

**Submission to the European Commission  
for the Have Your Say initiative  
on fighting human trafficking**



**Border Violence  
Monitoring Network**

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## 1. Executive Summary

The Border Violence Monitoring Network (hereafter, BVMN) is a coalition of organisations working to document illegal pushbacks, police violence and detention along the European Union's external borders in the Western Balkans, Greece and Turkey, since the formal closure of the route in 2016. The collection of data on illegal pushbacks, police violence and detention is done by a consortium of independent voluntary field-experts, who are part of and cooperate with humanitarian support groups united through the Border Violence Monitoring Network. Member organisations are based in transit countries along the Balkan route where people on the move are frequently left stranded due to a lack of legal and safe migratory routes, and exposed to human rights violations including police violence, pushbacks and human trafficking.

BVMN notes that throughout this submission, 'people on the move' will be used as an umbrella term to encompass all persons who have left their country of origin due to, among other reasons, climate change, economic and social inequalities, political conflicts, terrorism, colonial legacies and organised crime, and also includes those who are in the process of moving and are still in transit, or those who are stranded. The term also attempts to acknowledge and consider the legislations, policies and external circumstances which may force people into a precarious status' outside of any legal framework.<sup>1</sup> BVMN recommends that the term 'people on the move' be explicitly incorporated into the Directive so as to legally recognise the vulnerabilities and barriers to rights people within the context experience.

BVMN recalls that the criminalisation of migration and facilitation thereof, often fueled by xenophobic rhetoric and supported by security centred policies, cannot influence EU Directives and Regulations, including the one in question, as it is contrary to the fundamental rights enshrined in primary EU law by the Charter of Fundamental Rights of the European Union. Moreover, the Directive must respect the standard of international human rights preserved in the European Convention on Human Rights and the UN instruments, specifically The United Nations Convention against Transnational Organized Crime and The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children. As the Directive in question does not include the obligation to align with fundamental rights in its main body of the text, but rather under section 33 of the Preamble, BVMN believes that this undermines its significance and recommends that it be provided for in a separate article of its own right.

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<sup>1</sup> BVMN. 2023. Persistence of Greek police operations targeting people on the move in Thessaloniki. Available at: [https://borderviolence.eu/app/uploads/Police\\_ops2023.pdf](https://borderviolence.eu/app/uploads/Police_ops2023.pdf).



BVMN will present its observations on the interrelation of migration, pushbacks and human trafficking, with a specific focus on how pushbacks increase the risk of human trafficking, as displaced communities and persons with an unstable migration status, including undocumented third country nationals, asylum seekers and refugees, are often one of the most likely groups to be exploited and abused by human traffickers. The link between pushbacks and trafficking will be examined through the inherent vulnerability of people seeking sanctuary in Europe, the consequences of the severe and excessive physical and mental strain that people are exposed to during pushbacks, and the apprehensions and fears people may feel when coming forward about their experiences with human trafficking that often stem from the violent nature of pushbacks and potential criminalisation.

## 2. The vulnerability of people on the move and survivors of pushbacks

People on the move are one of the most vulnerable groups at risk of human trafficking and represent a significant share of detected survivors of human trafficking in most parts of the world.<sup>2</sup> The lack of immigration policies and laws to support the movement of people through safe mechanisms forcing people to take irregular routes<sup>3</sup> which often present many barriers in accessing assistance, is the main reason for creating a difficult and dangerous ground for human trafficking,<sup>4</sup> with women and children being especially at risk.<sup>5</sup>

As a result of this, significant factors like poverty, loss of income, unstable housing and poor mental health, circumstances in which people on the move often find themselves in, further contribute to the risk of exploitation. Traffickers frequently search for victims that are in a poor economic situation,<sup>6</sup> in a weakened mental state or in an isolated environment away from secure surroundings, as these conditions fuel a reduced capacity for decision making and understanding, and create an increased dependence on other people, making them an easy target.<sup>7</sup>

During transit, people on the move are extremely vulnerable to trafficking due to the loss of their regular social networks and the lack of the resources they usually use to keep themselves

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<sup>2</sup>Anti - Slavery International. N.d. *Migration and trafficking*. Available at: <https://www.antislavery.org/what-we-do/migration-and-trafficking/>

<sup>3</sup> Ibid.

<sup>4</sup>The Council of Europe Commissioner for Human Rights. 2019. *Time to deliver on commitments to protect people on the move from human trafficking and exploitation*. Available at: <https://www.coe.int/en/web/commissioner/-/time-to-deliver-on-commitments-to-protect-people-on-the-move-from-human-trafficking-and-exploitation>

<sup>5</sup> European Asylum Support Office. 2021. Page 263. *EASO Asylum Report 2021*. Available at: <https://euaa.europa.eu/sites/default/files/EASO-Asylum-Report-2021.pdf>

<sup>6</sup> Ecker E. 2022. *Knowing what to look for: global vulnerabilities to human trafficking*. Available at: [https://traffickinginstitute.org/knowning-what-to-look-for-global-vulnerabilities-to-human-trafficking/?fbclid=IwAR1shVZaJk\\_9dqypH1AAjjNXR9f4IIuNNS\\_22wAWzmDPZ-SgqMhgZ7ZFeU](https://traffickinginstitute.org/knowning-what-to-look-for-global-vulnerabilities-to-human-trafficking/?fbclid=IwAR1shVZaJk_9dqypH1AAjjNXR9f4IIuNNS_22wAWzmDPZ-SgqMhgZ7ZFeU)

<sup>7</sup> Altun S. et al. 2017. *Mental health and human trafficking: responding to survivors' needs*. BJPsycho Int. Available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5618827/>



safe<sup>8</sup> (e.g. their home). In addition, many people on the move report finding themselves in tough conditions with no access to food, water, or shelter, in situations where their lives are in danger, or in which they are separated from family members or close friends. Many also experience psychological violence and illegal or violent confiscation of money or personal property.<sup>9</sup> All these factors contribute to the higher vulnerability of people on the move, as traffickers can take advantage of their dire circumstances.

It is important to note that the vulnerability of people on the move is not limited to their transit. It emerges in their countries of origin once they start to plan and prepare to leave,<sup>10</sup> as they can be easily exploited due to the lack of resources and legal pathways to migrate, as well as the uncertainty that comes with leaving their social surroundings. Furthermore, the risk remains high even after arriving in a host country because they often end up homeless or in temporary settlements, unemployed, and without their familiar social networks.<sup>11</sup>

A particularly vulnerable group among people on the move are people who experience pushbacks. The experience of being pushed back by state actors that are meant to protect and provide assistance can be traumatic and it can put people in a state of complete uncertainty and danger. In addition, people on the move often face violence and other types of attacks on their dignity while being pushed back.

Many survivors of pushbacks report experiencing insults, humiliation, threats, and varying forms of psychological violence, as well as severe physical violence, including sexual violence. Many people report being separated from family members or close friends (including minors from their parents), or experience illegal confiscation of personal property or money during the pushback.<sup>12</sup>

These experiences are evident in the majority of the pushback testimonies recorded by BVMN. For example, in a chain pushback recorded from Slovenia to Croatia to Bosnia, the respondents described the police breaking their phones with the back of a gun in front of them and all of

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<sup>8</sup> Kilchlin Michael. N.d. *Migrants as victims: victimological perspectives of human smuggling and human trafficking*. Available at: <https://f3magazine.unicri.it/?p=1298>

<sup>9</sup> Bobić A. et al. 2023. *The effects of traumatic experiences during transit and pushback on the mental health of refugees, asylum seekers, and migrants*. European Journal of Psychotraumatology. Available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9873274/>

<sup>10</sup> Kilchlin Michael. N.d. *Migrants as victims: victimological perspectives of human smuggling and human trafficking*. Available at: <https://f3magazine.unicri.it/?p=1298>

<sup>11</sup> Gov.bc.ca. British Columbia. 2014. *What makes someone vulnerable to human trafficking*. Available at: <https://www2.gov.bc.ca/gov/content/justice/criminal-justice/victims-of-crime/human-trafficking/human-trafficking-training/module-1/vulnerabilities#:~:text=War%2C%20civil%20unrest%2C%20political%20conflict,survival%20or%20earning%20a%20living>

<sup>12</sup> Bobić A. et al. 2023. *The effects of traumatic experiences during transit and pushback on the mental health of refugees, asylum seekers, and migrants*. European Journal of Psychotraumatology. Available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9873274/>



their money being taken from them at the police station. They also reported being detained for multiple hours without food and water.<sup>13</sup>

In another testimony outlining a pushback from Hungary to Serbia, the respondents described how the police threw alcohol and water on them, spat in their faces and beat them for three hours.<sup>14</sup> Consequently, studies show that people on the move who experience a pushback display significantly higher symptoms of severe depression, anxiety, and PTSD (post-traumatic stress disorder) in comparison to people on the move who do not experience a pushback. Notably, the psychological well-being of people on the move is in general quite poor.<sup>15</sup>

The lack of legal pathways to seek asylum, the unlawful rejection of assistance by the authorities and the higher level of uncertainty that comes with being pushed back make people who experience pushbacks more vulnerable to human trafficking. Furthermore, the aforementioned and documented consequences that are often connected with being pushed back, e.g. being separated from family members, experiencing psychological distress due to police violence, and being left without a phone and other property, further increase their vulnerability to trafficking.

BVMN recommends that the Directive recognise people on the move, in particular those who are survivors of pushbacks, as being especially vulnerable, specifically to human trafficking.

### 3. Pushbacks prevent survivors of human trafficking from reporting their experiences

The Directive at hand does not address that survivors of human trafficking themselves are reluctant to approach border personnel or receive assistance from authorities for a variety of reasons. Survivors may fear criminal liability as irregular entry is criminalised with prison sentences in some EU Member States, in contravention to the 1951 Geneva Convention on the status of refugees. Other reasons include apprehension of violent detainment, the lack of information on rights and protective mechanisms without interpretation in a language the person can understand, and fear of punishment from traffickers.<sup>16</sup>

BVMN observes that human trafficking survivors may also refrain from reporting their case in fear of being pushed back; in 48% of all pushback testimonies recorded by the network since

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<sup>13</sup> Border Violence Monitoring Network. 2021. Pushback Testimonies. *They made us stay there for 9 hours, without food, without water. I was asking for a cigarette. The officer just stood there and look at me while smoking in my face. I was in so much pain.* Available at: <https://borderviolence.eu/testimonies/august-11-2021-0000-glinica-velika-kladusa/>

<sup>14</sup> Border Violence Monitoring Network. 2017. Pushback Testimonies. *There were around 50 or 60 policemen, countless. They started beating us, all of them were beating us.* Available at: <https://borderviolence.eu/testimonies/february-22-2017-2000-border-near-subotica/>

<sup>15</sup> Bobić A. et al. 2023. *The effects of traumatic experiences during transit and pushback on the mental health of refugees, asylum seekers, and migrants.* European Journal of Psychotraumatology. Available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9873274/>

<sup>16</sup> European Parliamentary Research Service. 2020. *Implementation of Directive 2011/36/EU: Gender and Migration Issues.* Available at: [https://www.europarl.europa.eu/RegData/etudes/STUD/2020/654176/EPRS\\_STU\(2020\)654176\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2020/654176/EPRS_STU(2020)654176_EN.pdf)



2017, the respondents had explicitly asked for asylum before being illegally removed from the territory. That amounts to approximately 13,868 people having their right to international protection directly infringed upon.

The blatant denial of asylum in Europe was further noted in a report by the Protecting Rights at Borders (PRAB) initiative which found that, while monitoring pushbacks within the EU, certain countries denied asylum claims in 100% of identified cases.<sup>17</sup> Pushbacks actively refute people their right to request asylum, and people on the move, already being in a vulnerable and dangerous situation, cannot afford to risk being pushed back once they begin their journey.

Survivors of trafficking are often manipulated by their traffickers to think they must repay so-called ‘debts’ while being subjected to threats of violence against them or their families.<sup>18</sup> Traffickers rely on the survivors’ fear and submission in order to indefinitely exploit and profit from the perpetuating state of captivity, which takes the form of modern day slavery. This ‘debt’ puts extreme pressure on survivors to fulfil traffickers’ demands in order to repay a financial burden in an attempt to preserve safety. This position is reminiscent of the definition of ‘vulnerable’ described in Article 2 (2) of the Directive, which states “A *position of vulnerability means a situation in which the person concerned has no real or acceptable alternative but to submit to the abuse involved.*”<sup>19</sup>

Yet that exact vulnerability which should attract state support and assistance may be a reason why potential survivors of trafficking do not come forward for risk of being abused and violated by authorities at the border. BVMN further highlights that survivors of trafficking are deterred from reporting cases due to the likely risk of exposure to physical and mental violence. Since 2017, BVMN has recorded over 1,680 pushbacks testimonies affecting over 28,893 people, of which 91% refer to some form of violence, including beatings, sexual violence, kicking, destruction of personal property, water immersion, exposure to extreme conditions, insults and threats with firearms, all of which are exerted by state authorities against people on the move.

For example, in a pushback recorded from Hungary to Serbia, respondents, including one minor, described authorities releasing dogs on them and letting them be attacked by the animals. The respondents still had injuries sustained from the attack at the time of the interview.<sup>20</sup> In another instance, a testimony outlined the violent events of a pushback from Türkiye to Greece in which a 55-year-old woman was sexually harassed and taunted by an

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<sup>17</sup> Protecting Rights at Borders/Greek Council for Refugees. 2023. *Beaten, punished and pushed back*. Available at: <https://www.gcr.gr/en/ekdoseis-media/reports/item/2097-beaten-punished-and-pushed-back>

<sup>18</sup> A21.2022. How it Happens. Available at: <https://www.a21.org/content/human-trafficking/gqe0rc>

<sup>19</sup> European Parliament and Council. 2011. Directive 2011/36/EU on preventing and combatting trafficking in human beings and protecting its victims, replacing Council Framework Decision 2002/629/JHA. Article 2 (2). Available at: <http://data.europa.eu/eli/dir/2011/36/oj>

<sup>20</sup> Border Violence Monitoring Network. 2023. Pushback Testimonies. *They Let the Dog Loose on us: Bitten by Police Dog, Beaten and Robbed, a Minor and his Group pushed back to Serbia*. Available at: <https://borderviolence.eu/testimonies/27470-2/>



authority figure while she cried. This occurred as the rest of the transit group was forced to undress and stand by, before they themselves were violently violated by the authorities.<sup>21</sup>

Evidence collected by BVMN suggests that the countries at Europe's external borders are creating an atmosphere of fear and exclusion through restrictive and violent border policies that may deter survivors of human trafficking from reporting their cases. This limits the effect and scope of all anti-trafficking state mechanisms, training schemes and programmes, as well as the ability of any qualified border personnel to identify and provide support and assistance to trafficked persons.

BVMN recommends that improved safeguarding mechanisms are put in place to ensure survivors of trafficking or people in danger of human trafficking feel safe to approach border authorities upon entering a country to seek asylum.

## 4. Access to rights for survivors of human trafficking

### 4.1. Identification of survivors of trafficking

BVMN is concerned that the authorities at European borders are not adequately trained to identify survivors of trafficking, thus preventing them from availing their rights under EU law.<sup>22</sup> BVMN asserts that a provision should be added in the Directive to ensure that border personnel are trained to take a human-rights based approach in line with their legal responsibilities, that facilitates people on the move apprehended at the borders or internally to be immediately referred to a protection procedure where they are spoken to and assessed, irrespective of their legal status, by personnel trained to find indicators of human trafficking. People should be assisted in their training and practice by civil society organisations who have experience on the ground with people who have experienced human trafficking and people on the move.<sup>23</sup>

### 4.2. Physical safety and protection from torture and cruel, inhuman or degrading treatment

BVMN is highly concerned by Member States' failure to prevent torture and other cruel, inhuman or degrading treatment or punishment of survivors or potential survivors of human trafficking in their implementation of this Directive.

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<sup>21</sup> Border Violence Monitoring Network. 2022. Pushback Testimonies. *They started beating us for almost five minutes everywhere in our body*. Available at: <https://www.borderviolence.eu/violence-reports/june-11-2022-0500-palli-greece-to-uyuklutatarturkey/>

<sup>22</sup> United Nations. 2018. *Report of the Special Rapporteur on trafficking in persons, especially in women and children*. Page 18. Available at: <https://digitallibrary.un.org/record/1637426?ln=en>

<sup>23</sup> Ibid.



This failure is often a result of illegal pushbacks perpetrated by Member State authorities against people on the move and the survivors of human trafficking among them, which prevent survivors of trafficking from accessing any procedural remedy and often result in survivors being returned to traffickers and subjected to further cruel, inhuman and degrading treatment.

Furthermore, evidence collected by BVMN shows that people on the move and potential survivors of trafficking who are denied access to asylum are frequently subjected to torture or cruel, inhuman or degrading treatment or punishment during their arbitrary detention and pushback.<sup>24</sup> The physical and psychological impact of these experiences may put survivors of pushbacks at further risk of being trafficked or re-trafficked, as they are in a particularly vulnerable and weakened state.

Detention can be considered a form of ill-treatment or torture when is done disproportionality, arbitrarily or unnecessarily. Since 2017, BVMN has documented over 1,680 testimonies reporting the arrest, detention and forcible removal of 28,893 people on the move by state actors and authorities acting with the authorisation, support or acquiescence of EU Member States, often in conditions which conceal the whereabouts of migrants and place them outside the protection of the law.<sup>25</sup> As well as heightening the risk of exposure to trafficking, pushbacks are in themselves cruel, inhuman and degrading treatment, as they are often violent and traumatic in addition to preventing people on the move from exercising their rights. Since 2017, BVMN collected 1,660 testimonies affecting over 24,990 people, of which 91% included exposure to some form of torture or other cruel, inhuman or degrading treatment.<sup>26</sup>

While Art. 11(5) of the Directive establishes the right to protection *‘on a consensual and informed basis, [that] shall include at least standards of living capable of ensuring victims’ subsistence through measures such as the provision of appropriate and safe accommodation and material assistance, as well as necessary medical treatment including psychological assistance, counselling and information, and translation and interpretation services where appropriate’*, this does not include protection of physical safety, such as the protection from torture and inhuman and degrading treatment. The protection of the latter is included in Art. 6(5) of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, according to which *‘Each State Party shall endeavour to provide for the physical safety of victims of trafficking in persons while they are within its territory.’* In addition, Art. 2(b) of the UN Protocol lays down the obligation of parties to the protocol to *‘protect and assist the victims of such trafficking, with full respect for their human rights’*.

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<sup>24</sup> BVMN. 2021. Annual Torture Report 2020. Available at: <https://www.borderviolence.eu/annual-torture-report-2020/>

<sup>25</sup> These testimonies are publicly accessible on our online database: <https://www.borderviolence.eu>

<sup>26</sup> These testimonies are publicly accessible on our online database: <https://www.borderviolence.eu>; see also: BVMN. 2023. A Violence Reporter’s Guide to Identifying & Documenting Cases of Torture. Available at: <https://borderviolence.eu/app/uploads/AViolenceReportersGuidetoTorture.pdf>





As the reality of pushbacks does not leave survivors of trafficking any kind of physical safety and oftentimes constitutes the contrary, torture and cruel, inhuman and degrading treatment, BVMN recommends the inclusion of a provision on physical safety in Art. 11 of the Directive, in alignment with international human rights standards.

### **4.3. Access to assistance and support for survivors of human trafficking**

According to Art. 11(1) of Directive 2011/36/EU, ‘*assistance and support are provided to victims before, during and for an appropriate period of time after the conclusion of criminal proceedings*’, which also includes instances in which the respective authorities believe that a person may be a survivor of human trafficking (Art. 11(2)). Those ‘*shall include at least standards of living capable of ensuring victims’ subsistence through measures such as the provision of appropriate and safe accommodation and material assistance, as well as necessary medical treatment including psychological assistance, counselling and information, and translation and interpretation services where appropriate.*’ (Art. 11(5)). Moreover, it is imperative that member states implement EU acquis in line with the fundamental right to seek asylum enshrined in Article 18 of the EU Charter of Fundamental Rights.

However, certain measures taken by European states to tackle smuggling and prevent irregular migration present difficulties in upholding the rights enshrined in the Directive. Most notably, the use of pushbacks has instigated a decline in people on the move entering Europe due to the increased difficulty created by the widespread practice,<sup>27</sup> which has directly impacted the possibility of identifying and supporting survivors of trafficking, regardless of their legal status, and preventing further abuse and exploitation from traffickers.<sup>28</sup>

The deficiencies in the asylum procedures have also delayed prompt identification of survivors of human trafficking,<sup>29</sup> while laws and policies that try to restrict access to territory and asylum procedures based on the “safe third countries” concept, further impede transit groups (especially children) from screening procedures that identify survivors of human trafficking.<sup>30</sup>

People fleeing conflict zones are the most likely group to be exploited by human traffickers,<sup>31</sup> and the majority of survivors of trafficking are often in a prior state of migration or relocation, or their immigration status is unknown.<sup>32</sup> Juxtaposed with the statistics collected from member

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<sup>27</sup> Greek Council for Refugees. 2022. Country report: Access to Territory and Pushbacks. Available at: <https://asylumineurope.org/reports/country/greece/asylum-procedure/access-procedure-and-registration/access-territory-and-push-backs/>

<sup>28</sup> European Commissioner for Human Rights. 2019. Time to deliver on commitments to protect people on the move from human trafficking and exploitation. Available at: <https://www.coe.int/en/web/commissioner/-/time-to-deliver-on-commitments-to-protect-people-on-the-move-from-human-trafficking-and-exploitation>

<sup>29</sup> Ibid.

<sup>30</sup> UNICEF. 2021. Pushback Practices and their Impact on the Human Rights of Migrants. Page 6. Available at: <https://www.ohchr.org/sites/default/files/Documents/Issues/Migration/pushback/UNICEFSubmission.pdf>

<sup>31</sup> United Nations Office on Drugs and Crime. 2023. Global Report on Trafficking in Persons. Finding 6. Available at: [https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTIP\\_2022\\_web.pdf](https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTIP_2022_web.pdf)

<sup>32</sup> Polaris. 2022. Polaris Analysis of 2021 Data from the National Human Trafficking Hotline. Available at: <https://polarisproject.org/wp-content/uploads/2020/07/Polaris-Analysis-of-2021-Data-from-the-National-Human-Trafficking-Hotline.pdf>



states in the last three years which show that only 10 states submitted data, of which only five identified survivors of trafficking,<sup>33</sup> it becomes evident that people on the move are frequently subjected to organised criminal groups and trafficking rings, yet European countries are severely falling short in identifying and supporting them.<sup>34</sup>

Since 2017, BVMN has collected multitudes of evidence that suggests survivors of trafficking and potential survivors of trafficking are failing to be identified and protected as a result of the systemic use of pushbacks by Member States and the inaccessibility of asylum and identification structures and mechanisms. Through the denial of their right to claim international protection, survivors of trafficking and potential survivors of trafficking are being simultaneously denied the right to the support and assistance that they are entitled to. This is widely due to the fact that transit groups are not being interviewed at borders because they are being pushed back before they can access these mechanisms.

BVMN states that the use of pushbacks actively eradicates any opportunity for the state to fulfil its obligation to identify persons trafficked while flagrantly denying them the right to seek international protection and the right to support and assistance provided for under Article 11 of the Directive. Cognisant of this, by illegally removing potential survivors of human trafficking from the territory without access to protection procedures that facilitate the identification of trafficked persons, the state is preventing survivors from accessing a multitude of entitlements afforded to survivors of human trafficking under EU law.

BVMN recommends that the use of pushbacks be explicitly prohibited in the Directive and that a specified and detailed action plan for identifying and effectively supporting survivors of trafficking arriving in Europe be included and mandatorily implemented by Member States, irrespective of legal status due to the level of vulnerability people on the move particularly face following illegal expulsions.

#### 4.3.1. Access to information and translation

BVMN is deeply concerned at widespread reports of EU States arbitrarily detaining people on the move, including potential survivors of human trafficking, without granting them access to legal information or advice during their detention period.<sup>35</sup> Testimonies collected by BVMN

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<sup>33</sup> European Parliamentary Research Service. 2020. Implementation of Directive 2011/36/EU: Gender and Migration Issues. Available at: [https://www.europarl.europa.eu/RegData/etudes/STUD/2020/654176/EPRS\\_STU\(2020\)654176\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2020/654176/EPRS_STU(2020)654176_EN.pdf)

<sup>34</sup> Greek Council for Refugees. 2022. Country report: Access to Territory and Pushbacks. Available at: <https://asylumineurope.org/reports/country/greece/asylum-procedure/access-procedure-and-registration/access-territory-and-push-backs/>

<sup>35</sup> BVMN. 2023. *Dark Rooms, Degrading Treatment and Denial: The Use of Violence in Greece's Pre-Removal Detention Centres*. Available at: <https://borderviolence.eu/reports/detention-violence-greece/>; I have Rights. 2023. *The EU-Funded Closed Controlled Access Centre – The De Facto Detention of Asylum Seekers on Samos*. Available at: [https://ihaverights.eu/de\\_facto\\_detention\\_in\\_the\\_ccac/](https://ihaverights.eu/de_facto_detention_in_the_ccac/); Mobile Info Team. 2023. “PRISON FOR PAPERS”: Last resort measures used as standard procedure. Available at: <https://www.mobileinfoteam.org/detention>; PICUM. 2022. *Locked up: Stories of immigration detention in Europe*. Available at: [https://picum.org/wp-content/uploads/2022/11/Locked-up\\_Stories-from-immigration-detention-in-Europe\\_EN.pdf](https://picum.org/wp-content/uploads/2022/11/Locked-up_Stories-from-immigration-detention-in-Europe_EN.pdf)



demonstrate how people on the move are systematically detained without explanation, forced to sign documents in a language they do not understand, and refused access to legal counsel.

For instance, in 2023, BVMN documented a pushback from Croatia to Serbia involving a Moroccan national. The respondent recalled being apprehended and taken to a police station, along with four other people, where they were forced to sign five documents in a language they were unable to understand, without any translation assistance. The respondent's group was reportedly detained for at least 20 hours, before being taken to a court without any access to legal representation at any point. The group was given the option of being detained for a further 10 days or paying a fine. An explanation for their apprehension and detention was not provided.

People on the move are also routinely denied information in a language they can understand, and refused access to interpreters and translators during their arbitrary detention and pushback. Since 2017, BVMN has documented 592 testimonies from people on the move detained prior to being pushed back, of which 71% recall being detained without access to adequate interpretation or translation.<sup>36</sup> BVMN asserts that the denial of translation makes it hugely challenging for potential survivors of trafficking to be identified as such, while also making it extremely difficult for them to understand their rights or challenge their arbitrary detention.

In 2020, BVMN collected testimony from a 33 year-old respondent from Morocco, who was detained in a police station in Kalamaria, near Thessaloniki. On arrival at the police station the police brought some documents for the respondent to sign. The documents were written in Greek and there was no interpreter present. The respondent could only speak Greek and could not read or write it, so he did not know what he was signing. He was reportedly convinced by the police that these were release papers and part of a regular procedure, so he signed them. After that, his fingerprints and photograph were taken. The respondent was subsequently detained for three months at Paranesti (Drama) Pre Removal Detention Centre, before reportedly being pushed back to Türkiye together with 120 other people.<sup>37</sup>

Reports published by the Greek Council for Refugees and Asylum Information Database (2019, 2021),<sup>38</sup> Amnesty International (2020),<sup>39</sup> and the Greek Ombudsman (2020)<sup>40</sup> also highlight

<sup>36</sup> United Nations. 1990. International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. Article 16.5. Available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-protection-rights-all-migrant-workers>

<sup>37</sup> BVMN. 2020. *The police, they come to the room and they just beating people, beating [...] they didn't do anything*. Available at: <https://www.borderviolence.eu/violence-reports/july-20-2020-0200-at-the-greek-turkish-border-near-meric/>

<sup>38</sup> Asylum Information Database and the Greek Council for Refugees. 2021. Country Report: Greece (2021 Update). Available at: [https://asylumineurope.org/wp-content/uploads/2022/05/AIDA-GR\\_2021update.pdf](https://asylumineurope.org/wp-content/uploads/2022/05/AIDA-GR_2021update.pdf); Asylum Information Database and the Greek Council for Refugees. 2019. Country Report: Greece (2019 Update). Available at: [https://asylumineurope.org/wp-content/uploads/2020/07/report-download\\_aida\\_gr\\_2019update.pdf](https://asylumineurope.org/wp-content/uploads/2020/07/report-download_aida_gr_2019update.pdf)

<sup>39</sup> Amnesty International. 2020. Caught in a political game: asylum-seekers and migrants on the Greece/Turkey border pay the price for Europe's failures. Available at: <https://www.ecoi.net/en/file/local/2027564/EUR0120772020ENGLISH.PDF>

<sup>40</sup> Greek Ombudsman. 2020. 'Returns of third-country nationals – Special Report 2020.' Available at: <https://www.synigoros.gr/en/category/default/post/returns-of-third-country-nationals-special-report-2020>



the widespread and systematic denial of interpretation services to detained migrants, including survivors of trafficking or persons at risk of trafficking.

Therefore, BVMN recommends the establishment of additional guarantees and safeguards in order to assure the access of survivors of trafficking to information and translation, in particular those who are survivors of pushbacks. Those should include among others, access to an interpreter, access to information and documents, as well as access to legal counsel or advice in a language spoken.

#### **4.3.2. Access to necessary medical treatment including psychological assistance**

BVMN is highly concerned by the indiscriminate ill-treatment of people on the move, with particular regards to the violence exerted against them during pushbacks, which likely include trafficking survivors and those at risk of trafficking. The nature of illegal expulsions can often severely affect the health conditions and mental health of people on the move as a result of the indiscriminate ill-treatment they face during the process. Yet pushbacks can also limit people on the move's access to medical care. As mentioned above, governmental actors are usually the perpetrator of pushbacks, leading to a lack of trust to approach existing support structures, such as governmental hospitals.

For example, a report taken in 2020 outlined how the respondent was admitted to hospital with a broken leg following a road accident and proceeded to be pushed back, while still in recovery, from Greece to Türkiye shortly after receiving medical attention.<sup>41</sup> In addition, people on the move, including survivors of trafficking often lack the needed documents to access health services. This also includes detained people on the move, and the denial of physical and psychological care to trafficking survivors and those at risk of trafficking in detention as part of the modus operandi of pushbacks, which is a direct violation of their right to remedy.

In the period 2020-2022, BVMN collected 49 testimonies evidencing the Greek State's failure to provide appropriate access to medical care to people on the move in detention. For instance, in 2022, BVMN collected a testimony from a respondent detained in a detention site in Greece. While recounting their experience in detention, the respondent explained that: *“Some people just cut their bodies but they [the authorities detaining them] don't do anything to them. So, they don't support them with mental issues or psychological issues, all these things.”*<sup>42</sup>

In November 2021,<sup>43</sup> Oxfam and the Greek Council for Refugee published a report supporting these observations on the administrative detention of foreign nationals and the detention

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<sup>41</sup> Border Violence Monitoring Network. 2020. *Pushed back with a broken leg from a hospital in Xanthi*. Available at: <https://borderviolence.eu/testimonies/may-14-2020-0000-xanthi-hospital-to-evros-river/>

<sup>42</sup> BVMN. 2023. *Dark Rooms, Degrading Treatment And Denial: The Use Of Violence In Greece's Pre-Removal Detention Centres*. Available at: <https://www.borderviolence.eu/detention-violence-greece/>

<sup>43</sup> Oxfam and the Greek Council for Refugees. 2021. *Detention As the Default: How Greece, with the support of the EU, is generalising detention of migrants*. Available at:



conditions in which they are kept in Greece, including case studies of foreign nationals that were denied access to medical assistance by the Greek authorities while in detention.

BVMN asserts that the practice of detaining migrants in conditions which deny them access to fundamental rights including basic medical and psychological care puts trafficking survivors at risk of further traumatising, while directly denying them access to forms of support they are entitled to. In addition, studies found that traumatising and poor mental health increases the vulnerability to human trafficking.<sup>44</sup> Hence, people on the move in detention facilities without access to psychological assistance are put at an increasing risk of experiencing human trafficking.

Therefore, BVMN recommends the establishment of additional guarantees and safeguards in order to assure the access of survivors of trafficking to necessary medical treatment including psychological assistance, in particular those who are survivors of pushbacks. In addition, people on the move should be recognised as a group vulnerable to trafficking, in particular survivors of pushbacks. Moreover, BVMN insists that the fundamental rights of human trafficking survivors are being breached on a regular basis through pushbacks. Therefore, it calls for more detailed guidelines included in the Directive on the safeguards of fundamental rights by explicitly focusing on migration and pushbacks.

#### 4.3.3. Access to legal remedy

According to Art. 17 of Directive 2011/36/EU, survivors of trafficking also have the right of ‘access to existing schemes of compensation’.

The conditions in which transit groups are detained and illegally pushed back creates multiple barriers to potential survivors of trafficking in accessing the right to remedy. In particular, access to jurisdiction and legal remedies is limited through the practice of pushbacks, which, by design, attempt to remove people on the move from a territory that leave survivors outside of the jurisdiction. Instigating legal proceedings from abroad is challenging, hindered by lack of legal aid and the difficulty of obtaining admissible power-of-attorney and testimonies. Moreover, if survivors return to the country they were pushed back from, they often cannot present themselves to the authorities for testimonies due to the risk of being arrested for irregular entry and pushed back again.<sup>45</sup>

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<https://oxfamlibrary.openrepository.com/bitstream/handle/10546/621307/bp-detention-as-default-greece-asylum-161121-en.pdf;jsessionid=459ADC9AB9E8F7E064318DBC87F4FF05?sequence=1>

<sup>44</sup> Altun, Sukran, Abas, Melanie, Zimmermann, Cathy, Howard, Louise M., & Oram, Sian. 2017. *Mental health and human trafficking: responding to survivors’ needs*. BJSych Int. 14(1): 21–23. Available at: [10.1192/s205647400000163x](https://doi.org/10.1192/s205647400000163x)

<sup>45</sup> See for instance: BVMN. 2023. Rule of Law Report: Croatia. Available at: <https://www.borderviolence.eu/rule-of-law-report-croatia/>; BVMN. 2023. Rule of Law Report: Greece. Available at: <https://www.borderviolence.eu/rule-of-law-report-greece/>; BVMN. 2023. Rule of Law Report: Slovenia. Available at: <https://www.borderviolence.eu/rule-of-law-report-slovenia/>



BVMN asserts that efforts to provide effective remedies must include efforts to remove legal and procedural barriers by ensuring that trafficked people receive the information, support and assistance they need to access remedies. This includes the establishment of additional guarantees in place for survivors who have been removed from member states' territories with additional forms of protection for survivors of trafficking. For example, ensuring that survivors of trafficking have access to humanitarian protection mechanisms in Member States that provide for legal assistance by granting admission to a territory, for instance, through the issuing of humanitarian visas.

While the expansion of Article 6 to introduce a mandatory regime of sanctions for legal persons held liable for trafficking offences is a positive development, the inaccessibility of the justice system for survivors of trafficking undermines this provision. Pushbacks are orchestrated outside of a legal framework without consideration for individual asylum claims, right to legal counsel or lawful asylum procedures. Thus it is futile to infer that pushback survivors will have access to a legal remedy that is achieved by respect for the rule of law.

BVMN notes that Article 11(1) requires Member States to continue offering support to survivors of trafficking “*for an appropriate period of time after the conclusion of criminal proceedings*” to allow them to properly exercise their rights. However, BVMN is concerned that Member States often interpret this clause as meaning that support should only be offered until all legal proceedings and relevant correspondence is concluded.

BVMN recommends that Article 11(1) be amended to ensure that support is given to survivors of trafficking until they are fully integrated into society, to mitigate the risk of re-trafficking and protect survivors from further cruel, inhuman or degrading treatment and that Article 17 of the Directive be amended to ensure that no additional barriers to compensation exist for survivors of trafficking at Member State level due to requirements like ‘*good character*’ or of timely reporting of offences.<sup>46</sup>

In order to assure the rights granted in the Directive, BVMN recommends the establishment of an independent monitoring mechanism that ensures survivors of human trafficking are granted their rights under the Directive by Member States. It is also recommended that the mechanism recognise the role pushbacks play in the exacerbation of vulnerability to trafficking and condemns any such practice.

## 5. Data protection

The proposal details that law enforcement authorities will be allowed to “*exchange information and share best practices, including on the collection of digital evidence and on financial investigations*”.<sup>47</sup> Considering the increase in data collection from people on the move at

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<sup>46</sup> European Institute for Gender Equality. 2017. *Protecting Victims: An Analysis of the Anti-Trafficking Directive from the Perspective of a Victim of Gender-Based Violence*. Page 105.

<sup>47</sup> European Parliament and Council. 2022. Directive of the European Parliament and of the Council amending Directive 2011/36/EU on preventing and combating human trafficking in human beings and



borders and within transit countries, the proposal raises serious concerns on data protection rights. BVMN has recorded numerous testimonies including reports on the use of drones, cameras, night-vision goggles, aerial surveillance towers, tracking devices, and thermal imaging sensors, as well as specialised sensors for detecting mobile phone signals and biometric identification systems,<sup>48</sup> indicating a clear increase in the use of AI technologies for border protection.

Testimonies recorded by the BVMN describe several breaches of rights granted by Regulation 2018/1725 such as Article 14 and 15 as respondents did not receive any information on the scope of data recorded and its further processing.<sup>49</sup> Articles 15 2 (d) and 16 2 (d) providing access to the data collected and information on complaint mechanisms available have also been disregarded routinely as attested in testimonies. Contrary to Article 14 and recommendations of the European Union Agency for Fundamental Rights concerning information leaflets and posters, understanding the acquisition of data is made incomprehensible for people on the move.<sup>50</sup>

According to EU GDPR standards, data collection must be carried out transparently. BVMN alleges there is insufficient transparency on the powers and liberties of law enforcement on the sharing of data, as there seems to be a low prioritisation of proportionality within the practice. BVMN has seen an increase in people on the move reporting that officers would take pictures of them with mobile phones without their consent. It is standard practice that there is no translator present when pushbacks occur, leaving people on the move in the dark about what their data is being used for, who will be viewing the pictures of their faces or why they were forced to unlock their phones for authorities to access. For example, a testimony of the 28th of January 2023, details how *“according to [the respondent], pictures were taken of them before they were pushed back: ‘They take picture of us, face and back side.’”*<sup>51</sup> On the 25th of November 2022, the BVMN recorded a testimony in which the respondent *“was then asked to provide the code to unlock his phone, which was checked and never returned”*.<sup>52</sup>

Specifically, Article 19a of the proposal declares that Member States are obliged to collect personal data on suspects as they are defined in Article 2 of the 2011 Directive. BVMN asserts

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protecting its victims. Available at: Page 5 under “Legal basis”. [https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13106-Fighting-human-trafficking-review-of-EU-rules\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13106-Fighting-human-trafficking-review-of-EU-rules_en).

<sup>48</sup> See Annex for a list of testimonies collected by BVMN and its partners documenting the use of new technologies during pushback operations at external EU borders.

<sup>49</sup> Official Journal of the European Union. 218. Regulation (EU) 2018/1725 of the European Parliament and of the Council. Articles 14, 17 and 16 2 (d). Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32018R1725>.

<sup>50</sup> BVMN. 2022. Submission to EU Commission feedback mechanism on data protection. Annex. Available at: <https://borderviolence.eu/app/uploads/FEBRUARY-2022-Submission-to-EU-Commission-Feedback-Mechanism-on-Data-Protection.pdf>.

<sup>51</sup> BVMN. 2023. A group including a family was stopped and beaten in Hungary by what the respondent identified as Frontex, Czech and Hungarian officers. Available at: <https://borderviolence.eu/testimonies/27780-2/>.

<sup>52</sup> BVMN. 2022. Be human with us. Available at: <https://borderviolence.eu/testimonies/november-25-2022-2100-along-korana-river-between-sadilovac-and-donji-vaganac/>.



that there are no sufficient safeguards in place which will prevent people who are seeking to cross borders in search of safety to be conflated with possible suspects for human trafficking offences. In the absence of an independent and effective investigation followed by a criminal conviction, information on data subjects allegedly engaging in human trafficking should not be stored in any database. This applies to people on the move as well as human rights defenders who work to guarantee fundamental rights during their journey. As detailed in a previous submission by the BVMN, an increasing number of people on the move are criminalised for resisting pushbacks to Libya.<sup>53</sup>

The proposal encourages state authorities and law enforcement agencies to track personal data in border areas, which is linked to the facilitation of pushbacks.<sup>54</sup> This is exemplified by the lack of disseminating surveillance data provided to search and rescue services.<sup>55</sup> Furthermore, the transfer and processing of data concerning people crossing the Mediterranean around external European borders has been shared with private actors.<sup>56</sup>

BVMN recommends for the Commission to issue clearer guidelines on timelines and scope of collected data as well as who has the mandate to access this data. Furthermore, these guidelines must include at whose discretion these decisions are to be made and the reasons for this mandate. The proposal should also refer to relevant repercussions which should be in place if data protection rights are infringed upon.

BVMN further affirms that the protection of personal data guaranteed in Article 8 of the European Charter on Fundamental Rights is incompletely ascertained in the current Directive amendment proposal. BVMN recommends clear restrictions on the gathering and storing of personal data, as well as the inclusion of national Data Protection Authorities in implementing measures to remedy breaches of the right to data privacy.

In conclusion, the BVMN observes that the proposal does not supply adequate protection of data privacy rights in general, especially for people on the move. This lack of safeguarding of sensitive and personal data is used to facilitate pushbacks, creating a nidus for vulnerability to human trafficking.

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<sup>53</sup> BVMN. 2022. Feedback to the Update of the European Union Maritime Security Strategy (EUMSS).

Available at: <https://borderviolence.eu/app/uploads/BVMN-SEPTEMBER-2022-Feedback-to-the-Update-of-the-European-Union-Maritime-Security-Strategy-EUMSS.pdf>.

<sup>54</sup> Kaamil, A., & Tondo, L. 2021. Fortress Europe: the millions spent on military-grade tech to deter refugees.

The Guardian. Available at: <https://www.theguardian.com/global-development/2021/dec/06/fortress-europe-the-millions-spent-on-military-grade-tech-to-deter-refugees>

Burt, P., & Frew, J. (2020). Crossing a Line. The use of Drones to Control Borders. Drone Wars. Available at: <https://dronewars.net/wp-content/uploads/2020/12/DW-Crossing-a-Line-WEB.pdf>.

<sup>55</sup> Nielsen, N. 2020. NGO rescue boats do not receive Frontex alerts. Euobserver.

<https://euobserver.com/migration/147331> & Creta, S.; Deeb, B.; van Dijken, K.; Freundenthal, E.; Lüdke, S.; & Popp, M. (2021, April 29). Back Channel Cooperation: How Frontex Helps Haul Migrants Back To Libyan Torture Camps. Der Spiegel. Available at: <https://www.spiegel.de/international/europe/libya-how-frontex-helps-haul-migrants-back-to-libyantorture-camps-a-d62c3960-ec2-499b-8a3f-1ede2eaefb83>.

<sup>56</sup> Burt, P., & Frew, J. (2020). Crossing a Line. The use of Drones to Control Borders. Drone Wars.

<https://dronewars.net/wp-content/uploads/2020/12/DW-Crossing-a-Line-WEB.pdf>.





## 6. Criminalisation

BVMN is concerned that Article 8 of the Directive is not regularly implemented in Member States, often leading to the criminalisation of survivors of human trafficking for crimes committed under coercion.<sup>57</sup> Article 8 only declares that Member States must ensure the competent national authorities are “entitled” to take necessary measures to avoid punishment of survivors.

BVMN believes this phrasing should be remedied to ensure that Member States are compelled not to criminalise survivors of trafficking,<sup>58</sup> while including more provisions to clarify what measures Member States need to take to ensure survivors are protected from criminalisation.

There is a growing trend across Europe of states attempting to characterise people on the move as perpetrators of human trafficking<sup>59</sup> while simultaneously implementing laws that criminalise migration,<sup>60</sup> often resulting in years in prison or probation for attempting to seek asylum in the EU.<sup>61</sup> As the criminalisation of survivors of human trafficking appears to add substance to these xenophobic claims, revisions of Article 8 of the Directive to include specific provisions ensuring people on the move are not criminalised for becoming survivors of human trafficking would make it more difficult for politicians to use this kind of false rhetoric. Furthermore, a revision of this nature would result in more identified cases of actual human trafficking, as people who may have experienced human trafficking would have the opportunity to come forward about their experiences instead of being immediately criminalised upon arrival in a European state, and authorities could focus their efforts on these cases rather than on criminalising people on the move.

The relatively low number of reported cases of human trafficking by survivors<sup>62</sup> is due largely to people on the move feeling unable to approach border guards for fear of being criminalised

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<sup>57</sup> European Parliament. 2021. Report on the implementation of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims. Available at: [https://www.europarl.europa.eu/doceo/document/A-9-2021-0011\\_EN.html#\\_ftn3](https://www.europarl.europa.eu/doceo/document/A-9-2021-0011_EN.html#_ftn3)

<sup>58</sup> European Parliament and Council. 2011. Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA

<sup>59</sup> InfoMigrants. 2023. *Meloni Council of Ministers meeting to be held Thursday at site of shipwreck*. Available at: <https://www.infomigrants.net/en/post/47331/meloni-council-of-ministers-meeting-to-be-held-thursday-at-site-of-shipwreck>; InfoMigrants. 2022. *Dismantling trafficking rings a ‘national priority’ for Greece*. Available at: <https://www.infomigrants.net/en/post/45170/dismantling-trafficking-rings-a-national-priority-for-greece>; Border Violence Monitoring Network. 2023. *Monthly Illegal Pushbacks and Border Violence Report Archives*. Available at: <https://www.borderviolence.eu/category/monthly-report/>

<sup>60</sup> Parliament of the Hellenic Republic. 2014. *Immigration and Social Integration Code and other provisions*. Art. 29 and Art. 30. Available at: [https://issuu.com/anas32/docs/greek\\_law\\_4251-2014\\_en\\_residence-pe](https://issuu.com/anas32/docs/greek_law_4251-2014_en_residence-pe)

<sup>61</sup> Jacobin. 2022. *Throughout Europe, New Laws are Criminalising Desperate Refugees*. Available at: <https://jacobin.com/2022/06/europe-criminalizing-refugees-migrants-law-pushbacks>

<sup>62</sup> European Commission. 2020. *Data collection on trafficking in human beings in the EU*. P. 11-14. Available at: <https://op.europa.eu/en/publication-detail/-/publication/5b93c49f-12a0-11eb-9a54-01aa75ed71a1>



or pushed back.<sup>63</sup> Both the frequency at which criminalisation of survivors of human trafficking occurs, as well as the lack of information from border personnel on the rights of survivors in relation to criminalisation, leads to many people who have experienced human trafficking not coming forward with their story out of uncertainty and fear of being criminalised.

Furthermore, despite women and girls making up the majority of persons trafficked for sexual exploitation, a recent report in 2022 by UNODC on Trafficking in Persons found that women may be more likely to be convicted of crimes related to human trafficking in comparison to men.<sup>64</sup> This is based on figures that show women make up only 28% of people investigated for trafficking, and account for 36% of those prosecuted, yet 41% of persons convicted for trafficking are women. This may deter women from coming forward about their circumstances and seeking help.

BVMN recommends that Article 12 of the Directive is approached through a gender-based lens which takes into consideration the higher likelihood of women being criminalised for an act they are coerced or forced into committing, and includes a specific provision which recognises that gender-based violence is a major symptom of human trafficking.

It further asserts that, by modifying Article 12 to specify how border security must act to fully inform people on the move of their rights and options as potential survivors of human trafficking in a language they can understand as well revising Article 8 to ensure that survivors cannot face criminalisation for human trafficking in any Member State's legal system, a higher number of human trafficking cases would be identified due to survivors of human trafficking feeling safer about coming forward.

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<sup>63</sup> European Parliament. 2021. Report on the implementation of Directive 2011/36/EU on preventing and combatting trafficking in human beings and protecting its victims. Available at: [https://www.europarl.europa.eu/doceo/document/A-9-2021-0011\\_EN.html#\\_ftn3](https://www.europarl.europa.eu/doceo/document/A-9-2021-0011_EN.html#_ftn3)

<sup>64</sup> United Nations Office on Drugs and Crime. 2023. Global Report on Trafficking in Persons 2022. Finding 11. Available at: [https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP\\_2022\\_web.pdf](https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP_2022_web.pdf)



## BVMN Recommends:

- That the term ‘people on the move’ be explicitly incorporated into the directive so as to legally recognise the vulnerabilities and barriers to rights of the group.
- That the obligation to align with fundamental rights be included in the main body of the Directive.
- That the Directive recognise people on the move, in particular those who are survivors of pushbacks, as being a vulnerable group, specifically to human trafficking.
- That a provision be added to ensure that border personnel are trained to take a human-rights based approach in line with their legal responsibilities, that facilitates people on the move apprehended at the borders or internally, to be immediately referred to a protection procedure where they are spoken to and assessed, irrespective of their legal status, by personnel trained to find indicators of trafficking in survivors.
- That improved safeguarding mechanisms be put in place to ensure survivors of trafficking feel safe to approach border authorities.
- That provision on physical safety be included in Art. 11 of the Directive in alignment with international human rights standards.
- That the use of pushbacks be explicitly prohibited in the text and that a specified and detailed action plan for identifying and effectively supporting survivors of trafficking arriving in Europe be included and mandatorily implemented by Member States, irrespective of legal status, due to the level of vulnerability people on the move in particular face, following illegal expulsions.
- The establishment of additional guarantees and safeguards that ensure access to survivors of trafficking, in particular those who are also survivors of pushbacks, to information and translation.
- That Article 12 be modified to specify how border security must act to fully inform people on the move of their rights and options as potential survivors of human trafficking in a language they can understand.
- The establishment of additional guarantees and safeguards in order to assure the access of survivors of trafficking, in particular those who are survivors of pushbacks, to necessary medical treatment including psychological assistance.
- The inclusion of a more detailed provision which outlines safeguards of fundamental rights by explicitly focusing on migration and pushbacks.
- That Article 11(1) be amended to ensure that support is given to survivors of trafficking until they are fully integrated into society, to mitigate the risk of re-trafficking and protect survivors from further cruel, inhuman or degrading treatment.
- That Article 17 be amended to ensure that no additional legal barriers to compensation exist for people who have experienced human trafficking.
- The establishment of an independent monitoring mechanism that ensures the rights granted by this Directive and also considers and condemns incidents of pushbacks.



- The Commission issue clearer guidelines on when and how much data can be shared and with whom. These guidelines must include at whose discretion these decisions are to be made and why they have this mandate, referring also to relevant repercussions which should be in place if data protection rights are infringed upon.
- The inclusion of clear restrictions on the gathering and storing of personal data, as well as the appointment of an independent monitoring body with the authority to implement measures to remedy breaches of the right to data privacy.
- Supporting access to Data Protection Authorities (DPA) for people accused of human trafficking, as well as supporting the DPA to enforce remedies for breaches of data protection rights.
- That Article 8 of the Directive be remedied to ensure that Member States are compelled not to criminalise survivors of trafficking, while including more provisions to clarify what measures Member States need to take to ensure survivors are protected from criminalisation.
- That Article 12 of the Directive be assessed through a gender-based lens and include a specific provision which recognises that gender-based violence is a major symptom of human trafficking.

