

JUSTICE AT LAST

Improve access
to compensation



Dear Elected Representatives

On the occasion of the European Day against Trafficking in Human Beings, 18 October, we would like to address you, as Members of the European Parliament, the Committee of the Parties of the Council of Europe Convention on Action against Trafficking in Human Beings, the Parliamentary Assembly of the Council of Europe and the OSCE Parliamentary Assembly.

You can help improve access to justice for victims of crime and call on your national governments to enhance and ensure access to compensation in practice.

Compensation and recovery of unpaid wages are crucial aspects of access to justice for victims of crime. For victims of human trafficking and other forms of labour exploitation or violence in the workplace, compensation serves as an instrument of restorative justice and of prevention of further exploitation. It is also a recognition of the violation of their rights, the damages they have suffered and the wages they are owed.

In recent years, compensation and recovery of unpaid wages have been increasingly on the agenda in Europe. The rights of victims of human trafficking have been established in EU and international law. Despite the legal framework in place, seeking and obtaining compensation remains difficult and often even impossible in practice. Our evidence shows that very few victims have the means to seek compensation. A number of legal, procedural, financial and practical barriers hinder the access of trafficked and exploited persons to effective remedies, including compensation. This situation is exacerbated in the case of undocumented or irregular migrants who are disproportionately exposed to exploitation and abuse.

Today, on the European Day against Trafficking in Human Beings, we call upon all European elected representatives and European governments to commit to implement our 6-point action plan to ensure that trafficked and exploited persons can access their right to compensation without any barriers.

- 1. Support all trafficked and exploited persons to report exploitation and access justice, including when they are undocumented**

Victims in irregular situations are often not able to report exploitation, as they face arrest and deportation because of their irregular status. We call for a 'firewall' that allows workers to safely file a complaint to police or labour authorities and courts, and get access to services and justice, without facing immigration enforcement as a result. This would empower workers, uphold fundamental rights, tackle abuses, and promote fair business practice. It would also ensure that all cases are properly investigated, that perpetrators are held to account, and all victims can come forward.

2. Provide trafficked and exploited persons with access to information and free legal assistance to pursue compensation claims

Information and legal assistance are crucial to navigate procedures and access compensation and other rights. Specialist legal representation is required to pursue compensation in criminal, civil and administrative proceedings. However, State-funded legal aid is not always available and can be limited in scope or dependent on residence status and domicile of the victim. Further, in general, the availability of quality, specialised legal aid is limited. Victims should be provided with information on their rights in an understandable manner, at first contact. Legal aid should be made available for all trafficked and exploited persons, alongside measures to support the specialisation of legal professionals to assist and represent trafficked persons and victims of related crimes in proceedings to claim compensation.

3. Ensure that calculation of damages is fair, adequate, transparent and based upon clear guidance

Currently there are significant differences between the compensation amounts claimed and the awards granted to victims of trafficking and labour exploitation. In addition, certain types of damages, e.g. loss of earnings from prostitution, are rejected in some European countries. So far there is no harmonised guidance at European level to calculate damages for victims and payments of compensation awards. The calculation of damages should be developed to ensure the principles of legal equality and certainty.

4. Enhance financial investigations and assets recovery

A major barrier for access to compensation for victims of trafficking and victims of related crimes is that perpetrators are not found, or are not prosecuted, or have moved their assets abroad or have declared themselves bankrupt to avoid confiscation of their assets and having to pay compensation. Financial investigations for the identification, tracing and seizure of criminal assets have been limited in scope and effectiveness. We call for criminal investigations to include a financial investigation at an early stage of the proceedings to establish the extent of the illegal financial gain of the offender(s) and of the damage to the victim. When this is done, the prosecutor or the victim's lawyer can request the seizure and confiscation of assets of value that can serve to meet the victim's compensation claim after the perpetrator has been convicted.

5. Promote effective transnational cooperation to support cross-border compensation claims

Adequate cooperation between all relevant stakeholders at national and international level is essential to ensure access to compensation. Victims often face challenges in pursuing their compensation claims after voluntary or forced return to other countries, for various reasons. These include issues related to continuity of legal assistance and representation, execution of European Enforcement Orders and transmission of applications for compensation from one country to another. We call for effective international cooperation and referral mechanisms between law enforcement, financial investigators, NGOs and lawyers to ensure 'portable justice' and raise awareness that victims can still claim and receive compensation, once they have left the country.

6. Lift eligibility criteria for state compensation funds to ensure access to all trafficked and exploited persons, including undocumented workers

Most available state compensation schemes for victims of (violent) crimes grant financial compensation for material damages only, such as medical expenses, property damages, and

sometimes lost earnings. Victims of trafficking and exploitation are often excluded from access to state compensation – either through eligibility criteria or in practice - because of their residence status or because their employment situation is irregular. When schemes are available for victims of violent crime, they often require proof of physical violence, excluding victims who have been trafficked by means of subtle forms of coercion or deception.

We call for victims to be awarded compensation for unpaid wages or loss of income, as material damages, and also be awarded compensation for immaterial damages. Countries that still do not have state compensation schemes in place, should establish these and review the eligibility criteria. Access to state compensation should be ensured irrespective of residence status and the status of the work or services conducted.

La Strada International – European NGO Platform against trafficking in human Beings

Know your Rights – Claim compensation is a campaign launched in the framework of the project [Justice at Last – European Action for Compensation for Victims of Crime](#). This project is partly funded by the European Union’s Justice Programme (2014-2020).

The campaign Justice at Last is implemented by:

- La Strada International
- Animus Association (Bulgaria)
- La Strada Czech Republic
- SicarCAT and Esperanza (Spain)
- KOK (Germany)
- LEFÖ (Austria)
- FairWork (The Netherlands)
- MRCI (Ireland)
- Adpare (Romania)
- Open Gate (North Macedonia)
- ASTRA – Anti Trafficking Action (Serbia)

This letter is also co- signed by the following other LSI members and partners:

- Gender Perspectives (Belarus)
- La Strada Moldova
- CoMensha (The Netherlands)
- La Strada Poland
- La Strada Ukraine
- Anti-Slavery International (UK)
- Hope Now (Denmark)
- Human Resource Development Foundation (Turkey)
- Novi Put (Bosnia and Herzegovina)
- Pag-Asa (Belgium)
- PICUM (Belgium)
- Pro Tukipiste (Finland)
- FIZ (Switzerland)
- ALC (France)
- Ban Ying (Germany)
- Victim Support Finland (Finland)
- CCEM (France)

La Strada International is a European NGO Platform against human trafficking that works from a human rights perspective. The Platform’s primary goal is empowering trafficked persons and vulnerable groups, improving their position through promoting their universal rights, including the right to choose to emigrate and work abroad and to be protected from violence and abuse. La Strada International is member of [GAATW](#), [PICUM](#) and [ICRSE](#).