

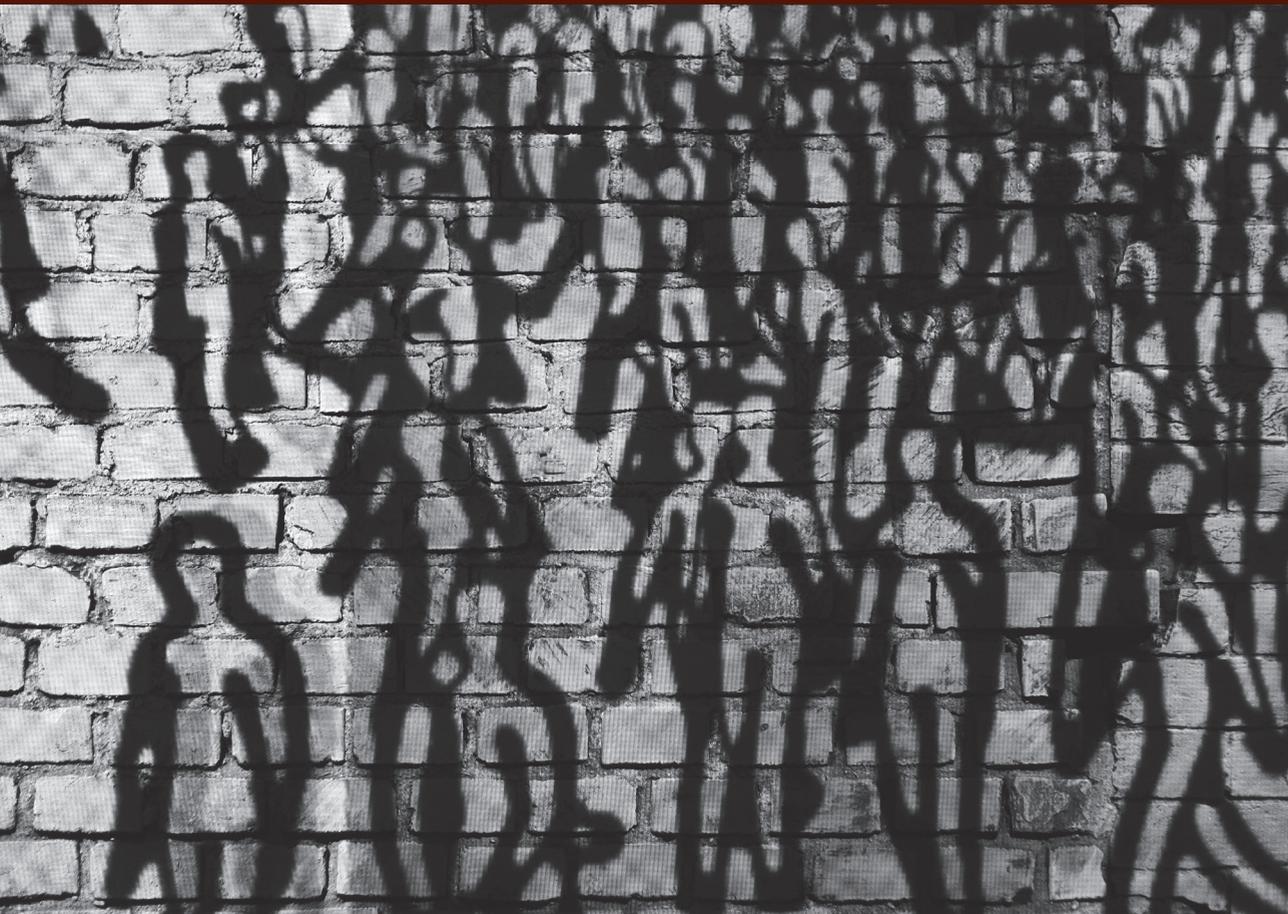


National Rapporteur on Trafficking in  
Human Beings and Sexual Violence  
against Children

# Victims of Human Trafficking

## *Periodical Report 2012-2016*

### SUMMARY



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## Introduction

In order to effectively counteract human trafficking it is important to acquire the clearest possible picture of the nature and scale of the phenomenon. This periodical report on victims of human trafficking provides an indication – based on a first reliable estimate<sup>1</sup> – of the actual number of victims in the Netherlands. It also reports on data concerning victims that have been identified; in other words, victims<sup>2</sup> who have been registered by the Dutch Coordination Centre for Human Trafficking (CoMensha), an independent centre of expertise whose responsibilities include the national registration of possible victims of human trafficking in the Netherlands on behalf of the National Rapporteur. The figures for identified victims were then compared with the estimated figures to determine the number of victims who, according to the estimate, remain unidentified and thereby invisible. The findings therefrom have prompted a number of recommendations. Finally, the report also contains a discussion on non-Dutch victims who are known to the Immigration and Naturalization Service (IND) in the context of the so-called Human Trafficking Residence Scheme, a scheme under which residence arrangements can be made for foreign victims of human trafficking in the Netherlands. The aim of this policy is to protect members of this group of victims and to encourage them to report and/or cooperate with a criminal investigation into human trafficking. The report also makes a recommendation designed to strengthen the protection of victims of human trafficking under immigration law.

## Number of visible and invisible victims of human trafficking

Figure 1 presents the most important findings in relation to the estimate of the actual number of human trafficking victims and the number of victims reported to CoMensha. The circle represents the territory of the Netherlands. The left-hand side of the circle relates to sexual exploitation and the right-hand side to exploitation outside the sex industry (non-sexual exploitation). The bottom half of the circle relates to domestic trafficking, where victims (all of whom have Dutch nationality) are both recruited and exploited in the Netherlands. The top half relates to arrived<sup>3</sup> cross-border trafficking, whereby victims are recruited in other countries and exploited in the Netherlands (all of these victims are of non-Dutch nationality). The combination of the form of exploitation (sexual or non-sexual exploitation) and the route of trafficking (domestic or cross-border) illustrates the four principal forms of human trafficking that occur in the Netherlands:<sup>4</sup> domestic trafficking for sexual exploitation (domestic sex trafficking), domestic trafficking for exploitation outside the sex industry (domestic trafficking for non-sexual ex-

1 This estimate was produced by experts in estimating the size of hidden populations: Maarten Cruyff and Peter van der Heijden, together with Jan van Dijk, the United Nations Office on Drugs and Crime (UNODC) and the National Rapporteur; see also UNODC & Dutch National Rapporteur, 2017. This method of estimation was developed following an earlier recommendation by the National Rapporteur. See *National Rapporteur 2012* (Human Trafficking, Visible and Invisible. Statistical Report 2007-2011) pp. 25-42 and 225 (Recommendation 1).

2 All figures concerning victims registered with CoMensha refer to *presumed* victims. In the Netherlands, no official identification takes place for human trafficking victims. There are, however, clear guidelines and commonly agreed criteria for reporting victims when it comes to the police forces.

3 Because traversed and departed cross-border trafficking only occurs incidentally in the Netherlands, in this report the term 'cross-border trafficking' refers to arrived cross-border trafficking (see also Kragten-Heerdink, Dettmeijer-Vermeulen and Korf, 2017).

4 According to the definitions used by Kragten-Heerdink, Dettmeijer-Vermeulen and Korf, 2017.

ploitation), cross-border trafficking for sexual exploitation (cross-border sex trafficking) and cross-border trafficking for exploitation outside the sex industry (cross-border trafficking for non-sexual exploitation).

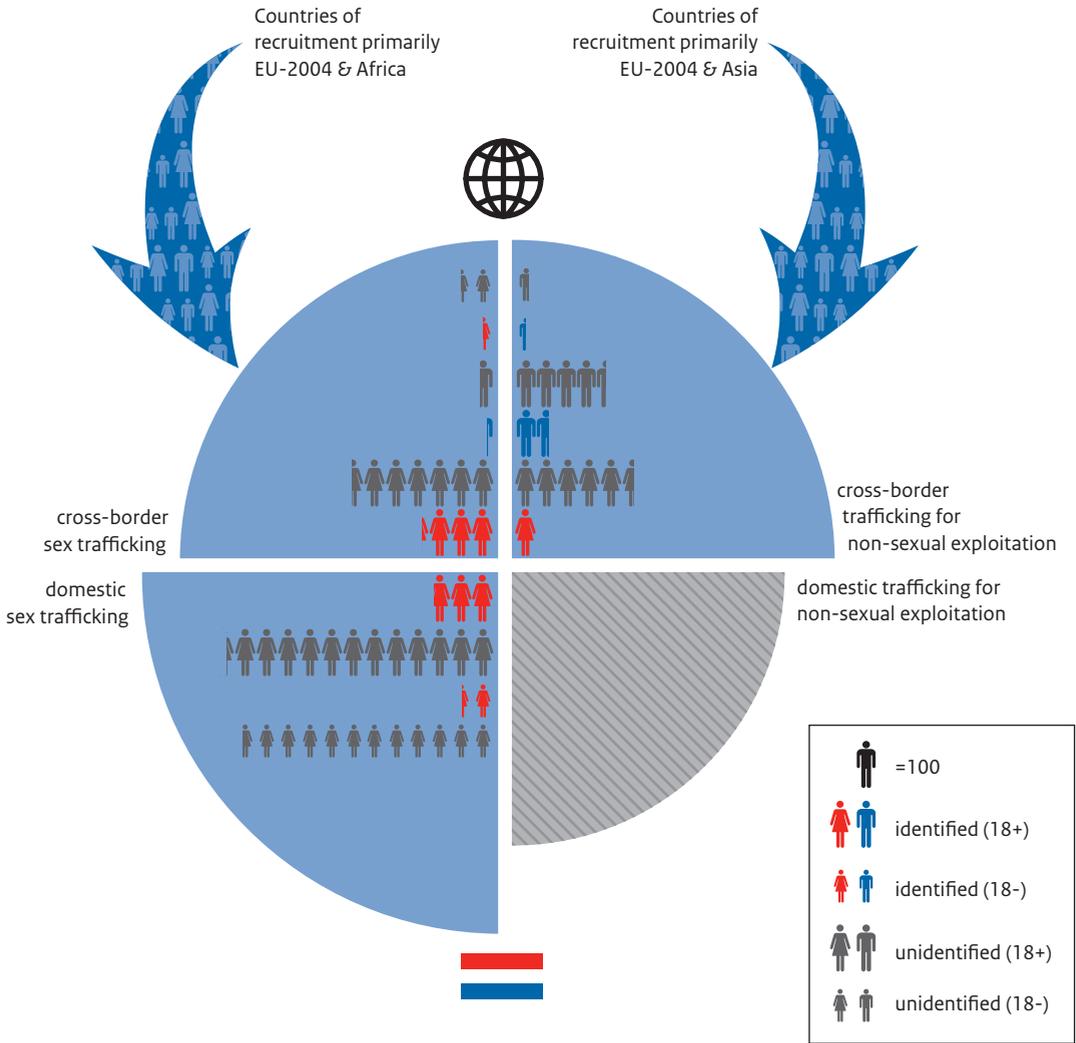
Furthermore, [Figure 1](#) shows the annual number of victims of each form of trafficking in the Netherlands. Each figure in the diagram represents 100 victims. The figures in the diagram are in grey and red or blue. Grey represents victims who have remained invisible (in other words, have not been reported to CoMensha) and the red and blue figures represent identified female and male victims, respectively. The information in [Figure 1](#) is derived from a 'multiple systems estimation' (MSE) carried out on the data from CoMensha's registration.<sup>5</sup> The figure constitutes an annual estimate based on the average of both the identified victims and unidentified victims in the two most recent years (2014 and 2015) included in the MSE model.<sup>6</sup> According to this estimate, on average there are approximately 6,250 victims of human trafficking in the Netherlands every year, a figure that is more than five times greater than the average number of victims annually registered by CoMensha in 2014 and 2015.

A notable feature of [Figure 1](#) is that it contains no information about one of the four forms of trafficking, domestic non-sexual trafficking. This is because the number of victims of this form of human trafficking reported to CoMensha – on which the estimate was based – was so small that the estimate would have to be regarded as less robust. However, it still suggests that there are over 600 victims of domestic non-sexual trafficking every year, which is approximately 10% of the total number of victims of all four forms of trafficking. It should also be noted that sub-populations significantly smaller than 100 victims a year – according to the estimate – are not shown in the figure (here too, the numbers of victims reported to CoMensha are too small to produce reliable estimates).<sup>7</sup>

5 The MSE method requires the existence of multiple registers of identified victims (of human trafficking), among which the overlap can be determined. With the MSE method, it is possible to estimate the number of victims that do not appear in the registers on the basis of the distribution of victims who are registered. The estimate of the total population of victims in the Netherlands is based on an MSE model of 6,935 registered victims of human trafficking in the Netherlands in the six-year period 2010-2015. These are the victims reported to CoMensha who were originally identified by five different groups of agencies. This MSE model also contains four relevant co-variants: gender, age, nationality and form of exploitation. See also UNODC & Dutch National Rapporteur, 2017.

6 As regards the average number of victims identified in 2014/2015, the classification by form of human trafficking is also based on imputed values.

7 There are four sub-populations: male minors and male adults who are victims of domestic sexual exploitation; male minors who are victims of cross-border sex trafficking; and female minors who are victims of cross-border trafficking for non-sexual exploitation.



**Figure 1** The annual number of identified and unidentified victims of human trafficking in the Netherlands, by gender/age/region of origin and by form of human trafficking.

Figure 1 shows clear differences between the three forms of human trafficking presented. For example, not only does the scale of each form of trafficking differ, there are also differences in victim typology and the proportion of victims that have been identified. In the following sections, the findings for each form of trafficking and their policy implications are discussed.

## Victims of domestic sex trafficking

According to the estimate, domestic sex trafficking is the most common form of human trafficking in the Netherlands, accounting for 46% of all human trafficking victims. Domestic sex trafficking (the bottom-left quadrant in Figure 1) accounts for by far the largest number of victims: almost 3,000 a year. This form of trafficking is also the least visible (with only 15% of victims identified), as is apparent from the large number of victims that have not been identified (the figures in grey in Figure 1) compared with the small number that have been identified (the figures in red). This discrepancy is possibly even greater at the present time, given that significantly fewer victims of domestic sex trafficking were identified (reported to CoMensha) in the most recent year (2016), and Figure 1 is based on the average of the two preceding years (2014 and 2015), both in terms of the number of identified victims and the number of unidentified, invisible, victims. Naturally, all cases of domestic sex trafficking concern Dutch victims and – it appears – they include practically no male victims (2%), who are therefore not shown in the figure. Minors are most often victims of this form of trafficking, accounting for almost half of all victims of domestic sex trafficking (47%). Thus, it is clear from the estimate that roughly the same number of girls (approximately 1,320) as women (approximately 1,500) are victims of domestic sex trafficking. Furthermore, minor victims of domestic sex trafficking appear to be even less visible (only 11% are identified) than the adult victims (19%).

Three-quarters of all identified victims of domestic sex trafficking are identified and reported to CoMensha by the police. However, the number of victims detected by the police has declined sharply in the last five years – particularly in the most recent year of 2016 – which is probably (at least in part) the reason for the substantially smaller number of victims of domestic sex trafficking reported in that year (as noted previously). The decline in the number of reports by the police is likely connected with their reduced capacity to tackle human trafficking because of shifting priorities (particularly a focus on people smuggling in light of the increased flow of immigrants and refugees), and possibly also due to a loss of expertise as a result of the reorganization of the National Police since 2013. The National Rapporteur has repeatedly expressed concerns about this development and, in that context, has recommended that efforts to combat people smuggling must not be at the expense of the capacity devoted to suppressing human trafficking.<sup>8</sup>

There also appear to be major differences between the number of reports of domestic sex trafficking made by the various regional police units. For example, the Oost-Brabant (n=309) and Rotterdam (n=306) units – and to a lesser extent the Oost-Nederland (n=168) and Zeeland-West-Brabant (n=150) units – identify/report a relatively large number of victims of domestic sex trafficking (a combined 77% of the total of 1,209 reports of domestic sex trafficking from the police in 2012–2016), while the units in Limburg (n=21), Noord-Nederland (n=31), Amsterdam (n=35) and Noord-Holland (n=39) together account for just 10%. As it appears unlikely that actual prevalence of this form of trafficking differs between regions like Rotterdam and Amsterdam, this probably means that certain police units possess the expertise and capacity for investigating sexual exploitation of Dutch victims and/or prioritise it, while that applies to a far lesser extent in other units. However, it is also possible that the contrast between different police units can be partly explained by differences in their willingness to report to CoMensha. The working agreements concluded between the police and CoMensha last year, detailing the conditions

8 National Rapporteur 2016 (Monitor of Human Trafficking, Figures for possible victims 2011–2015), pp. 45–46 (Recommendation 3).

under which a suspected victim should be registered with CoMensha, will hopefully remove any variation in the willingness of police units to report victims in the future.

In addition to the police, regional care coordinators and other agencies also report victims of domestic sex trafficking to CoMensha and together account for 25% of all registrations. Given the large proportion of minors among victims of domestic sex trafficking, one would expect agencies that come into contact with young people to account for a relatively large proportion of these registrations. However, youth care providers lag behind in that respect. One reason for this is an issue that was raised by the Azough Commission – a commission that explored ways of improving the protection provided by youth care services for victims of domestic human trafficking. It referred to the protection of special categories of personal data, which cannot automatically be reported to CoMensha by virtue of the Dutch Personal Data Protection Act. Since there is no statutory basis for youth care workers to provide this information, they require a written declaration of consent from the victim (or from his or her parents/guardian). In practice, this appears to present a major obstacle. Last year, therefore, the National Rapporteur recommended that the Minister of Justice and Security should establish a statutory basis to allow every agency that might come into contact with victims of human trafficking<sup>9</sup> to report to CoMensha. That has not yet been done and the recommendation therefore continues to apply in full.

This section has shown that domestic sex trafficking is by far the most common form of human trafficking in the Netherlands and that almost half of all victims of domestic sex trafficking are minors. It is therefore particularly distressing that it is underage victims that are most frequently not identified. Moreover, there even seem to have been some developments recently – in both the police and the youth care services – that have caused a further decline in the number of minors identified and/or registered as victims of domestic sex trafficking. The figures demonstrate the urgency of reversing these trends immediately and ensuring that minors who are victims of domestic sex trafficking are identified and receive help and protection.<sup>10</sup> These are children whose personal integrity (both physical and mental) is seriously harmed, so they patently form a vulnerable group of victims. However, the Minister of Justice and Security<sup>11</sup> does not yet appear to recognize the urgency of this situation. The National Rapporteur therefore makes the following recommendation.

### Recommendation 1

The Minister of Justice and Security should immediately make intensive efforts to improve the identification and protection of underage victims of domestic sex trafficking. Every obstacle to reporting these victims to CoMensha should be removed.

9 National Rapporteur 2016 (Monitor of Human Trafficking, Figures on possible victims 2011–2015), p. 45 (Recommendation 1).

10 See also an earlier recommendation by the National Rapporteur: National Rapporteur 2013 (Human Trafficking, Ninth Report of the National Rapporteur), p. 314 (Recommendation 1).

11 At the time of the publication of the full report in Dutch, the minister's title was Minister of Security and Justice, and he was responsible for anti-human trafficking policy. The newly formed government changed the name of the ministry to Ministry of Justice and Security and delegated responsibility for policy on human trafficking to the State Secretary.

### Victims of cross-border sex trafficking

Cross-border sex trafficking accounts for roughly a fifth (21%) of all human trafficking in the Netherlands. As [Figure 1](#) shows, it is estimated that there are roughly 1,300 victims a year. This form of trafficking appears to be the most visible, with a detection rate of 33%. Nevertheless, a large majority of this form of human trafficking still seems to remain under the radar, as is clearly depicted by the ratio of unidentified victims (the grey figures) to identified victims (the red/blue figures) in [Figure 1](#). Naturally, all of the victims in this category are non-Dutch nationals. The figures regarding reported victims of this form of trafficking show that they are primarily from countries that have joined the European Union (EU) since 2004 (particularly Romania, Hungary and Bulgaria) and African countries (particularly Nigeria and Sierra Leone).<sup>12</sup> The victims are also usually female. Only 11% are male, although the number of male victims of sexual exploitation is still substantially larger than in the case of domestic sex trafficking. On the other hand, a significantly smaller proportion of victims of cross-border sex trafficking are minors compared to domestic sex trafficking, although they still account for almost a fifth (19%) of cross-border sex trafficking victims. As [Figure 1](#) shows, similar to domestic sex trafficking, these victims are almost all girls.

As in the case of domestic sex trafficking, cross-border sex trafficking is identified mainly by the police, who account for 78% of the reports. Once again, the decrease in the number of victims of cross-border sex trafficking reported annually to CoMensha since 2012 is probably attributable (at least in part) to the decline in the number of victims reported by the police each year. As mentioned above, that decline is connected to factors such as reduced police capacity devoted to human trafficking because of other priorities (including people smuggling). In that context, the National Rapporteur has previously made two specific recommendations in relation to cross-border sex trafficking. The first was that, given the entanglement of the two phenomena, efforts to combat people smuggling should also take note of signs of human trafficking. The second was that the capacity devoted to combating human trafficking must not suffer from the anti-people smuggling strategy.<sup>13</sup>

The differences between the regional police units are significantly greater with regard to reporting domestic sex trafficking than the other two forms of human trafficking; the discrepancies are smallest in the case of cross-border sex trafficking.<sup>14</sup> This means that throughout the Netherlands there is a certain degree of engagement when it comes to combating cross-border sex trafficking. The units of the police force that appear to lead the way in that regard, as they were responsible for the largest number of victims of cross-border sex trafficking registered by the police in 2012-2016, are The Hague (n=293), Oost-

12 The regions of origin /countries of recruitment are based on the nationalities of the victims of cross-border sex trafficking that have been identified, since the nationalities of the estimated unidentified victims of cross-border sex trafficking are unknown (other than 'non-Dutch'). Because these regions of origin /countries of recruitment encompass approximately three-quarters of all identified victims of cross-border sex trafficking, it is plausible that these regions and countries will also figure prominently in relation to the unidentified victims.

13 [National Rapporteur 2016](#) (Monitor of Human Trafficking, Figures for possible victims 2011-2015), pp. 45-46 (Recommendations 2 and 3).

14 For example, the number of reports of cross-border sex trafficking in 2012-2016 varied from 67 (Limburg) to 293 (The Hague) – accordingly by a factor of 4.4; in the same five-year period, the number of reports of domestic sex trafficking varied from 21 (Limburg) to 309 (Oost-Brabant) – accordingly by a factor of 14.7; and the number of reports of cross-border trafficking for non-sexual exploitation varied from 9 (Limburg) to 64 (Amsterdam) – accordingly by a factor of 7.1.

Brabant (n=237), Rotterdam (n=221), Noord-Nederland (n=199) and Amsterdam (n=186), which together accounted for 68% of reports made by the police.

It was also found that the identified victims of cross-border sex trafficking required shelter more often than victims of the other two forms of human trafficking (as indicated in 30% of the reports). They are also most frequently placed in a specialized shelter (the Categorical Shelter for Victims of Human Trafficking, COSM, programme) by CoMensha. Furthermore, it was found that victims of cross-border sex trafficking file a report with the police more often than other categories of victims, and in fact, the majority of this group of victims filed a complaint. This implies that placement in the COSM programme could perhaps have a positive effect on the willingness of a victim to make a complaint against a trafficker.

It is clear from the above that victims of cross-border sex trafficking are identified relatively more often than victims of other forms of trafficking. There are also no sub-populations of victims of cross-border sex trafficking that were found to be more difficult to identify (underage and male victims of cross-border sex trafficking are also identified more frequently than the average victim of human trafficking) and there are no major discrepancies between the regional police units in terms of their identification of victims of cross-border sex trafficking. The National Rapporteur therefore sees no need to make any further recommendations specifically relating to cross-border sex trafficking, beyond the two aforementioned recommendations, which continue to apply.

### Victims of cross-border trafficking for non-sexual exploitation

Over a fifth of all human trafficking that occurs in the Netherlands concerns cross-border trafficking for non-sexual exploitation. [Figure 1](#) shows that there are annually around 1,400 victims of this form of trafficking. In other words, cross-border trafficking for exploitation outside the sex industry is roughly as common as cross-border sex trafficking. However, cross-border trafficking for non-sexual exploitation is significantly less visible than cross-border sexual trafficking: whereas a third (33%) of the victims of the latter form of trafficking are identified, this percentage is only 21% for victims of exploitation outside the sex industry. Every victim of cross-border trafficking for non-sexual exploitation is from a country other than the Netherlands: the identified victims (victims reported to CoMensha) are mainly from countries that have joined the EU since 2004 (particularly Poland, Bulgaria and Hungary) and Asia (particularly the Philippines and China).<sup>15</sup> In contrast to victims of sexual exploitation, the victims of cross-border trafficking for non-sexual exploitation are just as often male (50%) as female. However, it appears that fewer female victims (17%) of cross-border trafficking for non-sexual exploitation are identified compared to male victims (26%). This category also includes the fewest minors among victims (only 14%) and, as opposed to sexual exploitation, they are almost exclusively boys (see [Figure 1](#)).

15 The regions of origin /countries of recruitment are based on the nationalities of the victims of cross-border trafficking for non-sexual exploitation that have been identified, since the nationalities of the estimated unidentified victims of cross-border trafficking for non-sexual exploitation are unknown (other than 'non-Dutch'). Because these regions of origin /countries of recruitment encompass approximately three-quarters of all identified victims of cross-border trafficking for non-sexual exploitation, it is plausible that these regions and countries will also figure prominently in relation to the unidentified victims.

In contrast to the two other forms of human trafficking, the police are not the clear major contributor for reports on victims of cross-border trafficking for non-sexual exploitation. The police (32%), the Inspectorate for Social Affairs and Employment, Investigation Department (27%) and other parties (35%) are each responsible for roughly a third of the notifications of cross-border non-sexual exploitation. The number of victims in this category annually identified has remained more or less stable in the last five years. This is probably connected to the fact that the substantial decline in the number of notifications from the police has been offset by a significant rise in the number of reports from other sources.

These results show that cross-border trafficking for non-sexual exploitation is just as prevalent in the Netherlands as cross-border sexual exploitation, but is a lot less visible. The quantitative findings are in line with the National Rapporteur's earlier recommendation that more attention and effort should be devoted to tackling exploitation outside the sex industry, which therefore still applies.<sup>16</sup>

### International interest

The conclusions regarding victims of the three different forms of human trafficking have exposed the gaps and blind spots in the Dutch approach to combatting human trafficking. It therefore goes without saying that knowledge of the actual scale of the various forms of trafficking that occur in the Netherlands will have enormous added value for pursuing evidence-based policy and, by extension, for providing better protection for victims and apprehending offenders. However, the benefits also extend to other countries (as is discussed below). The National Rapporteur therefore makes the following recommendation to the Minister of Justice and Security<sup>17</sup> and the Minister of Foreign Affairs – responsible for the Netherlands' efforts to achieve the United Nations' Sustainable Development Goals (SDGs).

#### Recommendation 2

The Ministers of Justice and Security and of Foreign Affairs should regularly produce a reliable estimate of the actual number of victims of human trafficking in the Netherlands. In that context, they should invest in improving the method of estimating the scale of human trafficking in the Netherlands and improving registration by CoMensha, which forms the basis for the estimate.

Producing these estimates will make it possible to generate international comparisons with other countries that produce similar reliable estimates. Up to now, it has only been possible to compare figures on detected cases of human trafficking in each country. However, because the scale of human trafficking that is detected usually depends on factors other than the actual numbers, what is really being compared is the effort made by agencies in different countries to uncover it.<sup>18</sup> Moreover, international comparisons of the actual scale of the various forms of human trafficking are more relevant than comparing the actual total scale, since not every country defines/interprets every form of human trafficking as trafficking. For example, if domestic sexual exploitation is not regarded as human trafficking in a particular country, a comparison of the total scale of trafficking in that country with a country like the Netherlands (where roughly half of the total number of victims are victims of domestic sex trafficking) will not ac-

<sup>16</sup> National Rapporteur 2013 (Human Trafficking, Ninth Report of the National Rapporteur), p. 319 (Recommendation 4).

<sup>17</sup> See footnote 11.

<sup>18</sup> Relevant factors for identifying and reporting victims include not only the expertise, capacity, and prioritizing required to recognize victimization, but also familiarity with the existence of the national CoMensha register, a willingness to report to CoMensha (understanding the importance of doing so), and the (statutory) possibility to report victims.

curately reflect the situation at hand. Comparisons can only be made between the equivalent forms of human trafficking that can be estimated in each country. Such a comparison can also highlight any blind spots in policy, practice and research.

The estimates would also contribute to Dutch compliance with the SDGs. With this estimate, for example, the Netherlands complies with Indicator 16.2.2 ('Number of victims of human trafficking per 100,000 population, by sex, age and form of exploitation'), which means that the Netherlands is currently able to measure progress for meeting part of Target 16.2 ('End abuse, exploitation, trafficking and all forms of violence and torture against children'). However, before it can become clear whether the Netherlands is on course to eventually meet Target 16.2, estimates will have to be made more frequently in the future, since multiple measurements are required to map the decline in the number of victims of human trafficking envisaged by Target 16.2. A first step in the right direction will be to identify as many of the existing victims of human trafficking as possible (and to offer them the help and protection they need). In other words, the principal objective is to identify as many of the victims that currently remain invisible as quickly as possible. [Recommendation 1](#) in this periodical report on victims of human trafficking and the earlier recommendations made by the National Rapporteur were made with this goal in mind.

### Challenges and obstacles in relation to making estimates

The Netherlands is currently a front-runner in terms of developing an initial reliable estimate of the actual number of victims of human trafficking in a country. The United Nations Office on Drugs and Crime (UNODC) – which is responsible for assisting member states in data collection in relation to Indicator 16.2.2 – intends to encourage other countries to adopt the method of estimation developed in the Netherlands.<sup>19</sup> However, there are some developments that could prevent the production of similar estimates in the future and they revolve around CoMensha's registration system. In the last few years, CoMensha has received a growing number of incomplete victim registrations – reports lacking certain information such as personal details like gender, age and nationality or identification of the form of exploitation. This seems to be more often the case with minors than with adult victims.<sup>20</sup> This negative trend is probably connected with the paradox that while a growing number of victims are being reported by regional coordinators and other parties, their reports are often significantly less complete than the reports submitted by investigative agencies, whose reports are actually declining in number.<sup>21</sup> In practice, they face greater obstacles when it comes to registering a victim than the investigative agencies because of the aforementioned requirement of a consent form from the victim or parents/guardians. Apart from the fact that submitting incomplete reports – or even failing to report a victim at all – means less will be known about the nature and size of the detected human trafficking in the Netherlands, there are two other negative consequences.

19 Verbal information from UNODC during a high-level meeting of the General Assembly on the assessment of 'The United Nations Global Plan of Action to Combat Trafficking in Persons' on 28 September 2017.

20 As many as half (50.1%; n=637) of the minors who were victims in the period 2012–2016 could not be assigned to any of the four forms of human trafficking, mainly because the form of exploitation (and in some case also their nationality) was not known. By comparison, just 11.7% of the adults/victims whose age was not known could not be assigned to a particular form of trafficking.

21 Specifically, 40.1% of the reports from these agencies in the period 2012–2016 were incomplete, while only 8.3% of the police reports were incomplete in the same period.

The first is that when reports are incomplete, CoMensha is not always able to identify victims who have been reported by more than one agency. Consequently, it is difficult to determine the overlap between the different reporting agencies, which forms the basis for the estimate.<sup>22</sup> An increase in the number of incomplete reports could therefore make it impossible to produce an estimate on the basis of CoMensha's registration in the future. Vice versa, an increase in the number of complete reports could make it possible to produce even better estimates in future.

The second negative consequence is that when victims are identified but not reported to CoMensha, this naturally affects the number of identified victims in the Netherlands according to CoMensha's registration. Meanwhile, the *estimated* number of victims of the form of human trafficking to which the non-reported victims belong is – in principle – not affected by this.<sup>23</sup> When the number of victims identified in CoMensha's registration is then compared with the estimated number of victims, a larger proportion of victims will appear to be unidentified than is actually the case. Non-reported victims (particularly if they are relatively more common in one form of human trafficking than in others) could therefore distort the ratio of visible- to invisible victims, which could lead to incorrect policy implications being drawn. It is impossible to exclude the possibility that this already happens in the domain of domestic sex trafficking (see the obstacles to reporting that were mentioned earlier and which, in practice, seem to apply most often for this group of victims). [Recommendation 1](#) remains applicable in that case, however, given the vulnerability of this group of victims and the need for change, particularly in the reporting of these victims.

## Conclusions concerning sexual exploitation and sectors of prostitution

The report on prostitution and human trafficking published by the National Rapporteur in 2016 showed that an estimated half of the victims of sexual exploitation reported to CoMensha were detected in the more visible sectors (window prostitution and brothels/clubs/private homes), with the other half in the less visible sectors (home prostitution, escort/hotel prostitution, massage/beauty salons, street prostitution, internet).<sup>24</sup> In light of the possible entry into force of the Regulation of Prostitution Act, the National Rapporteur regarded this as a cause for concern, because if the law were to take effect, it would drastically impair the ability to monitor the less visible sectors.<sup>25</sup> The National Rapporteur therefore called, in the interests of preventing human trafficking, for a uniform system of oversight for every sector of prostitution and, by extension, for amendment of the legislation. The existing legislative proposal is now before the Senate, but work is currently proceeding on a new version of the law.

This report has once again considered the specific sectors of prostitution in which the victims of sexual exploitation reported to CoMensha are exploited. It shows that the proportion of identified victims of sexual exploitation in less visible sectors of prostitution is not only substantial, but is also growing rapidly. In other words, a growing number of victims are being discovered in the less visible sectors: they

22 For a further explanation of the mechanics of the MSE method, see UNODC & Dutch National Rapporteur, 2017.

23 When a particular number of similar victims is reported, and when there is otherwise no question of three- or four-way interactions, in principle the failure to report/register these victims does not directly influence the number of estimated victims of the form of human trafficking to which the non-reported victims belong.

24 [National Rapporteur 2016](#) (Prostitution and Human Trafficking), §6.3.

25 See also [National Rapporteur 2016](#) (Prostitution and Human Trafficking), §8.5 and §8.6 (Recommendation 1).

represented an average of 55% of reported victims of sexual exploitation in the period 2012-2013, but 72% in the period 2014-2016.<sup>26, 27</sup> These figures underscore the crucial importance of insight into these less visible sectors of prostitution, primarily home prostitution and escort/hotel prostitution, in tackling human trafficking. In their coalition agreement 'Confidence in the future',<sup>28</sup> the newly formed government stated that it would amend the Regulation of Prostitution Act to guarantee uniformity throughout the prostitution sector. This will provide an opportunity to respond to the warnings by the National Rapporteur and the implications of the figures presented above.<sup>29</sup>

## Conclusions relating to the protection of victims of human trafficking under immigration law

International law prescribes that non-Dutch victims of human trafficking in the Netherlands are entitled to protection under immigration law. In that context, the Immigration and Naturalization Service (IND) is responsible for granting legal residence to these persons, for which there exists a specific Human Trafficking Residence Scheme, grounded in the Aliens Act 2000 and Aliens Act Implementation Guidelines 2000.<sup>30</sup> Below, the most important results of an analysis of the data relating to victims that claimed protection under immigration law in the period 2012-2016 will be discussed.

As with victims registered with CoMensha, it is important that the different forms of human trafficking are distinguishable when it comes to victims known to the IND. With that in mind, the National Rapporteur refers to a recommendation made in 2012, urging that all main parties officially coming into contact with possible victims should register the form of exploitation.<sup>31</sup> This recommendation was accepted and, since 2015, the IND has also started registering form of exploitation. However, in practice, it is not done consistently.<sup>32</sup> For this information to be of practical use for analysis, the National Rapporteur urges the IND to register the form of exploitation of victims more consistently. In addition to proper administrative processing by IND officials, the IND is also encouraged to consult with the relevant investigative services to ensure that this information is clearly documented in the notification of the offer of the reflection period and the application for temporary residence.

Accurate registration is equally important with regard to the grounds for assessing requests for continued residence. Generally, for continued residence to be granted the individual's status as a victim must be confirmed by means of an irrevocable conviction, or the victim must have been living in the Netherlands for longer than three years on the grounds of the temporary residence permit (referred to as an

26 The reason the percentage of victims in the less visible sectors presented here is somewhat higher (also in the comparable years 2012-2015) than in the aforementioned report on prostitution and human trafficking is because in this report the victims reported exclusively by the Royal Dutch Marechaussee are disregarded.

27 At the least, the results can be regarded as representative for a large majority (two-thirds) of all victims of sexual exploitation reported to CoMensha in the period 2012-2016.

28 Available at <https://www.tweedekamer.nl/sites/default/files/atoms/files/regeerakkoord20172021.pdf>.

29 See also the news report 'Reactie Nationaal Rapporteur op regeerakkoord' of 10 October 2017, available at <https://www.nationaalrapporteur.nl/actueel/2017/reactie-nationaal-rapporteur-op-regeerakkoord.aspx>.

30 For more general information, see: <https://ind.nl/en/about-ind/background-themes/Pages/Human-trafficking.aspx>

31 National Rapporteur 2012 (Human Trafficking, Visible and Invisible, Statistical Report 2007-2011), Recommendation 4.

32 In only 16.6% of registered cases where the reflection period or a residence permit were requested on the grounds of human trafficking in 2015 and 2016, the form of exploitation was noted.

‘a-ground’). Alternatively, continued residence can be granted on the basis of exceptional personal circumstances directly related to human trafficking (referred to as a ‘b-ground’).

In 2015 and 2016, the ground on which a request for continued residence was granted was only registered in a quarter of cases. Based on those cases, it appears for more than two-thirds of the victims, continued residence was granted on the basis of an a-ground. If that proportion is representative for all decisions, the expectation would be that an application was granted in almost two-thirds of cases, an approval rate of around 66%. In 2016, however, the approval rate for continued residence was 44%, which would mean that only less than half of the victims in that year were granted continued residence. That is a higher percentage than in previous years – in itself a positive development – but if a large proportion of those applications were granted on the basis of an a-ground, the percentage would, as described above, be expected to be higher. To ascertain the approval rate, particularly of the – substantive – assessments on the basis of a b-ground, it is important to consistently record the grounds for assessment of all decisions on continued residence. The National Rapporteur will urge the IND to do so from hereon.

The National Rapporteur also has serious concerns about the sharp decline in both the annual number of times the reflection period has been used and the annual number of requests for temporary and continued residence between 2012 and 2016. Since investigative services are obligated to offer the reflection period to all possible victims at the slightest indication of human trafficking, the decline in the use of the reflection period seems to suggest that the investigative agencies come across any slightest indication of human trafficking of non-Dutch nationals less frequently. That is a matter that requires further research.<sup>33</sup>

Moreover, the number of requests for temporary and continued residence declined even faster than the use of the reflection period during the years 2012-2016. The decline in the number of applications for continued residence was greatest at 67%, which seems to suggest that the use of the Human Trafficking Residence Scheme after an initial reflection period has become less attractive for victims. Indeed, there are reports from the field that among victims there is less confidence in acquiring (long-term) protection under the residence scheme vis-à-vis the asylum procedure. Naturally, while shaping immigration policy with respect to victims of human trafficking, the victims’ safety and protection must be the priority. As of now, victims can only be certain of eligibility for continued residence when there has been a conviction, but that is often a long and uncertain trajectory. Under the policy, continued residence is provided on the basis of both plausibility of victimhood (the perpetrator has been convicted) and the finding that there is a risk of reprisal (since the victim has testified against a suspect/perpetrator). The National Rapporteur has previously recommended that the public prosecutor’s decision to prosecute should be included as an a-ground for continued residence, prior to a conviction.<sup>34</sup> After all, the decision to prosecute is not made lightly and that decision provides adequate grounds for both the plausibility that the individual is a victim of trafficking and for recognizing that the victim, on returning to his or her country of origin, will not have sufficient protection against possible reprisals by the suspect.

33 In November last year the National Rapporteur published the Tenth Report on Human Trafficking, which contained, among other things, a study into the interpretation of the term ‘slightest indication’ with regard to offering the reflection period.

34 [National Rapporteur 2009](#) (Human Trafficking, Seventh Report of the National Rapporteur), §14.2, Recommendation 4.

Whether or not an incriminating statement by the victim leads to a conviction does not necessarily affect the threat of reprisals. This way, victims who have cooperated with the prosecution of a suspect (by making a complaint or otherwise), but who have not been considered by law to have been a victim, due to an acquittal, will also enjoy protection.<sup>35</sup> Amendment of the residence scheme for victims of human trafficking on this point is in the interests of the safety and protection of victims and would provide them with greater certainty much sooner. That might once again make the residence scheme more appealing to victims of human trafficking, which could in turn have a positive effect on the willingness of victims to report an offence and to cooperate with an investigation and prosecution. At the same time, safeguards would have to be created to ensure that the victim remains available and willing to cooperate with the investigation and prosecution. Although the Public Prosecution Service was sceptical about the need to amend the scheme in such a way when the recommendation was made in 2009, today this view is supported by the national public prosecutor for human trafficking/people smuggling.<sup>36</sup>

### Recommendation 3

The Minister of Justice and Security should allow victims of human trafficking to qualify for continued residence at the moment that the public prosecutor has made a decision to prosecute.

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35 These victims can only claim continued residence under the current policy on the basis of a b-ground, in which case they not only have to plausibly show that they are victims, but also that it is impossible to return safely to their country of origin.

36 Oral information from National Public Prosecutor for Human Trafficking, 6 October 2017.

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## The **National Rapporteur** reports on the nature and scale of human trafficking and sexual violence against children in the Netherlands.

### What does the National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children do?

The National Rapporteur reports on the nature and scale of human trafficking and sexual violence against children in the Netherlands. The Rapporteur monitors the effects of policy conducted in these domains, identifies bottlenecks and makes recommendations to improve the measures taken to address these themes. The National Rapporteur has no investigative authority and is not a complaints agency.

### What activities does the National Rapporteur carry out?

The National Rapporteur collects quantitative and qualitative data by means of independent research, through intensive contact with other bodies, by organizing and participating at meetings and conferences and by participating in task forces and groups of experts. The Rapporteur publishes the research results and the ensuing recommendations in reports, which also contain descriptions of the phenomena of human trafficking and sexual violence against children, relevant legislation and the measures taken in the areas of prevention, investigation and prosecution of perpetrators and help for victims. The Rapporteur monitors the practical implementation of the recommendations. The Rapporteur is also active at international level.

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