETA(2018)26_AUT_rep (2019) 11.

²⁷ “Justice at Last – European Action for Compensation for Victims of Crime”, as required by the EU Justice Programme (2014–2020), is coordinated by the organisation “La Strada International”. The project includes ten countries: Austria, Bulgaria, Czech Republic, Germany, Spain, Ireland, the Netherlands, Romania, Northern Macedonia and Serbia, see <https://www.justiceatlast.eu/justice-at-last/>.

²⁸ Sorrentino (2018) 10.

²⁹ *Ibid.*, 12.

³⁰ *Ibid.*

³¹ GRETA, GRETA(2011)21 (Denmark), para. 174; GRETA, GRETA(2016)7 (Denmark), para. 135; GRETA, GRETA (2013)5 (Norway), para. 214. See also Sorrentino (2018) 47.

³² See for example GRETA, GRETA (2014)18 (Italy), para. 170.

³³ GRETA, GRETA(2018)1, 63.

³⁴ GRETA, GRETA(2017)27 (Greece), para. 188; GRETA, GRETA(2017)28 (Ireland), para. 182.

³⁵ Sorrentino (2018) 17.

³⁶ *Ibid.*, 23–24.

³⁷ *Ibid.*, 25.

³⁸ *Ibid.*, 29. The EU Fundamental Rights Agency has recently published a report on severe labour exploitation, which may include human trafficking, and also recommends that EU Member States pay more attention to enabling compensation in criminal proceedings without subsequent civil proceedings. See European Union Agency for Fundamental Rights (2019) 92.

³⁹ Planitzer/Probst/Steiner/Unterlerchner (2011) 56; *ibid.*, 109.

⁴⁰ Sorrentino (2018) 40.

⁴¹ See Steiner/Probst/Buchner (2018) 40 ff. for further details.

⁴² See for example GRETA, GRETA (2017)29 (Poland) para. 156 (relating to residence status); GRETA (2012)14 (Malta) para. 155 (relating to violence suffered as a result of trafficking in human beings), GRETA (2013)20 (Slovenia) para. 142 (relating to the nationality of the victim and on the condition that violence or a violation of sexual integrity has occurred), GRETA (2015)10 (Germany) para. 181 (relating to the nationality of the victim, form of exploitation and use of violence).

⁴³ See the press release of the Criminal Intelligence Service Austria (Bundeskriminalamt 2018).

⁴⁴ District court 151, main hearing 122/18w. The judgment was issued to the Intervention Centre for Trafficked Women (LEFÖ-IBF), but is not publicly accessible.

⁴⁵ District Court 151, main hearing 122/18w, 92.

⁴⁶ District Court 151, main hearing 122/18w, 90.

⁴⁷ District Court 151, main hearing 122/18w, 81–82.

⁴⁸ Rodriguez-Lopez (2018) 70.

⁴⁹ See Steiner/Probst/Buchner (2018) 40 for further details.

⁵⁰ Planitzer/Probst/Steiner/Unterlerchner (2011) 88; *ibid.*, 105.

⁵¹ *Ibid.*, 108.

⁵² See GRETA, GRETA(2014)10 (Netherlands), para. 195. See also Government of the Netherlands (2012) 36.

Sources of information

Agentur der Europäischen Union für Grundrechte (2019). *Protecting migrant workers from exploitation in the EU: workers' perspectives.*

Bundeskriminalamt (2018). *Presseaus-sendung des Bundeskriminalamts, Ermittlungserfolg gegen den organisierten Menschenhandel, Artikel Nr 15980 (13.06.2018)*, Online: <https://bundes.kriminalamt.at/news.aspx?id=63373030566B4D4A754C6B3D>.

Comp.act (European Action for Compensation for Trafficked Persons), *Findings and Results of the European Action for Compensation for Trafficked Persons* (2012), Online: <http://lastradainter-national.org/lisdocs/Findings%20and%20results%20of%20Comp.Act.pdf>.

McKay, *What Outcomes for Victims?*, in Dinah Shelton (Ed.), *The Oxford Handbook for International Human Rights Law* (2013).

Government of the Netherlands, *Response of the Netherlands to the Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the parties* (2012).

GRETA, *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human*

Beings by Denmark GRETA (2011)21.

GRETA, *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Malta*, GRETA(2012)14.

GRETA, *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Norway*, GRETA, GRETA(2013).

GRETA, *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Slovenia*, GRETA(2013)20.

GRETA, *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Italy*, GRETA(2014)18.

GRETA, *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Netherlands*, GRETA (2014)10.

GRETA, *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Germany*, GRETA(2015)10.

GRETA, *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Denmark*, GRETA(2016)7.

GRETA, *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Greece*, GRETA(2017)27.

GRETA, *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Ireland*, GRETA(2017)28.

GRETA, *Report concerning the implemen-*

tation of the Council of Europe Convention on Action against Trafficking in Human Beings by Poland, GRETA(2017)29.

GRETA, *7th General Report on GRETA's Activities*, GRETA(2018)1.

GRETA, *Reply from Austria to the Questionnaire for the Evaluation of the Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties, Third Evaluation Round*, GRETA(2018)26_AUT_rep (2019).

Planitzer/Probst/Steiner/Unterlerchner, *Entschädigung für Betroffene des Menschenhandels in Österreich* (2011).

Rodriguez-Lopez, (De)Constructing Stereotypes: Media Representations, Social Perceptions, and Legal Responses to Human Trafficking, *Journal of Human Trafficking*, 4 (1) 2018.

Sorrentino, *Legal Assessment: Compensation Practices* (2018). Online: <https://www.justiceatlast.eu/publications/legal-assessment-compensation-practices/>.

Steiner/Probst/Buchner, *Kompaktwissen für die Praxis: Strafverfahren, Entschädigung und Opferschutz* (2018).

UN Generalversammlung, *Report of the Special Rapporteur on trafficking in persons, especially women and children*, Joy Ngozi Ezeilo, A/66/283 (2011).

Justice at Last — Know your rights, claim compensation, Online: <https://www.justiceatlast.eu/>.

Further literature and links

LEFÖ Kompaktwissen: http://www.lefoe.at/tl_files/lefoe/Kompaktwissen_Strafrecht_Menschenhandel_April2019.pdf.