

## Part 5

# Recommendations



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**Recommendation 1: make human trafficking a priority in the field once again, by allocating the necessary human and material resources to frontline services**

Myria would like the police, the judiciary and inspection services to have sufficient human and technical resources to be able to combat human trafficking more efficiently. Frontline services should also be better trained to detect victims of human trafficking.

**The federal government must budget for and allocate sufficient human and financial resources to the police and inspection services, so that the fight against human trafficking is a real priority and not just on paper.**

This condition is essential to detect and inform presumed victims of trafficking. The frontline services' obligation to inform goes hand in hand with sufficient resources and budgets for police and inspection services. However, these have been sorely lacking for several years now. Owing to staff shortages, police departments are no longer able to assist the social inspection services during checks. The NSSO Inspection Department's ECOSOC teams don't have sufficient resources either. For several years now, staff members who leave these services are no longer replaced. The federal public prosecutor's office has also raised the alarm on this matter.

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**Recommendation 2: promote better knowledge of the multidisciplinary circular on human trafficking and especially frontline services' duty to inform**

Better knowledge of the multidisciplinary circular among frontline services concerning their duty to inform is required. It could be useful to develop a practical tool.

**Myria recommends that the Interdepartmental Coordination Unit develop a practical and dynamic tool for frontline services on their duty to inform presumed victims of trafficking.**

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**Recommendation 3: quickly offer victims of human trafficking the assistance of a lawyer**

The legal support for victims provided by the specialised reception centres is vital. It allows victims to be explained their rights and to provide them with support within the framework of criminal proceedings (hearings, information on the follow-up, support, etc.. The centres also offer victims the assistance of a lawyer with a view to claiming compensation. A lawyer is usually appointed when the case is in the closing phase: either because the investigation by an investigating judge is coming to an end and a hearing in chambers has been scheduled for the settlement of the proceedings, or even when the case is set to go before the court. Sometimes, a lawyer is appointed earlier when necessary (e.g. when there are prisoners and the case will probably be closed quickly.

However, the rapid appointment of a lawyer not only gives access to the file but also makes it possible to ask the investigating judge to carry out additional investigations, if necessary, if the investigation appears to be flawed. It also avoids a situation where the lawyer discovers at the hearing in chambers that they are faced with a colossal case, and that they haven't had the time to sufficiently familiarise themselves with it in order to best represent the victim's interests. More generally, the victim is thus represented at all stages of the proceedings. This allows them to position themselves, among other things, when a request for a confrontation is made by the perpetrator.

Once a victim has been given the chance to acquire victim status, an appointed lawyer can better defend the victim's interests in case of problems, during the proceedings, that are inherent to the status, or during the period preceding the trial. This should also allow victims to decide, with full knowledge of the facts, whether or not to file a civil suit and to seek redress.

**Myria recommends that the specialised reception centres appoint a lawyer in due course for the victims they are supporting.** This appointment must be made quickly after the case has been put under the responsibility of an investigating judge. In some cases, such an appointment can also be useful after the first interview of the victim within the framework of the first stage of the criminal procedure (the 'information'). An amendment to the multidisciplinary circular of 2016 could be envisaged to this effect.

Myria also recommends that for each victim of human trafficking, a registration as "injured party" be systematically introduced in order to guarantee their rights during the criminal proceedings.

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**Recommendation 4: allow victims of human trafficking to benefit from secondary legal aid until the conclusion of the criminal proceedings against the perpetrators, by adapting the royal decree in question**

With no budget to pay the lawyers, the reception centres for victims rely on lawyers acting in the context of legal aid. The victim can benefit from a pro-Deo lawyer if they fulfil the conditions (e.g. if they are on welfare, which is the case at the start of the support).

However, human trafficking investigations take time. Sometimes, a case will only be closed after several years. In such cases, it is likely that the victim has found a job and no longer meets the conditions for legal aid to benefit from a pro-Deo lawyer. The victim may also want to 'turn the page' or have other financial priorities.

Furthermore, victims who are entitled to the free assistance of a lawyer as long as they aren't employed, no longer meet the financial conditions to benefit from this legal assistance as soon as they re-enter the labour market. This generates considerable costs. According to Myria, victims of human trafficking should receive free legal assistance until the end of the criminal proceedings against the perpetrators.

At the beginning of the proceedings, trafficking victims are in a particularly vulnerable situation, just like other categories of litigants such as asylum seekers. Myria therefore recommends **amending the Royal Decree of 18 December 2003 on secondary legal aid** so that victims of human trafficking, whose status was initially recognised after their first statements to the judicial authorities, can benefit from secondary legal aid until the end of the criminal proceedings against the perpetrators. In addition, a list of voluntary lawyers specialised in helping victims of human trafficking should be drawn up at the main legal aid offices in Belgium.

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**Recommendation 5: structural funding for the specialised reception centres to enable them to fully carry out their duties, especially as regards legal support for victims.**

The three specialised reception centres received official recognition for the first time in 2013, through the adoption of the Royal Decree of 18 April 2013. It was renewed in 2018 by the Royal Decree of 22 June 2018. However, as stated in Article 7 of the Royal Decree of 2013, this doesn't entail the right to subsidies.

And yet the centres are faced with the recurring problem of their structural funding. This point, mentioned in the national action plan 2015-2019, was the subject of proposals by the bureau of the Interdepartmental Coordination Unit. However, it still hasn't been resolved, despite the recommendations of international assessment bodies such as GRETA, the group of experts responsible for monitoring the Council of Europe Convention on Action against Trafficking in Human Beings, which Belgium has ratified.

Myria hopes that a permanent solution can be found for this financial dilemma during the next term of office.

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**Recommendation 6: prevent secondary victimisation of victims by avoiding confrontations between victims of sexual exploitation and their exploiters**

In an effort to avoid the risk of secondary victimisation, it isn't advisable to confront victims of sexual exploitation with the defendants. In the case of victims of labour exploitation, caution should be applied and a lawyer must be appointed for the victim in case of confrontation.

Myria questions the added value of confrontations between victims and defendants in certain problem cases, certainly as regards victims of sexual exploitation, who are traumatised by their negative psychological and physical experiences and risk becoming victims again in a secondary victimisation process. In practice, the goal of the defendant's request for a confrontation is rarely to obtain additional objective elements; instead, it is more of an attempt to manipulate and intimidate the victim or to incite them to withdraw or modify their statement. It is important that the investigating judges are sufficiently aware of this and in no way comply with such requests for a confrontation straight away. These confrontations are often unnecessary and even counter-productive to the investigation.

The additional psychological damage suffered by the victim is usually considerable. According to Myria, victims of sexual exploitation should never be forced into a confrontation. In the case of sexual exploitation, the majority of investigative judges now immediately give a negative response to any request for confrontation from the defendant's defence.

A confrontation is more frequently requested in the case of labour exploitation. Caution should also be exercised, because in some situations of labour exploitation, the victim may also suffer significant trauma. Victims must also have access (free of charge) to the advice of a lawyer to inform them of their rights and assist them in the event of a confrontation.

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**Recommendation 7: encourage recourse to the possibility of allocating confiscated property and financial advantages to the civil party with a view to compensating them for the damage suffered**

Myria encourages recourse to the allocation of confiscated property and financial advantages to the civil party in order to compensate them for the damage suffered. When confiscations are pronounced and concern the replacement or equivalent of the property the victim was deprived of as a consequence of the offence, the judge may, pursuant to Article 43bis, paragraph 3 of the Criminal Code, attribute them to the civil party as compensation for the damage suffered. This measure should be applied, in practice, at least for material damage.

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**Recommendation 8: provide all victims of human trafficking with effective access to Financial Aid Fund for Victims of Deliberate Acts of Violence**

Myria asks the Commission for Financial Aid to Victims of Deliberate Acts of Violence and Occasional Rescuers to show some openness in interpreting the notion of a 'deliberate act of violence' as regards victims of human trafficking for the purpose of labour exploitation.

The applicant must be a victim of a deliberate act of violence who, as a result, has suffered serious physical or psychological damage. However, 'act of violence' isn't defined in any preparatory or legal document. This requirement is a major obstacle for victims of trafficking for the purpose of labour exploitation. Myria calls for reflection on a better definition or amendment of the law so that all victims of human trafficking can have effective access to the Fund.

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**Recommendation 9: conduct in-depth financial investigations in order to be able to compensate victims, collect additional objective evidence and dismantle networks**

As many seizures as possible should be carried out at the beginning of the investigation in order to obtain effective confiscations later.

An in-depth financial investigation provides a detailed picture of the financial capacity of perpetrators of human trafficking. A financial investigation must be immediately launched at the start of a human trafficking case. As soon as suspects believe an investigation is under way, they try to conceal or move their assets, or they let their company go bankrupt, making it impossible to seize assets at a later stage of the proceedings. This is why it is important to seize as many assets as possible at the start of an investigation and to cooperate at international level. These seizures are a guarantee of effective confiscations at a later date.

Financial investigations can also be useful if the criminal assets of suspects have already disappeared and can no longer be seized. It is an important tool to gain an overview of the network and to have it dismantled. In addition, they are a means of collecting objective evidence. In their decisions, the courts regularly refer to evidence from the financial investigation to convict defendants.

## Summary of the recommendations

	Recommendation	Recipient
<b>2019/12</b>	<b>Make human trafficking a priority in the field once again, by allocating the necessary human and material resources to frontline services</b>	Federal government
<b>2019/13</b>	<b>Promote better knowledge of the multidisciplinary circular on human trafficking and especially frontline services' duty to inform</b>	Interdepartmental Coordination Unit
<b>2019/14</b>	<b>Quickly offer victims of human trafficking the assistance of a lawyer</b>	Reception centres for victims
<b>2019/15</b>	<b>Allow victims of human trafficking to benefit from secondary legal aid until the conclusion of the criminal proceedings against the perpetrators, by adapting the royal decree in question</b>	- Interdepartmental Coordination Unit - Minister of Justice
<b>2019/16</b>	<b>Structural funding for the specialised reception centres to enable them to fully carry out their duties, especially as regards legal support for victims</b>	- Interdepartmental Coordination Unit - Federal government
<b>2019/17</b>	<b>Prevent secondary victimisation of victims by avoiding confrontations between victims of sexual exploitation and their exploiters</b>	Human trafficking reference prosecutors and investigating judges
<b>2019/18</b>	<b>Encourage recourse to the possibility of allocating confiscated property and financial advantages to the civil party with a view to compensating them for the damage suffered</b>	Courts and tribunals
<b>2019/19</b>	<b>Provide all victims of human trafficking with effective access to the Financial Aid Fund for Victims of Deliberate Acts of Violence</b>	- Interdepartmental Coordination Unit - Minister of Justice
<b>2019/20</b>	<b>Conduct in-depth financial investigations in order to be able to compensate victims, collect additional objective evidence and dismantle networks</b>	Magistrates (public prosecutor and investigating judges)