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THE PROTECTION OF VICTIMS OF HUMAN TRAFFICKING UNDER EUROPEAN UNION LAW

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Abstract: Trafficking in human beings is one of the most serious forms of organized crime globally and constitutes a grave violation of fundamental human rights. Within the European Union, this phenomenon has led to the adoption of legal instruments and institutional mechanisms designed to prevent the exploitation of vulnerable people and to ensure the protection of victims. However, despite the development of a complex legislative framework, the effective application of European legal standards continues to pose numerous difficulties in practice. In this context, this paper identifies the main legislative instruments at European Union level and how they are implemented at Member State level, including by actively identifying specific gaps that may affect the protection of victims of human trafficking. At the same time, this paper aims to identify solutions to the problems identified in the practical application of existing legal instruments and institutional mechanisms at European Union level, as well as to put forward proposals for improving the legal mechanisms and instruments for the protection of victims of human trafficking. In this context, three cases heard by the European Court of Human Rights (ECHR) have been identified and analyzed in detail; these cases have influenced decisions taken at European level from a legal perspective with regard to the relevant case law. The research findings highlight the fact that, although the European Union has developed an advanced legal framework for the prevention of human trafficking and the protection of victims, the effective application of these standards is influenced by differences between national legal systems, difficulties in identifying victims, and the need to strengthen cooperation between the authorities of EU Member States. In this context, this paper offers a critical analysis of existing mechanisms and highlights the need to strengthen the legal and institutional instruments designed to protect victims of human trafficking,

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including the identification of legislative gaps that affect the effectiveness of the system for protecting these victims.

Keywords: Human trafficking; victim protection; organized crime; human rights; case law.

1. Introduction

In legal and criminological literature, the phenomenon of human trafficking is often described as a modern form of slavery, as it involves the deprivation of a person's liberty and their use for the purposes of economic or sexual exploitation. The gravity of the phenomenon stems both from its transnational dimension and from its profound impact on fundamental human rights.

The European Commission's fifth report on combating human trafficking, published in 2025, highlights a clear upward trend in the number of registered victims, with sexual exploitation remaining the predominant form (49 percent), closely followed by labour exploitation (37 percent). The document emphasizes the need to strengthen victim protection and to dismantle the business models of criminal networks. (European Commission, 2025)

The legal definition of human trafficking was established at the international level through the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, adopted in Palermo (Italy) in 2000, as a supplementary instrument to the United Nations Convention against Transnational Organized Crime. According to this legal instrument, human trafficking involves the recruitment, transportation, transfer, harbouring or receipt of persons by means of threat, use of force or other forms of coercion, abduction, fraud or deception, for exploitation. This definition highlights three essential elements of the offence of human trafficking: the act of recruitment or transport, the means used to exercise control over the victim, and the ultimate aim of exploitation. Exploitation can take various forms, including sexual exploitation, forced labour, begging, exploitation through illegal activities or the removal of organs. The complex nature of these forms of exploitation explains the difficulty in combating the phenomenon and the need to adopt effective legal instruments at international and regional level.

Within Europe, human trafficking has become a major issue in terms of security and the protection of human rights, leading to the adoption of specific legal regulations both at European Union level and within the Council of Europe. One of the most important pieces of legislation in this field is Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims. This Directive sets out minimum standards regarding the criminalization of human trafficking, the punishment of perpetrators and the protection of victims, representing one of the

European Union's main legal instruments in combating this phenomenon. (European Parliament, 2011) The Directive adopts a comprehensive approach to the phenomenon, integrating measures for prevention, punishment and victim protection. Thus, the focus is not solely on the repressive aspect of combating human trafficking, but also on protecting victims and facilitating their social reintegration. This shift in perspective reflects the evolution of European criminal law towards an approach more geared towards protecting the fundamental rights of those affected by crime.

The study on national and transnational referral mechanisms in EU Member States, carried out for DG HOME, highlights significant structural heterogeneity and inefficiencies in the detection, identification and protection of victims of human trafficking. The report recommends the formal standardization of national and transnational referral mechanisms, sustainable funding for non-governmental organizations and improved transnational cooperation to ensure a victim-centred approach. (European Commission, 2020)

The case law of the European Court of Human Rights also plays an important role in the development of legal standards on combating human trafficking. The Court has established that human trafficking falls within the scope of protection of Article 4 of the European Convention on Human Rights (ECHR), which prohibits slavery, servitude and forced labour. (ECHR, 2010)

The European Union is a separate political and economic union with its own institutions, whilst the Council of Europe is a distinct international organization focused on human rights. At the same time, for the sake of clarity, it should be noted that the European Court of Human Rights is not an institution of the European Union, but rather the judicial body of the Council of Europe. The EU's official court is the Court of Justice of the European Union, based in Luxembourg. Although they are different legal systems, they interact closely with the aim of avoiding conflicting decisions.

Thus, EU law recognizes the rights set out in the European Convention on Human Rights (ECHR) as general principles of Community law. At the same time, the Court of Justice of the European Union often uses ECHR case law as a minimum standard of protection when adjudicating cases relating to human rights. Furthermore, the Treaty of Lisbon legally obliges the European Union to accede to the ECHR as a single entity, a technical process which is still under negotiation and adjustment. (Kearney, 2025)

Consequently, the phenomenon of human trafficking must be analyzed not only as an organized crime offence, but also as a *major issue concerning the protection of fundamental human rights*. The modern legal approach emphasizes the need to develop and/or improve effective prevention and protection mechanisms, as well as

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international cooperation in combating criminal networks involved in this type of activity.

This paper presents a comprehensive analysis of the literature review concerning the main legal instruments relating to victims of human trafficking, three cases decided by the European Court of Human Rights which have the greatest bearing on case law in the field of the protection of victims of human trafficking were examined, and the effectiveness of the European legal framework in protecting victims of human trafficking was analysed, gaps and challenges in the application of the relevant legislation, and proposals for future legislation to improve the protection of victims of human trafficking.

2. Literature Review

Trafficking in human beings occurs globally, but within Europe it has taken on a particularly complex dimension, fuelled by factors such as increased mobility of people, the development of organized crime networks, and the existence of economic and social vulnerabilities in certain regions. Against this backdrop, over the last two decades, the European Union has developed a comprehensive legal and institutional framework designed to prevent and combat human trafficking, as well as to protect its victims. (Mungiu-Pippidi, 2019) The importance of protecting victims of human trafficking has become increasingly evident as it has been recognized that addressing the phenomenon solely from a repressive perspective, focused on punishing offenders, is not sufficient to combat this form of crime effectively. Victims of human trafficking are usually in a situation of extreme vulnerability, being subjected to serious forms of exploitation, such as sexual exploitation, forced labour, begging or other illegal activities imposed by criminal networks. For this reason, victim protection has become a central element of European policies to combat human trafficking. (UNODC, 2022)

Since the 1990s, human trafficking has become a battleground for competing discourses on human rights and the criminal justice system. Although rights-based approaches are generally presented as being at odds with crime-fighting measures, in the context of interventions against human trafficking, rights-based initiatives and criminal justice governance are often intertwined both in discourse and in practice. It is argued that criminalization is framed as a crucial principle of human rights. Dominant discourses (the 'law enforcement' and 'victims first' discourses) link human rights to the state's coercive action, which is regarded as a necessary component of their effectiveness. Alternative voices (the discourses of 'incompatibility' and 'transformative justice') reject the appropriateness of criminal intervention, yet end up perpetuating precisely what they denounce. (Pinto, 2023)

By re-evaluating the definitions of human trafficking, slavery, servitude and forced labour, Vladislava Stoyanova demonstrates how, by adopting the framework on human trafficking, the international community has marginalized the commitments in human rights legislation against slavery, servitude and forced labour, which, in many respects, offer better protection to migrants who are victims of abuse. Stoyanova therefore proposes two corrective measures to address this development: placing a renewed emphasis on determining the scope of the definitions of slavery, servitude or forced labour; and achieving a clearer understanding of states' positive human rights obligations. (Stoyanova, 2017)

At European Union level, one of the most important pieces of legislation in this area is Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims. It sets out minimum standards regarding the criminalization of acts of trafficking in human beings, the punishment of perpetrators and, in particular, the support and protection measures provided to victims. The Directive highlights the need for an integrated approach, combining prevention, punishment and protection measures, recognizing that victims must be treated not merely as sources of evidence in criminal proceedings, but as individuals in need of support, assistance and social reintegration. (European Parliament, 2011)

Directive 2011/36/EU was amended by Directive 2024/1712/EU, which updates the European legal framework to combat modern forms of human trafficking. This new directive includes *surrogacy, forced marriages* and *illegal adoption* amongst the relevant forms of exploitation, rather than criminalizing these practices separately in their own right. The legislative act was published in the Official Journal of the EU on 24 June 2024 and has a transposition deadline set for 15 July 2026.

The document introduces a number of key amendments to the previous legislation (Directive 2011/36/EU), the most important of which are:

- *New offences:* It explicitly includes forcing victims into forced marriages or surrogacy as forms of exploitation.
- *Technologies and platforms:* It recognizes the impact of the internet and modern technologies, requiring enhanced measures to prevent, investigate and remove online content related to human trafficking.
- *Victim protection:* Strengthens measures for specialized support for victims, including unconditional access to assistance and support that takes gender into account.
- *Sanctions for companies:* Provides for fines and the exclusion of enterprises or legal persons found guilty from receiving public funds or state aid. (European Parliament and Council, 2024)

At the same time, Directive 2012/29/EU on the rights of victims of crime has strengthened the European legal framework by establishing minimum standards for

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the recognition, support and protection of victims in criminal proceedings. This legislation reflects a significant shift in perspective within European criminal law, emphasizing victims' rights and the need to adapt judicial procedures to their specific needs. (Munteanu, 2018)

However, although the European regulatory framework is relatively well developed, the effective application of these legal standards continues to pose numerous difficulties in practice. Identifying victims of human trafficking, providing adequate protection and ensuring effective cooperation between the authorities of EU Member States represent major challenges for national judicial systems. In many cases, victims are not recognized as such or do not benefit from the protective measures provided for under European law, which highlights a discrepancy between legal standards and practical reality. In this context, an analysis of the protection of victims of human trafficking under European Union law becomes a relevant research topic from both a legal and a social perspective. Understanding how European legal standards are applied in practice makes it possible to identify the limitations of the current regulatory framework and to formulate proposals for improving victim protection mechanisms.

In the specialist literature, the phenomenon of human trafficking has been analyzed from both a criminological and a legal perspective, highlighting its complex implications for fundamental human rights. Numerous authors emphasize that human trafficking constitutes a modern form of slavery, characterized by the systematic exploitation of vulnerable individuals and the use of sophisticated mechanisms of control and coercion. Legal scholarship has emphasized that the protection of victims must be a central element of policies to combat human trafficking, as the lack of adequate support and protection measures can hinder the identification of victims and their cooperation with the judicial authorities. (European Commission, 2021)

Victims of human trafficking may be subjected not only to sexual and labour exploitation, but also to exploitation in criminal activities, such as theft or drug production. Furthermore, due to the nature of trafficking, victims may also face penalties for their status as irregular migrants or for offences committed whilst attempting to escape. In view of this phenomenon, the Council of Europe Convention on Action against Trafficking in Human Beings, as well as Directive 2011/36/EU, oblige Member States to take the necessary measures to ensure that trafficked persons are not penalized for their involvement in criminal activities which they were forced to commit as a result of trafficking. Since the adoption of these provisions, many countries have adopted various policies to fulfil this international obligation and to prevent the criminalization of victims of human trafficking. From a

comparative perspective, this paper aims to illustrate and critically assess the main challenges associated with the implementation of this provision in Europe. The findings highlight the continuing need to improve policies focused on victim protection, moving away from a punitive approach. (Rodriguez-Lopez, 2024)

Article 26 of the Council of Europe Convention on Action against Trafficking in Human Beings, CETS No. 197, adopted in Warsaw on 16 May 2005 and ratified by Romania through Law No. 300/2006, regulates the principle of non-punishment of victims of human trafficking. Thus, the aforementioned Article 26 provides that 'each Party shall, in accordance with the fundamental principles of its legal system, provide for the possibility of not imposing sanctions on victims for having taken part in unlawful activities when they were coerced.' The main purpose of this provision is to protect trafficked persons from criminal prosecution or punishment for unlawful acts (such as illegal border crossing, possession of false documents, undeclared work or prostitution) which they were forced to commit as a direct consequence of their exploitation. In this context, signatory states are obliged to implement clear mechanisms in national legislation (procedures for prosecutors and the police) that allow for cases to be dismissed or for acquittals to be granted when it is established that the person is a victim acting under duress. (Romanian Parliament, 2006)

At European level, legal research has focused in particular on the development of the European Union's regulatory framework and on the institutional mechanisms established to prevent and combat human trafficking. In this regard, studies carried out by European bodies and international organizations have highlighted the significant progress made in recent years in harmonizing Member States' legislation and strengthening cross-border cooperation. However, the same studies show that differences between national legal systems and the difficulties encountered in the practical application of European regulations continue to pose significant obstacles to the effective protection of victims of human trafficking. At the same time, the case law of the European Court of Human Rights has contributed significantly to the development of legal standards concerning the protection of victims of human trafficking. The Court has emphasized, in several relevant judgments, that states have a positive obligation to prevent human trafficking, to protect victims and to conduct effective investigations where there are indications of such offences. This case law has strengthened the interpretation of fundamental rights in the context of combating human trafficking and has influenced the development of European and national legislation in this field. (ECHR, 2010)

The rationale for choosing this topic stems from the growing significance of human trafficking within Europe and the need to assess the effectiveness of existing legal mechanisms for protecting victims. Although the European Union has adopted a comprehensive regulatory framework and developed strategies to combat human

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trafficking, numerous reports and studies indicate that victims continue to face major difficulties in accessing the protection and assistance measures provided for by law. Analyzing the relationship between legal standards and practical reality is therefore essential for understanding the limitations of the current protection system and for identifying possible avenues for improvement.

The main objective of this paper is to analyze how European Union law regulates the protection of victims of human trafficking and to assess the effectiveness of these regulations in practice. To this end, the research pursues several specific objectives: to identify the main European legal instruments in the field of combating human trafficking; to analyze the legal standards regarding the protection of victims; to examine the relevant case law of the European courts; and to highlight the difficulties encountered in applying these regulations at Member State level. To achieve these objectives, this study employs a research methodology based on a doctrinal and legal analysis of European norms, an examination of the relevant case law, and an analysis of case studies illustrating the practical application of legal standards concerning the protection of victims of human trafficking. This approach allows for an assessment of both the existing regulatory framework and the way in which it is implemented in practice.

An important aspect in the analysis of human trafficking is the transnational nature of this form of crime. Human trafficking networks often operate across several states, exploiting economic and social disparities between regions to recruit vulnerable individuals and exploit them in other states. This cross-border dimension means that combating human trafficking cannot be achieved effectively at the national level alone; it is therefore necessary to develop mechanisms for legal and institutional cooperation between the Member States of the European Union. For this reason, the European Union has promoted an integrated approach to the phenomenon, based on judicial cooperation, the harmonization of legislation and the development of common policies for prevention and victim protection. (European Commission, 2021)

Another particularly important aspect is the principle of non-prosecution in relation to victims of human trafficking: according to this principle, individuals who commit offences whilst being victims of human trafficking, or as a result of being victims of human trafficking, should not be held criminally liable, as they were coerced into acting in this way. It is argued that this principle is based on the recognition of the human rights of trafficked persons. In principle, it is noted that, although there are difficult issues relating to the scope of the principle, it is nevertheless increasingly recognized in the field of human trafficking. (Piotrowicz, 2016)

At the same time, the phenomenon of human trafficking must also be analyzed from the perspective of the social vulnerabilities that facilitate its emergence and spread. Poverty, a lack of economic opportunities, social discrimination, and low levels of education are factors that can lead certain individuals to become victims of human trafficking. In many cases, victims are recruited through false promises of jobs or better living conditions, and are subsequently subjected to severe forms of exploitation. For this reason, policies to combat human trafficking must include not only repressive measures, but also preventive and social protection measures designed to reduce the vulnerabilities that contribute to this phenomenon. (UNODC, 2022)

Another relevant aspect in the analysis of protection for victims of human trafficking is the difficulty in identifying them. In many cases, victims do not perceive themselves as such or are afraid to cooperate with the authorities due to threats from traffickers. In other cases, the lack of effective identification mechanisms can lead to victims being treated as offenders, particularly when they are involved in illegal activities imposed by trafficking networks. For this reason, European legislation emphasizes the need to develop clear procedures for the early identification of victims and for providing them with appropriate assistance and protection. (European Parliament, 2011)

Furthermore, the protection of victims of human trafficking requires a multidisciplinary approach, involving cooperation between judicial authorities, administrative institutions, non-governmental organizations and international bodies. Practical experience has shown that coordinated action by these actors is essential to ensuring effective protection for victims and facilitating their social reintegration. In this context, the European Union has encouraged the development of mechanisms for cooperation and the exchange of best practice between Member States, with a view to strengthening institutional capacity to combat human trafficking and protect victims.

Any person who has been a victim of human trafficking is entitled to compensation. Compensation involves reimbursement for the material and non-material harm suffered by a trafficked person. Despite the internationally recognized right to compensation, the number of trafficked persons in Europe who have actually received any compensation is very low. Empirical findings highlight several problems. It is estimated that only 4 percent of all registered victims claim compensation in criminal courts. One-fifth of these claims are dismissed. Admissible claims receive, on average, only half the amount claimed. A major reason for this is the difficulty in accurately assessing the damage. In many cases, this is linked to a lack of evidence, caused, for example, by missing documents, an inadequate financial investigation and incomplete testimony, which results in only minimal

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sums being awarded. Furthermore, judges are often inclined to reject the claim or award a minimal sum, even in cases where evidence is available. As a result, compensation often does not correspond to the harm actually suffered. (Cusveller, 2018)

In conclusion, an analysis of the protection of victims of human trafficking under European Union law requires a comprehensive approach that takes into account both the existing legal framework and the practical realities of its implementation. Examining the relationship between European legal standards and the way in which they are implemented in practice allows us to highlight the progress made in this area, whilst also identifying the limitations and difficulties that persist in the effective protection of victims of human trafficking.

3. The application of European standards in practice – case studies

The case law of the European Court of Human Rights (ECHR) plays a vital role in the development of legal standards concerning the fight against human trafficking and the protection of its victims. Through its interpretation of the European Convention on Human Rights, the Court has established clear obligations for Member States regarding the prevention of human trafficking, the protection of victims and the conduct of effective investigations in cases where there are suspicions of such offences. In this context, three cases relevant to the subject of human trafficking and the protection of its victims were analyzed from the perspective of the ECHR's decisions, including by highlighting the main vulnerabilities that exist in the field of protecting victims of human trafficking.

In this context, three cases decided by the European Court of Human Rights, which have the greatest impact on case law in the field of the protection of victims of human trafficking, were selected for analysis in this paper. Thus, the case of Siliadin v. France clarified for the first time the concept of 'modern slavery' in European law; the case of Rantsev v. Cyprus and Russia established for the first time, explicitly, that human trafficking falls within the scope of protection of Article 4 of the European Convention on Human Rights, whilst the Chowdury and Others v. Greece case represents a key milestone in European case law concerning exploitation through forced labour and states' obligations regarding the protection of victims of human trafficking.

3.1 The case of Siliadin v. France

The case *of Siliadin v. France*, decided by the European Court of Human Rights (application no. 73316/01) in its judgment of 26 July 2005, is one of the Court's first significant decisions concerning the exploitation of persons and the prohibition of

slavery and forced labour. This judgment played a key role in the development of European case law on the protection of victims of exploitation and helped to shape the concept of 'modern slavery' in European law. In fact, this case extended the obligations of states by establishing the principle that protection against slavery and forced labour requires a *specific and effective criminal offence* in domestic law. The Court clarified that a mere general prohibition is not sufficient if the wording of the law leaves loopholes for modern forms of exploitation.

The case centres on the situation of a young woman from Togo who was brought to France by a family on the pretext that she would receive an education and enjoy better living conditions. In reality, she was forced to carry out domestic work without pay, was subjected to exploitative working conditions and was deprived of the freedom to control her own life. The victim was forced to work an excessive number of hours each day, without access to education or other opportunities for personal development. A key element of the case is the Court's analysis of the legal classification of the victim's situation. The Court examined whether her situation could be characterized as slavery, servitude or forced labour within the meaning of Article 4 of the European Convention on Human Rights. Following this analysis, the Court concluded that the victim had not been subjected to slavery in the strict sense of the term, but had been subjected to a form of servitude and forced labour, which constitutes a violation of Article 4 of the Convention. (ECHR, 2005)

The judgment is significant because it clarifies the differences between the legal concepts of slavery, servitude and forced labour. The Court pointed out that slavery involves the exercise of a right of ownership over a person, whilst servitude entails an obligation to perform services under duress, without any real possibility of leaving that situation. In the case under consideration, the Court found that the victim was in a situation of total dependence on her employers, lacking autonomy and the freedom to change her living conditions. (ECHR, 2005)

Another key aspect of the judgment is the analysis of the French State's positive obligations. The Court found that, although France had general legislation on the protection of persons against exploitation, this was not sufficient to effectively penalize such situations. In particular, the Court emphasized that French criminal law did not provide for specific offences that would allow for the adequate punishment of acts of exploitation, which led to the impunity of the perpetrators. (ECHR, 2005)

Through this judgment, the Court established that States have an obligation not only to refrain from violating the rights set out in Article 4, but also to adopt effective legislative and administrative measures to prevent and punish the exploitation of persons. Thus, the Court enshrined the principle that states must ensure an adequate

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legal framework for the protection of victims and for the punishment of the perpetrators of such acts.

The significance of this judgment is also highlighted in the specialist literature, which states that 'the decision in the Siliadin case contributed to the development of the concept of modern slavery and to the extension of the protection afforded by Article 4 of the European Convention on Human Rights'. (Scarpa, 2008) This interpretation has enabled new forms of exploitation to be included within the scope of the prohibition on slavery and forced labour.

The judgment is also of particular relevance to the analysis of human trafficking, as it highlights the fact that exploitation is not limited to the classic forms of slavery, but may also include more subtle situations of coercion and dependency. In this respect, the *Siliadin* case complements subsequent case law, including the *Rantsev* case, by establishing clear criteria for identifying situations of exploitation.

Furthermore, this case highlights the importance of protecting victims in the context of private relationships. In the case under consideration, the exploitation took place within an apparently private relationship, which raised the issue of the state's responsibility in such situations. The Court held that states have a duty to intervene even in cases where exploitation occurs in the private sphere, if there are indications of a violation of fundamental rights.

Consequently, the case *of Siliadin v. France* represents a landmark in the case law of the European Court of Human Rights concerning the exploitation of persons and the protection of victims. It has contributed to the development of legal standards regarding the prohibition of slavery and forced labour and has highlighted the need to adopt effective measures to protect vulnerable persons.

3.2 The case of Rantsev v. Cyprus and Russia

A landmark case in this area of case law is *Rantsev v. Cyprus and Russia* (application no. 25965/04), decided by judgment of 7 January 2010. This case is regarded as one of the Court's most important decisions on human trafficking, as it explicitly established for the first time that human trafficking falls within the scope of protection of Article 4 of the European Convention on Human Rights, which prohibits slavery, servitude and forced labour.

This case established that states have a duty to create a comprehensive legal framework to punish human trafficking.

- *Criminalization of trafficking*: Legislative inaction is prohibited. States must have clear criminal laws to punish traffickers.
- *Protection of victims*: Domestic regulations must ensure the immediate protection of victims' rights.

• *Training of officials*: Police officers and immigration officials must be specially trained to recognize the signs of trafficking. (ECHR, 2010)

The case centres on the situation of a young woman of Russian origin who was recruited and transported to Cyprus for sexual exploitation. Following a series of controversial events, she died in suspicious circumstances, and the host state's authorities were accused of failing to take effective measures to protect her and to investigate the case. The victim's father brought the case before the European Court of Human Rights, alleging a violation of the right to life and of the prohibition of slavery and forced labour.

In examining the case, the Court found that human trafficking constitutes a modern form of slavery and that states have a positive obligation to prevent this phenomenon and to protect victims. The Court emphasized that states must not only criminalize human trafficking but also adopt concrete measures to identify victims and prevent their exploitation. In this regard, the Court pointed out that the mere existence of legal provisions is not sufficient; their effective application in practice is also necessary. (ECHR, 2010)

A key point highlighted by the Court in this case is the obligation of states to conduct effective investigations into cases of human trafficking. The Court found that the Cypriot authorities had failed to take adequate action to protect the victim and had not conducted an effective investigation into the circumstances of her death. Furthermore, the Court held that the Russian authorities had failed to investigate the victim's recruitment properly, which contributed to a breach of the States' positive obligations.

Through this judgment, the Court established three main obligations of States in the fight against human trafficking, namely: the obligation to prevent human trafficking, the obligation to protect victims and the obligation to investigate cases of trafficking effectively. In the case *of Rantsev v. Cyprus and Russia*, the European Court of Human Rights held that states have a positive obligation to prevent human trafficking, to protect victims and to conduct effective investigations where there are suspicions of such offences.

These obligations subsequently became fundamental legal standards in the Court's case-law and have influenced the development of European and national legislation in this field.

The significance of this judgment is also highlighted in legal scholarship, which states that *'the judgment in the Rantsev case marks a landmark in the recognition of human trafficking as a form of violation of the fundamental rights protected by the European Convention on Human Rights*'. (ECHR, 2010)

This interpretation has strengthened the position of victims of human trafficking within the European legal system and has prompted states to adopt more effective

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measures to protect them. Furthermore, the judgment highlights the importance of cooperation between states in combating human trafficking. Given the transnational nature of this phenomenon, the Court emphasized that states must collaborate to investigate cases of human trafficking and to protect victims. A lack of effective cooperation can lead to impunity for perpetrators and the perpetuation of the phenomenon.

In conclusion, the case *of Rantsev v. Cyprus and Russia* represents a landmark in European case law on human trafficking. Through this judgment, the European Court of Human Rights has established essential legal standards regarding the protection of victims and the obligations of states in combating this phenomenon. These standards are particularly relevant to the analysis of the protection of victims of human trafficking under European Union law, highlighting the importance of the effective application of legal norms and cooperation between Member States.

We are discussing the issue of including human trafficking and forced prostitution within the scope of Article 4 of the European Convention on Human Rights. The judgment of the European Court of Human Rights in the case of Rantsev v. Cyprus and Russia marked a turning point by classifying forced prostitution through human trafficking as falling within the scope of Article 4. However, in its judgment in the case of S.M. v. Croatia, the ECHR further consolidated its position that human trafficking and forced prostitution constitute a violation of Article 4. (Turanjanin, 2024)

3.3 The case of Chowdury and Others v. Greece

The case of *Chowdury and Others v. Greece* (application no. 21884/15), decided by the European Court of Human Rights in its judgment of 30 March 2017, represents a key milestone in European case law concerning exploitation through forced labour and states' obligations regarding the protection of victims of human trafficking. This case highlights, in concrete terms, the difficulties encountered in applying European legal standards and the limitations of victim protection mechanisms in practice.

The case centres on the situation of a group of Bangladeshi nationals who were recruited and brought to Greece to work in agriculture, specifically in the strawberry harvest. They were subjected to extremely poor working conditions, being forced to work long hours without receiving the wages promised and being housed in unsuitable accommodation. Furthermore, the workers were monitored and threatened by their employers, which limited their ability to leave their place of work. A key moment in the case was the incident in which several workers demanded payment of their outstanding wages and were subsequently shot by the farm's supervisors. This event drew the attention of the authorities and led to the opening

of a criminal investigation. However, the European Court of Human Rights deemed the Greek authorities' handling of the case to be inadequate.

In analyzing the facts of the case, the Court found that the workers were in a situation of exploitation through forced labour, which falls within the scope of protection of Article 4 of the European Convention on Human Rights. The Court emphasized that the concept of forced labour does not merely entail direct physical coercion, but may also include other forms of coercion, such as threats, abuse of vulnerability or economic dependence. (ECHR, 2017)

A key element of the judgment is the analysis of the State's positive obligations. The Court found that Greece had failed to adopt adequate measures to prevent the situation of exploitation and had failed to ensure the effective protection of the victims. Although the authorities were aware of the working conditions prevailing on the agricultural holdings in question, they did not intervene effectively to prevent the abuses. The Court also examined the manner in which the authorities conducted the criminal investigation, concluding that it had not been effective. Although some individuals were brought to trial, the domestic courts failed to correctly classify the offences as human trafficking or forced labour, which led to the imposition of inappropriate penalties. The Court emphasized that states have an obligation to impose appropriate penalties for such offences, to deter the phenomenon and protect victims. (ECHR, 2017)

The judgment also highlights the importance of correctly identifying victims. In the case in question, the authorities did not initially recognize the workers' status as victims, which affected their access to the protective measures provided for under European law. The Court noted that identifying victims is an essential step in the protection process and that the lack of effective mechanisms in this regard can lead to a violation of fundamental rights.

Another relevant aspect of the judgment is the emphasis placed on the vulnerability of the victims. The Court emphasized that the workers came from a precarious socio-economic background and were dependent on their employers for an income, which placed them in a vulnerable position. This vulnerability was exploited by the employers, who took advantage of their situation to subject them to abusive working conditions.

From a doctrinal perspective, the *Chowdury* case is regarded as an extension of the principles established in the *Rantsev* case, adapted to the context of exploitation through forced labour.

At the same time, the case highlights the gap between existing legal standards and their application in practice, a central aspect of this paper. Although European legislation provides for clear measures to protect victims, the implementation of these measures depends on the effectiveness of national authorities. The lack of

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proactive state intervention and shortcomings in the conduct of the investigation led, in this case, to a violation of the victims' fundamental rights.

Consequently, the case *of Chowdury and Others v. Greece* highlights the importance of the effective application of European legal standards and the need to strengthen mechanisms for the protection of victims of human trafficking. This judgment demonstrates that the existence of legal provisions is not sufficient to combat the phenomenon; active involvement by the authorities and an approach geared towards the genuine protection of victims are necessary.

4. The protection of victims of human trafficking: between legal standards and reality

4.1 The effectiveness of the European legal framework in protecting victims of human trafficking

The European Union's legal framework on combating human trafficking and protecting its victims is the result of a complex legislative evolution, reflecting the European institutions' constant concern to guarantee the fundamental rights of vulnerable people. Instruments such as Directive 2011/36/EU and Directive 2012/29/EU set out detailed standards on preventing the phenomenon, punishing perpetrators and protecting victims, thereby establishing a coherent legal system at European level. However, an analysis of the effectiveness of this framework highlights a significant discrepancy between the regulatory framework and the actual implementation of these regulations in practice.

A key criterion for assessing the effectiveness of the legal framework is *the degree of harmonization of national legislation*. Directive 2011/36/EU has contributed significantly to standardizing the definition of human trafficking and to establishing minimum standards for the punishment of this offence. However, the nature of European directives, which allows Member States a certain degree of flexibility in transposition, has led to differences in how these provisions are implemented. Thus, in some Member States, the regulatory framework is better developed and more effectively enforced, whilst in others there are legislative gaps or difficulties in the practical application of legal rules. (European Commission, 2020)

Secondly, the effectiveness of the legal framework must be analyzed from the perspective *of the effective protection of victims*, which is the central objective of European legislation in this area. Although European directives expressly stipulate the obligation of Member States to ensure victims have access to support services, the reality on the ground highlights the existence of significant differences between Member States. In some cases, victims benefit from integrated support services, including psychological, legal and social support, whilst in other situations access to

these services is limited or difficult. This situation directly affects victims' ability to recover and reintegrate into society.

Another key element in assessing the effectiveness of the legal framework is *the mechanisms for identifying victims*, which constitute the first stage of the protection process. As highlighted in previous chapters, many victims are not identified by the authorities or are recognized too late, which prevents them from benefiting from the protection measures provided for by law. This problem is mainly caused by the lack of standardized procedures and the insufficient training of staff involved in identifying victims. (European Commission, 2021) At the same time, the effectiveness of the European legal framework must also be analyzed from the perspective *of the effective enforcement of sanctions against traffickers*. Although European legislation provides for severe penalties for human trafficking offences, in practice there are difficulties in investigating and proving these offences. The transnational nature of the phenomenon, the use of sophisticated operational methods and the difficulties in obtaining evidence all contribute to reducing the effectiveness of the criminal justice system. Consequently, there are situations in which the perpetrators of these offences are not punished appropriately, which undermines the deterrent effect of the legislation.

Another relevant criterion is *the level of cooperation between Member States and European institutions*. Although the European Union has developed cooperation mechanisms such as Europol and Eurojust, their effectiveness depends on the willingness of Member States to collaborate and exchange information. In practice, cooperation is sometimes limited by differences between national legal systems or by the lack of effective coordination mechanisms.

From a critical perspective, it can be observed that the effectiveness of the European legal framework is influenced not only by the quality of the rules adopted, but also by *the institutional capacity of Member States to implement them effectively*. A lack of resources, insufficient staff training and shortcomings in institutional coordination can significantly reduce the impact of measures adopted at European level. Thus, there is a clear discrepancy between the legal standards established at European level and the practical reality in the Member States.

In conclusion, although the European legal framework on the protection of victims of human trafficking is well-structured and provides a solid basis for combating this phenomenon, its effectiveness is limited by the difficulties encountered in its implementation. Reducing this discrepancy between law and practice is one of the main challenges for the European Union and for Member States, and is essential for ensuring genuine and effective protection for victims.

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4.2 Gaps and challenges in the application of legislation

Although the European Union has developed a complex and well-structured legal framework for combating human trafficking and protecting victims, the effective application of these rules highlights the existence of significant gaps and persistent challenges. These difficulties do not stem exclusively from the content of the regulations, but rather from the way in which they are transposed and implemented at Member State level.

One of the main problems is *the inconsistent nature of the transposition of European directives into national legislation*. Although the directives set out mandatory minimum standards, they allow Member States a certain degree of discretion regarding the form and means of implementation. This flexibility, whilst justified by the diversity of legal systems, can lead to significant differences between countries in terms of the level of protection offered to victims. In practice, this results in more effective systems in some countries and underdeveloped mechanisms in others. (European Commission, 2020)

Another major challenge is *the difficulty in identifying victims of human trafficking*, which is an essential step in activating protection mechanisms. Without proper identification, exploited individuals cannot benefit from the rights provided for under European legislation. This problem is exacerbated by the complexity of the phenomenon, the diversity of forms of exploitation and the lack of standardized procedures at the European level. In many cases, victims are not recognized as such, but are treated as irregular migrants or even as criminals, which contravenes the principles enshrined in European law. (European Commission, 2021)

At the same time, it is important to highlight *the inadequacy of the resources allocated to the institutions responsible* for combating human trafficking. In many Member States, the authorities face a shortage of specialized staff, adequate infrastructure and the necessary funding to implement protection measures effectively. This situation limits the institutions' ability to intervene promptly and effectively, directly affecting the protection of victims.

Another critical issue is *the insufficient level of professional training among the staff involved*. Identifying victims and managing cases of human trafficking require specific skills and a thorough understanding of the phenomenon. In the absence of adequate training programmes, there is a risk that the authorities may fail to recognize the signs of exploitation or may apply protective measures incorrectly.

Furthermore, *poor coordination between the institutions involved* is a major problem in the implementation of European legislation. Combating human trafficking requires complex collaboration between judicial authorities, the police, social services and non-governmental organizations. In the absence of effective

mechanisms for cooperation and information-sharing, interventions can become fragmented and inconsistent, thereby reducing the effectiveness of the measures adopted.

Another relevant factor is *the difficulties encountered in investigating and prosecuting human trafficking offences*. The transnational nature of the phenomenon, the use of sophisticated methods by organized crime networks and the reluctance of victims to cooperate with the authorities all hamper the process of gathering evidence and conducting investigations. Consequently, there are situations in which the perpetrators of these offences are not punished appropriately, which undermines the preventive effect of the legislation.

From a critical perspective, it can be observed that one of the most significant challenges is *the gap between legal standards and practical reality*, which forms the core of this paper. Although the European Union has established an advanced regulatory framework, its implementation depends directly on the political will, available resources and institutional capacity of each Member State. This dependence leads to inequalities in the protection of victims and perpetuates vulnerabilities within the system.

In conclusion, the gaps and challenges identified highlight the fact that the effectiveness of European legislation cannot be assessed solely based on the content of the rules, but must also be analyzed from the perspective of their implementation in practice. Overcoming these difficulties requires an integrated approach, combining legislative, institutional and operational measures, with a view to ensuring genuine and effective protection for victims of human trafficking.

4.3 Proposals for improving the protection of victims of human trafficking

Given the gaps and difficulties identified in the implementation of European legislation on combating human trafficking, concrete proposals need to be formulated to help improve the protection of victims. These proposals must aim not only to refine the regulatory framework but also to strengthen the institutional and operational mechanisms that ensure its effective implementation.

Firstly, it is necessary *to standardize the mechanisms for identifying victims at the European level*. Although current legislation requires Member States to identify victims of human trafficking, in practice there are significant differences in how these provisions are applied. The introduction of common procedures and uniform identification criteria could help to reduce these discrepancies and increase the effectiveness of interventions. In this regard, the development of operational guidelines at European level, aimed at national authorities, would be a useful tool for ensuring a coherent approach.

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Secondly, there is a need *to strengthen the support services provided to victims*. Their effective protection cannot be achieved solely through the recognition of victim status, but also requires the provision of appropriate support services. Member States should allocate sufficient resources to develop integrated services, including medical care, psychological counselling, legal support and social reintegration programmes. The lack of such services can lead to the perpetuation of victims' vulnerability and to difficulties in their reintegration into society. (European Commission, 2021)

Another key aspect is *improving the professional training of the staff involved*. Police officers, prosecutors, judges and social services staff must have the necessary knowledge to recognize the signs of human trafficking and to apply protective measures correctly. In this regard, the development of ongoing and specialized training programmes would help to increase the effectiveness of interventions and reduce the risk of errors in identifying victims.

It is also necessary *to strengthen cooperation between Member States and the European institutions*. Given the transnational nature of human trafficking, the exchange of information and the coordination of actions are essential elements in combating this phenomenon. The development of more effective cooperation mechanisms, including through the use of modern technologies, could help to identify trafficking networks more quickly and protect victims.

Another important element is *the adoption of a victim-centred approach at all stages of the legal process*. This approach involves respecting the dignity and fundamental rights of victims and adapting judicial procedures to their needs. For example, reducing the number of hearings, using alternative methods of giving evidence and ensuring confidentiality can help to minimize the psychological impact of judicial proceedings on victims. (European Parliament and Council, 2012)

At the same time, greater attention must be paid *to the preventive aspect of public policies*. Combating human trafficking cannot be achieved solely by punishing perpetrators; it also requires reducing the factors that contribute to the phenomenon. To this end, it is necessary to develop social and economic policies that reduce the vulnerability of people at risk of exploitation, as well as information and awareness-raising campaigns aimed at the general public. These campaigns must be supported both by the state and, above all, by civil society through the active involvement of non-governmental organizations working in this field.

The official identification of alleged victims of human trafficking for labour exploitation remains a complex and controversial process, shaped by both international and European legal frameworks. Although legal systems and frameworks often seek to establish clear distinctions, the practical reality of victim identification shows that such distinctions are not always possible. Furthermore, *the*

threshold for providing support to victims, as compared with criminal proceedings, must be approached within a framework centred on human rights and the victim. (Kosl, 2026)

In light of the Italian experience, it can be argued that *the protection afforded by European legislation is too limited and, as a result, doomed to be ineffective***.** Furthermore, protecting all victims of human trafficking, regardless of their willingness to cooperate with the judicial authorities, is necessary to safeguard the human rights of victims, as well as to ensure the full application of criminal law. (Raffaelli, 2009)

Last but not least, there is a need *to improve the mechanisms for monitoring and evaluating public policies* in the field of combating human trafficking. Regularly assessing the effectiveness of the measures adopted and identifying existing shortcomings can help to adapt policies and increase their effectiveness. In this regard, the role of the European institutions, in particular the European Commission, is essential to ensuring effective monitoring of the implementation of legislation.

In conclusion, improving the protection of victims of human trafficking requires a comprehensive and multidimensional approach, combining legislative, institutional and social measures. By implementing these proposals, the European Union and the Member States can help to bridge the gap between legal standards and practical reality and ensure genuine and effective protection for victims.

5. Conclusions

The analysis carried out in this paper has highlighted that human trafficking is one of the most serious forms of organized crime, with profound implications for fundamental human rights. At European Union level, combating this phenomenon and protecting victims have become major priorities, reflected in the development of a comprehensive legal framework and dedicated institutional mechanisms.

An analysis of the European regulatory framework has shown that the European Union has made significant progress in harmonizing Member States' legislation and establishing minimum standards for the prevention of human trafficking, the prosecution of perpetrators and the protection of victims. Legal instruments such as Directive 2011/36/EU, as amended and supplemented by Directive 2024/1712/EU, and Directive 2012/29/EU have helped to consolidate an integrated approach, aimed not only at combating the phenomenon but also at supporting and protecting victims. However, an analysis of the practical implementation of these regulations has highlighted a significant discrepancy between legal standards and the reality on the ground in Member States. Difficulties in identifying victims, limited access to support services, insufficient institutional resources and varying levels of

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professional training among authorities represent major obstacles to ensuring effective protection. In many cases, victims are not recognized as such or do not benefit from the protective measures provided for under European legislation, which undermines the effectiveness of the entire system.

Furthermore, the transnational nature of human trafficking requires effective cooperation between Member States and European institutions. Although existing mechanisms, such as Europol and Eurojust, help to facilitate this cooperation, the analysis has shown that there are still difficulties in coordinating actions and exchanging information, which limits the effectiveness of interventions against organized crime networks. These operational shortcomings severely undermine the effectiveness of law enforcement agencies in EU Member States in preventing and combating human trafficking and dismantling specialized organized crime networks.

A key point highlighted in this paper is the need to adopt a *victim-centred approach*, which ensures respect for the dignity and fundamental rights of those affected by human trafficking. Victim protection should not be viewed as a secondary aspect of criminal proceedings, but as an essential component of policies to combat this phenomenon. In this regard, the development of effective mechanisms for identification, support and social reintegration is a fundamental prerequisite for increasing the effectiveness of interventions.

Based on the analysis carried out, it can be concluded that the effectiveness of the European legal framework depends directly on the Member States' ability to effectively implement the standards established at European Union level. In the absence of adequate resources, appropriate staff training and effective cooperation between institutions, legal provisions risk remaining theoretical, without producing concrete results in practice. In this context, improving the protection of victims of human trafficking requires the adoption of additional measures aimed at standardizing identification mechanisms, strengthening support services, developing international cooperation and enhancing the institutional capacity of Member States. At the same time, greater attention must be paid to the preventive aspect by reducing the social vulnerabilities that contribute to the emergence of this phenomenon.

In conclusion, although the European Union has an advanced legal framework for the protection of victims of human trafficking, the main challenge remains translating these standards into practical reality. Bridging the gap between legislation and implementation is an essential prerequisite for ensuring genuine and effective protection for victims and for combating human trafficking effectively within the European Union.

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Author Contributions
ILT has acted as the project management coordinator, having devised the structure of the article and overseen each section of the paper. LI has been responsible for the literature review. Furthermore, LI has been responsible for the practical case study analysis and interpretations. All authors have contributed to the introduction and conclusions. All authors have approved the final version of the article.

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