

**Beyond Joint Actions: Towards integrated anti-trafficking responses of European Union
Member States and Western Balkans**
A Non-paper

This Non-paper identifies avenues of collaboration between anti-trafficking stakeholders in the Western Balkans (WB)¹ and the European Union (EU), including its institutions and agencies as well as its Member States (MS), with a view to enhancing the quality and effectiveness of interventions to combat trafficking in human beings (THB) across Europe.

The International Centre for Migration Policy Development (ICMPD) has been acting as the Secretariat of the Network of Anti-Trafficking Coordinators in South East Europe (NATC SEE)² and supporting its work since its creation in 2010. In 2018, under the aegis of the Bulgarian presidency of the Council of the EU, the **first Non-paper** was prepared with the aim to “*serve as a compass for EU’s near future engagements in the field of countering THB*”. Drawing on the opportunities that the EU enlargement process offers to WB states and informed by an analysis of convergent priorities of the NATC SEE members, the 2018 Non-paper identified a number of areas of work and the related challenges that key anti-trafficking stakeholders in the WB should jointly tackle in order to reduce THB, protect its victims and punish the perpetrators.

In July 2021, Slovenia took over the presidency of the Council of the EU and identified WB as its regional **priority**, along with a renewed impetus given to the process of EU accession of WB states. A process of continuous engagement with the NATC SEE started and the need to update the 2018 Non-paper became salient, in light of the numerous legal and policy development that occurred within the EU and in the WB in relation to THB.

This revised and abridged version of the Non-paper is the result of that process which culminated with the **joint meeting** between the NATC SEE and the EU Network of National Rapporteurs and Equivalent Mechanisms (NREM) on 6 December 2021 (online). The Non-paper is based upon the answers to a **questionnaire** disseminated in the August 2021 and therefore, it provides an up-to-date picture of THB with the latest data and statistics provided by state authorities in the WB. The data were analysed in light of the latest legal and policy developments that took place in the sub-region but also within the EU at large.

Finally, in 2020, the NATC SEE took the opportunity on its 10th anniversary to look back and take stock of the work accomplished. It drew a number of lessons from a decade of international cooperation between its members, as well as externally with key stakeholders active in the fight against THB in Europe and in SEE in particular. This stocktaking exercise resulted in the endorsement of NATC SEE 2020-2024 Strategy Paper, which has guided the analytical work of this Non-paper and informed the identification and formulation of the recommendations presented in the last section of this document.

¹ A significant focus in exploring this collaboration is devoted to the Network of Anti-Trafficking Coordinators in South East Europe. While the non-EU members of the Network include also Moldova, the focus of this Non-paper is on the members of the Network in the Western Balkans.

² The Network is composed of representatives from Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Kosovo*, Moldova, Montenegro, North Macedonia, Romania, Serbia and Slovenia.

* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/99 and the ICJ Opinion on the Kosovo declaration of independence.

I. STRATEGIC FRAMEWORKS: COMMON PRIORITIES AND POLITICAL CONVERGENCE

On 4 March 2020, the NATC SEE issued its 2020-2024 Strategy Paper³. As a forward-looking document, it highlights the importance of *“improved cooperation [which also] plays a role in the context of EU accession. The relationships of participants that are already in the EU with those in the EU accession process, those expecting to open accession talks and finally potential candidates bring the dynamics of the EU accession process”* to the heart of the NATC SEE’s work.

The openness of non-EU members of the NATC SEE to cooperate with the EU and its MS to fight THB does not find its origin solely in the EU accession perspective. It also - if not mainly - flows from a common understanding of the challenges ahead for the EU as well as non-EU NATC members. This gave rise to a striking alignment between the EU and NATC SEE strategies to fight THB.

THB and the EU Accession process

Since the Feira Council in 2000, the EU and its MS have regularly expressed their commitment to the EU perspective of WB states. The European Commission (EC) has recently detailed new modalities for the accession process of WB states.⁴ The foreseen negotiation process includes roadmaps for the rule of law (covers the most relevant chapters for THB) and on the functioning of democratic institutions and public administration reform (also bears important consequences on the fight against THB), as well as elements of economic reform. This new process aims at offering more credibility and predictability to the accession negotiations, which in recent years had been subject to criticism.

More recently, the leaders of the EU have in the Brdo declaration⁵ reiterated their *“unequivocal support for the European perspective of the Western Balkans”* paving the way for an enhanced process of negotiation. They emphasised the importance of a continuous dialogue and cooperation in the fight against organised crime and THB in particular, reiterating *“the importance of taking resolute action to address serious and organised crime, in particular trafficking and smuggling of human beings, money laundering, drug cultivation and trafficking [...] To further promote our shared interests, we express our readiness to reinvigorate and enhance regular political dialogue with the region”*⁶.

Strategic alignment to enhance the fight against THB

The interest of the EU and its MS in enhancing collaboration with their counterparts in the WB is not a one-way street. The members of NATC SEE have in their Strategy also endorsed commitments to further *“expand cooperation with the countries of destination outside of the Network for trafficked persons originating from the region”*, with a particular focus put on collaboration with EU MS.

The NATC SEE 2020-2024 Strategy Paper gravitates around the four traditional objectives of Prevention, Protection, Prosecution and Partnerships, and outlines a number of key priority topics

³ Network of Anti Trafficking Coordinators of South East Europe, Strategy Paper 2020-2024, Brdo Process Ministerial Meeting, 4 March 2020, Ljubljana, Slovenia.

⁴ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Enhancing the accession process - A credible EU perspective for the Western Balkans, COM(2020) 57.

⁵ Brdo declaration, Council of the European Union, accessible at: [brdo-declaration-6-october-2021-en.pdf \(europa.eu\)](https://www.europa.eu/brdo-declaration-6-october-2021-en.pdf)

⁶ *Ibid.*

that all NATC SEE members have committed to address jointly. The **NATC SEE priorities are strikingly aligned with the priorities that have been set out by the EU** in its Strategy on Combatting Trafficking in Human Beings 2021-2025.

The EU Strategy is composed of **four main axes of intervention**, the first aimed at ensuring a comprehensive response to combatting THB is in place (covering all three areas from prevention through to protection and prosecution). It proposes to utilise all the tools at its disposal to ensure that legislative, policy and operational responses, including from a funding perspective, cover all relevant areas. Under this axis, the EU Strategy echoes that of the NATC SEE by considering that at *“policy and operational level, it is crucial to ensure cross-border, regional and international cooperation, including by developing and sharing knowledge and information, as well through interoperability of information systems”*.⁷ The second axis in the EU intervention focusses on demand while the third aims to *“break the criminal model”* of THB to prevent traffickers from exploiting victims.

A large number of actions identified in the EU Strategy mirror those of the NATC SEE Strategy Paper, ranging from tackling the culture of impunity to shaping a robust criminal response through a continuous capacity building process of criminal justice professionals. Under this axis, one of the EU priorities and its related actions concern the digital business model of traffickers, which resonates well with the particular attention that the NATC SEE Strategy Paper puts on the *“field of new technologies and their use in the processes of human trafficking”*. As a result, under each Chapter dedicated to the international dimension and/or cooperation, both strategies refer to their EU or WB counterparts with a view to further enhance their collaboration.

It is against this strategic and policy background that potential avenues of enhanced collaboration between the NATC SEE and the EU, including its institutions and its agencies, are proposed in the last chapter of this Non-paper, informed by the current situation and operational reality under which governmental authorities at national and local levels operate.

II. POLICY AND OPERATIONAL RESPONSES IN AND BETWEEN THE NATC SEE MEMBERS AND THE EU: STATE OF PLAY

Victim identification, referral and protection in NATC SEE members

In 2020, NATC SEE members reported having formally identified a **total of 1,523 victims**, with more than two thirds identified in Romania (596) and Bulgaria (457) - two of the four EU MS that are also part of NATC SEE.⁸ **Children** accounted for almost 28% of all victims identified. More than two thirds of victims were women and girls, the vast majority exploited for the purpose of sexual exploitation, while a significant share of male victims was reported exploited for the purpose of forced labour.

More than 90% of victims reported as formally identified, **were nationals of the reporting countries**. These figures need to be interpreted with caution: countries may report under the label ‘domestic victims’ their own nationals who were repatriated and accounted for in national statistics of other EU

⁷ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the EU Strategy on Combatting Trafficking in Human Beings 2021- 2025. COM(2021) 171.

⁸ Based on the answers by all NATC SEE members to the questionnaire referred to in the introductory section of this paper.

MS or non-EU NATC SEE members. For example, in Moldova, out of 116 victims ‘at national level’, only 17 were exploited within the territory of Moldova, while 99 victims were trafficked abroad, with 63% of Moldovan victims exploited in EU MS (73 victims).

Most NATC SEE members reported that the **COVID-19 pandemic had negative** impact on the ability of authorities in the WB to identify, refer and protect victims of THB. On the other hand, figures demonstrate a slight increase in the number of identification of victims in Bosnia and Herzegovina (BiH), Montenegro, Serbia and North Macedonia. Importantly, some increases (or similar levels of victims identified) can be the result of one single operation where large numbers of victims are identified. For instance, in Montenegro 37 victims from Taiwan were identified (with an additional 47 being considered as ‘presumed victims’ and therefore absent of the statistics in this document) during one operation accounting for more than 70% of all victims in 2020.

Nevertheless, except in one instance (Moldova displayed a more than 50% decrease), the number of identified victims did not drop significantly, which can be credited to the **systemic resilience of National Referral Mechanisms (NRM)** and other national mechanisms of identification and referral in NATC SEE members that ensured a continuum of operation despite the pandemic. However, according to half of NATC SEE members (particularly those in EU), this assertion does not apply to the transnational referral of victims and their protection. The cross-border referral of (presumed) victims, despite past and current efforts to operationalise Transnational Referral Mechanisms (TRM), still proves to be a challenge.⁹

The degree of protection remained low, with sometimes as much as half of the identified victims not benefitting from some degree of protection. This shortfall is often attributed to limited amount of resources allocated to protection services for victims, a problem that is particularly salient in all countries when it comes to Mental Health Services (two NATC SEE members reported that **external institutional and bi-lateral funding** should be targeting mental health services as a priority).

Investigations and criminal proceedings paced down

In 2020, the number and pace of criminal proceedings is reported to have slowed down as a result of reduced opportunities to hold in-person activities, but also due to the general challenges that lockdown measures and remote working have caused in the administration of the justice sector. Some NATC SEE members reported that due to the pandemic, the anti-trafficking law enforcement resources received reassignments or additional tasks, which reduced the ability to maintain the similar level of law enforcement vigilance on the anti-trafficking field. One Coordinator expressed the concern that due to halted investigations, victims were ‘on hold’ in the shelters. The situation was certainly new as, in words of one of the Coordinators, the vulnerable groups, such as street children, were no longer visible and there was no insight as to the situation they were in.¹⁰ Investigations were challenged by the diversion of recruitment techniques and forms of exploitation by the perpetrators. Traffickers have demonstrated their agility by promptly adapting their *modus operandi* to a situation where both domestic and international movements were restricted, and progressively developed a

⁹ European Commission (2020). Study on reviewing the functioning of Member States’ National and Transnational Referral Mechanisms. See [url](#).

¹⁰ NATC SEE meeting on COVID-19, 15th April 2020. For further insights. See: ICMPD, Time To Plan For Victim Support Countermeasures Amid the Continuing Pandemic (28 July 2020). See [url](#).

capacity to lure and recruit victims **online**. Some NATC SEE members, such as Slovenia, would consider the possibility to develop collaboration with Internet Providers in the future.

Consequently, most NATC SEE members reported difficulties to identify victims within their territory. International exchange of information for victim identification and transnational referral purposes was also reported to be challenging.

Legal and policy development on THB: positive dynamics

All NATC SEE members made **remarkable efforts** on legislative and policy fronts in 2018-20 reporting important developments and changes in their domestic legislation concerning THB. These range from the introduction of the right to compensation and creation of a compensation fund (North Macedonia) and of the principle of non-punishment of victims (North Macedonia, Romania) to provisions on confiscation of proceeds and assets of THB (Kosovo*) and protection of victims (Moldova, Kosovo*), and the approval and institutionalisation of new institutional and operational frameworks (Albania, BiH, Montenegro). Others passed comprehensive changes affecting a large number of areas to align their legislation with EU and Council of Europe norms (e.g. Moldova) with changes affecting criminal, labour and civil law.

Beyond these normative developments, all NATC SEE members have developed **comprehensive National Strategies** on the fight against THB during the reporting period, accompanied by shorter term National Action Plans and supported with earmarked State funding. In the field of migration, more than half of non-EU NATC SEE members developed national strategies (covering either irregular migration and asylum or both of them at the same time) and accompanying action plans. These include provisions linked to the transposition of the EU *Acquis* into domestic law, in full alignment with the directives and regulations of the Common European Asylum System. These policy efforts were also operationalised through the development of specific tools. For instance, Serbian authorities - who also focussed their efforts on the development of Integrated Border Management strategies in cooperation with the EU and the support from FRONTEX - published five operational Rulebooks that include a THB dimension.

This policy dynamism and strategic focus on THB testify of the importance that governments in the SEE region attach to fighting the phenomenon, in stark contrast with the situation prevalent in other regions. In the EU, for example, while few MS are resolutely working towards the eradication of THB and have developed comprehensive strategies and policy frameworks (with the Netherlands leading the way), many MS have not developed National Strategies or are reported to not have dedicated earmarked funding to the functioning of their anti-THB efforts, such as in relation to NRM¹¹. The EC, under the leadership of DG Home, has deployed significant efforts to bring about far reaching policies in the migration field, which have and will continue to have important legal and operational implications for EU MS in the anti-trafficking field. Chief among them: The European Pact on

* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/99 and the ICJ Opinion on the Kosovo declaration of independence

¹¹ European Commission (2020). Study on reviewing the functioning of Member States' National and Transnational Referral Mechanisms. See [url](#).

Migration¹², adopted as part of a more general reform of EU migration and asylum rules aiming to build *confidence through more effective procedures and striking a new balance between responsibility and solidarity*. Notably, the *Pact* factors in the importance of the interplay between different migration policy areas both in their internal and external dimensions, while paying additional attention to border control as a distinctive element of its new migration policy. As such, it is important to consider how proposals linked to the procedures of screening, return, relocation and resettlement will impact not only the most vulnerable (including potential victims of trafficking) but also all countries at the South Eastern border of the EU (i.e. all non-EU members in the NATC SEE).

As far as cross-border referral of cases and international exchange of information is concerned, bi-lateral cooperation frameworks appear to prevail over a more strategic and harmonised transnational cooperation logic between the EU as a whole and its counterparts, which is particularly visible with NATC SEE non-EU members. Among the plethora of existing bilateral agreements, the latest example - a cooperation agreement between Bulgaria and North Macedonia, demonstrates this well. It can be argued that this approach may on the long term, and from an integration perspective, be disadvantageous to the fight against THB and undermine the EU's efforts to harmonise laws and practices within the EU and with the third countries - an intention that is both proportionate and compliant with the principle of subsidiarity.

Effective cooperation with EU Law Enforcement Agencies, Networks and Initiatives particularly in countering irregular migration and fighting serious and/or organised crime

The latest SOCTA from EUROPOL states: “*trafficking in human beings is a key threat to the EU. Several parts of the trafficking process have moved online, from recruitment of victims to advertisement of illicit services. Criminal networks profit from the despair of irregular migrants, charging high fees to smuggle them into or within the EU, or assist them in obtaining legal residence status*”.¹³ This situation requires the EU and its MS - (at the very least) from an operational perspective - to ensure the participation of non-EU WB states in joint operations with EU agencies that play a role in fighting THB. There is however still room for improvement to ensure that the involvement of non-EU WB states takes place within a forward-looking perspective of EU integration, particularly as far as EU operational agencies are concerned, especially Europol and FRONTEX.

The collaboration with **EUROPOL** stepped up in recent years after the signing of operational agreements in the early 2010s with all NATC SEE non-EU members. Recent years have witnessed further progress. The latest step being the placement of a EUROPOL liaison officer within the State Police of Albania (2019), BiH and Serbia (2018), which followed the placement of liaison agent of all NATC SEE members at Europol HQ in The Hague.

EUROPOL is also a member of the OSCE Alliance against Trafficking in Persons and its Expert Co-ordination Team and regularly participates in policy and operational coordination meetings organised in Vienna. However, a number of **needed improvements** have been identified and recommendations

¹² Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on a New Pact on Migration and Asylum, European Commission, 23 September 2020, COM/2020/609 final

¹³ Europol (2021), European Union serious and organised crime threat assessment, A corrupting influence: the infiltration and undermining of Europe's economy and society by organised crime, Publications Office of the European Union.

to enhance its collaboration with relevant stakeholders in the region have surfaced. For example, as noted by the European Court of Auditors, EUROPOL could consider building additional partnerships and structured cooperation with other cooperation platforms that are active in the fight against THB or Smuggling, such as, for example, the Southeast European Law Enforcement Centre¹⁴.

Notwithstanding the quality of the anti-trafficking cooperation between the EU, its MS and non-EU NATC SEE members, one must acknowledge that it often takes place when associated with the fight against irregular migration in general, and migrant smuggling in particular. As such, the EC recalls in its EU Action Plan against Migrant Smuggling that “[a] *more coordinated and structured approach is needed to enhance synergies, maximise the effectiveness of existing tools and address new challenges, to prevent smuggling and ensure the effective enforcement of investigations, prosecutions and convictions, a more coordinated and structured approach must be taken. In line with the new Pact, the EU should therefore build on the existing cooperation frameworks and develop **dedicated and tailor-made Anti-Smuggling Operational Partnerships** with third countries or regions along migratory routes towards the EU*”¹⁵. It is under such frameworks that the collaboration of EUROPOL with WB states and entities in the fight against migrant smuggling extends to the fight against THB. For example, EUROPOL participates in the Joint Operational Office in Vienna, a regional operational platform for international investigations into migrant-smuggling organised crime groups operating along the WB and Central Mediterranean routes. It supports cross-border police cooperation and involves international investigators in operations, with the participation of WB states, such as Albania.

In the same vein, cooperation between **FRONTEX** (whose mandate necessarily involves a border element and whose role within the EU remains paramount as exemplified by its growth in recent years) and non-EU States participating in the NATC SEE, has already been in place with a noticeable increase since the migration crisis of 2015. While cooperation between FRONTEX and Albania and Montenegro was already in place, the latest country to sign the Status Agreement is Serbia (November 2019, entered into force in May 2021) which paved the way for the first operation of FRONTEX as an EU agency with executive powers carried out on the Serbian territory.

This discrete - yet resolute - convergence between anti-THB and anti-Migrant Smuggling agenda should not go unnoticed. While THB and smuggling are and shall be treated as two different phenomena, both crimes share commonalities that can, in part, be simultaneously tackled under a common criminal justice umbrella - as demonstrated by the links that EU and NATC members have organically developed on both issues.

Judicial cooperation in criminal matters: positive trends and improvements

A heightened collaboration with EU agencies or networks in the field of criminal justice in a forward-looking perspective of EU integration, is likely to yield positive benefits in medium to long term. Apart

¹⁴ European Court of Auditors, Europol support to fight migrant smuggling: a valued partner but insufficient use of data sources and result measurement, Special Report, 19, 2021. Accessible at [url](#).

¹⁵ As recalled in the EU Action Plan against Migrant Smuggling, drawing on the 2021 SOCTA report: “[a]pproximately 50% of the networks involved in migrant smuggling are **poly-criminal**, involved also in trafficking in human beings, drug trafficking, excise fraud, firearms trafficking and money laundering”.

EU Action Plan against Migrant Smuggling, European Union, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on: A renewed EU action plan against migrant smuggling (2021-2025), 29 September 2021; COM(2021) 591, [url](#).

from Romania, Bulgaria, Croatia and Slovenia - already full-fledged members of the EU, progress has been made from 2018 onwards as far as judicial cooperation is concerned.

In terms of institutional collaboration, Cooperation Agreements between North-Macedonia, Montenegro, Serbia, Albania and **EUROJUST** were established. As a result, Liaison Prosecutors from the first three countries already work at EUROJUST in 2020 and a Prosecutor from Albania joined more recently. In 2019, a total of 107 cases involving WB countries were registered. In January-September 2020, the figure rose to 110.¹⁶ The benefits of such cooperation include facilitated access to different jurisdictions around the world to prosecutors, and heightened cooperation in the investigation and prosecution phases of the criminal justice processes, including in THB cases.

This positive trend is however not always reflected in relation to exchange of information, data and intelligence in the field of criminal justice in general. This is likely to hamper the potential for a joint criminal justice cooperation and response to THB in both SEE and the EU. On the one hand, several non-EU countries members of NATC SEE already participate in different initiatives that foster the use of automated data, which yields positive results in fighting THB within the EU. The participation of WB states and EU agencies in the EMPACT¹⁷ project and the “Countering Serious Crime in the Western Balkans - IPA 2019”¹⁸ also play an instrumental role in improving mutual trust and building capacities. The signing of a Joint Action Plan on Counter-Terrorism for the Western Balkans between the EU and all non-EU WB states appears to have played a catalyst role in stepping up dialogues towards a full-fledged participation in such systems. To date, the participation of non-EU NATC members remains limited but participation in initiatives mainly include those that are resolutely migration oriented, such as SIENA¹⁹. It however appears that a closer cooperation is a shared objective of both blocs: the European Council called on the European Commission to “*reflect on and support the development by partners in the Western Balkans of interoperable national biometric registration/data-sharing systems on asylum applicants and irregular migrants - systems which could be modelled on the Eurodac technical and data protection principles, thus enabling regular regional information exchange and ensuring their future interoperability and compatibility with EU systems*”.²⁰

On the other hand, different operational initiatives to which NATC SEE members were being associated have seen their participation (albeit, in a reduced format with SEE countries) put on hold. These include the “Prüm decisions” which focus on automated exchange of information between EU MS as well as a limited number of third countries, and aim at improving cross-border cooperation between both police and judicial authorities to combat terrorism and other serious crimes such as

¹⁶ Eurojust, Rising Trend in Judicial Cooperation, 22 October 2020 accessible at [url](#)

¹⁷ The European Multidisciplinary Platform Against Criminal Threats (EMPACT) is the EU’s flagship instrument for multidisciplinary and multiagency operational cooperation to fight organised crime at an EU level. One of its priorities 2022-2025 is to disrupt criminal networks engaged in trafficking in human being. For more information, see [url](#).

¹⁸ The project will run until 2023 and is funded by the European Commission and the GIZ. See: <https://cscwb.info/>

¹⁹ This access, governed under the operational agreements signed between all in WB (except Kosovo*), is however of an indirect nature, necessitating the intervention of Europol. See for example, Europol and Differentiated Integration, EU Ideas, Policy Papers, January 2021 accessible at [url](#).

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²⁰ European Council conclusions on enhancing cooperation with Western Balkans partners in the field of migration and security, 5 June 2020, available at <https://www.statewatch.org/media/2451/annexe-2-clean.pdf>

THB. A Study²¹ commissioned by the European Parliament highlighted that the NATC SEE members “involved in this agreement are in an accession trajectory and therefore beginning their connection with Prüm is indeed within their obligations for accession. Thus, as long as the relevant data protection rules are respected and the degree of their connection with the EU remains high, this way forward seems to make sense”.

Data collection and Reporting: necessary methodological alignment

Common methodologies that underpin the reporting processes diverge (see above the example of domestic victims vs. victims at national level) and victims identified in EU MS may be accounted for a second time in the national statistics of countries of origin. This prevents the possibility to obtain reliable figures on identification in the EU and non-EU SEE countries, including among the NATC SEE members. Equally, diverging methods and identification processes prevail in different jurisdictions with the dichotomy of ‘presumed victim’ vs. ‘formally identified victim’ that may not always be accurately reported, particularly in relation to protection processes where figures do not always allow a distinction based on victim’s status.

Within the EU, efforts continue to being made to harmonise methods and datasets used by EU MS in order to collect reliable and comparable data, under the guidance of Eurostat working group on Crime Statistics and DG Home Affairs Group of Experts on the Policy Needs of Data on Crime and Criminal Justice, from 2013 onwards. Since then, Eurostat and DG Home Affairs, also supported by NREM have been working towards improved data collection methodologies²². Despite the progress achieved, “there are substantial differences in the way that Member States record and collect data. Further efforts across the EU are needed to ensure quality and comparability of data on trafficking in human beings”²³. The current situation in both the EU and within the NATC SEE in relation to datasets, data collection and reporting processes remains unsatisfactory and the association of non-EU members of NATC SEE would certainly be beneficial to current and future data collection and analytical processes.

III. BEYOND PARTNERSHIPS: HARNESSING THE POTENTIAL OF THE ACCESSION PROCESS TO ENHANCE THE FIGHT AGAINST THB

The need to update the Non-paper that is action oriented arose once priorities common to both the EU (2021-2025) and the NATC SEE (2020-2024) Strategies were identified. Therefore, avenues to reinforce and deepen the integration of WB institutional mechanisms and practices with these of the EU’s are hereunder proposed, acknowledging nevertheless the important difference between EU membership and partnership as part of a Stabilisation and Association Agreement (SAA). **Short Term Action Recommendations (STAR)** may help to kick-start the implementation of the broader avenues of collaboration suggested. These recommendations are essentially drawing on the analysis of existing mechanisms of cooperation between the EU (in particular its institutions and agencies) in light of

²¹ European Parliament, Study for the LIBE Committee, Police Information Exchange: The future developments regarding Prüm and the API Directive, September 2020 accessible at [url](#).

²² European Union, Data Collection on Trafficking in Human Beings in the EU, European Commission, September 2020.

²³ European Commission, Commission Staff Working Document, Third report on the progress made in the fight against trafficking in human beings (2020) as required under Article 20 of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims {COM(2020) 661 final}

current operational and contextual challenges faced by WB countries including those linked to the EU accession process.

1. Further development of integrated collaboration between NATC SEE and NREM

The significant disparity of practices across WB countries in relation to the establishment and operation of National Rapporteurs or equivalent mechanisms of accountability tasked with the monitoring and reporting of the impact (both positive and negative) of anti-trafficking interventions, is a common feature that the countries in the sub-region share with the EU. Indeed, as exemplified by the very name of NREM (network of National Rapporteurs *and Equivalent Mechanisms*), diverging practices continue to persist across EU MS, with some countries having opted for integrating a National Rapporteur role with the mandate of National Coordinators.

If both NREM and NATC SEE agreed to work together towards a better integration of their respective practices, such reinforced collaboration can yield improvements. In this respect, a collaboration between the NATC SEE (with the support of the four EU MS - members of the NATC SEE) and the EC, particularly EUROSTAT, would likely be beneficial to address divergences in data collection methodologies, analysis and reporting within NATC SEE and between the latter and other EU MS.

STAR 1: An online exchange as a prelude to a symposium focussed on data collection, datasets and reporting on THB could be organised with statisticians or data collection and reporting officers within each NATC SEE members. This would take stock of the current methodological differences – including categories defined in domestic law - and prepare the ground for an approximation of data sets and data management systems in the NATC SEE members with those in use in the EU.

2. Continue to invest in and further reinforce those operational partnerships and joint initiatives that have proven impactful for both WB states and EU MS

Positive experiences of collaboration between EU, its MS and WB states have been reported, particularly in the areas of criminal justice and law enforcement. The set-up and operation of Joint Investigation Teams - with the participation of NATC SEE State authorities – has proven to be an overwhelmingly positive experience praised by actors on both sides. However, within the EU as well as between EU MS and WB states, a number of challenges remain, notably in relation to:

- **Referral and protection of victims across borders**

The absence of institutionalised TRMs setting out standardised procedures for the referral and protection of victims after identification results not only in the implementation of different practices, but also in the use of different legal instruments. This confuses protection professionals and hampers authorities across borders to ensure a continuum of care for victims, a precondition for a sustainable (re)integration in a suitable environment. This is best exemplified in the transnational management of (presumed) child victims of THB for whom the design and implementation of medium to longer term protection responses too often stop at the border, and are entirely overhauled on the other side without synergies built between systems.

STAR 2: Based on the results of the Study on reviewing the functioning of NRMs and TRMs in MS, carried out by a consortium including ICMPD²⁴, MS who are also members of the NATC SEE could steer an internal discussion on current practices within the NATC SEE and convey elements of good practice to the EU and its MS, evaluating the potential for replication.

- ***Law enforcement and criminal justice matters: operational and automatic data exchanges***

The current level of collaboration of four NATC SEE members with the EUROJUST is very positive, as well as the one between FRONTEX and three WB members. While this trend is encouraging, other non-EU members in the NATC SEE have not yet achieved such collaboration with EUROJUST or FRONTEX. While underlying reasons that are of a structural and legal nature are difficult to resolve, a number of operational opportunities however exist and should be explored further by both parties. The support of current NATC SEE members, whether or not also being EU MS that have their representative at EUROJUST in The Hague could provide their expertise to support this enhanced cooperation in criminal justice affairs, including THB. The same applies to the cooperation on FRONTEX axis.

The automated exchange of criminal justice data remains limited. Non-EU members of NATC SEE witnessed a number of obstacles on their way in relation to the automatic exchange of criminal justice data with several EU MS, among others, on the ground.

STAR 3: Both the EU and the non-EU NATC members should further explore the topic of full-fledged participation of non-EU members of NATC SEE in different automatic data exchange systems and initiatives and ensure that the development of any parallel system continues to factor in the interoperability as part of the process of accession.

3. Develop mutual learning initiatives aiming at institutional improvements and reinforcement

The experience of members of the NATC SEE and of WB state authorities in general, in the design, implementation, monitoring and evaluation of National Strategies and Action Plans, as well as in the running of NRMs, is both rich and diverse, albeit reasonably consistent across all WB states. This wealth of knowledge and experience offers an opportunity for EU MS to learn from the vast diversity of lessons drawn since the development of the first NRMs in the early 2000s in SEE. While EU MS have made important progress in the past decade in relation to the establishment and operationalisation of NRMs or equivalent coordination mechanisms, there still is significant room for improvement in a number of EU MS, where NRM or equivalent mechanisms are reported to be playing marginal roles. They remain far from achieving their overarching multi-stakeholder coordination objective that defines and is at the core of a functional NRM.

²⁴ European Union (2020). Study on reviewing the functioning of Member States' National and Transnational Referral Mechanisms. See [url](#). The study was carried out in the framework of a consortium led by Ecorys Polska Sp. z o.o and funded by the European Commission as a key action of the 2017 Commission Communication and stepping up the EU action to address trafficking in human beings, *Priority B – Improving access to and realisation of the rights of the victims of trafficking in human beings*.

STAR 4: Based on the results of the EC Review of NRMs in the EU, carried out by a consortium including ICMPD²⁵ (who also developed guidelines for the development of comprehensive national anti-trafficking response²⁶), an exploratory seminar could be held in 2022. The seminar would identify the experiences and practices that members of the NATC SEE - and any other relevant stakeholder in the EU – could transfer to countries facing particular NRM related challenges at operational level.

4. Ensure better targeted EU MS funding that reaches those who need it the most, particularly vulnerable migrant populations

Funding for pressing issues, particularly in relation to the protection of victims of THB and their (re)integration continues to be lacking. Different members of NATC SEE have reported a critical situation with regard to funding for mental health services. The critical role played by Mental Health Services is also often highlighted by Civil Society Organisations and front line responders working with refugee and migrant populations that are transiting through the WB via the Eastern Mediterranean Route - a vulnerable group that is at high risk of falling prey to traffickers.

Moreover, past experience and current projections confirm that non-EU members of the NATC SEE, particularly those in WB, will continue to be disproportionately (taking a per capita analysis) affected by the migration of vulnerable populations transiting through their territories to access EU MS. While all members of the NATC SEE, be they EU MS or not, will strive to cater to their basic needs and ensure respect for their fundamental rights and freedoms in alignment with the values of the EU, few of them have the capacity to resource holistic response to THB within mixed migration flows. The EU Strategy in both its internal and external dimensions acknowledges the challenges raised by THB as part of the irregular migration flows. This does pave way for targeted financial assistance to provide comprehensive support to migrant and refugee populations – arriving, present, or transiting through non-EU NATC member territories - including in relation to the identification, referral and protection of (potential) victims of trafficking.

STAR 5: Develop a consultation mechanism that is regularly triggered when anti-trafficking and protection funding strategies are being designed by institutional and bi-lateral donors, ensuring that experiential persons (victims in the case of THB and vulnerable migrants in the context of mixed migration flow) can contribute to and inform decisions made on funding priorities. A promising practice is emerging in Albania with the creation of an advisory board of potential victims of THB, which would be well placed to play such a role.

²⁵ European Union (2020). Study on reviewing the functioning of Member States' National and Transnational Referral Mechanisms. See [url](#).

²⁶ ICMPD (2021). Developing and Monitoring National Anti-Trafficking Response - A Practitioner's Guide. See [url](#).