ILPA Briefing for the Immigration Bill (Part 2)
Second briefing - Clause 18 and after
House of Lords Report 1 April 2014 ff

The Immigration Law Practitioners' Association (ILPA) is a charity and a professional membership association the majority of whose members are barristers, solicitors and advocates practising in all aspects of immigration, asylum and nationality law. Academics, non-governmental organisations and individuals with an interest in the law are also members. Established over 25 years ago, ILPA exists to promote and improve advice and representation in immigration, asylum and nationality law through an extensive programme of training and disseminating information and by providing evidence-based research and opinion. ILPA is represented on numerous government committees, including Home Office, and other consultative and advisory groups and has provided briefing on immigration Bills to parliamentarians of all parties and none since its inception.

ILPA's briefings to date on this bill can be read at http://www.ilpa.org.uk/pages/immigration-bill-2013.html . ILPA is happy to comment on or assist with ideas for other amendments and will provide further briefing on the final selection of amendments tabled. All references are to HL Bill 96. We include briefings to all amendments printed at the time of writing. Inclusion does not imply that ILPA supports the amendment; this should be clear from the briefing.

For further information please get in touch with Alison Harvey, Legal Director, on 0207 251 8383, alison.harvey@ilpa.org.uk

PART 2 APPEALS

Clause 18: Public interest considerations in Article 8 claims

AMENDMENT 16 Lord Watson of Invergowrie

Purpose
Provides that the promotion of the best interests of children is in the public interest.

Briefing
If parliament is to take upon the task of defining what is in the public interest then this must be done properly. The UK has ratified the UN Convention on the Rights of the Child and its own Children Act 1989 makes the best interests of the child a primary consideration in decisions concerning children. The Home Office in carrying out its immigration functions is under a duty to safeguard and promote the welfare of children. All these are indications that the best interests of the child are a matter of public interest.
Article 8 of the European Convention on Human Rights provides

> *1. Everyone has the right to respect for his private and family life, his home and his correspondence.*
> *2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the*

prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

It makes no mention of the "public interest". It talks about lawful and unlawful interference with the right to private and family life. To be lawful an inference with the rights of an individual must be

- Necessary
- In a democratic society
- For one of five reasons
    - interests of national security
    - public safety
    - the economic well-being of the country
    - the prevention of disorder or crime
    - the protection of health or morals
    - for the protection of the rights and freedoms of others

One might subject to analysis whether the interference with all our rights, whether we are British citizens or under immigration control, effected by this Bill in the areas of letting or renting property, going to the doctor or, getting married, all of which are bureaucratised and made loci of immigration control. It is necessary in a democratic society to promote the welfare of children.

Baroness Lister said at Committee (col 1373)

As it stands, the clause fails to recognise that promoting and protecting the interests of children, which is rightly no longer seen as by public policy as a purely private matter, is in itself a public good—a point just made by the noble Baroness, Lady Hamwee—and therefore of public interest. In HH, the Supreme Court held that there is,

"a strong public interest in ensuring that children are properly brought up".

Does the Minister agree with that sentiment, and if so, would he also agree that the kind of amendment proposed would dispel any impression that children's interests are being treated as no more than personal and private interests?

The Supreme Court in *HH v Deputy Prosecutor of the Italian Republic, Genoa* [2012] UKSC 25[1] said

In his written submissions on behalf of the Coram Children's Legal Centre, Mr Manjit Gill QC argues that international human rights instruments, including the Universal Declaration of Human Rights and the UNCRC, have recognised the special and unique status of children. This involves not only a negative duty to avoid doing them harm but also positive obligations to promote their development into adulthood. … It is not just a matter of balancing the private rights of children against the public interest in extradition, because there is also a wider public interest and benefit to society in promoting the best interests of its children. Children are (as Latey J put it in In re X (A Minor)(Wardship: Jurisdiction) [1975] Fam 47, at 52) "a country's most valuable asset for the future". More than that, promoting their proper development is in the public interest in order to prevent their

[1] **(20 June 2012)** ***http://www.bailii.org/uk/cases/UKSC/2012/25.html***

becoming the criminals of the future. In addition to article 3.1 of UNCRC, he draws attention to article 3.2:

> *"States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures."*

And

> *.. at this earlier stage, we should notice not just the grave effects of his extradition upon these three children but the public importance that children should grow up well-adjusted. The principle which pervades the despatch of issues relating to children in the family courts is that, as a rule, they are more likely to grow up well-adjusted if they continue to live in the home of both or at least one of their parents… I agree with Lady Hale's comments on this point at para 25 above. To "A commentary on the UN Convention on the Rights of the Child", published by Nijhoff in 2007, Professor Freeman contributed Chapter 3, of which the title was "Article 3: The Best Interests of the Child". He wrote, at p 41:*
>
> > *"There are also utilitarian arguments in favour of prioritizing children's interests. Thus, it may be thought that giving greater weight to children's interests maximises the welfare of society as a whole. Barton and Douglas have even argued that children are important for the continuity of order in society. Putting children first is a way of building for the future. It is significant that countries reconstructing after nightmares of rightlessness have put children's interests in the foreground."*

The Minister, Lord Wallace of Tankerness, indicated that he was sympathetic to amendments making reference to the best interests of a child being a primary consideration (col 1382); this amendment gives him the chance to approach the question from a different angle.

AMENDMENTS to page 17 to 19 in the names of Lord Pannick and Lord Hope of Craighead

Purpose

Inserts the word "normally "into provisions setting out that little weight should be given to a private life established while a person's status was precarious or while the person was in the UK unlawfully and that the public interest requires the deportation of a person sentenced to over four years unless a specified exception applies.

Briefing

ILPA supports these amendments. The Government has got itself in a muddle as far Article 8 is concerned, as Lord Pannick sought to explain at Committee. The Minister, Lord Wallace of Tankerness said

> *It will remain a matter for the court to decide whether the weight to be accorded to the public interest as set out by parliament in clause `4 outweighs the individual's right to respect for private life, and therefore whether the decision is proportionate in Article 8 terms* (col 1399)

And

> *Of course…every appeal must be assessed on its individual facts and, where there is a right of appeal, the courts must ultimately decide what is proportionate in Article 8 terms. Clause 14 does not seek to change that proper judicial function* (col 1400)

Lord Pannick explained the mismatch between these statements and what the Bill says:

> *What is objectionable in my view about Clause 14 is that legislation will tell the judges what weight to give to relevant factors in deciding a case which depends, inevitably, upon the particular circumstances of that case…the Strasbourg jurisprudence recognises that although of course little weight should be given to these factors in many cases there will be other cases where considerable weight should be given to these factors in the individual circumstances…The difficulty about Clause 14 is that it purports to suggest that little weight must always be given to these facts, whatever the circumstances of the case. It does not say "other than in exceptional circumstances" or "normally" it says that little weight shall be given to these factors.* (cols 1402 to 1403)

These amendments thus cut to the chase by inserting the word "normally" and give decisions back to the judges.

The Joint Committee on Human Rights said of the Clause:

> *54. Clause 14 of the Bill requires a court or tribunal to have regard to certain enumerated public interest considerations when determining whether an immigration decision is compatible with a person's right to respect for private and family life in Article 8 ECHR, including a bespoke set of such public interest considerations in cases involving foreign criminals.[37]*
>
> *55. There is nothing inherently incompatible with the Convention in Parliament spelling out in primary or subordinate legislation its detailed understanding of the requirements of relevant Convention rights in particular contexts. Indeed, such an exercise could be considered to be Parliament's fulfilment of the important obligation imposed upon it by the principle of subsidiarity: to take primary responsibility for the protection of Convention rights in national law, by providing a detailed legal framework designed to give effect to Convention rights in particular contexts. Such legislation should not, however, purport to determine in advance claims that Convention rights have been violated in particular cases, because that would be a usurpation of the judicial function to determine individual cases. The guidance provided to courts or tribunals should also accurately reflect the relevant Convention case-law, and should not be incompatible with any other international obligations.*

The Joint Committee on Human Rights also said

> *59. …The Government has not… provided any examples of other legislation in which a court or tribunal is required to have regard to a consideration which purports to prescribe the weight that should be given to that consideration. …*
>
> *60. …* ***we are uneasy about a statutory provision which purports to tell courts and tribunals that "little weight" should be given to a particular consideration in such a judicial balancing exercise. That appears to us to be a significant***

legislative trespass into the judicial function. We note that the Government did not provide us with any other examples of such statutory provisions, which suggests that this approach may be unprecedented. We recommend that the Bill be amended in a way which retains as relevant public interest considerations whether a private life or relationship were established at a time when the person was in the UK unlawfully or when their immigration status was precarious, but omits the direction about the weight to be given to the person's private life or relationship.

It is as much a part of the constitutional settlement that judges judge as that Parliament makes the law and indeed a part of the role of the courts is to ensure that it is Parliament's view, as enacted, that prevails and not that of the Government of the day.

The determination of an Article 8 claim is a fact sensitive exercise, there is no one size fits all rule. The relative weight to be accorded to family life and the public interest will vary from case to case. The weighing exercise cannot be carried out in advance of the specific facts of a particular case being known. What will be the effect on this child of the deportation of this parent? Lord Bingham for the House explained this very carefully in *Huang v SSHD; Kashmiri v SSHD* [2007] UKHL 11; [2007] 2 AC 16. First he set out factors which would weigh in favour of exclusion or removal:

> *[16] The [Tribunal] will wish to consider and weigh all that tells in favour of the refusal of leave which is challenged, with particular reference to justification under article 8(2). There will, in almost any case, be certain general considerations to bear in mind: the general administrative desirability of applying known rules if a system of immigration control is to be workable, predictable, consistent and fair as between one applicant and another; the damage to good administration and effective control if a system is perceived by applicants internationally to be unduly porous, unpredictable or perfunctory; the need to discourage non-nationals admitted to the country temporarily from believing that they can commit serious crimes and yet be allowed to remain; the need to discourage fraud, deception and deliberate breaches of the law; and so on.*

Then he set out, again on the basis of a reading of caselaw, the factors which weigh against removal:

> *[18] Human beings are social animals. They depend on others. Their family, or extended family, is the group on which many people most heavily depend, socially, emotionally and often financially. There comes a point at which, for some, prolonged and unavoidable separation from this group seriously inhibits their ability to live full and fulfilling lives. Matters such as the age, health and vulnerability of the applicant, the closeness and previous history of the family, the applicant's dependence on the financial and emotional support of the family, the prevailing cultural tradition and conditions in the country of origin and many other factors may all be relevant.*

Then he turned to the balancing exercise:

> *20. In an article 8 case ... the ultimate question for the appellate immigration authority is whether the refusal of leave to enter or remain, in circumstances where the life of the family cannot reasonably be expected to be enjoyed elsewhere, taking full account of all considerations weighing in favour of the refusal, prejudices the family life of the applicant in a manner sufficiently serious to amount to a breach of the fundamental right protected by article 8. If the answer to this question is affirmative, the refusal is unlawful and the*

authority must so decide. It is not necessary that the appellate immigration authority, directing itself along the lines indicated in this opinion, need ask in addition whether the case meets a test of exceptionality.

Lord Bingham s in *EB Kosovo* [2008] UKHL 41 quoted the passage above and then said:

…the appellate immigration authority must make its own judgment and that judgment will be strongly influenced by the particular facts and circumstances of the particular case. … cases will not ordinarily raise …stark choices, and there is in general no alternative to making a careful and informed evaluation of the facts of the particular case. The search for a hard-edged or bright-line rule to be applied to the generality of cases is incompatible with the difficult evaluative exercise which article 8 requires.

The European Court of Human Rights has made the same point in *AA v UK* (App No, 8000/08, 20 September 2011, Fourth Chamber),

…the weight to be attached to the respective criteria will inevitably vary according to the specific circumstances of each case. Further, not all the criteria will be relevant in a particular case…

Adrian Berry, chair of ILPA summarised the position in his oral evidence to the Committee (29 October, second session, pm Column number: 79):

Adrian Berry:

… the question is not whether Parliament can give a view of the public interest; the question is whether it should formulate it in the terms that are currently drafted in clause 14.

... There is nothing wrong, in a society based on self-rule, with specifying the public interest. The question is whether you should do it in such a way as to cause variance with the convention rights as they are understood and applied under the Human Rights Act.
If I can return to the example of the best interests of the child, it should not be about whether the impact on the child is unduly harsh. It should be: what are the best interests of the child, and is there a sufficient public policy interest to override them? Introducing alternative formulations, variable geometry in legal tests and a series of terms that are being loaded with meaning creates circumstances in which lawyers will pick over those meanings rather than simply applying article 8 in order to understand the first question—has the statutory meaning been satisfied?—before coming on to the second question: what does article 8 require?

The Secretary of State has taken a variety of positions before the courts.
See the case of *MF (Nigeria) v Secretary of State for the Home Department* [2013] EWCA Civ 1192 (08 October 2013) Available at http://www.bailii.org/ew/cases/EWCA/Civ/2013/1192.html).

The U[pper] T[ribunal] *in Izuazu recorded the Secretary of State's submission in response to the question what difference the new rules had made on the case law on article 8 in these terms:*

"….the Rules make a substantial difference to the case law and essentially restore the exceptional circumstances test disapproved of by the House of Lords in Huang v SSHD [2007] UKHL 11, [2007] 2 AC 167 because their Lordships were

considering a set of immigration rules that did not spell out the UK's response to Article 8 issues whereas the present rules before us do so."

That was a surprising submission to make in view of the round terms in which an exceptionality test was rejected by the House of Lords in Huang at para 20: see also EB (Kosovo) v Secretary of State for the Home Department ***[****2008] UKHL 41, [2009] 1 AC 1159 at paras 8, 12, 18, 20 and 21.*

But the thrust of the case advanced on behalf of the Secretary of State in the grounds of appeal in the present case was different. ..

..It is true that, as the UT pointed out at para 38 of their determination, the new rules are not a perfect mirror of the Strasbourg jurisprudence. But Ms Giovannetti [for the Secretary of State] *concedes that they should be interpreted consistently with it. …In view of the strictures contained at para 20 of Huang, it would have been surprising if the Secretary of State had intended to reintroduce an exceptionality test, thereby flouting the Strasbourg jurisprudence. At first sight, the choice of the phrase "in exceptional circumstances" might suggest that this is what she purported to do. But the phrase has been used in a way which was not intended to have this effect*

We do not attempt herein a detailed commentary on the Human Rights Memorandum issued with the Bill, although we are happy to provide commentary on particular parts of it if this would be helpful. We do give a couple examples of problems. For example the case of *Rodrigues da Silva and Hoogkamer v Netherlands* (2007) 44 EHRR 34. ILPA highlighted in our 2011 response to the consultation on family migration which preceded the writing of immigration rules addressing Article 8 that the presentation of the case in the consultation was misleading. It is also misleading in the Human Rights Memorandum. It is cited in the context of a discussion on precariousness without explaining that the applicants in da Silva were successful, despite Ms da Silva's having remained unlawfully in the Netherlands and having established her private life and family life when her status was precarious. The Supreme Court describing the *Rodrigues* case in *ZH (Tanzania)* [2011] UKSC 4 at 20 as

".. a relatively recent case in which the reiteration of the court's earlier approach to immigration cases is tempered by a much clearer acknowledgement of the importance of the best interests of a child caught up in a dilemma which is of her parents' and not of her own making".

In precariousness cases, as in other cases, there is no one size fits all rule. What if a person does not know their situation is precarious- for example someone brought to the UK as a domestic worker who was not told her employer had not kept her paperwork up to date? Or someone who has lived most of their life in the UK not realising that their country of origin's becoming independent of the British Empire while they were in the UK has meant that they are no longer entitled to a British passport – a far from uncommon scenario amongst, for example, London-based communities originating from the Caribbean. What if the British partner is too ill to travel, or is caring for an elderly parent?

AMENDMENT 20 in the name of Lord Watson of Invergowrie and

Purpose

The effect of the amendment is that when analysing whether the public interest of "foreign criminal" requires deportation, the effect of any deportation on that person's "qualifying "

partner or child as defined, the test will be whether the impact is disproportionate, rather than unduly harsh.

Briefing

Adrian Berry, Chair of ILPA said in his oral evidence to the Committee (29 October, 2nd session, pm, col 78)

> *Clause 14, which deals with article 8 of the European convention on human rights, seeks to put down a legislative marker as to what factors should be considered in the public interest. In so far as it does that, Parliament has the right to specify what it considers to be in the public interest. Whether it should specify the measures that are specified in clause 14 is a different question. We have concerns about the way in which it has gone about that task. So long as power is reserved to the judges to decide substantively whether there has been a violation of article 8, which is a task granted to them under the Human Rights Act 1998, there may be a sufficient safeguard. In its operation, however, clause 14 directs attention to some measures at the expense of others.*
>
> *To give you the most obvious example, the best interests of the child must be considered as a priority and must be considered first. The question is not whether the impact on the child is unduly harsh. The question is: what are the best interests of the child, and is there a sufficient public policy interest to swing against that? Clause 14, as currently drafted, is not compatible with that formulation, which is prescribed by the Supreme Court in the case of ZH (Tanzania).*

The Minister illustrated perfectly in Committee how to fail to treat the best interests of a child as a primary consideration. He said

> *In EA (Nigeria) the court said that, in considering the best interests of a young child, the correct starting point is to assume that it is in the best interests of a child to live with and be brought up by his or her parents unless there are very good reasons why that is not the case. Therefore, where the child is being removed with their parents and as a family to that family's country of origin, that is not a breach of Article 8 and we believe that it is consistent with the children duty in Section 55.* (col 1384)

The words after "therefore" are a gloss on the judgment, unwarranted and incorrect. The Minister looks first at what should happen to the parents and then says "if they are going, what should happen to the child?" That is not what the Upper Tribunal did in EA (Nigeria) (see http://www.bailii.org/uk/cases/UKUT/IAC/2011/00315_ukut_iac_2011_ea_others_nigeria.html) a case of a migrant family whose stay had always been expected to be temporary. The tribunal looked at the interests of the children first and then at whether the family as a whole should stay or go:

> *47. Having assessed the best interests of the second and third appellants as a first and primary consideration and found that they favour the course of remaining within the family unit, whether that be in the UK or in Nigeria where, on the evidence produced, each of the appellants would be able to thrive and continue attending school, work, church, and doing charitable works; we move to consider whether requiring the appellants to go to Nigeria is a necessary, proportionate and a fair balance between the right to respect for the private life of the appellants and the particular public interest in question.*
>
> *48. We have no doubt that it is. The purpose for which the first appellant came to the UK has been fulfilled. It was always a temporary purpose and there was no expectation that*

he or any of his dependents who joined him here or were born here would be able to remain indefinitely in the UK .

The tribunal also held in that case that the Supreme Court in *ZH (Tanzania)* [2011] UKSC 4 was not ruling that the ability of a young child to readily adapt to life in a new country was an irrelevant factor, rather that the adaptability of the child in each case must be assessed and is not a conclusive consideration on its own.

AMENDMENT 21 in the names of Baroness Lister of Burtersett and Lord Pannick

Purpose
To change the definition of a qualifying child, a relationship to which may bring into play the exceptions in the clause, so that indefinite leave to remain or four years residence, rather than the current seven years are present.

Briefing
Four years is better than seven. The approach still accepts the project of addressing questions of individuals' rights in statute absent the facts of the particular case; see our commentary on amendments 17 to 19 above as to why this is problematic.

Lord Wallace of Tankerness said in Committee "The best interests of a child in the United Kingdom will continue to be a primary consideration in all cases, whether or not or not the child is a qualifying one "(col 1382). The amendment puts the Minister on the spot: if the best interests are a primary consideration, why is the precise time a child must have been I the UK so important that it must be set out on the face of the legislation?

We do not consider that the "qualifying child approach" is easy to reconcile with that finding in *ZH (Tanzania)*. We are far from confident, whatever the Minister may say, and what he is saying at the moment is far from satisfactory, that the application of the provisions would respect the rights of children under whatever age is used in the definition. The weighing of the facts of the individual cases before them is properly the job of judges.

We agree with the Joint Committee on Human Rights that

> 63. ***…, the Government has not explained how in practice the provisions in the Bill are to be read alongside the s. 55 duty. Without such explanation there is a danger that front-line immigration officials administering the legal regime will be unclear about the relationship between the children duty in s. 55 and the new tests introduced by the Bill which use different and unfamiliar language. We recommend that new guidance be issued to ensure that the Government's stated intention about the unaffected status of the children duty is in fact achieved in practice. We also ask the Government to confirm that it intends that the s. 55 children duty also applies to children who are not within the Bill's definition of a "qualifying child", as we believe it should.***

One example of a person affected by the definition of a "qualifying child" is the settled child, i.e. the child with indefinite leave to remain. Such a child is entitled to remain the UK for the rest of his/her life. Whereas a British citizen can return to the UK after an absence of any length, a settled person can lose that status if they stay out of the country for more than

two years. Thus the effect on settled children is potentially more severe than that on children who are British citizens who can return one day in the distant future if the UK still feels like "home".

Any suggestion that reducing the period to less than five years would affect dependent children of persons in the UK temporarily is inaccurate and should be resisted. The Bill does not propose that the presence of a qualifying child entitle that child or that child's parent to permanent residence. Not only must there be a qualifying child but also the requirement that "it would not be reasonable to expect the child to leave the United Kingdom" must be met. The Bill envisages that there would be circumstances in which it most certainly would be reasonable to expect a qualifying child to leave the United Kingdom, be the qualification period seven years, four years, or 20 years. If a family were to come for a temporary stay it is easy to envisage that it would be thought reasonable to expect the child to leave the UK and nor is it hard to envisage that it would be considered in the best interests of the child to do so.

After clause 18

AMENDMENT NEW CLAUSE *Residence Permit: domestic violence* Baroness Smith of Basildon, Lord Rosser, Lord Stevenson of Balmacara

Purpose
To provide survivors of domestic violence with a period of access to services and benefits. The amendment does not alter the right to apply for Indefinite Leave to Remain (ILR) for spouses or civil partners of British citizens or those settled here, but extends support available to survivors of domestic violence for a period in which to consider any applications they may make, or allow them to leave the UK legally having made appropriate arrangements.

Briefing
ILPA supports the amendment which comes from Rights of Women. It was the first amendment debated on 19 November in the Public Bill Committee. Mr Hanson MP, introducing the amendment at col 372 (See http://www.publications.parliament.uk/pa/cm201314/cmpublic/immigration/131119/am/131119s01.htm), identified its being in response to the *Government's action plan, "A Call to End Violence against Women and Girls.*

(From Rights of Women) Following the Call to End Violence Against Women and Girls Action Plan 2013 The Government introduced the Destitute Domestic Violence Concession – a three month period of leave to allow spouses and civil partners of those settled or British citizens limited leave with access to public funds while making an application for Indefinite Leave to Remain. In the ministerial foreword, the Home Secretary states:

> *"I am determined to see continued reductions in domestic and sexual violence. But I am also determined to see a society where abuse is no longer tolerated, where all businesses and organisations offer support to those who may be victims, where those affected by domestic or sexual violence feel confident in coming forward to report their experiences and are fully supported for doing so, where female genital mutilation and forced marriage are no longer practiced, and where the criminal justice system rightly punishes those who would abuse and blight the lives of others."*

At the time, the then immigration minister, Damian Green MP, said

> "*No one should be forced to stay in an abusive relationship and this scheme helps victims in genuine need escape violence and harm and seek the support they deserve.*" (seehttps://www.gov.uk/government/news/support-for-victims-of-domestic-violence)

Whilst the domestic violence rule and destitute domestic violence concession enables a small group of people to be able to remain in the UK permanently in some circumstances, there is no avenue for protection for those who are unable to benefit for the rule or who seek only temporary support in the UK. The current piecemeal approach means some may benefit from the domestic violence rule whilst others might secure limited leave to remain if there are ongoing criminal or civil proceedings. If a victim of domestic violence is required to leave the UK immediately, they may be leaving employment, being removed from their support networks and services and uprooting their children.

The aim of the amendment is to simplify the position of vulnerable victims by guaranteeing them a period of safety with access to services and benefits. It is intended to augment current provisions for victims of domestic violence. It does not alter the right to apply for Indefinite Leave to Remain (ILR) for spouses or civil partners of British citizens or those settled here, but should act in tandem to extend support available to victims of domestic violence and allow them a period in which to consider any applications they may make, or **allow them to leave the UK legally having made appropriate arrangements.**

The use of a residence permit is analogous with the language of the Council of Europe Convention of Action Against Trafficking in Human Beings (Article 13); and is intended to entitle victims of domestic violence to a period of rest and reflection.