

# States, Not Victims, Bear the Responsibility for Victim Identification

**Today, on EU Day against Trafficking in Human Beings, we call upon European governments to enhance the early identification and support of victims, in cooperation with relevant support organisations.**

The fact that trafficked persons fail to self-identify as victims of human trafficking, is increasingly mentioned as one of the main reasons for their low identification in Europe. We believe it is crucial to challenge this narrative that places the onus of self-identification on victims of human trafficking. Not only does this perspective endanger the well-being of affected people but it also undermines the responsibility of states and relevant actors in identifying human trafficking.

When victims do not come forward, this is not because they do not recognise their harmful situation, or the exploitation or violence that occurred, but because they lack the trust, as well as the necessary information and support to report the crime and know their rights.

From victims, it cannot be expected that they understand the complex legal definition of human trafficking and its interpretation. Neither should victims bear the burden of proof or be required to self-identify to receive assistance; rather, it is the responsibility of states. States are under a clear obligation to ensure that victims are early and accurately identified and receive support. Hence governments and law enforcement authorities must take proactive steps to reach and inform individuals about their rights and the signs of human trafficking.

As soon as there are reasonable grounds to believe someone may be a victim of trafficking, this person should have access to assistance and support. This approach not only safeguards the rights of the individual but also allows for a thorough victim identification process to take place. Yet, too often, victims face barriers that prevent them from accessing this essential support. The current landscape surrounding victim identification significantly deters individuals from coming forward, as many lack assurance of receiving the support they need.

Victims are acutely aware of potential repercussions, including detention, deportation, or loss of housing and employment, particularly as safe reporting mechanisms are generally absent all over Europe. Moreover, after initial recognition as a presumed victim, individuals often face a lengthy verification process that can extend beyond the reflection period, creating anxiety and uncertainty.

It is important to distinguish between the determination of whether a person is a victim of trafficking and an assessment as to whether a criminal case can be brought against their traffickers. Furthermore, the strong focus on and linkages with the criminal investigations, hampers victims' access to support. Instead of focusing on the urgent needs of those who have experienced exploitation, the system places an undue burden on victims to prove their status, further discouraging them from seeking help and reclaiming their rights.

Prosecutions rely heavily on the testimony of victims, however recognizing the rights of victims and assisting their recovery and reintegration into the community increases the likelihood of them cooperating with criminal justice authorities to prosecute offenders, as well as enhancing their potential effectiveness as witnesses in court. Moreover, it is possible to pursue legal cases successfully, without the victim's testimony, by carefully prioritizing other evidence collection.

Current statistics indicate that only a small percentage of victims are identified, highlighting a systemic failure in our identification processes. A failure to identify a trafficked person correctly is likely to result in a further denial of that person's rights. Frontline workers, including border guards, police officers, and social workers, play a crucial role in early identification. However, they need better training and resources to effectively recognise and respond to potential cases of trafficking.

When assessing whether an individual is a victim, all that is required is reasonable grounds, not absolute proof. Trafficked persons should be given the benefit of the doubt until their status can be clarified by further inquiries.

Here, it is also essential that when victims do self-identify, which does happen, that they are believed and are not labeled as 'people using such a story to claim rights or residence'.

For assessing victimhood, we must also recognize the invaluable role of civil society organizations (CSOs) in this process. CSOs frequently encounter victims and can recognise crucial indicators of trafficking. It is imperative that states collaborate with these organisations and take their referrals seriously, to ensure a more holistic and effective identification process. In 2023, our members assisted 5103 persons with indications of human trafficking. Only a small percentage has been formally identified. This should change.

## Our recommendations

1. **Lift Barriers to Identification:** Remove existing obstacles that hinder the identification of victims of trafficking, ensuring that all trafficked persons have access to their rights.
2. **Reconsider Conditionality of Support:** Evaluate and modify the requirement for victims to cooperate with authorities and ensure that victims receive assistance based on their presumed victimhood.
3. **Train Officials and Practitioners:** Equip officials and practitioners with the skills and knowledge to better recognise and identify trafficked persons.

4. **Adopt a Proactive Approach to Identification:** Actively reach out to potential trafficked persons through enhanced outreach and awareness initiatives among risk groups
5. **Establish Safe Reporting and Complaint Mechanisms:** Create secure and accessible reporting channels that protect victims from risks associated with coming forward, such as detention or deportation, fostering an environment where they feel safe to come forward.