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**THE NATIONAL RAPPORTEUR'S ROLE IN COMBATTING  
TRAFFICKING IN HUMAN BEINGS WITH A FOCUS ON THE  
BALTIC STATES**

Master's thesis

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## Introduction

Trafficking in human beings is a complex issue that violates international and national laws, violates human rights, and poses a significant challenge to modern society. It takes many different forms and affects a vast number of people, including women, men, girls and boys in numerous countries across the world, regardless of their level of development. This means that it is a global issue that requires a coordinated effort from governments and international and national institutions to be effectively addressed.<sup>1</sup> Trafficking in human beings can be regarded as a crime, a moral issue and a legal one, that needs to be addressed urgently. Therefore, combating and preventing trafficking in human beings is essential not only for the sake of targeted victims but also for the greater good of society as a whole.

The need to address this issue urgently can be seen in the statistics both globally and in the European Union (hereinafter – EU), which will be the focus region of this thesis. Globally speaking, the last available statistics of 2020 show that, from more than 95 per cent of the world's population there were 53 800 identified victims of trafficking in human beings.<sup>2</sup> In 2021, in the EU, the number of registered victims of trafficking in human beings was 7 155.<sup>3</sup>

As a result, combating and preventing all forms of trafficking in human beings is becoming a growing priority for all relevant institutions that are coordinated through various international and regional agreements that aim to develop policies and programs with the goal to combat and prevent such a crime.<sup>4</sup>

Nowadays, when discussing trafficking in human beings, three distinct terms are commonly used. The first term is “trafficking in persons” which was introduced by the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, which supplements the United Nations Convention against Transnational Organized Crime (hereinafter - Palermo Protocol). In this document the definition of trafficking in persons was

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<sup>1</sup> Joseph Chamie. “Human Trafficking: A Serious Challenge to Humanity” *Great Decisions*, 2015, 77–88. Available at: <http://www.jstor.org/stable/44214796>, p. 77.

<sup>2</sup> United Nations Office on Drugs and Crime. *Global Report on Trafficking in Persons 2022*. New York: 2022. 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), p. 11.

<sup>3</sup> Eurostat - Statistics explained. *Trafficking in human beings statistics*. January 2023. Available at: [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Trafficking\\_in\\_human\\_beings\\_statistics&stable=1#Number\\_of\\_registered\\_victims\\_and\\_of\\_suspected\\_and\\_convicted\\_traffickers](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Trafficking_in_human_beings_statistics&stable=1#Number_of_registered_victims_and_of_suspected_and_convicted_traffickers).

<sup>4</sup> *Ibid.*, Chamie (supra 1).

internationally recognized for the first time. The definition of trafficking in persons is outlined in Article 3, subchapter (a) and is as follows.

““Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs”.<sup>5</sup>

The second term is “trafficking in human beings”, which is defined and used in Article 4 of the Council of Europe Convention on Action against Trafficking in Human Beings<sup>6</sup> (hereinafter - Anti-Trafficking Convention) and in Article 2 of Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims<sup>7</sup> (hereinafter - EU Anti-Trafficking Directive). Both international legal acts share the same definition for “trafficking in human beings” as “trafficking in persons”.

The third and final term is “human trafficking”, which is more commonly used in colloquial language, such as book titles or articles. However, this term is not defined in any legal documents. Throughout this thesis, the author will use the term “trafficking in human beings” since this term is used in primary international legal acts concerning trafficking in human beings in the EU.

The main concept of trafficking in human beings is that the individuals who are trafficked are not giving their consent and are being forcibly taken from one country to another in order to be

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<sup>5</sup> United Nations Office on Drugs and Crime. United Nations Convention against Transnational Organized Crime and the Protocols thereto. Annex II Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. Date of entry into force: 25 December 2003. New York: 2004. Available at: [https://www.unodc.org/documents/middleeastandnorthafrica/organised-crime/UNITED\\_NATIONS\\_CONVENTION\\_AGAINST\\_TRANSNATIONAL\\_ORGANIZED\\_CRIME\\_AND\\_THE\\_PROTOCOLS\\_THERETO.pdf](https://www.unodc.org/documents/middleeastandnorthafrica/organised-crime/UNITED_NATIONS_CONVENTION_AGAINST_TRANSNATIONAL_ORGANIZED_CRIME_AND_THE_PROTOCOLS_THERETO.pdf), Article 3.

<sup>6</sup> Council of Europe. Council of Europe Convention on Action Against Trafficking in Human Beings. 16 May 2005, CETS 197. Available at: <https://rm.coe.int/168008371d>, Article 4.

<sup>7</sup> Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA. Available at: <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32011L0036>, Article 2.

exploited or are exploited within the borders of a particular country. Although some individuals may agree to be illegally transferred to another country for work or education opportunities, they may not realise that they are being trafficked until it is too late. The main objective of trafficking in human beings is to generate profit by exploiting individuals for their skills or abilities, typically in the field of sexual exploitation or forced labour. The goal is not to own the victims but rather to exploit them for financial gain.<sup>8</sup>

Since trafficking in human beings is such an atrocious and complex crime, various kinds of instruments and mechanisms both at the international level and the national level are needed. One of the recommended mechanisms at an international level in order to combat and prevent trafficking in human beings is the establishment of a National Rapporteur.

The establishment of the National Rapporteur mechanism has been recommended to countries since the 1997 when it was first introduced in the Hague Ministerial Declaration of 26 April 1997 on European Guidelines for effective measures to prevent and combat trafficking in women for the purpose of sexual exploitation<sup>9</sup> (hereinafter – The Hague Declaration of 26 April 1997), which further built a foundation for the same recommendation to be implemented in the Anti-Trafficking Convention, the EU-Anti Trafficking Directive and, in a way, also in the Palermo Protocol. Even though the various international legal acts recommend establishing the National Rapporteur or an equivalent mechanism, countries are free to choose between the two options and, additionally, whether the mechanism will be in the hands of an independent institution or in the governmental sector.

According to Article 19 of the EU Anti-Trafficking Directive<sup>10</sup> and Article 29 of the Anti-Trafficking Convention<sup>11</sup>, the National Rapporteur is required to primarily monitor and evaluate the actions taken by the state to combat trafficking in human beings, assist on national legislation development, and improve the human rights protection system relevant to trafficking in human beings. Additionally, the Group of Experts on Action against Trafficking in Human Beings (hereinafter – GRETA), established by the Council of Europe, states that the National Rapporteur should also provide comprehensive recommendations in addition to monitoring and

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<sup>8</sup> Neil Boister. *An Introduction to Transnational Criminal Law*. Oxford: Oxford University Press, 2018, p. 62.

<sup>9</sup> The Hague Ministerial Declaration on European guidelines for effective measures to prevent and combat trafficking in women for the purpose of sexual exploitation (Ministerial Conference under the Presidency of the European Union, the Hague, 24-26 April, 1997). Available at: [https://www.osservatoriointerventitratta.it/wp-content/uploads/2018/03/Hague\\_decl.pdf](https://www.osservatoriointerventitratta.it/wp-content/uploads/2018/03/Hague_decl.pdf), Art. III. 1.4.

<sup>10</sup> *Ibid.*, Directive 2011/36/EU (supra 7), Article 19.

<sup>11</sup> *Ibid.*, Council of Europe Convention on Action Against Trafficking in Human Beings (supra 6), Article 29.4.

assessing state measures. To ensure an unbiased evaluation of policy and legislative measures, the National Rapporteur should be structured as an independent body and maintain close partnerships with civil society, the research community, and other relevant institutions. By doing so, the National Rapporteur can aid in precise targeting and efficacy in creating and modifying measures to combat trafficking in human beings. The National Rapporteur can also assist in promoting current and widespread comprehension and acknowledgement of human rights responsibilities through its reports on trafficking in human beings.

Therefore, the aim of this thesis is to gain better understanding about the role of the National Rapporteur in order to understand how such a mechanism impacts the ability to combat and prevent trafficking in human beings, what is the seriousness of human rights violations due to trafficking in human beings, analyse the practical implementation of the National Rapporteur in the EU and lastly analyse the current situation in the Baltic States regarding this mechanism in order to draw conclusions regarding the National Rapporteur's role in the combating trafficking in human beings.

The first chapter is divided into three subchapters and analyses the theoretical aspects of international legal acts and other relevant documents on the foundation for the need to establish a National Rapporteur. Furthermore, it presents an analysis of the types of functions the National Rapporteur should have in terms of international legal acts, and assessments made in various reports or scholarly opinions and, lastly, examines what are the main human rights that are violated due to the crime of trafficking in human beings and in what way the violation is incurred.

The second chapter is divided in two subchapters that look at the practical experience of implementing the National Rapporteur or the equivalent mechanism, mainly analysing the establishment of an independent National Rapporteur in EU countries and, lastly, analysing the current road to the establishment of the independent National Rapporteur in all three Baltic States.

This thesis is seeking an answer to the following research question: what human rights would be strengthened by establishing an independent National Rapporteur in the Baltic States? According to the provided research question, the author is putting forward a hypothesis that the independent National Rapporteur improves the application of various human rights in order to fight the issue of trafficking in human beings.

Multiple legal research methods are used in this thesis. The doctrinal legal research method is used in order to analyse the international legal acts on the letter of the law rather than the law in action when looking at the recommendations for the need to establish the National Rapporteur. Literature review is also used in order to analyse various reports and scholarly articles that explore the main functions of a National Rapporteur, the ways that trafficking in human beings violates human rights and analyse the practical implementation of an independent National Rapporteur in various EU countries. Lastly, the case study method, particularly multiple-case study, is used in this thesis, since various EU countries have been analysed on their experience with an independent National Rapporteur. Additionally, a deeper analysis is conducted on all three Baltic States regarding the road to the implementation of an independent National Rapporteur.

In this thesis the author uses various types of sources in order to provide the answer for the research question, and to determine whether the hypothesis is proved correct. The main international legal acts that are used in this thesis are the Anti-Trafficking Convention and the EU Anti-Trafficking Directive. Additionally, the author uses the annually issued reports from the United States of America Department of State on Trafficking in Persons and the periodically issued reports from GRETA. In order to support the author's aim and the arguments made, various other sources are used such as books, scholarly articles, websites, statistics, and other relevant documents.

Lastly, the relevancy of the chosen topic lies in the vast problem that trafficking in human beings may occur to anyone, regardless of their gender, age, or country of origin. Due to this aspect, many mechanisms, policies and programs need to be established in order to combat and prevent trafficking in human beings. Furthermore, the recommendation for the need to establish the National Rapporteur has been expressed for more than two decades, and particularly as an independent mechanism in recent years, therefore the author in this thesis analysed the practical establishment of the National Rapporteur in the EU, particularly in the Baltic States through analysis of its functions and concluding if such a mechanism will help to eliminate human rights violations that are caused by trafficking in human beings.

Keywords: trafficking in human beings, National Rapporteur, human rights, the Baltic States.

## **1. The role of the National Rapporteur in combatting trafficking in human beings: Theory**

In this chapter, the author examines the evolution of the recommendation for a National Rapporteur at the national level in international documents, as referenced in legally binding documents and political commitments. The author also analyses the various functions that the National Rapporteur serves in accordance with international regulations and scholarly opinions. Finally, in the last subchapter, the author explores the human rights aspect of the issue, including how the act of trafficking in human beings violates human rights and how the National Rapporteur can contribute to improving the situation.

### **1.1. Legal basis: National Rapporteur in international regulations**

The need to implement the National Rapporteur has been expressed as a recommendation at the international level for more than 25 years, first being mentioned in the Hague Declaration of 26 April 1997. The Hague Declaration of 26 April 1997 was adopted following the EU Ministerial Conference that was held on the initiative of the Dutch Presidency to the EU on the question of trafficking women for sexual exploitation. Representatives from EU Member States came together to discuss the matter at hand, however, representatives from EU candidate countries, such as all three of the Baltic States, were in an observer role.<sup>12</sup> The Hague Declaration of 26 April 1997 laid down multiple recommendations about cooperation at European and international levels concerning prevention, investigation, prosecution, assistance and support regarding trafficking in human beings<sup>13</sup>, as well as about the actions that needs to be taken at the national level in the above-mentioned fields. In addition, the latter recommendations laid down the need for the National Rapporteurs in EU Member States in the field of prevention. It was recommended that the National Rapporteurs:

“Provide or explore the possibilities for the appointment of national rapporteurs, who report to Governments on the scale, the prevention and combating of trafficking in women.

Develop criteria for reporting on the scale, nature and mechanisms of trafficking in women and the effectiveness of policies and measures concerning this phenomena.

Encourage the cooperation of national rapporteurs on a regular basis.”<sup>14</sup>

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<sup>12</sup> *Ibid.*, The Hague Declaration of 26 April 1997 (supra 9), Article I.

<sup>13</sup> *Ibid.*, The Hague Declaration of 26 April 1997 (supra 9), Article II.

<sup>14</sup> *Ibid.*, The Hague Declaration of 26 April 1997 (supra 9), Article III. 1.4.

Therefore, by recommending these specific actions for EU Member States and the observers present at the Ministerial Conference, the Hague Declaration of 26 April 1997 established a new reporting mechanism regarding trafficking in human beings: the office of National Rapporteur.<sup>15</sup>

Following up, five years after the first recommendation, the Council of Europe Parliamentary Assembly in January 2002, similarly to the previously mentioned declaration, with Article 10 of Recommendation 1545 (2002) “Campaign against trafficking in women”, urged the governments of Member States:

[...] to appoint a national rapporteur on trafficking in human beings in each country affected by this problem. The office of the rapporteur should elaborate and implement the national plan of action against trafficking taking into account the specificities of the situation in each country [...].<sup>16</sup>

The Council of Europe Recommendation 1545 additionally urged Member States to implement the further mentioned actions, that in the view of the author are highly linked with the need to implement the National Rapporteur:

[...] to draw up annual reports to their parliaments on the situation in their countries and on their activities designed to prevent trafficking in women;  
to encourage national and international research into the problem of trafficking in women in order to better understand and fight this phenomenon [...].<sup>17</sup>

The next recommendation was expressed later that year in November in the Brussels Declaration on Preventing and Combating Trafficking in Human Beings that was initiated in Brussels at the European Conference on Preventing and Combatting Trafficking in Human Beings – Global Challenge for the 21<sup>st</sup> Century – from the 18<sup>th</sup> to the 20<sup>th</sup> of September 2002. In the Declaration, various recommendations, best practices and standards were made in the field of co-operation and co-ordination mechanisms, prevention measures, victim protection and assistance to victims, police and judicial cooperation.<sup>18</sup> In the field of mechanisms for co-

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<sup>15</sup> Mohamed Y. Mattar. "Comparative Models of Reporting Mechanisms on the Status of Trafficking in Human Beings" *Vanderbilt Journal of Transnational Law* Vol. 41, January 2008. Available at: [https://www.researchgate.net/publication/265425186\\_Comparative\\_Models\\_of\\_Reporting\\_Mechanisms\\_on\\_the\\_Status\\_of\\_Trafficking\\_in\\_Human\\_Beings](https://www.researchgate.net/publication/265425186_Comparative_Models_of_Reporting_Mechanisms_on_the_Status_of_Trafficking_in_Human_Beings), p. 6.

<sup>16</sup> Parliamentary Assembly of the Council of Europe. Recommendation 1545 (2002) Campaign against trafficking in women, 21 January 2002. Available at: <https://pace.coe.int/en/files/16965/html>, Article 10.

<sup>17</sup> *Ibid.*

<sup>18</sup> European Union. Brussels Declaration on Preventing and Combating Trafficking in Human Beings, 29 November 2002, 14981/02. Available at: <https://www.refworld.org/docid/4693ac222.html>, Article 2.

operation and co-ordination under section 2, which was aimed at the European Experts Group and national structures, the below-mentioned recommendation regarding National Rapporteurs was made:

“[...] At national level, a systematic mechanism, such as the appointment of National Rapporteur and/or regular multi-disciplinary group meetings, would support a regular evaluation, monitoring and further improvement in the implementation of national policies. Links between such mechanisms should be established at European level, in close co-operation with the EU institutions, EUROPOL, the European Judicial Network, EUROJUST, and CEPOL.”<sup>19</sup>

The recommendations that were adopted in this Declaration were made by more than 1000 representatives from various international and national sectors, for example, from EU Member States, candidate countries, neighbouring countries, institutions of the EU, international organisations and non-governmental organisations.<sup>20</sup>

Furthermore, the Council of the European Union adopted Council Resolution of 20 October 2003 on initiatives to combat trafficking in human beings, in particular women, which made a recalling note of the Hague Declaration of 26 April 1997 to take into account the recommendation for the EU Member States to appoint a National Rapporteur on trafficking in women.<sup>21</sup> In addition, the Resolution invited the European Commission and the EU Member States to take into consideration three recommendations, one of them being:

“[...] promote measures to set up a monitoring system on trafficking in human beings in order to provide updated data through the continuous and regular collection of information from the competent National Authorities such as National Bureaux and National Rapporteurs [...]”.<sup>22</sup>

Immediately following, in December of 2003, the Ministerial Council of the Organization for Security and Co-operation in Europe (hereinafter – OSCE) endorsed the OSCE Action Plan to combat trafficking in human beings. This action plan was meant as a toolkit for OSCE participating states for implementing the needed actions to fight against trafficking in human beings, as well as providing a mechanism that would co-operate with National Rapporteurs in

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<sup>19</sup> *Ibid.*

<sup>20</sup> *Ibid.*, Preamble.

<sup>21</sup> Council of the European Union. Council Resolution of 20 October 2003 on initiatives to combat trafficking in human beings, in particular women (2003/C 260/03). Available at: <https://eur-lex.europa.eu/legal-content/LV/TXT/?uri=CELEX%3A32003G1029%2802%29>.

<sup>22</sup> *Ibid.*

participating states.<sup>23</sup> In addition, Section VI of the action plan, “Follow-up and co-ordinating mechanisms”, reference the recommendation for a National Rapporteur at the national level in the following way:

[...] 1. To consider appointing National Rapporteurs or other mechanisms for monitoring the anti-trafficking activities of State institutions and the implementation of national legislation requirements; [...]<sup>24</sup>

Furthermore, continuing on the road for the recommendation for a National Rapporteur at an international level, an international document regarding preventing and combatting trafficking in human beings was adopted – the Anti-Trafficking Convention, which entered into force on 1 February 2008. The Anti-Trafficking Convention’s main focus is on the perspective of human rights as well as on victim protection.<sup>25</sup> The recommendation for a National Rapporteur or a similar mechanism is seen in two points of Article 29 of the Anti-Trafficking Convention, “Specialised authorities and co-ordinating bodies”. Firstly, point 2 lays down: “Each Party shall adopt such measures as may be necessary to ensure co-ordination of the policies and actions of their governments’ departments and other public agencies against trafficking in human beings, where appropriate, through setting up co-ordinating bodies.”<sup>26</sup> Secondly, point 4 lays down: “Each Party shall consider appointing National Rapporteurs or other mechanisms for monitoring the anti-trafficking activities of State institutions and the implementation of national legislation requirements.”<sup>27</sup> It should be noted that this was the first legally binding document that recommended the establishment of the National Rapporteur on a global level, since every country has the possibility of joining the Anti-Trafficking Convention. The Anti-Trafficking Convention’s key benefit is its emphasis on protecting victims and its human rights approach. Additionally, the Anti-Trafficking Convention offers another significant advantage through its monitoring system, which comprises two main components: GRETA and the Committee of the Parties. This system oversees the fulfilment of the Anti-Trafficking Convention’s obligations.<sup>28</sup> The author suggests that the establishment of the National Rapporteur would result in a stronger human rights approach towards victims of trafficking in human beings, ultimately leading to their better protection since the main aim of the Anti-Trafficking Convention is exactly that. It

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<sup>23</sup> Organization for Security and Co-operation in Europe, Ministerial Council, Maastricht 2003, Decision No. 2/03 Combating Trafficking in Human Beings, 2 December 2003. Available at: <https://www.osce.org/odihr/23866>, Preamble, point (H).

<sup>24</sup> *Ibid.*, Annex, Section VI., 1.

<sup>25</sup> Council of Europe. *About the Convention*. Available at: <https://www.coe.int/en/web/anti-human-trafficking/about-the-convention>.

<sup>26</sup> *Ibid.*, Council of Europe Convention on Action Against Trafficking in Human Beings (supra 6), Article 29.2.

<sup>27</sup> *Ibid.*, Council of Europe Convention on Action Against Trafficking in Human Beings (supra 6), Article 29.4.

<sup>28</sup> *Ibid.*, Council of Europe (supra 25).

should also be noted that, even though the Anti-Trafficking Convention is a legally binding act to its Parties, the wording of both Articles indicates that it is a recommendation to consider, which means that Parties are free to choose what to implement – the National Rapporteur or another mechanism for monitoring.

In 2009, after the recommendation for a National Rapporteur was made on a regional human rights treaty level, the Council of the European Union at the 2946<sup>th</sup> Justice and Home Affairs Council meeting in Luxembourg on 4<sup>th</sup> June adopted conclusions on establishing an informal network of National Rapporteurs on an EU level. The conclusions reference the key European documents that deal with the establishment of the National Rapporteur, one of them being The Hague Declaration of 26 April 1997.<sup>29</sup>

These conclusions outlined the creation of an informal and flexible EU network of National Rapporteurs or equivalent mechanisms to combat trafficking in human beings. The network aims to improve understanding of the issue and provide objective, reliable, and up-to-date information on the phenomenon of trafficking in human beings. The network is open to EU Member States and relevant international institutions, and serves as a forum for exchanging best practices, sharing experiences, and developing indicators and criteria for improved consistency and comparability of information. Each Member State is invited to designate a National Rapporteur to participate in the activities of the network, while respecting applicable rules on the protection of personal data. The Commission is invited to support the network and report on its progress, while the Presidency is responsible for coordinating and chairing the meetings of the network.<sup>30</sup> It should be noted that this document also does not legally obligate countries to establish the National Rapporteur, nor does it define its mandatory functions. Like the Anti-Trafficking Convention, this document expresses the need for the National Rapporteur as a recommendation.

Continuing on the road for the need for a National Rapporteur on a legally binding level, the Council of the European Union issued a Proposal for a Council Framework Decision on preventing and combating trafficking in human beings, and protecting victims, repealing Framework Decision 2002/629/JHA {SEC(2009) 358} {SEC(2009) 359}, in which the need

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<sup>29</sup> Council of the European Union. Council conclusions on establishing an informal EU Network of National Rapporteurs or Equivalent Mechanisms on Trafficking in Human Beings. 2946<sup>th</sup> JUSTICE and HOME AFFAIRS Council meeting Luxembourg, 4 June 2009. Available at: [https://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/jha/108312.pdf](https://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/jha/108312.pdf), Preamble.

<sup>30</sup> *Ibid.*, Point 1-7.

for a National Rapporteur was mentioned three times. Firstly, the establishment of a National Rapporteur or equivalent mechanisms is recommended in the section on legal elements of the proposal. Secondly, when expressing the opinions from the Treaty of the European Union, the European Commission and the European Parliament, the Proposal refers to the need of a National Rapporteur in the following way:

“National monitoring systems such as National Rapporteurs or equivalent mechanisms should be established in order to collect data and carry out assessments on trafficking in human beings trends, measure the results of anti-trafficking policy, and give advice to governments and parliaments on the development of action against trafficking in human beings. Such mechanisms and measures are essential in order to establish effective anti-trafficking policy.”<sup>31</sup>

Thirdly, the National Rapporteur is mentioned in Article 13 under the section “Monitoring”:

“Member States shall take the necessary measures to establish National Rapporteurs or other equivalent mechanisms. The tasks of such mechanisms shall include, at a minimum, monitoring of the implementation of the measures envisaged in this Framework Decision.”<sup>32</sup>

A few years after the above-mentioned Proposal, a legally binding act on the EU level was adopted – the EU Anti-Trafficking Directive.<sup>33</sup> The EU-Anti-Trafficking Directive is considered as one of the key documents regarding the recommendation on implementing a National Rapporteur in the EU.<sup>34</sup> The EU-Anti Trafficking Directive, in its preamble, made a reference to the 2946<sup>th</sup> Justice and Home Affairs Council meeting’s conclusions about the functions of the National Rapporteur<sup>35</sup>, therefore, the EU-Anti Trafficking Directive mentions the need for a National Rapporteur in Article 19, “National rapporteurs or equivalent mechanisms”:

“Member States shall take the necessary measures to establish national rapporteurs or equivalent mechanisms. The tasks of such mechanisms shall include the carrying out of assessments of trends in trafficking in human beings, the measuring of results of

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<sup>31</sup> Commission of the European Communities. Proposal for a Council Framework Decision on preventing and combating trafficking in human beings, and protecting victims, repealing Framework Decision 2002/629/JHA {SEC(2009) 358} {SEC(2009) 359}. 25 March 2009. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52009PC0136>, Preamble.

<sup>32</sup> *Ibid.*, Article 13.

<sup>33</sup> *Ibid.*, Directive 2011/36/EU (supra 7), Preamble.

<sup>34</sup> European Commission Migration and Home Affairs. *EU Network of National Rapporteurs or Equivalent Mechanisms on Trafficking in Human Beings*. Available at: [https://home-affairs.ec.europa.eu/policies/internal-security/organised-crime-and-human-trafficking/together-against-trafficking-human-beings/intensifying-coordinated-response\\_en#paragraph\\_3043](https://home-affairs.ec.europa.eu/policies/internal-security/organised-crime-and-human-trafficking/together-against-trafficking-human-beings/intensifying-coordinated-response_en#paragraph_3043).

<sup>35</sup> *Ibid.*, Directive 2011/36/EU (supra 7), Preamble.

anti-trafficking actions, including the gathering of statistics in close cooperation with relevant civil society organisations active in this field, and reporting.”<sup>36</sup>

It should be noted that the EU Anti-Trafficking Directive also does not place an obligation on establishing the National Rapporteur. A directive, even though it is a legislative measure that establishes a common objective for all EU Member States to achieve, also means that each country is responsible for creating its own regulations and strategies to meet these objectives.<sup>37</sup> Since countries are free to create their own regulations and according to the wording of Article 19 of the EU Anti-Trafficking Convention, it can be understood that countries can choose between the National Rapporteur and an equivalent mechanism, which, in the author’s thoughts, is a vague term and essentially could mean that any mechanism that fulfils the functions mentioned in this Article can be regarded as an equivalent mechanism.

It should be noted that the National Rapporteur in its functions can be regarded as a co-operational and co-ordinating mechanism, and the need for such a mechanism has been expressed in more legally binding documents than this thesis has incorporated. For example, it is mentioned in Article 2 and Article 9 of the Palermo Protocol<sup>38</sup> and also in other politically important documents, such as the commentary of United Nations High Commissioner for Human Rights, “Recommended Principles and Guidelines on Human Rights and Human Trafficking”<sup>39</sup>. Since there are multiple ways to define the need for a National Rapporteur, it can be seen that some documents use the phrase “National Rapporteurs or equivalent mechanisms”, and some documents just use the latter part. As a result of the above-mentioned, the author analysed the legal provisions and other important documents that used the term “National Rapporteur”.

All the international documents mentioned above build upon a foundation for the need of a National Rapporteur, which was first introduced by The Hague Declaration of 26 April 1997 over 25 years ago. Originally, this recommendation was focused on trafficking in women at a regional level, but it has since evolved into a legally binding act for EU Member States, urging the establishment of National Rapporteurs for trafficking in human beings. In the following

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<sup>36</sup> *Ibid.*, Directive 2011/36/EU (supra 7), Article 19.

<sup>37</sup> European Union. *Types of legislation*. Available at: [https://european-union.europa.eu/institutions-law-budget/law/types-legislation\\_en](https://european-union.europa.eu/institutions-law-budget/law/types-legislation_en).

<sup>38</sup> *Ibid.*, United Nations Office on Drugs and Crime (supra 5), Article 2 and Article 9.

<sup>39</sup> Office of the United Nations High Commissioner for Human Rights. *Recommended Principles and Guidelines on Human Rights and Human Trafficking Commentary*. New York and Geneva, 2010. Available at: [https://www.ohchr.org/sites/default/files/Documents/Publications/Commentary\\_Human\\_Trafficking\\_en.pdf](https://www.ohchr.org/sites/default/files/Documents/Publications/Commentary_Human_Trafficking_en.pdf).

section, the author will interpret the above-mentioned recommendations and examine scholarly opinions on the role of National Rapporteurs. This analysis will identify the functions such a mechanism should have and assess its impact on human rights.

## **1.2. Functions: tasks of National Rapporteur in general**

Once the need for the National Rapporteur has been established by reviewing international regulations and other documents, it is crucial to examine and comprehend the various functions and responsibilities that this position entails. By looking at the documents mentioned in the previous sub-chapter, the author proposes to group the primary functions into four categories – reporting and monitoring, systematic data collection, policy and legislative development, and cooperation.

Monitoring and reporting are one of the main functions of the National Rapporteur as stated in every single document mentioned in the previous subchapter. While monitoring and reporting are two distinct functions, they go hand in hand and can be grouped together when analysing the National Rapporteur functions. However, to better understand the full functions of the National Rapporteur, the author will characterize reporting and monitoring as separate entities as both cover distinct objectives.

According to the Hague Declaration of 26 April 1997, the Council of Europe Recommendation 1545, the Proposal for a Council Framework Decision on preventing and combating trafficking in human beings, and protecting victims, repealing Framework Decision 2002/629/JHA {SEC(2009) 358} {SEC(2009) 359} and the EU Anti-Trafficking Directive, the National Rapporteur should provide frequent updates to their country's government and prepare yearly reports. According to the OSCE, the reports provided by the National Rapporteurs should assess anti-trafficking efforts with regard to the promotion of human rights and children's rights, as well as gender sensitivity and victim-centred approaches. The National Rapporteur should also provide comprehensive qualitative analysis in order to properly understand the complex nature of trafficking in human beings. Furthermore, the OSCE recommends that the qualitative analysis conducted by the National Rapporteurs should go beyond just quantitative statistical data, and should incorporate how the crime of trafficking in human beings affects various aspects of both private and public life, including elements such as the social context of

perpetrators and victims, what methods are used by criminals, and how trafficking in human beings affects economy, governance, and society in a particular country.<sup>40</sup>

Additionally, according to the OSCE, these detailed reports should be applied to evaluate, modify and adjust the focus on the impact of current national anti-trafficking policies and practices. The information provided in the reports can also play a crucial role in improving the effectiveness of future legislation, policies, and activities. Furthermore, the reports can facilitate the harmonization of approaches at national and local levels and aid in raising awareness of the issue among decision-makers, lawmakers, and the general public. The OSCE considers that National Coordinators and other similar roles can achieve greater effectiveness in their work if they rely on the well-founded analysis of trafficking in human beings provided by the National Rapporteur. The OSCE also notes that regular and direct reporting to Parliament by the National Rapporteur is one of the favourable practices present in several OSCE participating States.<sup>41</sup>

Monitoring as a function of the National Rapporteur is necessary to provide detailed reports, that is, to ensure the function of the reporting. Monitoring is a necessary function for the National Rapporteur in order to observe the progress of implementation of national policies regarding trafficking in human beings<sup>42</sup>, and other anti-trafficking activities of government institutions.<sup>43</sup> In addition, monitoring is necessary to follow the progress of the measures taken to safeguard and aid individuals, which includes recognizing those who have been trafficked or are at risk of being trafficked, as well as the systems in place for referring them to the appropriate national authorities for asylum.<sup>44</sup> At the same time, the monitoring aspect is important in order to regularly collect information from competent national authorities to ensure that up-to-date data is available at all times.<sup>45</sup>

Having said that, another important function of the National Rapporteur, which builds on the important elements of the reporting and monitoring function, arises and that is – systematic data collection. The importance of having a formalized approach to gathering and analysing data is widely acknowledged. The OSCE and other authoritative entities have noted that there is a

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<sup>40</sup> Organization for Social and Co-operation in Europe. *Issue Brief - The role of independent National Rapporteurs or equivalent mechanisms in enhancing States' anti-trafficking responses*. 10 November 2021. Available at: <https://www.osce.org/cthb/503920>, p. 3.

<sup>41</sup> *Ibid.*

<sup>42</sup> *Ibid.*, Parliamentary Assembly of the Council of Europe (supra 16).

<sup>43</sup> *Ibid.*, Council of Europe Convention on Action Against Trafficking in Human Beings (supra 6), Article 29.2.

<sup>44</sup> United Nations High Commissioner for Refugees the UN Refugee Agency, Comments on the proposal for a Directive of the European Parliament and of the Council on preventing and combating trafficking in human beings, and protecting victims (COM(2010)95, 29 March 2010). Available at: <https://www.refworld.org/pdfid/4c0fa7092.pdf>, p. 9.

<sup>45</sup> *Ibid.*, Council of the European Union (supra 21).

general absence of consistent or high-quality research, documentation, and analysis on trafficking in human beings. As well, many countries have emphasised repeatedly that this deficiency of dependable data and research poses an ongoing obstacle in the fight against trafficking in human beings.<sup>46</sup> This could be due to the fact that comparing data can be challenging: the institutions involved in the field of trafficking in human beings use various techniques to collect the data and the legal systems of the countries differ, which leads to discrepancies.<sup>47</sup>

Therefore, in order for the systematic data collection function to be successful, the National Rapporteur should have enough power to demand and obtain extensive information and data, including details on specific cases, from all relevant sources that work with the issue of trafficking of human beings in a particular country, while respecting privacy, confidentiality, and other measures to protect personal data.<sup>48</sup> The National Rapporteurs should consistently gather data through statistical analysis and research to supply dependable information on the efficiency of interventions and the measures taken to safeguard victims and to ensure their rights are upheld.<sup>49</sup>

The efficiency of the National Rapporteur is linked to the institution's capability to acquire complete access to the data that is required to endorse its recommendations. Having incomplete data poses a challenge to the credibility and accuracy of the recommendations.<sup>50</sup> Acquiring complete data should be achieved through interactions with government agencies, the judiciary, civil society, and academic institutions, including any research centres. The involvement of non-governmental organisations (hereinafter – NGOs) and other civil society members should be facilitated and encouraged in the work of National Rapporteurs.<sup>51</sup> By bringing together the existing data from the above-mentioned institutions, the National Rapporteurs should recognise

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<sup>46</sup> OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings. *Efforts to Combat Trafficking in Human Beings in the OSCE Area: Co-ordination and Reporting Mechanisms. 2008 Annual Report of the OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings presented at the Permanent Council Meeting, 13 November 2008.* Available at: <https://www.osce.org/files/f/documents/2/0/36159.pdf>, p. 57.

<sup>47</sup> European Commission. *Report of the Experts Group on Trafficking in Human Beings (Brussels, 22 December 2004).* Available at: <https://documentation.lastradainternational.org/lisidocs/49%20Report%20of%20the%20Experts%20Group%20on%20Trafficking%20in%20Human%20Beings.pdf>, p. 77.

<sup>48</sup> *Ibid.*, Organization for Social and Co-operation in Europe (supra 40).

<sup>49</sup> Deutsches Institut für Menschenrechte. *Concept of a National Rapporteur Mechanism on trafficking in human beings.* Available at: [https://www.institut-fuer-menschenrechte.de/fileadmin/Redaktion/Publikationen/Weitere\\_Publikationen/Concept\\_for\\_a\\_National\\_Rapporteur\\_Mechanism\\_on\\_trafficking\\_in\\_human.pdf](https://www.institut-fuer-menschenrechte.de/fileadmin/Redaktion/Publikationen/Weitere_Publikationen/Concept_for_a_National_Rapporteur_Mechanism_on_trafficking_in_human.pdf), p. 2.

<sup>50</sup> *Ibid.*, OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings (supra 46), p. 66.

<sup>51</sup> *Ibid.*, Organization for Security and Co-operation in Europe (supra 40).

any deficiencies, gaps and obstacles and therefore suggest positive actions and strategies in order to make the information full and truthful.<sup>52</sup>

Another important function of the National Rapporteur is policy and legislative development. The need for such a function has been stated in international documents, such as the Council of Europe Recommendation 1545, the Brussels Declaration on Preventing and Combating Trafficking in Human Beings, the OSCE Action Plan to combat trafficking in human beings 2003, the Anti-Trafficking Convention and the Proposal for a Council Framework Decision on preventing and combating trafficking in human beings, and protecting victims, repealing Framework Decision 2002/629/JHA {SEC(2009) 358} {SEC(2009) 359}.

The presence of the National Rapporteur can enhance comprehension of the different forms of trafficking in human beings within a particular country. They can have a mandate to assess the effectiveness of government policies and actions against trafficking in human beings, including both their positive impacts and any unintentional negative consequences. Additionally, they can provide actionable recommendations for improving policies and practices related to combatting all types of trafficking and to supporting victims.<sup>53</sup> To develop national action plans and policies related to trafficking in human beings, it is essential to use the data collected systematically from all relevant institutions in this field. By doing so, national governments would be able to implement the national action plans and policies effectively.<sup>54</sup> However, it is also crucial to acknowledge the negative outcomes that result from the absence of a well-organized approach to gathering and analysing information related to trafficking in human beings. Without such an approach, policymakers and practitioners will rely on incomplete, fragmented, and sometimes disputed information to make decisions. As a result, policies, operational models, projects, and programs will be established based on longstanding assumptions and unreliable information, rather than thorough analysis and empirical evidence. This ongoing failure to systematically collect and analyse reliable data will weaken the effectiveness of efforts to combat trafficking in human beings and jeopardize the investment of funds and human resources.<sup>55</sup> Therefore, it can be concluded that, in order for the National Rapporteur to function effectively, all of its primary functions must operate in conjunction with one another to ensure cohesion and maximum efficiency.

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<sup>52</sup> *Ibid.*, European Commission (supra 47).

<sup>53</sup> *Ibid.*, Organization for Security and Co-operation in Europe (supra 40), p. 2.

<sup>54</sup> *Ibid.*, European Commission (supra 47).

<sup>55</sup> *Ibid.*, Organization for Security and Co-operation in Europe (supra 40), p. 2.

Last but not least, one of the main functions for the National Rapporteur is cooperation. Regarding international documents, the collaboration between all National Rapporteurs should be regularly promoted.<sup>56</sup> This cooperation should also be established at the European level, by collaborating with EU institutions and EU agencies such as EUROPOL, the European Judicial Network, the European Union Agency for Criminal Justice Cooperation, the European Union Agency for Law Enforcement Training<sup>57</sup>, OSCE, the United Nations Office on Drugs and Crime, the International Organization for Migration, the International Labour Organization and the United Nations Special Rapporteur on trafficking in persons, particularly of women and children.<sup>58</sup> In addition, the EU Anti-Trafficking Directive recommends that the National Rapporteur establish a strong collaboration with civil society organisations that are actively involved in this area.<sup>59</sup>

It is recommended that the National Rapporteur cooperate with various organisations and institutions at the national level to form a complete understanding of the scope and nature of trafficking in human beings. It is also recommended that National Rapporteurs collaborate with a broad network of partners working in the field of trafficking in human beings, and meet regularly to enhance the collection of comprehensive data at the national level and to enable information exchange at the regional and international levels.<sup>60</sup> In order to promote further cooperation and address the problem of trafficking in human beings across borders, National Rapporteurs should share their successful strategies and analyse the latest trends and findings with relevant international organisations such as the Office of the OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings, the EU Anti-Trafficking Coordinator and the UN Special Rapporteurs that are working in the field of trafficking in human beings. The aim of this type of cooperation is to gather and analyse data at regional and international levels and facilitate cross-border responses to mutual challenges and patterns of trafficking in human beings.<sup>61</sup>

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<sup>56</sup> *Ibid.*, The Hague Declaration of 26 April 1997 (supra 9), Article I.

<sup>57</sup> *Ibid.*, European Union (supra 18).

<sup>58</sup> *Ibid.*, Council of the European Union (supra 29).

<sup>59</sup> *Ibid.*, Directive 2011/36/EU (supra 7), Article 19.

<sup>60</sup> Gert Vermeulen, Fleur Dhont, Arne Dormaels. *European Data Collection on Sexual Offences Against Minors*. Antwerpen-Apeldoorn: Maklu, 2001. Available at:

<https://books.google.lv/books?id=nuhzhAz0Z6kC&pg=PA88&lpg=PA88&dq=the%2BHague%2BMinisterial%2BDeclaration%2Bof%2B26%2BApril%2B1997%2Bon%2BEuropean%2BGuidelines%2Bfor%2Beffective%2Bmeasures%2Bto%2Bprevent%2BAnd%2BCombat%2BTrafficking%2Bin%2BWomen%2Bfor%2Bthe%2Bpurpose%2Bof%2Bsexual%2Bexploitation&source=bl&ots=m00O-Q2MTs&sig=ACfU3U249umkflznDbroz2MHXsvdVnqk4w&hl=lv&sa=X&pli=1#v=onepage&q=the%2BHague%2BMinisterial%2BDeclaration%2Bof%2B26%2BApril%2B1997%2Bon%2BEuropean%2BGuidelines%2Bfor%2Beffective%2Bmeasures%2Bto%2Bprevent%2BAnd%2BCombat%2BTrafficking%2Bin%2BWomen%2Bfor%2Bthe%2Bpurpose%2Bof%2Bsexual%2Bexploitation&f=false>, pp. 88-89.

<sup>61</sup> *Ibid.*, Organization for Security and Co-operation in Europe (supra 40).

While there is no standard model of how the National Rapporteur should function, the OSCE advises to prioritise setting up a National Rapporteur that operates independently. Doing so enables the country to improve its anti-trafficking activities by monitoring and evaluating policies and actions at all levels, providing impartial viewpoints on difficult issues for both legislative and executive branches to consider, collaborating with other stakeholders on an equitable basis, and fostering international cooperation to build on mutual commitments and best practices. The effectiveness of the National Rapporteur is mainly dependent on the institution's independent nature. If countries choose to assign monitoring duties to a non-independent National Rapporteur, it is important to scrutinize these models in cooperation with civil society stakeholders. This will help determine the advantages and disadvantages of such an approach in terms of contributing to the country's anti-trafficking objectives. According to practices in some of the OSCE participating countries, appointing a National Rapporteur within the parliamentary human rights ombudsperson's office or an accredited national human rights institution may be a cost-efficient and well-balanced solution, especially when a National Anti-Trafficking Coordinator is established within the executive branch.<sup>62</sup>

Additionally, GRETA recommends for the establishment of an independent National Rapporteur, as the functions of such a mechanism should include the ability to critically oversee all state institutions, including national coordinators, and maintain ongoing communication with civil society, researchers, and other relevant groups. GRETA notes that the Anti-Trafficking Convention's focus and human rights-based approaches to combat trafficking in human beings necessitates proper monitoring and assessment. By separating monitoring and executive functions, an impartial evaluation of the implementation of anti-trafficking laws, policies, and actions can take place, which can identify gaps and weaknesses and lead to comprehensive legal and policy recommendations.<sup>63</sup>

Furthermore, during the Consultative Meeting on Strengthening Partnerships with National Rapporteurs on Trafficking in Persons and Equivalent Mechanisms it was addressed that independence is crucial for National Rapporteurs to objectively assess the implementation of anti-human trafficking laws, strategies, and actions, identify shortcomings, and provide

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<sup>62</sup> *Ibid.*, Organization for Security and Co-operation in Europe (supra 40), p. 2.

<sup>63</sup> Council of Europe. GRETA Group of Experts on Action against Trafficking in Human Beings. *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Lithuania. Second evaluation round. GRETA(2019)08*. 21 June 2019. Available at: <https://rm.coe.int/greta-2019-08-fgr-lithuania-en/1680950076>, p. 8.

comprehensive legal and policy recommendations. Consequently, independence enhances the credibility and authority of the National Rapporteur's activities.<sup>64</sup>

Nevertheless, it is important to ensure that the National Rapporteur is not responsible for executive, operational, or policy coordination responsibilities. To ensure maximum access to all relevant agencies and information sources, there should be a clear separation between the mandate to data collection, the coordinating function at the national operational level, and assisting at the policy-making level.<sup>65</sup> Moreover, it is suggested that the National Rapporteur should have sufficient resources, including financial and human resources, to carry out their mandated activities effectively.<sup>66</sup>

The importance of having an established National Rapporteur is evident. It helps to enhance knowledge and comprehension of the different forms of trafficking in human beings across participating countries, evaluates the impact of government policies and measures against trafficking and in support of its victims, and provides practical recommendations to improve policies and practices that address all forms of trafficking in human beings, while considering the positive and negative outcomes. In brief, the National Rapporteur is considered to be a crucial approach to enhance the efficiency of anti-trafficking policies and practices, based on reliable analysis and empirical evidence.<sup>67</sup>

Each of the functions of the National Rapporteur mentioned above has the potential to enhance the implementation of human rights that are infringed upon by trafficking in human beings. Firstly, it can be seen that the tasks that arise from the reporting and monitoring functions are generally responsible for evaluating and observing whether the actions taken by national institutions and organisations comply with human rights standards, when implementing anti-trafficking activities and protecting the victims of trafficking by reporting on any violations or abuses as they arise, which can then help to bring attention to human rights issues in a particular country.

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<sup>64</sup> Office of the High Commissioner for Human Rights. Mandate of the Special Rapporteur on trafficking in persons, especially women and children. *Summary report: Consultative Meeting on Strengthening Partnerships with National Rapporteurs on Trafficking in Persons and Equivalent Mechanisms*. Berlin, 23-24 May 2013. Available at:

<https://www.ohchr.org/sites/default/files/Documents/Issues/Trafficking/Consultation/2013/SummaryReport-BerlinconsultationofNREMs.pdf>, p. 5.

<sup>65</sup> *Ibid.*, European Commission (supra 47).

<sup>66</sup> *Ibid.*, Organization for Security and Co-operation in Europe (supra 40).

<sup>67</sup> *Ibid.*, OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings (supra 46).

Secondly, systematic data collection on the statistics of trafficking in human beings, patterns, trends, and the overall situation can be used to raise public awareness about the various forms of trafficking in human beings and the gravity of its consequences.

Thirdly, by reporting, monitoring, and assessing the data collected on the issue of trafficking in human beings, the National Rapporteur also has a role in policy development, which means that the National Rapporteur can provide recommendations and suggestions for the government, NGOs or other relevant institutions on how to promote and protect human rights through anti-trafficking activities. In addition, in the author's thoughts, these recommendations and suggestions can even include actions such as increasing funding for anti-trafficking activities or creating more effective protection and assistance programs for trafficking victims.

Fourthly, from the cooperation function, it can be understood that collaborating with all the mentioned institutions and agencies on the national and international level can lead to better coordinated efforts when sharing information and best practices on combatting trafficking in human beings, which in turn can help to advocate for the protection of human rights on a global level.

Overall, it can be seen that the functions of the National Rapporteur are crucial in promoting and protecting human rights within a country. By reporting and monitoring, collecting systematic and up-to-date data, assisting on policy and legislative development, and collaborating with other institutions, the establishment of a National Rapporteur can help to ensure that human rights are protected, respected, and fulfilled for all people.

In the final sub-chapter of the first chapter on the theory aspect of the role of the National Rapporteur in the fight against trafficking in human beings, the author will analyse what kind of human rights are violated by trafficking in human beings in order to better understand how the National Rapporteur can improve the situation.

### **1.3. Fight against trafficking in human beings: legal basis and general considerations**

In order to comprehend the human rights violations associated with trafficking in human beings, it is crucial to examine the meaning of trafficking in human beings, its regulation in international regulations and the specific actions that are considered indicative of such trafficking.

The legal regulation for trafficking in human beings was only established relatively recently, starting in the late 1990s, when governments began differentiating it from other activities, such as helping people migrate illegally. The very first recognized definition of trafficking was included in the Palermo Protocol, which was later adopted into a number of other laws and policies at national and international levels.<sup>68</sup>

Nowadays, the most important legal basis for fighting against trafficking in human beings on a global level is included in three international documents, the ones already explored in the first sub-chapter to describe the importance of the establishment of a National Rapporteur – the EU Anti-Trafficking Directive, the Anti-Trafficking Convention and the Palermo Protocol. All of these documents contain more or less the same definitions and scope when establishing what is considered trafficking in human beings. Since the scope of this thesis is aimed at the EU level, the author analyses the legal basis for trafficking in human beings from the EU Anti-Trafficking Directive, which, in the context of EU legislative acts, is higher in hierarchy than the Anti-Trafficking Convention.

The EU Anti-Trafficking Directive consists of a preamble and twenty five Articles that mainly deal with the offenses concerning trafficking in human beings, the necessary penalties for such offenses, the liabilities and sanctions for legal persons, investigation, prosecution, and prevention, as well as assistance, support and protection for both adult and child victims of trafficking in human beings.<sup>69</sup> The most important article regarding the theme of this sub-chapter is Article 2, which lays down the types of offences that are considered to be trafficking in human beings. The following offenses should be punishable in EU Member States: the act of recruiting, transporting, transferring, harbouring, or receiving individuals through various means such as force, coercion, abduction, deception, abuse of power, or exploitation of a position of vulnerability, and exchanging or transferring control over them, with the intention of exploiting them, including the use of payments or benefits to obtain consent from a person in control of another.<sup>70</sup> Article 2 also explains what is meant by a position of vulnerability, which refers to a circumstance in which an individual is left with no visible or satisfactory choice but to endure the mistreatment that is being inflicted upon them.<sup>71</sup> Exploitation includes,

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<sup>68</sup> United Nations Human Rights Office of the High Commissioner. Human Rights and Human Trafficking Fact Sheet No. 36. New York and Geneva, 2014. Available at:

[https://www.ohchr.org/sites/default/files/Documents/Publications/FS36\\_en.pdf](https://www.ohchr.org/sites/default/files/Documents/Publications/FS36_en.pdf), p. 2.

<sup>69</sup> *Ibid.*, Directive 2011/36/EU (supra 7), Preamble.

<sup>70</sup> *Ibid.*, Directive 2011/36/EU (supra 7), Article 2.1.

<sup>71</sup> *Ibid.*, Directive 2011/36/EU (supra 7), Article 2.2.

at a minimum, sexual exploitation, exploitation for forced labour or activities such as begging, servitude, slavery or activities similar to slavery, exploitation for criminal activities or exploitation for the purpose of removing the victim's organs.<sup>72</sup> The consent from the victims side is irrelevant if any of the means as listed above have been used to coerce the victim into trafficking.<sup>73</sup> And lastly, if a child, which means any person under 18 years old, is exploited in any one of the trafficking ways listed, it is automatically considered a criminal offence even if none of the means was used.<sup>74</sup>

As can be understood from the definition, three specific elements should be satisfied in order to consider a situation to be trafficking in human beings – the “acts”, the “means”, and the “purpose”. Apart from that, there are also a few other key elements that should be emphasised from the definition. The definition indicates that trafficking in human beings affects everybody regardless of their gender or age. In the “acts” element, the way of transportation is not specified, which therefore indicates that trafficking in human beings does not require international border crossing. This also means that transporting within a country counts as an “acts” element. Furthermore, the terms “receipt” and “harbouring” imply that trafficking is not only about bringing someone into a situation of exploitation, but also encompasses keeping them in that situation. The most important part of the definition is that a victim cannot consent to trafficking, as personal freedom is a fundamental right that cannot be surrendered. This principle is reflected in the “means” element of the trafficking in human beings definition, which recognizes that consent is irrelevant when personal freedom is deprived.<sup>75</sup>

It should be noted that the EU Anti-Trafficking Directive does not cover all the methods of trafficking in human beings, since it uses the term “at a minimum” when describing the types of trafficking. Aside from what is mentioned in Article 2 of the EU Anti-Trafficking Directive, trafficking in human beings also includes trafficking for forced marriages and trafficking for illegal adoption. Percentage-wise these ways of trafficking in human beings are less common, similarly to trafficking for removal of organs and trafficking for exploitative begging. The most common ways in affected countries are trafficking for forced criminal activity, trafficking for sexual exploitation, trafficking for forced labour or mixed forms of exploitation, meaning that more than one method of trafficking is used.<sup>76</sup>

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<sup>72</sup> *Ibid.*, Directive 2011/36/EU (supra 7), Article 2.3.

<sup>73</sup> *Ibid.*, Directive 2011/36/EU (supra 7), Article 2.4.

<sup>74</sup> *Ibid.*, Directive 2011/36/EU (supra 7), Article 2.5. and Article 2.6.

<sup>75</sup> *Ibid.*, United Nations Human Rights Office of the High Commissioner (supra 68), p. 3.

<sup>76</sup> *Ibid.*, United Nations Office on Drugs and Crime (supra 2), p. 23.

In order to understand the seriousness of trafficking in human beings, it is important to look at the statistics. The latest statistics in various forms and sections can be viewed in the 2022 Trafficking in Persons Report (hereinafter – TIP Report 2022), which is an annually issued report by the Department of State of the United States of America. It assesses extensively how countries worldwide are addressing the protection, prevention, and prosecution of trafficking in human beings and, using the information gathered, provides recommendations for governments that should be prioritised. The TIP Report 2022 provides estimated data on prosecution, conviction and identified victims gathered from all the affected countries' governments and other relevant sources. The data is approximate due to various reasons that have to do with the hidden nature of trafficking crimes, numerous global events, changes in governmental actions, and inconsistent reporting mechanisms. Since these yearly reports assesses the situation on trafficking in human beings over the period of the previous year, the latest statistics on victims of trafficking in human beings of the year 2021 shows that approximately 90 354 persons were identified as victims of trafficking in human beings. In comparison to so many victims identified, there were only 10 572 prosecutions that took place and even fewer convictions – 5260.<sup>77</sup>

As can be understood from the international regulations mentioned, trafficking in human beings is prohibited both at the EU and the international level. In addition, to that, in the last two decades, the international community has increasingly recognized trafficking in human beings as a significant breach of human rights. This consensus is not only reflected by the Council of Europe and European Parliament in the Anti-Trafficking Convention and the EU Anti-Trafficking Directive by preventing and fighting trafficking while also protecting its victims, but also by the United Nations General Assembly and the Human Rights Council, which have repeatedly stated that trafficking in human beings infringes on essential human rights.<sup>78</sup> Not only that, but various other international human rights mechanisms have also expressed this consensus in various international documents and legal regulations.

Human rights law establishes uniform principles that are relevant to every individual. While the methods employed to uphold these principles should be tailored to fit the local context, the

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<sup>77</sup> United States of America Department of State. *Trafficking in Persons Report July 2022*. Available at: <https://www.state.gov/wp-content/uploads/2022/10/20221020-2022-TIP-Report.pdf>, p. 62.

<sup>78</sup> *Ibid.*, Office of the United Nations High Commissioner for Human Rights (supra 39), p. 49.

universal applicability of these rights to all individuals, including victims of trafficking in human beings, is unquestionable.<sup>79</sup>

Human rights that are usually most relevant to trafficking in human beings are: the prohibition of discrimination on the basis of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status, the right to life, the right to liberty and security, the right not to be submitted to slavery, servitude, forced labour or bonded labour, the right not to be subjected to torture and/or cruel, inhuman, degrading treatment or punishment, the right to be free from gendered violence, the right to freedom of association, the right to freedom of movement, the right to the highest attainable standard of physical and mental health, the right to just and favourable conditions of work, the right to an adequate standard of living, the right to social security, the right of children to special protection<sup>80</sup>, the right of access to courts, to equality before the courts and to a fair trial and the right not to be sold, traded or promised in marriage.<sup>81</sup>

Various human rights come into play at different stages of the trafficking process. Certain rights are especially applicable to the causes of trafficking, such as the right to an adequate standard of living, while some rights are relevant to the actual trafficking process, such as the right not to be submitted to slavery. Still, other rights are applicable to the response to trafficking, such as the right to a fair trial. Several human rights are universally relevant to each of the stages.<sup>82</sup>

In the case of exploitation for forced labour, multiple violations of human rights can be detected. Under the typical situation of exploitation for forced labour, individuals are coerced to work through violence, fear, or other subtle methods like debt manipulation, holding onto identity papers, or threats of reporting the individual to immigration authorities. Exploitation for forced labour can happen to both adults and children, by private companies, individuals, or government authorities.<sup>83</sup> While exploitation for forced labour occurs in various economic sectors, it can be seen that in agriculture, construction, hospitality, manufacturing, fisheries and cleaning services mainly men are exploited. However, domestic and care work is an industry where women are more frequently exploited for forced labour, and it is difficult to identify, as it usually happens in private households where victims may experience a combination of labour and sexual

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<sup>79</sup> *Ibid.*, Office of the United Nations High Commissioner for Human Rights (supra 39), p. 49.

<sup>80</sup> *Ibid.*, United Nations Human Rights Office of the High Commissioner (supra 68), p. 4.

<sup>81</sup> *Ibid.*, United Nations Human Rights Office of the High Commissioner (supra 68), p. 52.

<sup>82</sup> *Ibid.*, United Nations Human Rights Office of the High Commissioner (supra 68), p. 5.

<sup>83</sup> International Labour Organization. *What is forced labour, modern slavery and human trafficking*. Available at: <https://www.ilo.org/global/topics/forced-labour/definition/lang--en/index.htm>.

exploitation, sometimes even through forced or fake marriages. Exploitation for forced labour happens both within the countries of origin or residence and across borders. In many countries, the informal economy and unemployment, coupled with a demand for low-cost labour and services, are factors that increase the risk of exploitation for forced labour. Nowadays, there is also a growing trend of recruitment through the internet, including social media, making it possible to target a larger number of potential victims.<sup>84</sup> There exist various indicators that can help recognize exploitation for forced labour, including but not limited to restricting the freedom of workers, denying them their wages or withholding their identity documents, resorting to sexual or physical abuse, using fear tactics, or establishing phony debts that workers cannot evade.<sup>85</sup>

In case of trafficking for sexual exploitation, the types of human rights violations tend to be the same, yet there are additional, different elements to this method of trafficking in human beings. Trafficking for sexual exploitation, whether through actions or attempts, is considered a form of abuse and human rights violation. This applies in cases where the perpetrator has taken advantage of the vulnerability, trust, or power dynamics of another person solely for sexual exploitation.<sup>86</sup>

Trafficking for the purpose of sexual exploitation is a global issue that can happen in any country. Although it is more prevalent in countries with a high number of unskilled workers and a deficient labour protection system, it is not limited to these regions. Developed countries also witness such cases, where victims may be immigrants who came to pursue better employment or education opportunities but ended up being deceived or coerced into exploitative circumstances.<sup>87</sup>

As established above, when it comes to trafficking for the purpose of sexual exploitation, the perpetrator takes advantage of the victims' vulnerability in order to subject them to sexual exploitation. Another prevalent method of subjecting individuals to sexual exploitation is

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<sup>84</sup> Council of Europe. GRETA Group of Experts on Action against Trafficking in Human Beings. *Human trafficking for the purpose of labour exploitation. Thematic Chapter of the 7<sup>th</sup> General Report on GRETA's Activities (covering the period from 1 January to 31 December 2017)*. Available at: <https://rm.coe.int/labour-exploitation-thematic-chapter-7th-general-report-en/16809ce2e7>, pp. 14-15.

<sup>85</sup> *Ibid.*, International Labour Organization (supra 85).

<sup>86</sup> The United Nations International Children's Emergency Fund. *UNICEF's fight against sexual misconduct*. Available at: <https://www.unicef.org/our-fight-against-sexual-exploitation-abuse-and-harassment>.

<sup>87</sup> World Vision Action. *Trafficking and Sexual Exploitation*. Available at: <https://www.worldvision.com.au/docs/default-source/buy-ethical-fact-sheets/trafficking-and-sexual-exploitation-fact-sheet.pdf?sfvrsn=2>.

through deceit, where the victims are promised employment abroad that later turns out to be prostitution or other forms of sexual activities. Upon discovering the true nature of their work, the victims may be informed that they owe the abuser a substantial amount of money for their travel arrangements and therefore must engage in unwilling sex work in order to pay off the debt. Additionally, the abuser may force the victims to pay rent, fees, or other expenses, and may threaten the victims or their loved ones as well.<sup>88</sup>

There are situations where a victim may have initially agreed to engage in sex work voluntarily, but later, the working conditions turn out to be much worse than expected, and the victim is prevented from quitting. It is crucial to acknowledge that individuals who have consented to any form of sex work of their own desire can still be victims of trafficking for sexual exploitation. This occurs when the victim is unable to decline sex work, choose their clients, set their own schedule, offer specific sexual services, or leave the situation without facing severe consequences.<sup>89</sup>

The biggest difference from between trafficking for sexual exploitation and trafficking for forced labour is that girls or women make up almost 80% of those trapped in trafficking for sexual exploitation, indicating that gender is a crucial determinant.<sup>90</sup> Men and boys who are victims of trafficking for sexual exploitation are often not reported, due to the fact that male participation in the sex industry or prostitution is less visible, and there are cultural and gendered biases that make it difficult to believe that men can be sexually exploited. Additionally, the legal systems and reporting mechanisms may not be equipped to properly identify male victims of trafficking for sexual exploitation.<sup>91</sup> The reason for inequality in genders is due to the fact that, in less developed countries, the disproportionate number of women who become victims of sexual exploitation is attributed to gender discrimination and, in many cases, poverty.<sup>92</sup> The reason why women are more likely to be victims of trafficking for sexual exploitation is because they are perceived as innocent and vulnerable, which makes them the ideal target. Women who are disabled or sick are even more vulnerable. Moreover, the stereotype of a “perfect victim” being a young, innocent, and helpless woman makes them

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<sup>88</sup> Ihmiskauppa. *Human trafficking related to sexual exploitation*. Available at:

[https://www.ihmiskauppa.fi/en/human\\_trafficking/forms\\_of\\_human\\_trafficking/sexual\\_exploitation](https://www.ihmiskauppa.fi/en/human_trafficking/forms_of_human_trafficking/sexual_exploitation).

<sup>89</sup> *Ibid.*

<sup>90</sup> International Labour Organization, Walk Free, and International Organization for Migration. *Global Estimates of Modern Slavery: Forced Labour and Forced Marriage*. Geneva, September 2022. Available at:

[https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---ipec/documents/publication/wcms\\_854733.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---ipec/documents/publication/wcms_854733.pdf), p. 45.

<sup>91</sup> *Ibid.*, World Vision Action (supra 89).

<sup>92</sup> Mangai Natarajan. *International and Transnational Crime and Justice*. New York: Cambridge University Press, 2019, p. 365.

particularly exposed to trafficking for sexual exploitation by strong, dominant men.<sup>93</sup> Furthermore, some of the most frequently identified vulnerabilities for women and girls to be trafficked for sexual exploitation in recent years include drug dependency, homelessness, and prior victimization.<sup>94</sup>

Additional reasons why adults and children are vulnerable to trafficking for sexual exploitation is due to inadequate education, the absence of safe environments for children, limited income opportunities, insufficient legislation and law enforcement, disadvantageous societal customs, as well as the profitability of transnational crime and corruption.<sup>95</sup> In addition, the perpetrator may also take advantage of financial deprivation, physical or mental incapacity, addiction to drugs or alcohol or of the young age of the victim.<sup>96</sup>

Nowadays, the trafficking for sexual exploitation occurs predominantly through a modern and readily accessible way – the internet. Many individuals subjected to trafficking for sexual exploitation in recent years have acknowledged being trafficked through social media platforms, online chat rooms, or even online job listings. Moreover, some victims have disclosed that they and the perpetrator were connected on social media platforms but were not acquainted in person. Furthermore, there is also a tendency of being trafficked for sexual exploitation by individuals already known to the victims in real life, for example, having an intimate relationship with the perpetrator before the trafficking occurred, by the individual that assisted the victim in being smuggled into a country, by a classmate or a friend, or by having a pre-existing relationship due to the perpetrator being the victims drug dealer.<sup>97</sup>

There are a lot of variations under which trafficking for sexual exploitation occur. Victims are frequently placed in an environment that isolates them from the outside world and subjects them to physical, psychological, and sexual abuse. Additionally, they can be coerced into drug use, and in the majority of cases, their identification documents and passports are confiscated.<sup>98</sup> In some cases, victims have the freedom to move around, but they are still subjected to subtle control mechanisms. These methods of control can take the form of debt bondage, threats to the

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<sup>93</sup> Rita Haverkamp. *What is Wrong with Human Trafficking? Critical Perspectives on the Law*. Oxford: Hart Publishing, 2019, pp. 55-56.

<sup>94</sup> The Human Trafficking Institute. *2019 Federal Human Trafficking Report*. 26 May 2020. Available at: <https://traffickinginstitute.org/federal-human-trafficking-report-2019/>, p. 21.

<sup>95</sup> *Ibid.*, World Vision Action (supra 89).

<sup>96</sup> *Ibid.*, Ihmiskauppa (supra 90).

<sup>97</sup> *Ibid.*, The Human Trafficking Institute (supra 96), p. 25.

<sup>98</sup> *Ibid.*, Haverkamp (supra 95).

victims, abuse of their religious beliefs, and blackmail. Moreover, victims often become dependent on their abusers, in some capacity, which further facilitates their control.<sup>99</sup>

Continuing with the violations of human rights that happen due to trafficking for sexual exploitation, it should be noted that victims can experience various harmful effects that may persist in the long term, such as physical and psychological trauma, sexually transmitted infections including HIV and AIDS, unwanted pregnancies, and negative social stigma. In societies where sexual purity is highly prized, women and girls may face the added burden of being stigmatized for their perceived loss of virginity, rather than being recognized as victims of sexual exploitation.<sup>100</sup>

As mentioned above, another form of trafficking of human beings that is common in recent years is the trafficking for forced criminal activity. Both adults and children can be compelled and coerced into engaging in criminal activities, such as cultivating cannabis, stealing from ATMs, committing benefit fraud, begging against their will<sup>101</sup>, pickpocketing, shoplifting, selling, or smuggling drugs, resorting to violent behaviour or committing other illegal activities. Those who are forced to engage in criminal activities do not gain any profit from them since the perpetrator takes the profits.<sup>102</sup> Family relationships, particularly in the case of minors, can also contribute to the victims' dependence on their abuser. For example, a child's guardian may exploit them in pickpocketing, leaving the child with no choice but to comply. Such a situation can cause the child to view this behaviour as standard and acceptable. Victims can also be forced or pressured into committing crimes if they owe money to the perpetrator. The perpetrator can use threats of violence to make the victim commit the crimes, for example, in order to pay off drug debts. In some cases, the debt increases as a punishment for not paying in time, making it even more difficult for the victim to repay. The victims may also be forced to comply by the perpetrator's threats against their loved ones. In some instances, even family members are coerced into committing criminal acts. A similar situation can be observed in prisons where gangs force inmates and their family members to smuggle prohibited items using threats of violence.<sup>103</sup>

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<sup>99</sup> *Ibid.*, Ihmiskauppa (supra 90).

<sup>100</sup> *Ibid.*, World Vision Action (supra 89).

<sup>101</sup> Anti-Slavery International. *Trafficking for Forced Criminal Activities and Begging in Europe. Exploratory Study and Good Practice Examples*. September 2014. Available at: [http://www.antislavery.org/wp-content/uploads/2017/01/trafficking\\_for\\_forced\\_criminal\\_activities\\_and\\_begging\\_in\\_europe.pdf](http://www.antislavery.org/wp-content/uploads/2017/01/trafficking_for_forced_criminal_activities_and_begging_in_europe.pdf), p. 5.

<sup>102</sup> Ihmiskauppa. *Exploitation in criminal activities*. Available at: [https://www.ihmiskauppa.fi/en/human\\_trafficking/forms\\_of\\_human\\_trafficking/exploitation\\_in\\_criminal\\_activit](https://www.ihmiskauppa.fi/en/human_trafficking/forms_of_human_trafficking/exploitation_in_criminal_activit)

<sup>103</sup> *Ibid.*

Therefore, to conclude, it can be seen that the most common ways of trafficking of human beings violates multiple human rights. The fact that exploitation for forced labour is work against victims' free will, it immediately indicates that the right to not be submitted to slavery and forced labour is violated, as well as the right to work freely, the right to just and favourable conditions of work, the right to liberty and security and the right to receive payment for work. However, in trafficking for sexual exploitation the above-mentioned rights are also violated. Furthermore, trafficking for forced labour, trafficking for sexual exploitation and trafficking for forced criminal activities all involve physical, sexual, and psychological abuse which therefore violates right such as the right to not be subjected to torture or to inhuman or degrading treatment or punishment. In most cases, the right to own and control one's identity documents is also violated as well as the right to privacy. Additionally, since trafficking for sexual exploitation, for example, disproportionately affects vulnerable girls and women, it can indicate the violation of right to equality and right to non-discrimination. In cases of trafficking for forced criminal activities, the right to a fair trial can be violated, since the victims were forced into committing various criminal acts.

As can be understood from the various violations of human rights upon which the crime of trafficking in human beings infringes, much help is needed in order to diminish these violations and this, in a way, can be achieved by the establishment of a National Rapporteur. In the next chapter, the author will analyse practical experience in implementing the National Rapporteur in various countries as well as examine at how implementation would look in the Baltic States and whether this mechanism would improve the application of human rights otherwise violated in the trafficking in human beings.

## 2. The introduction and implementation of the National Rapporteur in the EU

It is strongly advised that the EU Member States establish the National Rapporteur or an equivalent mechanism as part of their efforts to combat trafficking in human beings. The establishment should involve clarifying and coordinating the roles and duties of the National Rapporteur in accordance with their respective mandates and international obligations.<sup>104</sup>

### 2.1. The role of the National Rapporteur in anti-trafficking policy

As has been mentioned, the need to establish a National Rapporteur or the equivalent mechanism has been expressed as a recommendation since 1997, when it was stated in the Hague Declaration of 26 April 1997. The first EU country that did establish the National Rapporteur was Sweden, by placing the functions of a National Rapporteur at the Swedish Police Authority.<sup>105</sup> Since 2011, when the EU Anti-Trafficking Directive was adopted, most of the EU Member States have also established the National Rapporteur or the equivalent mechanism.

The majority of EU countries have also followed the example of Sweden by establishing the National Rapporteur or an equivalent mechanism in various forms of governmental bodies, mainly different kinds of ministries. In Bulgaria it is the National Commission for Combating Trafficking in Human Beings<sup>106</sup>, in the Czech Republic - the Ministry of Interior<sup>107</sup>, in Denmark – the Danish Centre against Human Trafficking<sup>108</sup>, in Greece – a subordinated body of the Ministry of Foreign Affairs,<sup>109</sup> in Italy – the Department for Equal Opportunities of the

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<sup>104</sup> *Ibid.*, Organization for Security and Co-operation in Europe (supra 40), p. 2.

<sup>105</sup> European Commission. Migration and Home Affairs. *Sweden*. Available at: [https://home-affairs.ec.europa.eu/policies/internal-security/organised-crime-and-human-trafficking/together-against-trafficking-human-beings/eu-countries/sweden\\_en](https://home-affairs.ec.europa.eu/policies/internal-security/organised-crime-and-human-trafficking/together-against-trafficking-human-beings/eu-countries/sweden_en).

<sup>106</sup> Council of Europe. GRETA Group of Experts on Action against Trafficking in Human Beings. *Evaluation round: Bulgaria. Third evaluation round. Access to justice and effective remedies for victims of trafficking in human beings. GRETA(2021)04*. 29 April 2021. Available at: <https://rm.coe.int/greta-evaluation-report-on-the-implementation-of-the-council-of-europe/1680a249f9>, p. 11.

<sup>107</sup> Council of Europe. GRETA Group of Experts on Action against Trafficking in Human Beings. *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Czech Republic. First evaluation round. GRETA(2020)01*. 11 February 2020. Available at: <https://rm.coe.int/report-concerning-the-implementation-of-the-council-of-europe-conventi/16809c3a2a>, p. 23.

<sup>108</sup> Council of Europe. GRETA Group of Experts on Action against Trafficking in Human Beings. *Evaluation round: Denmark. Third evaluation round. Access to justice and effective remedies for victims of trafficking in human beings. GRETA(2021)05*. 17 March 2021. Available at: <https://rm.coe.int/greta-evaluation-report-on-the-implementation-of-the-council-of-europe/1680a26052>, p. 9.

<sup>109</sup> Council of Europe. GRETA Group of Experts on Action against Trafficking in Human Beings. *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Greece. Second evaluation round. GRETA(2023)03*. 23 March 2023. Available at: <https://rm.coe.int/greta-evaluation-report-on-greece-2nd-evaluation-round/1680aaa70a>, p. 7.

Presidency of the Council of Ministers,<sup>110</sup> in Lithuania – the Ministry of Interior<sup>111</sup>, in Malta – the Anti-Human Trafficking Monitoring Committee which consists of 6 governmental bodies and Caritas Malta<sup>112</sup>, in Poland – the Ministry of the Interior and Administration<sup>113</sup>, in Portugal – the Commission for Citizenship and Gender Equality<sup>114</sup>, in Romania – the National Agency against Trafficking in Persons under the Ministry of the Interior<sup>115</sup>, in Slovakia – the Information Centre for Combating Trafficking in Human Beings and Crime Prevention under the Ministry of the Interior<sup>116</sup> and in Spain the role of the equivalent mechanism is exercised by the Ministry of Home Affairs.<sup>117</sup>

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<sup>110</sup> Council of Europe. GRETA Group of Experts on Action against Trafficking in Human Beings. *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Italy. Second evaluation round. GRETA(2018)28*. 25 January 2019. Available at: <https://rm.coe.int/greta-2018-28-fgr-ita/168091f627>, p. 8.

<sup>111</sup> Council of Europe. GRETA Group of Experts on Action against Trafficking in Human Beings. *Lithuania's reply to the Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties. Third evaluation round. Thematic focus: Access to justice and effective remedies for victims of trafficking in human beings. GRETA(2018)26\_LTU*. 5 September 2022. Available at: <https://rm.coe.int/reply-from-lithuania-to-greta-questionnaire-3rd-round-/1680a8d29d>, p. 52.

<sup>112</sup> Council of Europe. GRETA Group of Experts on Action against Trafficking in Human Beings. *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Malta. Second evaluation round. GRETA(2017)3*. 16 March 2017. Available at: <https://rm.coe.int/greta-2017-3-fgr-mlt-en-w-cmts/1680782abd>, p. 8.

<sup>113</sup> Council of Europe. GRETA Group of Experts on Action against Trafficking in Human Beings. *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Poland. Second evaluation round. GRETA(2017)29*. 17 November 2017. Available at: <https://rm.coe.int/report-concerning-the-implementation-of-the-council-of-europe-conventi/1680a538f3>, p. 8.

<sup>114</sup> Council of Europe. GRETA Group of Experts on Action against Trafficking in Human Beings. *Evaluation round: Portugal. Third evaluation round. Access to justice and effective remedies for victims of trafficking in human beings. GRETA(2022)08*. 13 June 2022. Available at: <https://rm.coe.int/greta-evaluation-report-on-portugal-3rd-evaluation-round/1680a6e00c>, p. 11.

<sup>115</sup> Council of Europe. GRETA Group of Experts on Action against Trafficking in Human Beings. *Evaluation round: Romania. Third evaluation round. Access to justice and effective remedies for victims of trafficking in human beings. GRETA(2021)09*. 3 June 2021. Available at: <https://rm.coe.int/evaluation-report-on-the-implementation-of-the-council-of-europe-conve/1680a2b0f8>, p. 9.

<sup>116</sup> Council of Europe. GRETA Group of Experts on Action against Trafficking in Human Beings. *Evaluation round: Slovak Republic. Third evaluation round. Access to justice and effective remedies for victims of trafficking in human beings. GRETA(2020)05*. 10 June 2020. Available at: <https://rm.coe.int/greta-2020-05-fgr-svk-en/16809eb53d>, p. 5.

<sup>117</sup> La Moncloa. *The Government of Spain takes a comprehensive approach to the fight against human trafficking and exploitation*. 29 November 2022. Available at: [https://www.lamoncloa.gob.es/lang/en/gobierno/councilministers/Paginas/2022/20221129\\_council.aspx](https://www.lamoncloa.gob.es/lang/en/gobierno/councilministers/Paginas/2022/20221129_council.aspx).

Four EU Member States have chosen to implement the equivalent mechanism, namely, Austria,<sup>118</sup> Estonia,<sup>119</sup> Hungary,<sup>120</sup> and Latvia,<sup>121</sup> where this role is fulfilled or partially fulfilled by the National Coordinator.

Another seven EU Member States have assigned the role of the National Rapporteur to an independent body – namely, Finland, France, Belgium, Ireland, Luxembourg, the Netherlands and Germany in late 2022. In Finland, the role of the National Rapporteur is fulfilled by the Non-Discrimination Ombudsman.<sup>122</sup> In France, it is the National Consultative Commission on Human Rights,<sup>123</sup> in Belgium - the Federal Migration Centre,<sup>124</sup> in Ireland - the Irish Human Rights and Equality Commission,<sup>125</sup> in Luxembourg - the Secretary General of the Advisory Committee on Human Rights,<sup>126</sup> in the Netherlands - the institute of the National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children,<sup>127</sup> and last but not least, Germany, at the time of drafting this thesis, was the final country to establish the National Rapporteur in late 2022 under the German Institute for Human Rights.<sup>128</sup>

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<sup>118</sup> Council of Europe. GRETA Group of Experts on Action against Trafficking in Human Beings. *Evaluation round: Austria. Third evaluation round. Access to justice and effective remedies for victims of trafficking in human beings. GRETA(2020)05*. 10 June 2020. Available at: <https://rm.coe.int/greta-2020-03-fgr-aut-en/16809eb4fd>, p. 11.

<sup>119</sup> Council of Europe. GRETA Group of Experts on Action against Trafficking in Human Beings. *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Estonia. First evaluation round. GRETA(2018)6*. 12 June 2018. Available at: <https://rm.coe.int/greta-2018-6-fgr-est-en/16808b292c>, p. 12.

<sup>120</sup> European Commission. Migration and Home Affairs. *Hungary*. Available at: [https://home-affairs.ec.europa.eu/policies/internal-security/organised-crime-and-human-trafficking/together-against-trafficking-human-beings/eu-countries/hungary\\_en](https://home-affairs.ec.europa.eu/policies/internal-security/organised-crime-and-human-trafficking/together-against-trafficking-human-beings/eu-countries/hungary_en).

<sup>121</sup> Council of Europe. GRETA Group of Experts on Action against Trafficking in Human Beings. *Evaluation round: Latvia. Third evaluation round. Access to justice and effective remedies for victims of trafficking in human beings. GRETA(2022)02*. 21 February 2022. Available at: <https://rm.coe.int/greta-implementation-report-third-evaluation-round-on-latvia/1680a59480>, p. 11.

<sup>122</sup> Non-Discrimination Ombudsman. *National Rapporteur on Trafficking in Human Beings*. Available at: <https://syrjinta.fi/en/national-rapporteur-on-trafficking-in-human-beings>.

<sup>123</sup> Council of Europe. GRETA Group of Experts on Action against Trafficking in Human Beings. *Evaluation round: France. Third evaluation round. Access to justice and effective remedies for victims of trafficking in human beings. GRETA(2022)01*. 18 February 2022. Available at: <https://rm.coe.int/evaluation-report-france-third-evaluation-round/1680a5b6cb>, p. 4.

<sup>124</sup> Council of Europe. GRETA Group of Experts on Action against Trafficking in Human Beings. *Evaluation round: Belgium. Third evaluation round. Access to justice and effective remedies for victims of trafficking in human beings. GRETA(2022)11*. 20 October 2022. Available at: <https://rm.coe.int/3rd-greta-evaluation-report-on-belgium/1680a8940b>, p. 4.

<sup>125</sup> Irish Human Rights and Equality Commission. *National Rapporteur on the Trafficking in Human Beings*. Available at: <https://www.ihrec.ie/our-work/national-rapporteur-on-the-trafficking-of-human-beings/>.

<sup>126</sup> Council of Europe. GRETA Group of Experts on Action against Trafficking in Human Beings. *Evaluation round: Luxembourg. Third evaluation round. Access to justice and effective remedies for victims of trafficking in human beings. GRETA(2022)13*. 4 October 2022. Available at: <https://rm.coe.int/greta-evaluation-report-on-luxembourg-third-evaluation-round-1680a85a61>, p. 7.

<sup>127</sup> National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children. *About us*. Available at: <https://www.dutchrapporteur.nl/about-us>.

<sup>128</sup> Council of Europe. GRETA Group of Experts on Action against Trafficking in Human Beings. *Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties. Third evaluation round. Thematic focus: Access to justice and effective remedies*

Even though most countries of the EU have taken upon themselves to establish the National Rapporteur or the equivalent mechanism, there are also six countries who have not done so, or it can be established from the functions of the National Coordinator that it *de facto* fulfils or partly fulfils the role of the National Rapporteur or the equivalent mechanism. This is the case of Croatia,<sup>129</sup> Cyprus<sup>130</sup>, and Slovenia<sup>131</sup>.

Furthermore, the author will further analyse the functions of the National Rapporteur and their role in the anti-trafficking policy of the good practice countries, specifically Sweden, since it was the first country to establish the National Rapporteur, as well as, those countries that have implemented the National Rapporteur in independent bodies, in accordance with the recommendations in every GRETA country evaluation report, which states that the countries that have not done so should examine the possibility of establishing an independent National Rapporteur.

Sweden designated the very first National Rapporteur on trafficking in human beings. In 1998, the National Police Board (now the Swedish Police Authority) was assigned as the National Rapporteur, making Sweden the first country to implement the recommendation stated in the Hague Declaration of 26 April 1997.<sup>132</sup> The National Rapporteur was established in order to help combat and prevent trafficking in human beings since at the time there was limited understanding of the magnitude, types, and impacts of this awful crime, not only in Sweden but also in the EU. As a result, the main responsibility of the National Rapporteur is to observe, analyse, and present comparative data on the current situation of trafficking in human beings within and outside of Sweden, and to evaluate the effectiveness of law enforcement efforts, as well as legal, policy, and practical measures and initiatives.<sup>133</sup> Moreover, the functions of the National Rapporteur in Sweden incorporate submitting yearly monitoring reports to the government regarding the prevention and combating of trafficking in human beings in Sweden,

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*for victims of trafficking in human beings. GRETA(2018)26\_DEU*. 28 February 2023. Available at: <https://rm.coe.int/reply-from-germany-to-greta-questionnaire-3rd-round-/1680aa60cf>, p. 38.

<sup>129</sup> European Commission. Migration and Home Affairs. *Croatia*. Available at: [https://home-affairs.ec.europa.eu/policies/internal-security/organised-crime-and-human-trafficking/together-against-trafficking-human-beings/eu-countries/croatia\\_en](https://home-affairs.ec.europa.eu/policies/internal-security/organised-crime-and-human-trafficking/together-against-trafficking-human-beings/eu-countries/croatia_en).

<sup>130</sup> Balkans ACT Now! Marjan Wijers. *Comparative study on National Rapporteurs on Trafficking in Human Beings and Equivalent Mechanisms*. November 2018. Available at: [https://www.qag-al.org/ang/publication/comparative\\_research.pdf](https://www.qag-al.org/ang/publication/comparative_research.pdf).

<sup>131</sup> Council of Europe. GRETA Group of Experts on Action against Trafficking in Human Beings. *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Slovenia. Second evaluation round. GRETA(2017)38*. 15 February 2018. Available at: <https://rm.coe.int/greta-2017-38-fgr-svn-en/168078919e>, p. 9.

<sup>132</sup> *Ibid.*, Mattar (supra 15), p. 11.

<sup>133</sup> AB Bilgi Merkezi. *Swedish Model as an Example to Prevent Human Trafficking*. Available at: <https://www.abbilgi.eu/en/swedish-model-as-an-example-to-prevent-human-trafficking.html>.

along with providing comprehensive recommendations.<sup>134</sup> These reports not only encompasses the magnitude of the issue and the suitable responses and actions, but also puts an emphasis on rescuing victims of trafficking in human beings. Hence, the narratives of the victims can considerably impact the government's initiatives and therefore the National Rapporteur tries to include this in their reports, if a situation like that arises.<sup>135</sup>

Not only that, but the cooperation functions of the Swedish National Rapporteur is well established by representing Sweden at meetings of international law enforcement bodies and cooperative schemes, as well as cooperating with various regional bodies, including the European Commission Network of National Rapporteurs<sup>136</sup>, the Swedish Platform Civil Society against Human Trafficking, the National Coordinator.<sup>137</sup> Additionally, the Swedish National Rapporteur cooperates with almost all of the police authorities in Sweden who have established a special contact person that regularly collects and reports data and other essential information to the National Rapporteur to be included in its yearly progress reports.<sup>138</sup> One of the priority functions of the Swedish National Rapporteur is to ensure that the Swedish police receive ongoing training on how to investigate the crimes of trafficking in human beings, since the Swedish National Rapporteur has concluded that this and other vital public organization training is a fundamental element in the achievement of Swedish law enforcement's efforts to avoid and fight against the issue of prostitution and trafficking in human beings.<sup>139</sup>

Furthermore, it can be established that the National Rapporteur of Sweden shows significant and persistent efforts in taking into account various global consequences. For example, due to the refugees escaping Russia's complete invasion of Ukraine, the National Rapporteur, in collaboration with other institutions, produced informational brochures both in English and Ukrainian to educate individuals on identifying and informing the police about suspicious individuals and criminal activities. According to the assessment of the United States of America Department of State, Sweden has been successful in its efforts to combat trafficking in human beings for a considerable period of time. This success is evident from the fact that for at least the last seven years, Sweden has been recognised as meeting the minimum standards for eliminating trafficking in human beings.<sup>140</sup>

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<sup>134</sup> *Ibid.*, European Commission (supra 107).

<sup>135</sup> *Ibid.*, Mattar (supra 15), p. 13.

<sup>136</sup> *Ibid.*, AB Bilgi Merkezi (supra 135).

<sup>137</sup> Swedish Platform Civil Society against Human Trafficking. Available at: <https://manniskohandel.se/english/>.

<sup>138</sup> *Ibid.*, European Commission (supra 107).

<sup>139</sup> *Ibid.*, AB Bilgi Merkezi (supra 135).

<sup>140</sup> *Ibid.*, United States of America Department of State (supra 77), p. 518.

As can be seen from the responsibilities that are entrusted to the Swedish National Rapporteur, all main functions of the National Rapporteur are carried out – data collection of trends and situation of trafficking in human beings, annually reporting to the government, provision of recommendations to the government which therefore assists in the policy development, as well as collaborating with both international and regional institutions.<sup>141</sup>

The Netherlands was the second country to implement the recommendation from the Hauge Declaration of 26 April 1997, by appointing its first National Rapporteur in 2000.<sup>142</sup> The National Rapporteur operates independently and is appointed by law for a four-year period, which may be renewed for an additional four years.<sup>143</sup> The National Rapporteur examines the extent and characteristics of trafficking in human beings, as well as the influence of policy initiatives on these concerns.<sup>144</sup>

The official duties of the National Rapporteur in the Netherlands are to carry out research to examine the progress and characteristics of trafficking in human beings, and the impacts of policies aimed at addressing trafficking in human beings. Additionally, annual reports about the issue of trafficking in human beings are addressed to the government. The annual monitoring reports and specialised analysis and studies prioritise the monitoring and improving the approaches to combat trafficking in human beings and the sexual abuse of minors.<sup>145</sup> Additionally, the annual reports are submitted to the Minister of Justice, who further acknowledges the reports and communicates their findings to the Parliament. The National Rapporteur is crucial in overseeing efforts to prevent trafficking in human beings and related laws through these reports. When significant reports are released by the National Rapporteur, the government usually issues a response, which is subsequently discussed in a plenary debate in the Lower House of Parliament.<sup>146</sup>

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<sup>141</sup> *Ibid.*, Wijers (supra 132).

<sup>142</sup> National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children. *About us. History*. Available at: <https://www.dutchrappporteur.nl/about-us/history>.

<sup>143</sup> *Ibid.*, National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children (supra 139).

<sup>144</sup> National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children. *A comprehensive approach to combat human trafficking and sexual violence against children*. Available at: <https://www.dutchrappporteur.nl/about-us/comprehensive-approach>.

<sup>145</sup> *Ibid.*

<sup>146</sup> Bureau of the Dutch National Rapporteur. *Trafficking in Human Beings. Ten years of independent monitoring*. 2010. Available at: [http://hrlibrary.umn.edu/research/Netherlands/Trafficking\\_10-years\\_monitoring.pdf](http://hrlibrary.umn.edu/research/Netherlands/Trafficking_10-years_monitoring.pdf), p. 9.

The National Rapporteur acquires quantitative and qualitative data by conducting its own research, analysing existing databases, arranging meetings, and participating in regular consultations. In addition, the National Rapporteur participates in review commissions for research-related to trafficking in human beings or similar subjects and joins international conferences, such as those focused on the EU's efforts to prevent trafficking in human beings.<sup>147</sup> Using data from various origins, the National Rapporteur advises national and local governments, other administrative agencies, international organisations and professionals involved in offering aid and assistance with measures to prevent and combat trafficking in human beings. Additionally, the National Rapporteur in the Netherlands has established a good collaboration mechanism by sustaining strong ties with entities dedicated to countering trafficking in human beings, as well as with the media, political figures, businesses, industry professionals, and research institutions. Utilising information gathered through independent research and these connections, the National Rapporteur can identify and explain developments in the field and facilitate the formation of a collaborative network.<sup>148</sup>

The suggestions from the National Rapporteur have played a significant role in influencing the development of anti-trafficking policies in the Netherlands. With knowledge and experience gained over time, the National Rapporteur can highlight particular topics, speed up progress, encourage best practices, identify obstacles, provide recommendations, and sometimes even take action in individual cases.<sup>149</sup> As can be seen, the functions of the National Rapporteur in the Netherlands are very well implemented from the international regulation recommendations.

In 2009, Finland appointed the Ombudsman for Minorities, who is now known as the Non-Discrimination Ombudsman, as the National Rapporteur on Trafficking in Human Beings.<sup>150</sup> The decision to create such a position was motivated by the belief that external monitoring, annual evaluations, and data-based proposals would be advantageous in the fight against trafficking in human beings.<sup>151</sup> Since the Non-Discrimination Ombudsman took the

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<sup>147</sup> *Ibid.*, Wijers (supra 132).

<sup>148</sup> *Ibid.*, National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children (supra 146).

<sup>149</sup> *Ibid.*, Wijers (supra 132).

<sup>150</sup> European Commission. Migration and Home Affairs. *Finland*. Available at: [https://home-affairs.ec.europa.eu/policies/internal-security/organised-crime-and-human-trafficking/together-against-trafficking-human-beings/eu-countries/finland\\_en](https://home-affairs.ec.europa.eu/policies/internal-security/organised-crime-and-human-trafficking/together-against-trafficking-human-beings/eu-countries/finland_en).

<sup>151</sup> Non-Discrimination Ombudsman. *Task of the National Rapporteur on Trafficking in Human Beings*. 1 September 2022. Available at: [https://syrjinta.fi/en/task-of-the-national-rapporteur-on-trafficking-in-human-beings/-/asset\\_publisher/VJP1gJxHhD1y/content/study-identification-of-victims-of-human-trafficking-compelled-to-criminal-activity-must-be-improved?\\_com\\_liferay\\_asset\\_publisher\\_web\\_portlet\\_AssetPublisherPortlet\\_INSTANCE\\_VJP1gJxHhD1y\\_assetEntryId=132011525](https://syrjinta.fi/en/task-of-the-national-rapporteur-on-trafficking-in-human-beings/-/asset_publisher/VJP1gJxHhD1y/content/study-identification-of-victims-of-human-trafficking-compelled-to-criminal-activity-must-be-improved?_com_liferay_asset_publisher_web_portlet_AssetPublisherPortlet_INSTANCE_VJP1gJxHhD1y_assetEntryId=132011525).

responsibility of the National Rapporteur, its mandate was formulated very extensively, encompassing not only trafficking in human beings but also related topics such as pimping and severe forms of discrimination. Being part of a human rights organisation permits the National Rapporteur to address trafficking in human beings primarily as a human rights issue.<sup>152</sup>

The primary aim of the National Rapporteur in Finland is to guarantee that individuals who have been subjected to trafficking in human beings are properly identified, assistance is provided and to hold accountable those who are criminally responsible for the actions of trafficking as well as to implement systematic measures to prevent trafficking in human beings. Furthermore, the duties of the National Rapporteur in Finland are to monitor the phenomena and the current situation of trafficking in human beings, as well as to monitor the compliance with international obligations and evaluating the effectiveness of the country's laws regarding trafficking in human beings.<sup>153</sup> The National Rapporteur is authorised to not only monitor the instances of actual trafficking in human beings situations but also offenses associated with trafficking in human beings, such as extortionate work discrimination and facilitating illegal entry into the country.<sup>154</sup>

Additionally, the mandate also includes the obligation to prepare a report on the situation on trafficking in human beings - to the Government annually and to the Parliament every four years. The reports submitted by the National Rapporteur have led the Finnish parliament to adopt numerous resolutions aimed at enhancing the country's laws and enforcement measures against trafficking in human beings. The resolutions have called for improving the protection of trafficking victims and promoting the prosecution of those involved in trafficking.<sup>155</sup> Furthermore, the National Rapporteur has the authority to offer legal advice and assistance to victims of trafficking in human beings in court during extraordinary circumstances. In addition, the National Rapporteur has the ability to obtain a broad range of information, which can include confidential criminal conviction records, to evaluate adherence to international treaties on trafficking in human beings and to determine the effectiveness of national laws in addressing the challenges of trafficking in human beings.<sup>156</sup> Also, the cooperation function both on international and regional levels is well-established in the role of Finland's National Rapporteur. The National Rapporteur keeps close relations with all other institutions who hold

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<sup>152</sup> *Ibid.*, Wijers (supra 132).

<sup>153</sup> *Ibid.*, Non-Discrimination Ombudsman (supra 153).

<sup>154</sup> *Ibid.*, Wijers (supra 132).

<sup>155</sup> *Ibid.*, European Commission (supra 152).

<sup>156</sup> *Ibid.*, Non-Discrimination Ombudsman (supra 153).

the information that they need, for example, with various NGOs, by having meetings, conversations and regular consultations, and also seeks the advice of NGOs when writing statements or reports.<sup>157</sup> Therefore, as can be seen, the National Rapporteur in Finland also carries out all the main functions that a National Rapporteur should have as established in the recommendations of international regulations.

In France, the National Consultative Commission on Human Rights as an independent National Rapporteur was established in 2014.<sup>158</sup> It can be seen that the functions of the National Rapporteur are based on the recommendations of international regulations. For example, the function of assisting better legislative development is seen in the actions of the National Rapporteur when it reports gaps or publicly urges the government to adopt or amend a specific policy relating to trafficking in human beings.<sup>159</sup> Also, the function of monitoring and reporting is fulfilled, since the National Rapporteur publishes reports where it analyses and evaluates the action taken against trafficking in human beings in France.<sup>160</sup> In addition, the collaboration function is fulfilled, since the National Rapporteur participates in the European Commission's meetings of National Rapporteurs.<sup>161</sup> However, when it comes to systematic data collection, there is a weakness and inconsistency in public data in France regarding trafficking in human beings. This is due to the fact that government agencies who are responsible for gathering important statistics on these crimes are encountering various challenges.<sup>162</sup> It can be that the National Rapporteur in France may not act as strongly as in other countries due to insufficient resources.<sup>163</sup>

In Belgium, even prior to the implementation of the EU Anti-Trafficking Directive, various services had already exercised the functions and responsibilities of the National Rapporteur or performing as an equivalent mechanism. However, in 2014, the National Rapporteur was officially assigned to the Federal Migration Centre (Myria). The National Rapporteur annually

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<sup>157</sup> *Ibid.*, Wijers (supra 132).

<sup>158</sup> European Commission. Migration and Home Affairs. *France*. Available at: [https://home-affairs.ec.europa.eu/policies/internal-security/organised-crime-and-human-trafficking/together-against-trafficking-human-beings/eu-countries/france\\_en?etrans=en](https://home-affairs.ec.europa.eu/policies/internal-security/organised-crime-and-human-trafficking/together-against-trafficking-human-beings/eu-countries/france_en?etrans=en).

<sup>159</sup> U.S. Department of State. *2022 Trafficking in Persons Report: France*. Available at: <https://www.state.gov/reports/2022-trafficking-in-persons-report/france/>.

<sup>160</sup> Council of Europe. GRETA Group of Experts on Action against Trafficking in Human Beings. *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by France. Second evaluation round. GRETA(2017)17*. 6 July 2017. Available at: <https://rm.coe.int/greta-2017-17-fgr-fra-en/16807454bf>, p. 10.

<sup>161</sup> *Ibid.*, European Commission (supra 160).

<sup>162</sup> Walk Free. *Global Slavery Index/2018/Country Studies/France*. Available at: <https://www.walkfree.org/global-slavery-index/2018/findings/country-studies/france/>.

<sup>163</sup> *Ibid.*, U.S. Department of State (supra 161).

releases reports that are both independent and public, where it evaluates the progress and achievements made in order to combat and prevent trafficking in human beings.<sup>164</sup> Additionally, the National Rapporteur cooperates with institutions both on regional and international levels and collaborates especially closely with three specialised reception centres for trafficking victims. The National Rapporteur not only provides information to migrants regarding their rights and obligations, but can also be contacted if they are potential victims of trafficking in human beings. Typically, the National Rapporteur will also direct these individuals to one of the specialized centres. Furthermore, the National Rapporteur has the authority to initiate legal proceedings and submit civil charges in situations of trafficking in human beings to the extent that it can intervene in cases of complaints or ongoing cases that are considered strategically important, and in which fundamental rights are being violated. In addition, the National Rapporteur in Belgium has the ability to intervene and influence court decisions and this ability enables the National Rapporteur to share its knowledge with the judiciary and other relevant parties, gather examples of successful and unsuccessful practices, and support test cases. This authority also provides access to confidential information that they would not typically have access to, allowing the National Rapporteur to gain a deeper understanding of how cases are handled and how the victims are treated. Last but not least, the National Rapporteur has the ability to ask all involved institutions, such as the Ministry of Justice and Migration Affairs, the inspectorates, specialised centres, and others, to provide the needed information.<sup>165</sup>

In Luxembourg, the National Rapporteur was also established in 2014 by being appointed to the responsibility of the National Human Rights Commission. The National Rapporteur is responsible for identifying patterns of trafficking in human beings, evaluating the effectiveness of actions taken to combat this issue, collaborating with relevant civil society organisations in order to gather statistics and other data necessary, and submitting a report to the Parliament every two years. Additionally, the National Rapporteur closely monitors the Committee to monitor trafficking in human beings work and is invited to participate in its meetings.<sup>166</sup>

In Ireland, the National Rapporteur was established quite recently, in 2020, by placing this role in the hands of the Irish Human Rights and Equality Commission. The National Rapporteur in

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<sup>164</sup> European Commission. Migration and Home Affairs. *Belgium*. Available at: [https://home-affairs.ec.europa.eu/policies/internal-security/organised-crime-and-human-trafficking/together-against-trafficking-human-beings/eu-countries/belgium\\_en](https://home-affairs.ec.europa.eu/policies/internal-security/organised-crime-and-human-trafficking/together-against-trafficking-human-beings/eu-countries/belgium_en).

<sup>165</sup> *Ibid.*, Wijers (supra 132).

<sup>166</sup> European Commission. Migration and Home Affairs. *Luxembourg*. Available at: [https://home-affairs.ec.europa.eu/policies/internal-security/organised-crime-and-human-trafficking/together-against-trafficking-human-beings/eu-countries/luxembourg\\_en](https://home-affairs.ec.europa.eu/policies/internal-security/organised-crime-and-human-trafficking/together-against-trafficking-human-beings/eu-countries/luxembourg_en).

Ireland prepares independent reports on action taken by Ireland, that correspond to the international obligations in place. The provided reports create a solid and trustworthy foundation for external assessments. Additionally, the National Rapporteur assists in the advancement of the research and evidence necessary to support efficient monitoring and policy formulation. The National Rapporteur also provides specific recommendations to governmental bodies regarding the implementation of the anti-trafficking response. The values of the National Rapporteur in Ireland are based on a comprehensive, equitable, human rights centred, victim focused, gender sensitive and child centered strategy towards combating trafficking in human beings.<sup>167</sup> Lastly, the National Rapporteur is also the key player in gathering various kinds of data on the situation of trafficking in human beings in Ireland.<sup>168</sup>

At the time of drafting this thesis, Germany was the last country in the EU to establish a National Rapporteur in the hands of an independent body – in late 2022. The National Rapporteur in Germany has the relevant functions, such as collecting and pooling existing data from various sources like state agencies, research institutions, and centres providing counselling and protection to victims to report on trafficking in human beings. The National Rapporteur will develop a set of indicators based on this data to assess the scope of trafficking in human beings and the implementation of anti-trafficking standards. If there are gaps in the data, the National Rapporteur will determine how to fill them and may carry out data acquisition and research activities. The National Rapporteur will also evaluate case law and statutes and provide recommendations for improvement to support the coordinated planning and evaluation of policy measures and programs.<sup>169</sup>

It can be seen that Article 29 of the Anti-Trafficking Convention and Article 19 of the EU Anti-Trafficking Directive can be interpreted in many ways, as seen from the examples above, the mandate of the National Rapporteur can take various forms in the EU Member States, depending on their institutional system, legal basis and other factors. Furthermore, as can be seen from the best practice countries, one thing that connects almost all of them is the independency factor.

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<sup>167</sup> *Ibid.*, Irish Human Rights and Equality Commission (supra 127).

<sup>168</sup> European Commission. Migration and Home Affairs. *Ireland*. Available at: [https://home-affairs.ec.europa.eu/policies/internal-security/organised-crime-and-human-trafficking/together-against-trafficking-human-beings/eu-countries/ireland\\_en](https://home-affairs.ec.europa.eu/policies/internal-security/organised-crime-and-human-trafficking/together-against-trafficking-human-beings/eu-countries/ireland_en).

<sup>169</sup> *Ibid.*, Deutsches Institut für Menschenrechte (supra 49), pp. 3-4.

The National Rapporteur's independence is crucial because it enables a country to enhance its efforts against trafficking in human beings. This is achieved by the National Rapporteur's ability to monitor and evaluate policies and actions at all levels, provide impartial viewpoints, collaborate equitably with other stakeholders, and foster international cooperation. The effectiveness of the National Rapporteur depends significantly on its independent nature.<sup>170</sup> Both the OSCE and GRETA recommend the establishment of an independent National Rapporteur because it allows for a fair evaluation of the implementation of anti-trafficking policies, laws, and actions. This evaluation can identify areas of weakness and provide comprehensive legal and policy recommendations.<sup>171</sup>

## **2.2. Introduction of the National Rapporteur in the Baltic States**

There are multiple ways of implementing the Article 19 of the EU Anti-Trafficking Directive<sup>172</sup> and Article 29 of the Anti-Trafficking Convention - by establishing the National Rapporteur or establishing an equivalent mechanism, which, by examining the practice of EU countries, is usually a non-independent mechanism.

However, in light of this thesis, the focus in this sub-chapter will be specifically on the introduction of an independent National Rapporteur in the Baltic States (Estonia, Latvia, and Lithuania), since the establishment of an independent mechanism is highly praised<sup>173</sup> and, by its independency, can bring better results<sup>174</sup> in order to prevent and combat trafficking in human beings.

As established in the previous sub-chapter, none of the Baltic States has opted to establish an independent National Rapporteur. Lithuania has chosen to implement a non-independent National Rapporteur that operates under the responsibility of the Ministry of Interior of the Republic of Lithuania<sup>175</sup>, however both Estonia and Latvia has opted for an equivalent mechanism by trusting this role to the National Coordinators. In Estonia, the National Coordinator that fulfils the role of the National Rapporteur functions under the Ministry of

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<sup>170</sup> *Ibid.*, Organization for Security and Co-operation in Europe (supra 40), p. 2.

<sup>171</sup> *Ibid.*, Council of Europe (supra 63).

<sup>172</sup> *Ibid.*, Directive 2011/36/EU (supra 7), Article 19.

<sup>173</sup> *Ibid.*, Organization for Security and Co-operation in Europe (supra 40), p. 2.

<sup>174</sup> *Ibid.*, Council of Europe (supra 63).

<sup>175</sup> European Commission. Migration and Home Affairs. *Lithuania*. Available at: [https://home-affairs.ec.europa.eu/policies/internal-security/organised-crime-and-human-trafficking/together-against-trafficking-human-beings/eu-countries/lithuania\\_en](https://home-affairs.ec.europa.eu/policies/internal-security/organised-crime-and-human-trafficking/together-against-trafficking-human-beings/eu-countries/lithuania_en).

Justice,<sup>176</sup> and in Latvia the National Rapporteur's functions are partially fulfilled by the National Anti-Trafficking Coordinator in Latvia that functions under the Ministry of Interior.<sup>177</sup>

The overall situation of trafficking in human beings in the Baltic States is more or less the same – all three countries are destination, origin, and transit countries of victims of trafficking in human beings, as well as the main methods of exploitation tend to be the same.<sup>178 179 180</sup> In the case of Estonia, in recent years, the most instances of trafficking in human beings involve the exploitation for forced labour of men who are foreign nationals.<sup>181</sup> Also in Lithuania, most cases regard the exploitation for forced labour of foreign nationals, particularly from Ukraine, Russia and Belarus.<sup>182</sup> In the case of Latvia, the exploitation for forced labour is increasing, however, the victims tend to be Latvian citizens.<sup>183</sup> Although the Baltic States share the same methods and forms of most trafficking in human beings cases, the number of identified victims in 2021 vary. In Lithuania, the number of identified victims was the lowest – 26<sup>184</sup>, in Estonia – 42<sup>185</sup>, and in Latvia it was the highest – 60 victims.<sup>186</sup>

Furthermore, it can also be established that the combating and prevention measures of trafficking in human beings is better recognized in Estonia and Lithuania by being awarded with the “Tier 1” position, meaning that both countries fully meet the minimum standards for the elimination of trafficking in human beings according to the 2022 Trafficking in Persons Report that is issued by the United States of America Department of State. Lithuania has held this position for the longest, by being annually placed in “Tier 1” since 2016.<sup>187</sup> Estonia followed in these footsteps a few years later, by being annually placed in the “Tier 1” from 2019.<sup>188</sup> However, Latvia has never achieved this position and is annually placed at the “Tier

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<sup>176</sup> *Ibid.*, Council of Europe (supra 121), p. 7.

<sup>177</sup> *Ibid.*, Council of Europe (supra 123).

<sup>178</sup> European Commission. Migration and Home Affairs. *Estonia*. Available at: [https://home-affairs.ec.europa.eu/policies/internal-security/organised-crime-and-human-trafficking/together-against-trafficking-human-beings/eu-countries/estonia\\_en](https://home-affairs.ec.europa.eu/policies/internal-security/organised-crime-and-human-trafficking/together-against-trafficking-human-beings/eu-countries/estonia_en).

<sup>179</sup> *Ibid.*, European Commission (supra 177).

<sup>180</sup> U.S. Department of State. *2022 Trafficking in Persons Report: Latvia*. Available at: <https://www.state.gov/reports/2022-trafficking-in-persons-report/latvia/>.

<sup>181</sup> U.S. Department of State. *2022 Trafficking in Persons Report: Estonia*. Available at: <https://www.state.gov/reports/2022-trafficking-in-persons-report/estonia/>.

<sup>182</sup> U.S. Department of State. *2022 Trafficking in Persons Report: Lithuania*. Available at: <https://www.state.gov/reports/2022-trafficking-in-persons-report/lithuania/>.

<sup>183</sup> *Ibid.*, U.S. Department of State (supra 182).

<sup>184</sup> *Ibid.*, U.S. Department of State (supra 184).

<sup>185</sup> Republic of Estonia Ministry of Social Affairs. *Tackling gender-based violence in Estonia: challenges and success stories*. 30 September 2022. Available at: [https://www.fh-kiel.de/fileadmin/data/technologietransfer/institut\\_frauenforschung/bilder\\_projekte/luht\\_30.09.2022.pdf](https://www.fh-kiel.de/fileadmin/data/technologietransfer/institut_frauenforschung/bilder_projekte/luht_30.09.2022.pdf).

<sup>186</sup> *Ibid.*, U.S. Department of State (supra 182).

<sup>187</sup> *Ibid.*, United States of America Department of State (supra 77), p. 354.

<sup>188</sup> *Ibid.*, United States of America Department of State (supra 77), p. 222.

2” level, meaning that Latvia is not completely fulfilling the minimum requirements to eliminate trafficking in human beings, but is actively taking significant steps to improve its efforts.<sup>189</sup>

These differences in the Baltic States in the number of identified victims, but particularly by placement in the “Tier” positions, can lead one to think that the establishment of an independent National Rapporteur could improve these circumstances, especially in the case of Latvia. However, Estonia and Lithuania could also very much benefit from this independent mechanism in order to further strengthen their efforts to combat and prevent trafficking in human beings. Therefore, in order to understand what can be improved with the establishment of an independent National Rapporteur in the Baltic States, it is crucial to look closer at the work of current mechanism in place.

In the case of Estonia, it can be seen that the National Coordinator for trafficking in human beings, who also acts as an equivalent mechanism to a National Rapporteur, holds the needed responsibilities and functions outlined in the recommendations of the legal documents that the author examined in the previous chapter. In terms of these functions, the person in charge of the equivalent mechanism in Estonia is responsible for coordinating the enactment of policies aimed at combating trafficking in human beings, arranging meetings with relevant parties, analysing crime statistics, gathering data, and providing reports to agencies that seek information about trafficking in human beings situations.<sup>190</sup> All of these functions are specifically regarded as under the equivalent mechanism role and not the National Coordinator role. However, the National Coordinator also has other responsibilities, like organizing various prevention activities and participating in training programs organized by other authorities, such as other ministries, which are carried out on a local, regional, or state level. The National Coordinator also represents Estonia in the European Commission’s working group for national coordinators and independent rapporteurs and in the Task Force against Trafficking in Human Beings under the Council of Baltic Sea States. They are also responsible for acting as the contact point for the Council of Europe and coordinating other internal or international cooperation efforts related to trafficking in human beings, when such a need arises.<sup>191</sup> Furthermore, the National Coordinator’s tasks include creating an agenda for the meeting of the National Coordinator Network, which is a network that involves many representatives of the responsible

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<sup>189</sup> *Ibid.*, United States of America Department of State (supra 77), p. 344.

<sup>190</sup> *Ibid.*, European Commission (supra 180).

<sup>191</sup> *Ibid.*, European Commission (supra 180).

governmental and non-governmental institutions and NGOs in order to coordinate the anti-trafficking efforts in Estonia. Additionally, the National Coordinator is responsible for gathering data on the implementation measures outlined in the Violence Prevention Strategy, and obtaining feedback and recommendations from stakeholders for the yearly report that is submitted to the government.<sup>192</sup>

In the author's opinion, some of the functions that the National Coordinator holds would be the responsibilities of an independent National Rapporteur if such a mechanism would be established in Estonia. If that would be achieved, the National Coordinator's work and performance would only increase since one of the core functions of the National Rapporteur is to systematically collect up-to-date data and, from that, provide yearly reports. Even though it is mentioned that the National Coordinator collects data and reports to agencies under the functions of an equivalent mechanism, it is not specified what kind of data is collected, how systematically, and whether the reports are annual and based on up-to-date data from the monitoring of trafficking in human beings situation in Estonia. In spite of this, Estonia would still very much benefit from establishing an independent National Rapporteur that would have the recommended functions outlined in the legal regulations. The national coordinator would exercise other functions that are needed in order to combat and prevent trafficking in human beings but which are not necessarily included in the recommended functions of the independent National Rapporteur. It is only self-evident that there is much ground to cover in order to eliminate or decrease such an atrocious crime and in this way, both mechanisms can focus on their respective designated functions and, with each other's support and assistance, improve in the combatting and prevention of trafficking in human beings.

Importantly, the argument laid down by the author is supported by GRETA. The role of GRETA is to conduct visits to countries, create and release reports that assess the effectiveness of legislative and other actions taken by the countries to implement the provisions of the Anti-Trafficking Convention, and to lay down various recommendations in order to improve the efforts of combating and preventing trafficking in human beings. Moreover, GRETA frequently issues comprehensive reports detailing its overall activities.<sup>193</sup>

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<sup>192</sup> *Ibid.*, Council of Europe (supra 121).

<sup>193</sup> Council of Europe. *GRETA. About GRETA – the Group of Experts on Action against Trafficking in Human Beings*. Available at: <https://www.coe.int/en/web/anti-human-trafficking/greta>.

In its first evaluation report concerning the implementation of the Anti-Trafficking Convention in Estonia, GRETA expressed its concerns about the national coordinator acting as an equivalent mechanism to the National Rapporteur. According to GRETA, the National Rapporteur mechanism, as outlined in Article 29 of the Anti-Trafficking Convention, should possess certain characteristics. These include the ability to effectively monitor the performance of all state institutions, including national coordinators, and maintain ongoing communication with civil society, research communities, and other stakeholders. The Anti-Trafficking Convention's human rights-based approach to anti-trafficking policies necessitates proper monitoring and evaluation. A clear separation between monitoring and executive functions allows for an impartial assessment of the implementation of anti-trafficking laws, policies, and activities, and the identification of weaknesses and shortcomings, leading to the formulation of comprehensive legal and policy recommendations.<sup>194</sup> With this opinion, GRETA suggested that the Estonian authorities should consider designating a separate organizational entity or an independent mechanism for monitoring the anti-trafficking activities of state institutions as the independent National Rapporteur.<sup>195</sup>

It should be noted that this recommendation by GRETA was expressed in the summer of 2018 and the Estonian government, by the end of 2020, needed to provide GRETA with the information on the progress of the recommendations expressed by GRETA. The Estonian government replied that there has been no discussion about creating an independent National Rapporteur position in recent years. The Estonian government noted that the role of the National Coordinator on trafficking in human beings is still held by an adviser in the Analysis Division of the Criminal Policy Department at the Ministry of Justice and on a part-time basis. The Estonian government also noted that the National Coordinator is still responsible for the functions that an independent National Rapporteur would take on, fully or partially – coordinating the implementation of anti-trafficking policies, organizing stakeholder meetings at all levels, analysing crime statistics, collecting comprehensive data, and reporting to agencies that are requesting information about Estonia's situation regarding trafficking in human beings. Furthermore, they noted that, in 2015, a student thesis was conducted to analyse the feasibility of creating an independent National Rapporteur position, and it was concluded that the most suitable place for this position would be within the Ombudsman Office.<sup>196</sup>

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<sup>194</sup> *Ibid.*, Council of Europe (supra 121), p. 21.

<sup>195</sup> *Ibid.*, Council of Europe (supra 121), p. 21.

<sup>196</sup> Council of Europe Committee of the Parties to the Council of Europe Convention on Action against Trafficking in Human Beings. *Report submitted by the authorities of Estonia on measures taken to comply with Committee of the Parties Recommendation CP(2018)23 on the implementation of the Council of Europe*

Additionally, a second evolution round of GRETA started in Estonia, and again the question of the establishment of a National Rapporteur was included in the agenda. The Estonian government responded in June 2022 that no major changes in this regard had taken place. However, they also indicated that an analysis to examine the necessity of establishing a function for an independent National Rapporteur on trafficking in human beings in Estonia will be conducted, taking into account the experiences of similar positions in other EU countries.<sup>197</sup>

After reviewing the information available in English regarding the current status of establishing an independent National Rapporteur in Estonia, the author did not come across any information suggesting that the need for this function has been analysed at the time this thesis was written.

In the case of Lithuania, as already established, the Ministry of Interior Public Security Policy Group Senior Adviser carries the responsibility of acting as a non-independent National Rapporteur. The duties of the non-independent National Rapporteur in Lithuania include analysing and evaluating patterns of trafficking in human beings and the outcomes of efforts to combat it. It also suggests ways for the Republic of Lithuania to make further advancements in this area, which the non-independent National Rapporteur presents to the Minister of the Interior, the Anti-Trafficking Commission, and to the EU Anti-Trafficking Coordinator. Additionally, one of the responsibilities of the non-independent National Rapporteur is to update the Government of the Republic of Lithuania and the Seimas of the Republic of Lithuania's Committee on Human Rights on patterns in trafficking in human beings and the effectiveness of anti-trafficking efforts in Lithuania. This is done to increase the awareness of politicians in this area. Also, each year the non-independent National Rapporteur prepares a report on the developments of trafficking in human beings and the measures taken by Lithuania to combat it. Data for this annual report is collected based on the guidelines outlined in the "Description of the procedure for collecting and publishing statistics and other information on the situation of trafficking in human beings and measures and actions to combat trafficking in human beings".<sup>198</sup>

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*Convention on Action against Trafficking in Human Beings. First evaluation round. CP(2020)15.* 13 November 2020. Available at: <https://rm.coe.int/cp-2020-14-estonia/1680a09ae0>, p. 4.

<sup>197</sup> Council of Europe. GRETA Group of Experts on Action against Trafficking in Human Beings. *Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the parties. Second evaluation round. GRETA(2014)13\_EST.* Available at: <https://rm.coe.int/reply-from-estoniato-the-questionnaire-for-the-evaluation-of-the-imple/1680a6c36e>, p. 9.

<sup>198</sup> *Ibid.*, European Commission (supra 177).

Even though it can be seen that the non-independent National Rapporteur of Lithuania carries out some of the main functions of a National Rapporteur as laid down in international regulations, such as analysing trends and patterns in trafficking in human beings, assisting on policy and legislative development and providing annual reports, it can also be understood that analysing trends and patterns of trafficking in human beings does not mean collecting up-to-date systematic data on trafficking in human beings from all involved institutions and NGOs that work in the field of combating and preventing trafficking in human beings and that the information gathered for the annual reports is based on governmental guidelines. Therefore, it can be seen that the non-governmental National Rapporteur who functions under the Ministry of the Interior is in a way restricted in its flexibility and information gathering. It is also self-evident that a governmental body acting as a National Rapporteur will in some way be opinion-oriented based on the policies in place in the relevant institution. Furthermore, no information is mentioned about the function of monitoring and collaborating with other relevant institutions on local and international levels, which are an essential function of an independent National Rapporteur as mentioned in international regulations. Regarding data collection from the non-independent National Rapporteur's reports, it was even recommended by the 2022 TIP Report in the section about Lithuania that Lithuania should create a data collection system that is more inclusive and provides more detailed information by breaking down the data according to the specific type of trafficking in human beings.<sup>199</sup>

According to the GRETA reports, in its first evaluation round of Lithuania in 2015, it noted that the non-independent National Rapporteur has functioned in Lithuania since 2013. However, GRETA suggested that appointing an independent National Rapporteur or establishing another independent mechanism to collect data on patterns in trafficking in human beings would be highly beneficial. The appointment of an independent National Rapporteur would allow for the monitoring of the state's anti-trafficking initiatives and the provision of recommendations to concerned individuals and institutions.<sup>200</sup> In the Lithuanian government's response to this report's recommendation, it was noted that the non-independent National Rapporteur's functions are defined by the local legislative act and that the National Rapporteur is appointed by the Minister of the Interior of the Republic of Lithuania. The answer also provided the list of the non-independent functions, which are those, mentioned above, as well as indicated that

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<sup>199</sup> *Ibid.*, U.S. Department of State (supra 184).

<sup>200</sup> Council of Europe. GRETA Group of Experts on Action against Trafficking in Human Beings. *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Lithuania. First evaluation round. GRETA(2015)12*. 5 June 2015. Available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680631dc5>, p. 19.

the non-independent mechanism represents Lithuania in the Network of National Rapporteurs of Equivalent Mechanisms of the EU, and additionally provides information to the EU Anti-Trafficking Coordinator.<sup>201</sup> This last information shows that the non-independent National Rapporteur of Lithuania fulfils the needed function of collaborating as mentioned in international regulations, however, only on an international level.

Pursuant to GRETA's second evaluation round, the Lithuanian government provided answers to a questionnaire in order for GRETA to conduct a report. One of the questions, referred to the establishment of an independent National Rapporteur. The Lithuanian government noted the same information about its status as proved in the first evaluation round, additionally mentioning that the non-independent National Rapporteur of Lithuania is responsible for the effect of each implemented anti-trafficking activity, and that the reports provided by the non-independent National Rapporteur on trafficking in human beings issues are public and might be found at the Ministry of the Interior of the Republic of Lithuania's website. Furthermore, the Lithuanian government noted that in order for a non-independent National Rapporteur to perform its functions, independent research is ordered and funded.<sup>202</sup>

According to this questionnaire and the answers provided by the Lithuanian government, in 2019 GRETA issued a report about the second evaluation round in Lithuania. The report made a reference to the first evaluation round report regarding the recommendation of establishing an independent National Rapporteur. Since it was not implemented in Lithuania, GRETA noted that, according to Article 29 of the Anti-Trafficking Convention, the National Rapporteur should possess certain essential functions. These functions include the ability to critically evaluate the efforts and effectiveness of all state institutions, including national coordinators, through a constant exchange with civil society, the research community, and other relevant stakeholders. The Anti-Trafficking Convention's human rights-based approach to anti-trafficking policies necessitates adequate monitoring and evaluation. A structural division between monitoring and executive functions enables an unbiased assessment of anti-trafficking legislation, policy, and activities, identifying gaps and shortcomings and developing

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<sup>201</sup> Council of Europe Committee of the Parties to the Council of Europe Convention on Action against Trafficking in Human Beings. *Report submitted by the Lithuanian authorities on measures taken to comply with Committee of the Parties Recommendation CP(2015)4 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings. CP(2017)23*. 16 June 2017. Available at: <https://rm.coe.int/report-submitted-by-the-authorities-on-measures-taken-to-comply-with-c/168073fa9b>, p. 1.

<sup>202</sup> Council of Europe. *Reply from Lithuania to the Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties. Second evaluation round. (Reply submitted on 6 February 2018). GRETA(2018)4*. 20 February 2018. Available at: <https://rm.coe.int/greta-2018-4-rq2-ltu/168078b19d>, p. 26.

comprehensive legal and policy recommendations. However, assigning the National Rapporteur's function to an official of the executive branch, namely the Ministry of the Interior of the Republic of Lithuania, may restrict the independence of the National Rapporteur, its ability to adopt a holistic approach to evaluating anti-trafficking policies and their implementation, and its capacity to provide effective guidance to all involved public bodies and non-state institutions.<sup>203</sup>

Based on this concern, GRETA recommends, again, that the Lithuanian authorities explore the option of creating an independent National Rapporteur or other mechanism as an independent organizational entity to ensure effective monitoring of state institutions' anti-trafficking activities and provide focused recommendations. Additionally, GRETA noted that the independent National Rapporteur should receive sufficient human and financial resources to execute its functions effectively.<sup>204</sup>

Returning to the function of data collection and collaboration, the Lithuanian authorities responded to GRETA's second evaluation round report that, since one of the main responsibilities of the independent National Rapporteur is to gather statistical data and other relevant information on trafficking in human beings, Lithuania introduced an electronic system for collecting and processing data. This system can obtain and analyse information from relevant state and non-state actors, and it can categorise data by various criteria such as sex, age, form of exploitation, and country of origin or destination. Therefore, the non-independent National Rapporteur of Lithuania receives data from all relevant government agencies, municipalities, specialised NGOs, and from the Vilnius Office of the International Organization for Migration. However, the Lithuanian authorities also responded to GRETA that the information entered into the electronic system by various institutions and agencies is frequently not comparable due to differences in their data collection methods. Based on this information, GRETA recommended to the Lithuanian government to persist in constructing a thorough and consistent statistical system on trafficking in human beings in order to ensure that the data collected presents a comprehensive depiction of the situation in Lithuania.<sup>205</sup> As can be understood from this information, the non-independent National Rapporteur in Lithuania is expanding the performance of its functions, especially those concerning systematic data collection and collaboration with relevant institutions. In the case of the latter, the collaboration

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<sup>203</sup> *Ibid.*, Council of Europe (supra 63).

<sup>204</sup> *Ibid.*, Council of Europe (supra 63).

<sup>205</sup> *Ibid.*, Council of Europe (supra 63), p. 11.

can only be seen at the level of data collection and not other needed actions in order to combat and prevent trafficking in human beings and raise awareness of this issue.

During the period of 2020 - 2021, proposals were made to transfer the non-independent National Rapporteur's functions to the Office of the Equal Opportunities Ombudsperson or to the Seimas Ombudsman's office in order to address its independence from policymaking. However, after discussions and correspondence with the Equal Opportunities Ombudsperson's Office, it was determined that the data collection responsibility would cause the Office to lose its independent status, rendering it ineligible to assume that function. The Seimas Ombudsman's Office also declined the responsibility. However, since the beginning of 2022, a study is being conducted by the Centre for Strategic Analysis of the Government (STRATA), commissioned by the Ministry of the Interior, to evaluate eligibility for the independent National Rapporteur's status. The study considers four different alternatives for transferring the function to guarantee the institution's independence.<sup>206</sup> The final results of the study indicate that assigning the tasks of an independent National Rapporteur to the Seimas Ombudsman's Office is considered the most appropriate. This alternative was based on the institution's status as the National Human Rights Institution. However, during this study, risks of choosing this alternative were identified, which could affect the effectiveness of the position of the independent National Rapporteur in Lithuania. In order to solve this issue, particular steps will be taken – a consultation with representatives of interested parties to identify threats to the effectiveness of the institution and their tolerance level should be organised, the issue of allocating necessary resources to ensure the independence of the National Rapporteur must be addressed, and lastly draft legislation necessary for the change of the National Rapporteur system must be prepared.<sup>207</sup>

In the case of Latvia, the National Rapporteur's functions are *de facto* partially fulfilled by the National Anti-Trafficking Coordinator in Latvia.<sup>208</sup> The function of the National Rapporteur is not mentioned in any law or regulation, but in practice these functions are carried out by the National Anti-Trafficking Coordinator hence the mention of the “*de facto*”. The functions of the National Rapporteur that are carried out in Latvia include statistical data collection, situation monitoring, annual reporting to various national and international institutions on trends of

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<sup>206</sup> *Ibid.*, Council of Europe (supra 113).

<sup>207</sup> STRATA. *Nacionalinio pranešėjo statuso Lietuvoje pokyčio sprendimo vertinimas* (ENG: Evaluation of the decision to change the status of National Rapporteur in Lithuania). 2022. Available at: [https://strata.gov.lt/wp-content/uploads/2022/10/NAC\\_PRANESEJAS\\_2.0\\_ataskaita\\_FINAL\\_2022-09-30.pdf](https://strata.gov.lt/wp-content/uploads/2022/10/NAC_PRANESEJAS_2.0_ataskaita_FINAL_2022-09-30.pdf), p. 7.

<sup>208</sup> *Ibid.*, Council of Europe (supra 123).

trafficking modus operandi, victims, criminal proceedings, court decisions and responses. The data collection includes both quantitative and qualitative data. Since 2020, the National Anti-Trafficking Coordinator also publishes annual reports. Furthermore, the National Anti-Trafficking Coordinator ensures gathering and evaluating information regarding anti-trafficking issues to be incorporated into policy planning documents for the Ministry of the Interior of the Republic of Latvia and other government institutions. The National Anti-Trafficking Coordinator is also responsible for implementing tasks assigned by the Cabinet of Ministers and the Prime Minister, monitoring legal acts and regulations, and assessing the progress of the fight against trafficking in human beings. In addition, the National Anti-Trafficking Coordinator is responsible for proposing ways to improve national anti-trafficking policies or legal framework, representing the Ministry of the Interior and the country's interests in national and international meetings and conferences, and overseeing the coordination and implementation of decisions related to anti-trafficking efforts.<sup>209</sup> From the viewpoint of international regulation on the functions of an independent National Rapporteur, it can be seen that the National Anti-Trafficking Coordinator, to an extent, exercises the essential functions such as monitoring and reporting, assisting on policy and legislative development and collecting data. The collaboration function is exercised from the point of representing the views of the Ministry of Interior. Because of this, it is also self-evident that the monitoring and reporting functions are opinion-based, meaning that, in the view of the Ministry of Interior, the independency of such a mechanism is restricted.

The National Anti-Trafficking Coordinator has acted as an alternative mechanism to a National Rapporteur since 2012, and responded to GRETA's first evaluation round questionnaire that creating a distinct National Rapporteur institution is not currently planned, as the current coordinator mechanism is viewed as an alternative mechanism that effectively coordinates anti-trafficking efforts.<sup>210</sup>

In GRETA's second evaluation round questionnaire in 2015 the Latvian government responded to a question about the establishment of an independent National Rapporteur that the National Anti-Trafficking Coordinator meets the standards and achieves the functions outlined in

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<sup>209</sup> European Commission. Migration and Home Affairs. *Latvia*. Available at: [https://home-affairs.ec.europa.eu/policies/internal-security/organised-crime-and-human-trafficking/together-against-trafficking-human-beings/eu-countries/latvia\\_en](https://home-affairs.ec.europa.eu/policies/internal-security/organised-crime-and-human-trafficking/together-against-trafficking-human-beings/eu-countries/latvia_en).

<sup>210</sup> Council of Europe. GRETA Group of Experts on Action against Trafficking in Human Beings. *Reply to the Questionnaire from Latvia. GRETA(2012)1*. 9 March 2012. Available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680631cbb>, p. 16.

international regulations concerning the establishment of an independent National Rapporteur.<sup>211</sup>

Pursuant to this questionnaire, GRETA issued a report regarding the second evaluation round in Latvia in 2017. The Latvian government has indicated that appointment of an independent National Rapporteur, who would be responsible for independently overseeing and evaluating the anti-trafficking efforts of governmental organisations, is still under consideration. Based on this, GRETA indicated that Article 29 of the Anti-Trafficking Convention makes a clear distinction between the National Coordinator and National Rapporteur, and suggests that the independent National Rapporteur mechanism should have the ability to monitor state institutions, maintain a constant exchange with stakeholders, and have a human-rights-based approach to anti-trafficking policies. It is essential to have a separation between monitoring and executive functions to evaluate the implementation of anti-trafficking policies and formulate legal and policy recommendations. GRETA advises the Latvian authorities to establish a separate organisational entity or another independent mechanism for monitoring the anti-trafficking activities of state institutions as the National Rapporteur.<sup>212</sup>

A year later, the Latvian government submitted a report to the Council of Europe about the implementation of GRETA's second evaluation round's recommendations, including the one concerned with establishing an independent National Rapporteur. Latvian authorities have noted that the independent National Rapporteur functions, as recommended in Article 29 of the Anti-Trafficking Convention have been implemented, since the National Anti-Trafficking Coordinator carries out functions such as collecting and analysing statistical data about the victims of trafficking in human beings, including their identification, gender, age, form of exploitation, citizenship, recruitment method, country of recruitment and destination country, if the victim is seeking international protection, reflection period, residence permit, state-funded assistance, cooperation with law enforcement, investigations, and prosecutions. The data also includes information about informative and educational activities, partners involved, target groups, and checks on violations of employment and prostitution regulations. The data is

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<sup>211</sup> Council of Europe. *Reply from Latvia to the Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties. Second evaluation round (Reply submitted on 11 November 2015)*. GRETA(2015)29. 25 November 2015. Available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806dbd4c>, p. 7.

<sup>212</sup> Council of Europe. GRETA Group of Experts on Action against Trafficking in Human Beings. *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Latvia. Second evaluation round*. GRETA(2017)2. 23 March 2017. Available at: <https://rm.coe.int/greta-2017-2-fgr-lva-w-cmts-en/1680782ac0>, p. 9.

provided by the members of the national inter-institutional working group that is responsible for coordinating the implementation of the national anti-trafficking policy. The working group meets four times a year. While information is regularly updated, more detailed information and statistics are requested and collected by the Ministry of the Interior once a year.<sup>213</sup>

In September 2019, the Ombudsman's Office of the Republic of Latvia made a speech the conference "Towards the development of a national plan for the elimination of trafficking in human beings", where the topic of the need to establish an independent National Rapporteur was discussed.<sup>214</sup> The Ombudsman informed that in the work process and meeting with independent National Rapporteur's from other countries, he has become convinced of the need for the implementation of such a function in Latvia. He also urged the government and the parliament to actively consider the establishment of the position of an independent National Rapporteur on issues of trafficking in human beings. The role of an independent National Rapporteur would clearly define the state's position and responsibility in the combating and prevention of trafficking in human beings, as well as promote more active and effective cooperation among stakeholders and the execution of the tasks to be done. The Ombudsman also noted that, at the same time, the independent National Rapporteur on issues of trafficking in human beings must be sufficiently provided for both functionally and materially, so that the aspect of independence cannot be questioned by state institutions.<sup>215</sup>

According to GRETA's third evaluation round's questionnaire, received by the Latvian authorities in the beginning of 2020, no changes have been made. The Latvian authorities responded that the role of an independent National Rapporteur is still not established in Latvia and that the Ministry of the Interior is responsible for the tasks and responsibilities of the National Anti-Trafficking Coordinator, as well as partially those of the National Rapporteur.

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<sup>213</sup> Council of Europe Committee of the Parties to the Council of Europe Convention on Action against Trafficking in Human Beings. *Report submitted by the Latvian authorities on measures taken to comply with Committee of the Parties Recommendation CP(2017)2 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings. Second evaluation round. CP(2018)10.* 9 March 2018. Available at: <https://rm.coe.int/cp-2018-10-rr2-lva-en/168079203b>, p. 3.

<sup>214</sup> Latvijas Republikas tiesībsargs (ENG: Ombudsman's Office of the Republic of Latvia). *Tiesībsargs uzstāsies konferencē "Ceļā uz nacionālā plāna izveidi cilvēku tirdzniecības izskaušanai"* (ENG: *The Ombudsman will speak at the conference "Towards the development of a national plan for the elimination of trafficking in human beings"*). 23 September 2019. Available at: <https://www.tiesibsargs.lv/news/tiesibsargs-uzstasies-konference-cela-uz-nacionala-plana-izveidi-cilveku-tirdzniecibas-izskausanai/>.

<sup>215</sup> Latvijas Republikas tiesībsargs (ENG: Ombudsman's Office of the Republic of Latvia). *Tēzes priekš tiesībsarga runas konferencē "Ceļā uz nacionālā plāna izveidi cilvēku tirdzniecības izskaušanai"* (ENG: *Thesis for the speech of the Ombudsman at the conference "Towards the development of a national plan for the elimination of trafficking in human beings"*). Available at: [https://www.tiesibsargs.lv/wp-content/uploads/migrate\\_2022/content/tezes\\_prieks\\_tiesibsarga\\_runas\\_konference\\_cela\\_uz\\_nacionala\\_plana\\_izveidi\\_cilveku\\_tirdzniecibas\\_izskausanai\\_1569242165.pdf](https://www.tiesibsargs.lv/wp-content/uploads/migrate_2022/content/tezes_prieks_tiesibsarga_runas_konference_cela_uz_nacionala_plana_izveidi_cilveku_tirdzniecibas_izskausanai_1569242165.pdf), p. 2.

However, the Latvian authorities also noted that, in September 2019, the Parliamentary Commission on Human Rights and Public Affairs and the NGO “Centre MARTA” organised a conference to discuss legislative improvements and new policy initiatives in preventing the trafficking in human beings. The conference raised the question of the need for establishing an independent National Rapporteur, but no further action was taken.<sup>216</sup>

Furthermore, in the same report, it was noted that the National Anti-Trafficking Coordinator still partially fulfils the functions of the National Rapporteur. However, the possibility of the Ombudsman’s Office taking on the role of the independent National Rapporteur has been discussed, but the Ombudsman’s Office believes they cannot do so within their current capacity. Additionally, the Ombudsman’s Office is actively involved in the fight against trafficking in human beings by providing recommendations, training, and support for improving the legal framework. Additionally, the new National Action Plan against trafficking in human beings 2021-2023, which was adopted on 28 September 2021, includes a discussion of the designation of an independent National Rapporteur’s institutions in Latvia and how it could be integrated into the Ombudsman’s institution in terms of an additional position and funding. Consequently, GRETA noted the same statement as in the second evaluation round, that the independent National Rapporteur should be able to monitor the efforts and effectiveness of all involved institutions, bodies and NGOs that are involved in the fight against trafficking in human beings. For this reason, GRETA repeatedly recommends that Latvian authorities finalise the process of establishment of an independent National Rapporteur or another existing independent mechanism to ensure effective monitoring of anti-trafficking activities in order to provide the needed recommendations.<sup>217</sup>

In conclusion, regarding Latvia’s road to the establishment of an independent National Rapporteur, the National Action Plan against trafficking in human beings 2021-2023, includes the evaluation of a model for the establishment of an independent National Rapporteur. The informative report about the establishment of such a mechanism needed to be submitted for consideration of the Cabinet of Ministers of the Republic of Latvia by 31 December 2022.<sup>218</sup>

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<sup>216</sup> Council of Europe. GRETA Group of Experts on Action against Trafficking in Human Beings. *Reply from Latvia to the Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties. Third evaluation round. Thematic focus: Access to justice and effective remedies for victims of trafficking in human beings.* GRETA(2018)26\_LVA\_rep. 31 January 2020. Available at: <https://rm.coe.int/greta-2018-26-lva-rep/16809e4101>, p. 38.

<sup>217</sup> *Ibid.*, Council of Europe (supra 123).

<sup>218</sup> Latvijas Republikas tiesību akti (ENG: Legal Acts of the Republic of Latvia). Par Cilvēku tirdzniecības novēršanas plānu 2021.-2023.gadam (ENG: The National Action Plan against trafficking in human beings 2021-

The submission of this informative report has been delayed and at the time of drafting this thesis it has not been submitted to the Cabinet of Ministers.

By looking at the official or *de facto* functions of those who have the role of National Rapporteur or the equivalent mechanism in the Baltic States, which can be regarded as being very similar in their functions, however, in reality it can be seen that if the National Rapporteur is an independent body or a governmental plays a big role – meaning that it is self-evident that if the National Rapporteur is entrusted into the hands of a non-independent body it may mean that the work may be restricted or biased and may not be as flexible as those National Rapporteurs in other EU countries that operate independently. Despite that, of course, the main focus on any relevant institution and position in the fight against trafficking in human beings is to combat and prevent such a crime, as well as to promote and protect the human rights of the identified victims or potential victims. However, as can be seen from the GRETA reports on all Baltic States, the need to establish an independent National Rapporteur or another independent mechanism, with the functions as laid down in international regulations, is highly urged in every report. From analysing the introduction of an independent National Rapporteur in the Baltic States, it can be seen that Latvia and Lithuania are the furthest towards introducing such a mechanism, by either including the evaluation of this in the National Action Plan against trafficking in human beings or conducting a study and laying down specific steps that need to be taken in order to do so. However, in the case of Estonia, no similar actions on the need to establish an independent National Rapporteur have been taken by the time of drafting this thesis.

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2023). 28 September 2021. Available at: <https://likumi.lv/ta/id/326420-par-cilveku-tirdzniecibas-noversanas-planu-2021-2023-gadam>, Action plan Nr. 4.9.

## Summary

With regard to the mechanism that was the focus point in this thesis – the National Rapporteur – it can be concluded that from the recommendations established in EU Anti-Trafficking Directive and Anti-Trafficking Convention, the mechanism can be interpreted in different ways and therefore look very different in each country. Some EU Member States have opted for the best version, which is appointing an independent National Rapporteur. However, some states have opted for a non-independent National Rapporteur or have chosen to implement an equivalent mechanism.

In the case of the Baltic States, none of them have established an independent National Rapporteur. Lithuania has a non-independent National Rapporteur and both Estonia and Latvia have an equivalent mechanism, meaning that the role of the National Rapporteur is fulfilled or partly fulfilled by the National Coordinator, which means that it is also a non-independent mechanism. However, it can be concluded that all the Baltic States are moving closer to establishing an independent National Rapporteur, particularly Lithuania and Latvia, by conducting studies on this topic to consider the best way to implement this mechanism or by including the evaluation of this need in the newest National Action Plan against trafficking in human beings.

The role of the National Rapporteur, whether independent or non-independent, has various important functions that can help to combat and prevent trafficking in human beings, as well as to promote and protect the human rights that are affected by this crime. By looking at the international regulations, the author proposed to group the functions into four categories, which also by analysing the practical implementation of the National Rapporteur is also seen in almost all of the EU Member States.

The first function is to report and monitor, which involves evaluating and observing whether national institutions and other relevant organisations comply with human rights standards while implementing various anti-trafficking activities and ensuring the protection of the victims of trafficking. These functions are also responsible for reporting any violations or abuses that may arise, which therefore can help to draw attention to the human rights issues in that particular country.

The second function is systematic data collection, which involves collecting statistics, patterns, trends, and the overall situation in a particular country on trafficking in human beings. This data is always up to date since it is collected from all relevant institutions in the fight against trafficking in human beings, both on a governmental and private level. Furthermore, this systematic data can be used to raise public awareness about the various forms of trafficking in human beings and about the consequences of this crime. In the author's view it could be understood, that by collecting all relevant data that is needed for the National Rapporteur, it could also mean the collection of sensitive data that other bodies, whether governmental or private, could not collect. By this it could be further concluded that the National Rapporteur adds an additional value to its activities because by obtaining sensitive data the National Rapporteur could conduct a somewhat objective analysis of what is happening in the field of trafficking in human beings, why it is happening, and what needs to be done differently. Since sensitive data can entail closed court decisions, by obtaining this information, the National Rapporteur could go through all the materials, see where each institution has made a mistake, and then make recommendations on what each institution should have done differently in such cases.

The third function is assisting in policy and legislative development, which is done by providing recommendations and suggestions to the governmental bodies, relevant NGOs, or other institutions on ways how to promote and protect human rights regarding anti-trafficking activities. These recommendations and suggestion can include, for example, actions such as increasing funding for anti-trafficking activities or creating a more effective protection and assistance systems for identified victims of trafficking.

The fourth and last main function is collaboration, which is an important aspect because the National Rapporteur should collaborate with all relevant institutions on the national and international level to coordinate better efforts in the fight against trafficking in human beings. Additionally, through the information obtained by the monitoring and reporting function, as well as from the systematic data function, the National Rapporteur can share the relevant information and best practices via the collaboration function, which can therefore lead to advocating for the protection of human rights on an international level.

Even though relevant mechanisms in all the Baltic States carry out more or less the same functions, they are not an independent body. As recommended by the OSCE and GRETA, it can be determined that it is ideal for the National Rapporteur to be independent from any

governmental entity to ensure impartiality and objectivity. The independency also allows for the National Rapporteur to carry out its functions without being influenced or pressured by a governmental view-point or other interested parties. The independence is also crucial to provide unbiased evaluations of the government's actions against trafficking in human beings and to propose effective solutions to address this issue. Furthermore, independence can boost confidence among the public and other relevant institutions that want to rely on the National Rapporteur's knowledge and recommendation. Therefore, the author concludes that in order for the National Rapporteur to be successful in its activities it should have all of the four mentioned functions, as well as, the independency aspect is the key.

To answer the research question that was put forward, the author concludes that through all of the effective functions that the National Rapporteur holds and carries out, especially if it operates independently, all of the affected human rights that are violated by trafficking in human beings could be strengthened.

By fulfilling its responsibilities, an independent National Rapporteur can help prevent and eliminate various forms of trafficking in human beings, increase awareness of the crime and its repercussions, and improve assistance and protection of all victims of trafficking, regardless of their age and gender. This, in turn, can strengthen numerous human rights such as the right not to be submitted to slavery and forced labour, the right to work freely, the right to just and favourable conditions of work, the right to liberty and security, the right to receive payment for work, the right not to be subjected to torture or inhuman or degrading treatment or punishment, the right to own and control one's identity documents, the right to equality and right to non-discrimination, the right to life, the right to be free from gendered violence, the right of freedom of association, the right to the highest attainable standard of physical and mental health, the right to movement, the right to an adequate standard of living, the right to social security, the right not to be sold, traded or promised in marriage, the right of children to special protection, the right of access of courts, the right of equality before courts and the right to a fair trial could be strengthened. However, due to the complexity of trafficking in human beings and the variability of each case, other fundamental human rights may also be violated, which could also be addressed through the effective functions of the independent National Rapporteur.

Furthermore, since various human rights are violated by the crime of trafficking in human beings and the National Rapporteur's functions cover a wide range of activities in its mandate, especially if it operates independently, it could be understood in the authors view, that if the

mechanism is actively and efficiently carrying out all of its functions it could help to strengthen the human rights that are violated by trafficking in human beings. Therefore, the author concludes that the hypothesis proves to be true, that the independent National Rapporteur improves the application of various human rights in order to fight against the issue of trafficking in human beings.

In summary, by looking at the functions that the National Rapporteur holds it could be determined that such a mechanism can play a crucial role in promoting and protecting human rights within a country. The functions of reporting and monitoring, systematic data collection, assisting in policy and legislative development, and collaborating with all relevant institutions are all essential in ensuring that human rights are protected, respected, and fulfilled for all people. Through these functions, the establishment of the National Rapporteur, especially one that operates independently, could help to combat trafficking in human beings and protect the application of human rights for all individuals.

## **Riikliku voliniku roll inimkaubanduse vastases võitluses Balti riikide näitel – Kokkuvõte**

Inimkaubandus on mitmetahuline probleem, mis rikub rahvusvahelisi ja riigisiseseid seadusi, sealhulgas inimõigusi. See puudutab kõiki inimesi, olenemata soost ja vanusest, ning iga arengutasemega riiki. Seega on tegemist ülemaailmse probleemiga, mille tõhusaks lahendamiseks on vaja riikide ja institutsioonide kooskõlastatud jõupingutusi. Inimkaubandus on kuritegu, moraalne probleem ja õigusküsimus, mis vajab kohest ning kriitilist tähelepanu. Seetõttu on inimkaubanduse tõkestamine ja selle vastu võitlemine ülimalt oluline, et tagada ohvrite ja ühiskonna kui terviku heaolu. Selle raske ja keerulise kuriteo vastu võitlemiseks on vaja mitmesuguseid rahvusvahelisi ning riiklikke vahendeid ja mehhanisme. Üks selline rahvusvahelisel tasandil tunnustatud mehhanism on riikliku voliniku loomine.

Riikliku voliniku mehhanismi loomist on riikidele soovitatud alates 1997. aastast, kui see esitati esimest korda 26. aprilli 1997. aasta Haagi ministrite deklaratsioonis Euroopa juhistele kohta naistega kaubitsemise efektiivsete ennetamise ja tõkestamise meetmetest. See deklaratsioon pani aluse sama soovitusel rakendamisele Euroopa Nõukogu inimkaubanduse vastases konventsioonis, Euroopa Parlamendi ja Nõukogu direktiivis (5. aprill 2011, 2011/36/EL) (milles käsitletakse inimkaubanduse tõkestamist ja sellevastast võitlust ning inimkaubanduse ohvrite kaitset) ning osaliselt ka Rahvusvahelise organiseeritud kuritegevuse vastu võitlemise ÜRO konventsiooni täiendavas protokollis (inimkaubanduse, eelkõige naiste ja lastega kauplemise ennetamine, tõkestamine ja selle eest karistamine).

Vastavalt Euroopa Parlamendi ja Nõukogu 5. aprilli 2011. aasta direktiivi 2011/36/EL (inimkaubanduse tõkestamise ja selle vastu võitlemise ning selle ohvrite kaitse) artiklile 19 ja inimkaubandusvastase Euroopa Nõukogu konventsiooni artiklile 29 on riikliku voliniku peamine ülesanne jälgida ja hinnata riigi jõupingutusi inimkaubanduse tõkestamisel, aidata kaasa riiklike õigusaktide väljatöötamisele ja tõhustada inimkaubandusega seotud inimõiguste kaitset. Inimkaubandusevastase võitluse eksperdirühm (GRETA) lisab, et riiklik volinik peaks lisaks riigi meetmete jälgimisele ja hindamisele andma ulatuslikke soovitusi. Poliitiliste ja seadusandlike meetmete erapooletu hindamise tagamiseks peaks riiklik volinik olema sõltumatu organ ja tegema tihedat koostööd kodanikuühiskonna, teadusasutuste ja muude asjaomaste organisatsioonidega. Selline lähenemisviis hõlbustab täpset suunamist ja tõhusust inimkaubanduse tõkestamise meetmete loomisel ning reguleerimisel. Lisaks sellele edendab riiklik volinik inimkaubandust käsitlevate aruannete kaudu inimõigustest tulenevate kohustuste laialdast arusaamist ja nende tunnustamist.

Käesolevas uurimistöös kasutatakse mitmeid õiguslikke uurimismeetodeid. Esiteks rakendab autor doktriinipõhist meetodit, et uurida rahvusvahelisi õigusakte ja seadusi, mis sisaldavad endas soovitusi riikliku voliniku loomiseks. Teiseks viiakse läbi kirjanduse analüüs, et analüüsida aruandeid ja teadusartikleid, teha kindlaks sõltumatu riikliku voliniku peamised ülesanded ning uurida, kuidas inimkaubandus rikub inimõigusi. Lisaks analüüsitakse ka sõltumatu riikliku voliniku praktilist rakendamist erinevates Euroopa Liidu liikmesriikides. Peale selle on töös kasutatud juhtumiuuringu (kaasuspõhist) meetodit, eelkõige mitme juhtumi uuringut, mis hõlmab Euroopa Liidu eri liikmesriikide kogemuste analüüsi seoses sõltumatu riikliku volinikuga, samuti toob autor üksikasjalikult välja Balti riikide jõupingutused sõltumatu riikliku voliniku rakendamisel.

Käesoleva uurimistöö eesmärk on paremini mõista riikliku voliniku rolli, et aru saada, kuidas selline mehhanism mõjutab inimkaubanduse vastu võitlemist ja selle ennetamist, milline on inimkaubandusest tingitud inimõiguste rikkumiste tõsidus. Samuti on eesmärk analüüsida riikliku voliniku praktilist rakendamist Euroopa Liidus ning praegust olukorda Balti riikides selleks, et hinnata riikliku voliniku rolli inimkaubanduse vastu võitlemisel.

Oma töös jõudis autor järeldusele, et Balti riikide puhul ei ole ükski riik asutanud sõltumatu riikliku voliniku institutsiooni. Kuigi Leedu on rakendanud riikliku voliniku mehhanismi ning Eestis ja Lätis on loodud samaväärne organ (riikliku voliniku rolli täidab siinkohal täielikult või osaliselt riiklik koordinaator), ei ole siiski tegemist iseseisva mehhanismiga. Küll aga võib järeldada, et kõik Balti riigid, eelkõige Leedu ja Läti, liiguvad lähemale sõltumatu riikliku voliniku loomisele.

Kuigi EL direktiiv kasutab mõistet Riiklik raportöör või samaväärne mehhanism, olen oma töö eestikeelses kokkuvõttes eelistanud terminit volinik, mid akasutab Riigi Teatajas avaldatud Euroopa Nõukogu konevntsiooni art 29 eestikeelne versioon, kuivõrd minu arvates on nimetatud institutsioon enam kui lihtsalt raportöör, samuti on raportöör võõrsõna, kuid volinik eestipärasem.

Kuigi kõik Balti riikide asjaomased mehhanismid täidavad enam-vähem samu ülesandeid - järelevalve ja aruandlus, süstemaatiline andmete kogumine, regulatsioonide ja õigusaktide väljatöötamise abistamine ning koostöö asjaomaste institutsioonidega, ei ole tegemist sõltumatu organiga. Euroopa Julgeoleku- ja Koostööorganisatsioon ning GRETA märgivad, et

erapooletuse ja objektiivsuse tagamiseks oleks vajalik riikliku voliniku sõltumatu seisus mis tahes valitsusasutusest. Sõltumatus võimaldab riiklikul volinikul täita oma ülesandeid ilma valitsuse või muude puudutatud isikute mõjutuste või surveta. Sõltumatus on oluline ka selleks, et anda erapooletuid hinnanguid riigi inimkaubandusevastaste meetmete kohta ja pakkuda välja tõhusaid lahendusi selle probleemi vähendamiseks. Lisaks võimendab sõltumatuse aspekt avalikkuse ja teiste asjaomaste institutsioonide usaldust, kes soovivad toetuda riikliku voliniku teadmistele ja soovitudele. Seetõttu järeltab autor, et riikliku voliniku institutsiooni edu seisneb kõigis neljas funktsioonis, kus „sõltumatusel“ on põhitähtsus.

Täites oma ülesandeid, saab sõltumatu riiklik volinik aidata kaasa inimkaubanduse erinevate vormide ennetamisele ja likvideerimisele, suurendada teadlikkust kuriteost ja selle tagajärgedest ning edendada kõigi inimkaubanduse ohvrite abistamist ja kaitset, sõltumata nende vanusest ja soost. See on äärmiselt oluline inimõiguste tagamiseks.

Kokkuvõttes võib riikliku voliniku ülesandeid vaadates teha kindlaks, et selline mehhanism mängib olulist rolli inimõiguste edendamisel ja kaitsmisel riigisiselt. Aruandlus- ja järelevalvefunktsioonid, süstemaatiline andmete kogumine, regulatsioonide ning õigusaktide väljatöötamisel abistamine ja koostöö kõigi asjaomaste institutsioonidega on kõik olulised, et tagada inimõiguste kaitse, austamine ja täitmine kõigi inimeste jaoks. Nende funktsioonide kaudu võiks riikliku voliniku loomine, eriti sellise, kes tegutseb sõltumatult, aidata võidelda inimkaubanduse vastu ja kaitsta kõigi inimeste inimõiguste kohaldamist.

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