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# Guidelines for the Development of a Transnational Referral Mechanism for Trafficked Persons

South-Eastern Europe

# **Guidelines for the Development of a Transnational Referral Mechanism for Trafficked Persons**

## South-Eastern Europe

Prepared by the International Centre for Migration Policy Development, Vienna-Austria  
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# Table of contents

<b>Acknowledgements</b>	<b>3</b>
<b>Introduction and Project Information</b>	<b>7</b>
Introduction	7
About the Project	8
<b>How to Use this Document</b>	<b>13</b>
<b>Acronyms and Abbreviations</b>	<b>15</b>
<b>Glossary of Terms</b>	<b>17</b>
<b>Part A: The Transnational Referral Mechanism: The Definition</b>	<b>24</b>
What is a TRM?	24
Guiding Principles	26
The TRM Resources	27
Cross-cutting Issues	28
<b>Part B: The TRM Guidelines</b>	<b>31</b>
What are the TRM Guidelines?	31
Who are the Guidelines for?	31
<b>Part C: The Standard Operating Procedures</b>	<b>33</b>
<b>I SOP 1: Identification</b>	<b>34</b>
Measure 1: Initial Referral	36
Measure 2: Access to Basic Needs and Information	38
Measure 3: Early Risk Assessment	41
Measure 4: Language Interpretation and Cultural Mediation	44

Measure 5: Recovery and Reflection Period .....	47
Measure 6: Identification .....	49
<b>II SOP 2: First Assistance and Protection .....</b>	<b>56</b>
Measure 1: Information on Assistance Options and Conditions .....	57
Measure 2: Information on Legal Options and Conditions .....	58
Measure 3: Intake and Needs Assessment .....	61
Measure 4: Assistance Provision and Protection .....	64
<b>III SOP 3: Longer-Term Assistance and Social Inclusion .....</b>	<b>67</b>
Measure 1: Joint Development of the Individual Assistance Plan (IAP) .....	68
Measure 2: Consent Procedures to Implement the IAP .....	72
Measure 3: Adjustment and Social Inclusion .....	74
Measure 4: Legal Support and Assistance .....	77
<b>IV SOP 4: Return .....</b>	<b>79</b>
Measure 1: Informed Decision to Return .....	80
Measure 2: Risk and Social Inclusion Assessment .....	83
Measure 3: Risk Management Plan .....	87
Measure 4: Family Tracing .....	88
Measure 5: Documentation .....	89
Measure 6: Information Sharing between the Receiving and Referring Organisation and with the Assisted Person .....	90
Measure 7: Safe Transport/Transfer and Arrival Assistance .....	92
<b>V SOP 5: Criminal and Civil Proceedings .....</b>	<b>96</b>
Measure 1: Evidence Gathering .....	97
Measure 2: Preparing the Victim-Witness before the Trial .....	99
Measure 3: Victim-Witness Support during the Trial .....	101
Measure 4: Victim-Witness Support after the Trial .....	103
Measure 5: Support for Compensation Claims .....	104
<b>Part D: List of TRM Contacts .....</b>	<b>106</b>
<b>Part E: Annexes .....</b>	<b>125</b>
Annex 1: The Child Guardian .....	125
Annex 2: The Cultural Mediator .....	129
<b>References .....</b>	<b>132</b>

# Introduction and Project Information

## Introduction

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The Guidelines for the Development of a Transnational Referral Mechanism for Trafficked Persons: South-Eastern Europe (TRM Guidelines) have been elaborated in the framework of the Programme to Support the Development of Transnational Referral Mechanisms (TRM) for Trafficked Persons in South-Eastern Europe (SEE) implemented by the International Centre for Migration Policy Development (ICMPD) and financially supported by the United States Agency for International Development (USAID). The project was jointly implemented in partnership with the NGO network Anti-Corruption Anti-trafficking Action (ACTA), the Migration, Asylum and Refugee Regional Initiative (MARRI), the Ministry of Internal Affairs of Bulgaria and UNICEF Regional Office CEE-CIS.

The TRM Guidelines, divided in five Standard Operating Procedures (SOPs) sections, were jointly developed and validated by the project participants from SEE. Each national implementation team was comprised of representatives from the anti-trafficking coordinator's offices, prosecutors, representatives of a migration authority, representatives of NGOs and other relevant national anti-trafficking stakeholders. The SOPs serve as a basis for drafting and revising the national versions of the TRM Guidelines according to the national context and normative requirements. The document is fully in line with human rights guidelines, such as the United Nation's Recommended Principles and Guidelines on Human Rights and Trafficking as well as with latest international and EU standards and policy developments and takes national good practices into consideration.

The TRM Guidelines contain a comprehensive set of measures to be taken by the anti-trafficking stakeholders in order to ensure effective and safe transnational referral of trafficked persons in a range of necessary services.

In addition, the Guidelines promote the concepts of government ownership, civil society participation and multi-disciplinary approach as a prerequisite for a sustainable and comprehensive national anti-trafficking response.

The TRM Guidelines were based on the results from the study “Listening to Victims: Experiences of identification, return and assistance in South-Eastern Europe” and incorporate the voices of victims, their experiences and perceptions in order to most adequately address their needs.

## About the Project

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### Background

The TRM was “born” and first implemented on a larger scale in ten countries of South-Eastern Europe (SEE) upon an initiative that started in June 2006. SEE is seen as a pilot region for the implementation of a TRM.

The fight against trafficking itself has been a recurring priority for the governments of SEE countries for a number of years. An initiative started by the Stability Pact for South-Eastern Europe, the Task Force on Trafficking in Human Beings (SPTF)<sup>1</sup>, managed to elevate the issue on the policy ladder. Most countries involved have made remarkable progress in terms of developing legislation, capacity building and training. Yet, currently transnational referrals are not institutionalised<sup>2</sup>. Presently the referral of victims of trafficking across borders happens mostly on an ad-hoc basis and relies upon personal contacts between officials from the countries involved. Efficient and comprehensive standard operating procedures (SOPs) according to defined quality standards are missing, creating not only serious gaps in protection and assistance to victims of trafficking, but also yielding a low level of sustainability. This underscores the pertinence of a system allowing individuals in one country to be referred for assistance and protection to another, i.e. a transnational referral mechanism.

These gaps become particularly evident when partner institutions, from two or more countries, that have been involved in the same trafficking case

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<sup>1</sup> For more detailed information on the SPTF, see <http://www.stabilitypact.org/trafficking/info.asp>

<sup>2</sup> In the context of this publication, the term „institutionalised“ will refer to structured ways of dealing with issue, as opposed to ad-hoc actions.

come together to discuss the steps that were taken towards the resolution of the case at hand.

In order to ensure comprehensive and effective assistance and protection for victims of trafficking, experience has shown that institutionalised cooperative frameworks, including all concerned state and non-state actors, are indispensable. Such institutionalised cooperative frameworks should focus on the process management of individual trafficking cases and cover the entire sequence of case measures, from identification, assistance and protection, participation and support during legal proceedings and legal redress, to return/resettlement and/or social inclusion of the victims in their destination-, origin- or third country. While institutionalised, these systems must at the same time be flexible to respond to the individual circumstances and needs of victims of trafficking crimes. As the majority of human trafficking cases are transnational, it is crucial that not only national, but also cross-border referral, assistance and support mechanisms are in place, and that they pay due respect to the protection of personal data and privacy of victims.

Efforts are well under way in terms of strengthening national multi-disciplinary, multi-agency, institutionalised and “locally owned” anti-trafficking coordination mechanisms such as national anti-trafficking strategies and action plans, as well as national systems for the referral, assistance to and protection of victims. Complementing and building upon these, the TRM programme addresses the deficit regarding the transnational elements of comprehensive victim and victim witness assistance and protection schemes. This means support where transnational cooperation and interaction of state and non-state actors is necessary, focusing in particular on safety plans for victims including their family/loved ones in countries of origin; risk assessment prior to return; adequate and sustainable return and reintegration or resettlement support; as well as the transfer of victim witnesses to courts abroad, or use of video testimonies instead.

## **Project Objectives**

The immediate objectives of the TRM programme are the development of mechanisms necessary for comprehensive transnational victim support and institutionalised cooperation on transnational cases between countries/actors in South-Eastern Europe (SEE).

The programme aims to contribute in empowering trafficked persons to restart a self-determined life, being aware of their rights and of the role they might play in criminal proceedings.

In the long term, through the development and implementation of the TRM, the overall objective of the programme is to contribute in combating and reducing trafficking in persons in SEE.

## Project Activities

The activities implemented in the course of the 40-month programme (start: 30 June 2006, end: 30 October 2009) are structured as follows:

### 1. Induction and Assessment Phase (Month 1-10)

- *Establishment of the Programme Team and the Advisory Board*
- *First Regional Steering Group Meeting*
- *Launching/Fact-Finding Missions* to the beneficiary countries to conduct an assessment of relevant activities and existing good practices.
- *Victim Needs Assessment*: In cooperation with social workers/psychologists working for local service providers (NGOs) a victim needs assessment was conducted in order to develop quality criteria and standards for victims assistance, which resulted in the study "Listening to Victims. Experiences of identification, return and assistance in South-Eastern Europe." In the framework of this comprehensive research in total 80 trafficked persons from different countries in SEE as well as other nationalities trafficked into the region were interviewed providing valuable insight into their needs and wants.
- Based on the findings of the assessment, a *first outline of the TRM Guidelines* was elaborated after a meeting of experts.
- Following an *Advisory Board Meeting*, during the *First Regional Seminar*, the draft TRM was presented and a catalogue of measures to be taken at the national level to enable the establishment of a TRM was discussed.

### 2. National Implementation Phase (Month 11-18)

- Subsequent *National Workshops* aimed at designing the national components of the TRM served as the basis for the elaboration of a detailed draft TRM.
- *Meetings/Seminars: Second Programme Team Meeting, Second Advisory Board Meeting, Second Regional Seminar, Second Steering Group and MARRI meeting* (to coincide with the Second Regional Seminar).

### **3. Regional Implementation Phase (Month 18-24)**

- *National Trainings* on the usage and practical implementation of the TRM Guidelines were conducted in all participating countries.
- *Meetings/Seminars: The Third Programme Team Meeting, Third Advisory Board Meeting, Third Steering Group meeting* (to coincide with the Third Regional Seminar) and *Third Regional Seminar* were held to review the experiences gained during the piloting phase and incorporate them into a final draft of the TRM Guidelines).

### **4. Transnational Implementation Phase (Month 25-36)**

- *Study visits* of the participating countries to relevant destination countries were organised to foster transnational cooperation.
- Based on the experiences gained during these visits *Transnational Workshops* were conducted in order to address remaining challenges in the implementation of the TRM.
- *A Final Regional Seminar concluded the programme.*

### **5. Finalisation Phase (Month 37-40)**

- *Final publication* containing country-specific information gathered during the activities from the fourth project phase and summarizing the achievements and lessons learned of the TRM programme;
- Revision, finalisation and *publication of the TRM Guidelines* and distribution of the document to all National Anti-trafficking Coordinators participating in the TRM programme and other relevant anti-trafficking stakeholders;
- *Final meeting of all National Anti-trafficking Coordinators* in Vienna in October 2009 to share the latest developments in the implementation of the TRM and the monitoring mechanism in each country and to ensure commitment to continuous transnational cooperation after the end of the TRM programme.

### **6. Dissemination activities (Month 1-40)**

- *Webpage: The ICMPD anti-trafficking webpage* ([www.anti-trafficking.net](http://www.anti-trafficking.net)) was used to disseminate programme information and allow all participants to exchange experiences.

## Scope of the Project

The programme was implemented in Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Kosovo<sup>3</sup>, Macedonia<sup>4</sup>, Moldova, Montenegro, Romania and Serbia.

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<sup>3</sup> Under UNSCR 1244.

<sup>4</sup> The country name is used in accordance with the practice of the donor to this project, USAID. Both beneficiaries of the project and the donor have recognized the country as such.

# How to use this document

This document is a tool that provides a step by step guidance on WHAT measures should be taken; WHEN the measures will be taken; WHO is to be responsible for the various described measures; and HOW the described measures are going to be implemented and how the governmental institutions and civil sector organisations are to cooperate them.

The recommended sets of measures are meant to be adapted to the respective national procedures and legislation keeping in mind the minimal standards for protection and assistance of victims of trafficking contained in the TRM Guidelines.

The Guidelines have the following structure:

## **Introduction and Project Information**

In this section the project is described (its background, objectives and scope) and the Guidelines briefly introduced. (what they are, for whom they are for, and how to use them).

## **Part A: The Transnational Referral Mechanism: The definition**

This section provides the definition of the Transnational Referral Mechanism (TRM) and explains its main components.

## **Part B: The TRM Guidelines**

This section provides detailed information on what the TRM Guidelines are, for whom they are and how to use them.

## **Part C: Standard Operating Procedures (SOPs)**

This section outlines in detail the five SOPs that constitute the TRM (see Part A: What is a TRM?)

For each section, good practices will be described and guidance will be provided on practical implementation, answering the questions: WHO? WHAT? HOW? WHEN?

### **Part D: List of TRM Contacts**

This part contains the contact details of the anti-trafficking agencies operating in the participating countries and references to other relevant countries.

### **Part E: Annexes**

This section consists of practical tools to be used for the implementation of the TRM Guidelines, including a glossary of the working definitions and terminology and a schematic representation of the TRM guidelines.

### **References**

This final part lists the references cited in the publication and a selective list of recommended further literature sources.

# Acronyms and Abbreviations

<b>ACTA</b>	Anti-Corruption Anti-Trafficking Action
<b>AT</b>	Anti-trafficking
<b>CoE</b>	Council of Europe
<b>DCIM</b>	Data Collection and Information Management
<b>EC</b>	European Commission
<b>EU</b>	European Union
<b>GO</b>	Governmental Organisation
<b>ICMPD</b>	International Centre for Migration Policy Development
<b>ILO</b>	International Labour Organisation
<b>IO</b>	International Organisation
<b>IOM</b>	International Organisation for Migration
<b>LEA</b>	Law Enforcement Agency
<b>MoU</b>	Memorandum of Understanding
<b>NAP</b>	National Action Plan
<b>NGO</b>	Non-governmental Organisation
<b>NRM</b>	National Referral Mechanism
<b>NRS</b>	National Referral System
<b>OSCE</b>	Organization for Security and Co-operation in Europe
<b>SAP-FL</b>	ILO Special Action Programme to Combat Forced Labour
<b>SEE</b>	South-Eastern Europe

<b>SOPs</b>	Standard Operating Procedures
<b>THB</b>	Trafficking in Human Beings
<b>TIP</b>	Trafficking in Persons
<b>TRM</b>	Transnational Referral Mechanism
<b>UN</b>	United Nations
<b>UNHCHR</b>	United Nations High Commissioner for Human Rights
<b>UNHCR</b>	Office of the United Nations High Commissioner for Refugees
<b>UNICEF</b>	United Nations Children's Fund
<b>UNODC</b>	United Nations Office on Drugs and Crime
<b>VoT</b>	Victim of Trafficking
<b>WHO</b>	World Health Organisation

## Glossary of Terms<sup>5</sup>

**Assistance:** Measures, programmes and services aimed at the recovery of trafficked persons that might include, but are not limited to, appropriate housing; medical, psychological and material assistance; educational, training and employment opportunities; legal counselling and assistance. Assistance may be offered by non-governmental, governmental or international (or other relevant *organisation*) organisations in countries of destination, transit and origin and they may involve one or multiple services.

**Assisted trafficked person:** A person who has been identified as a victim of trafficking and who has agreed to accept assistance from a non-governmental, governmental, international or other relevant organisation (also referred to as “assisted trafficked person”).

**Case manager:** A case manager is the primary point of contact for a trafficked person and shall coordinate the services deemed necessary to provide her/him assistance throughout the whole referral process. The case manager works within a consultative multidisciplinary team of other professionals when decisions are to be made about each victim’s assistance plan. In a TRM instance, a case manager shall be appointed both in the country of origin and in the destination country in order to facilitate transnational communication.

**Child:** A person under 18 years of age (also sometimes referred to as a “minor”).

**Country of origin:** The country a trafficked person comes from (also referred to as “source country”).

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<sup>5</sup> See: Listening to Victims – Experiences of identification, return and assistance in South Eastern Europe (ICMPD, 2007); Handbook on Anti-trafficking Data Collection in South-Eastern Europe: developing regional criteria (ICMPD, 2007); and Transnational Referral Mechanism for Victims of Trafficking (TRM-EU): Guidelines (forthcoming in 2010).

**Country of transit:** The country a trafficked person travels through to reach his/her final destination.

**Country of destination:** The country that is the ultimate destination of a trafficked person (also referred to as “receiving country”).

**Family tracing:** It is the procedure aimed at identifying the family of the trafficked person assisted when she or he cannot contact or reach them. Such procedure should be put in place only if the trafficked person expresses the wish to return home and stay with his/her family. In case of a child victim, the family should be traced only when this is in the best interests of the child given that sometimes it is his/her family who is at the source of his/her trafficking. Family tracing may involve different governmental and non-governmental institutions.

**Family reunification:** It is the act of reuniting the trafficked person with his/her family after a thorough risk assessment has been made. It should be made upon the assisted person’s will and considered as a long-term solution for his/her social inclusion. Follow-up visits should be made to monitor the process of family reunification and social inclusion, also in view of making sure that no risks for re-trafficking are present.

**First point of notification:** Institutions/organisations that act as central points of information, referral and initial support for presumed victims and should nominate the case manager.

**(Legal) Guardian:** The individual who acquires the primary (legal) responsibility for the well-being of a child and coordinates the efforts of all involved agencies to ensure the best interests of the child. This individual also serves as the case manager in the cases of referral of child victims of trafficking.

**Human rights:** They are the fundamental and universal rights and freedoms all human beings are entitled to. They consist of civil, political, economic, social and cultural rights all states are obliged to fully respect according to common standards ratified by national and international legislation.

**Identified victim of trafficking:** A person who has been identified as a victim of trafficking according to a formal or informal identification mechanism (also referred to as “identified trafficked person”).

**Identity document:** A personal paper or card that gives identifying data (e.g. name, age, nationality, address, etc.) about a person. It is generally issued by local or national authorities.

**Individual assistance plan (IAP):** It is a written agreement jointly developed by the case manager and the assisted trafficked person where goals, activities and services – tailored to the individual’s needs – are clearly defined.

**Informed consent:** Any free, voluntary permission or approval to something proposed or requested based on full exposure of all facts to make fully informed decisions, including awareness of any risks involved (to the extent they can be known) and any available options. Information sharing is an essential component of “informed consent”.

**Integration:** See “social inclusion”.

**National referral mechanism or system (NRM or NRS):** “It is a co-operative framework through which state actors fulfil their obligations to protect and promote the human rights of trafficked persons, co-ordinating their efforts in a strategic partnership with civil society. The basic aims of an NRM are to ensure that the human rights of trafficked persons are respected and provide an effective way to refer victims of trafficking to services. In addition, NRMs can work to help to improve national policy and procedures on a broad range of victim-related issues such as residence and return regulations, victim compensation, and witness protection. NRMs can establish national plans of action and can set benchmarks to assess whether goals are being met. The structure of an NRM will vary in each country; however, NRMs should be designed to formalise co-operation among government agencies and non-governmental groups dealing with trafficked persons.”<sup>6</sup>

**Non-residential programme:** It is an assistance programme offered to trafficked persons who do not face security risks and enjoy an autonomous accommodation usually shared with persons they feel comfortable with (i.e. partners, family members, friends). The rationale of the non-residential programme is that it is crucial to take into consideration the social network

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<sup>6</sup> T. Kröger, J. Malkoc, B.H. Uhl, *National Referral Mechanisms. Joining Efforts to Protect the Rights of Trafficked Persons. A Practical Handbook*, OSCE-ODIHR, Warsaw, 2004, p. 15.

a trafficked person might have, in order to support her/his process of social inclusion in the community s/he is living in.

**Personal data** (for the purpose of these guidelines means): identifying (direct or indirect) information or sensitive data related to an identified or identifiable person.

**Potential victim of trafficking:** An individual identified before being exploited that shows strong signs of being in the trafficking process. This differs from a presumed victim, the definition for which appears below (also referred to as “potential trafficked person”).

**Presumed victim of trafficking:** A person who is presumed to be a victim of trafficking but who has not been formally identified by the relevant authorities or has declined to be formally or legally identified (also referred to as “presumed trafficked person”). Presumed victims are entitled to the same treatment as identified victims from the beginning of the identification process. In some countries, this category of persons is referred to as “potential victim”; however, in this document, potential victim has a different meaning. Please see its definition above.<sup>7</sup>

**Protection:** It is an essential component of any assistance scheme both for ensuring the trafficked person’s physical safety but also for safeguarding his/her prospects of social inclusion in the country of origin, destination or in a third country.

**Recovery:** The process by which trafficked persons are stabilised and their well-being restored psychologically, socially and physically.

**Reflection period:** A sound period of time to allow the presumed trafficked person to recover, escape the influence of traffickers/exploiters and take an informed decision about her/his future in full compliance with the respect of the human rights regulations. No expulsion order should be enforced against the presumed trafficked person during this period. The length of

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<sup>7</sup> Each country in the region has different terminology for trafficked persons, particularly those considered ‘at-risk’ of trafficking and those considered to be trafficked but not formally identified as such by authorities. In addition, different organisations also often employ different terms for these categories. In the context of this study, we use the terminologies of ‘potential victim’ and ‘presumed victim’ as outlined in the definitions above and not in conformity with any one country’s or organisation’s terminology.

the reflection period varies from country to country and is subject to definition by national legislation.

**Reintegration:** See “Social inclusion”.

**Risk assessment:** A formal procedure to identify and assess the risks associated with the trafficked person’s situation and future plan of assistance in the country of origin and/or transit and destination in order to eliminate/minimize/respond to the risks identified.

**Risk management plan:** A plan that outlines the steps and measures to be taken in order to reduce to a minimum the risks and effectively manage the activities planned for the trafficked person (e.g. voluntary assisted return, etc.). The plan should be regularly reviewed and updated.

**Return:** To return to one’s country and/or community of origin. In the context of anti-trafficking work, return involves not only the physical transportation of the victim but also mechanisms to ensure that the return is voluntary, assisted, safe and dignified.

**Separated child:** A child under 18 years of age who is outside his/her country of origin and separated from both parents, or his/her previous legal/customary primary caregiver. He/she may be alone or living with extended family members. In both cases the child is entitled to international protection under a broad range of international and regional instruments<sup>8</sup>.

**Service providers:** Organisations and individuals that provide one or more of the support and assistance measures supplied to trafficked persons. These may include social workers, psychologists, shelter staff, medical personnel or legal professionals from NGOs, IOs and GOs.

**Shelter/residential facilities:** Premises where trafficked persons are hosted. Shelters may be open or closed; offer short- or long-term stay; provide round-the-clock, part-time or no in-house assistance. Shelter should be run by qualified and specifically trained staff. In the case of children, the accommodation has to be appropriate in terms of their specific needs.

**Smuggling of migrants:** “(...) the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a

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<sup>8</sup> Separated Children in Europe Programme, *Statement of Good Practice*, International Save the Children Alliance – UNHCR, Geneva, 2004, p. 2.

permanent resident”<sup>9</sup>. In popular language, smuggling and trafficking are often used interchangeably which should be avoided by all means.

**Social inclusion:** It refers to the process that ensures that those at risk of poverty and social exclusion have the opportunities and resources necessary to participate in economic and social life, securing a standard of living that is considered acceptable in the society in which they live<sup>10</sup>. It also ensures that such people have greater participation in decision-making on issues that affects their lives and access to their fundamental rights. Through such a process vulnerable groups (here specifically trafficked persons) are granted access to education, training, employment, accommodation, collective services, and health assistance. A social inclusion programme can take place either in the country of origin or in that of destination.

**Trafficker:** A person committing or being complicit in or directing another person to commit the trafficking of another human being (or human beings) for any form of exploitation.

**Trafficking in human beings:** “(...) the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs”<sup>11</sup>.

**Transnational referral mechanism:** The mechanisms and systems designed for the comprehensive assistance and transnational support and protection of trafficked persons. Transnational referral mechanisms link the full process of referral from initial identification, through return and assist-

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<sup>9</sup> Art. 3 of Protocol against the Smuggling of Migrants by Land, Sea and Air, Supplementing The United Nations Convention against Transnational Organized Crime (2000).

<sup>10</sup> [http://ec.europa.eu/employment\\_social/spsi/poverty\\_social\\_exclusion\\_en.htm](http://ec.europa.eu/employment_social/spsi/poverty_social_exclusion_en.htm) and Joint Report by the Commission and the Council on social inclusion (2003) [http://europa.eu.int/comm/employment\\_social/soc-prot/soc-cl/final\\_joint\\_inclusion\\_report\\_2003\\_en.pdf](http://europa.eu.int/comm/employment_social/soc-prot/soc-cl/final_joint_inclusion_report_2003_en.pdf)

<sup>11</sup> Art. 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime (also known as the “Palermo Protocol”), 2000.

ance between countries of transit, destination and origin and involve cooperation between different government institutions and non-governmental actors. They may involve one or all of the steps in the process.

**Travel document:** any identification document required to travel and enter into another country (e.g. passport, identity card, visa, etc.).

**Unaccompanied child (minor):** A child who is separated from both parents and other relatives and is not being cared for by an adult who, by law or custom, is responsible for doing so<sup>12</sup>. The term stands for “unaccompanied and separated child.”

**Victim of trafficking/trafficked person:** A person who is subject to the crime of trafficking in human beings (see definition *supra*).

**Witness protection:** The range of security measures employed to assure the safety of a witness involved in legal proceedings. Witness protection may be offered before, during and/or after the legal proceedings and may include any single or combination of measures that are geared toward assuring the safety and security of the witness and his/her family.

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<sup>12</sup> UNICEF, *Guidelines on the Protection of Child Victims of Trafficking*, New York, 2006, p. 3.

# Part A: The Transnational Referral Mechanism: The definition

## What is a TRM?

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A Transnational Referral Mechanism (TRM) refers to mechanisms and the associated procedures designed for the comprehensive assistance and transnational support of trafficked persons. Transnational referral mechanisms integrate the process of referral from initial identification, through return and assistance between countries of transit, destination and origin and involve cooperation between different government institutions and non-governmental actors. The TRM encompasses five standard operating procedures (SOPs). These reflect the main phases of the transnational referral process:

SOP 1: Identification

SOP 2: First assistance and protection

SOP 3: Longer term-assistance and social inclusion

SOP 4: Return

SOP 5: Criminal and civil proceedings

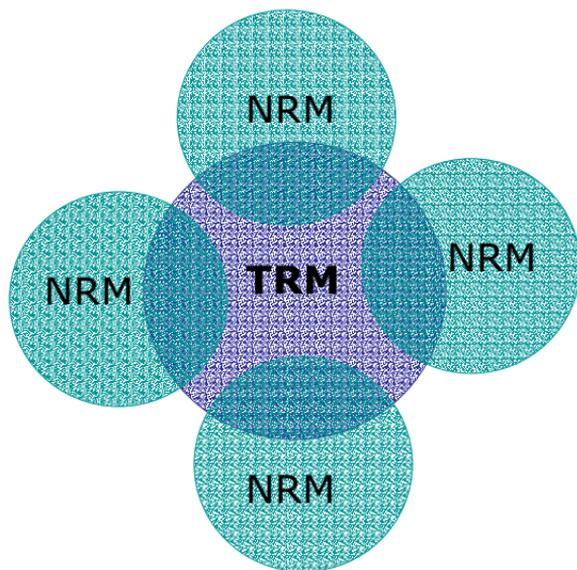
The SOPs shall be applied on a case-by case basis which may involve one or all of the steps in the process.

The primary components of a TRM include:

- Standard operating procedures for the effective and safe transnational referral of victims of trafficking to a range of services;
- Mechanisms for monitoring and evaluating the TRM.

TRMs should be fully coordinated with a country's National Referral Mechanism (NRM).<sup>13</sup> In the case of child victims, any TRM procedure should be developed and implemented also in close co-operation with the country's child protection services.

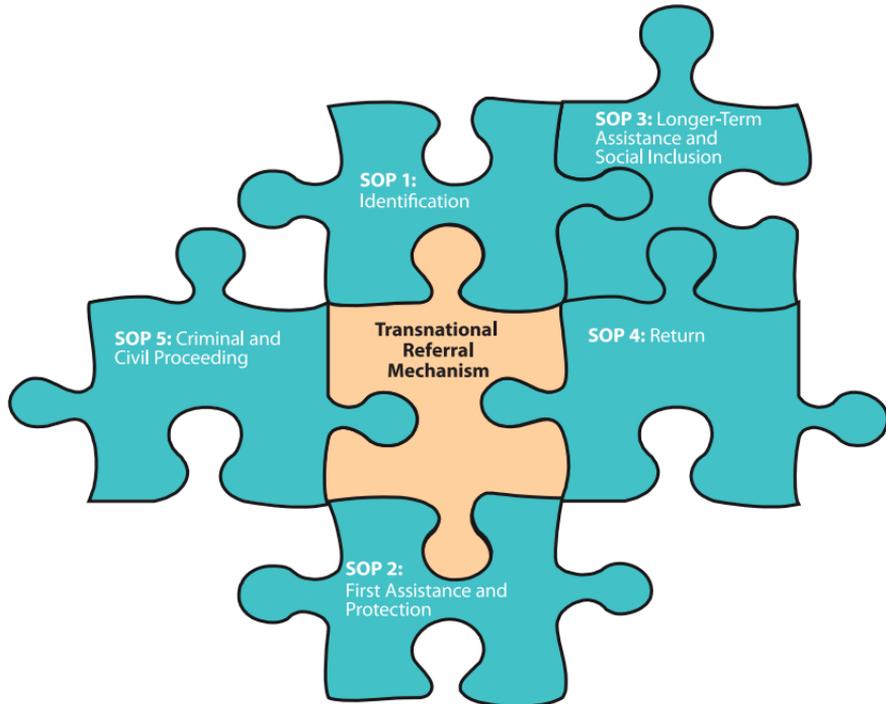
**NB: The TRM does not replace any existing national anti-trafficking structures and procedures. It is meant to build upon the national referral mechanisms and take them a step further to a transnational level.**



All five components of the TRM are interlinked and depend on each other. In order to refer trafficked persons in a comprehensive manner from one country to another, all five components need to be in place.

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<sup>13</sup> A NRM is co-operative framework on a country level (e.g. State and civil society) that delineates referral strategies to provide support and protection services for trafficked persons.



## Guiding Principles

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A functioning TRM shall follow the principles<sup>14</sup> of:

### Government Ownership

The term “government ownership” means that the government assumes full participation, responsibility and accountability in identifying the human and financial resources, a range of support services as well as in implementing the measures and meeting the outcomes of the national anti-trafficking response.

### Civil Society Participation

The principle of “civil society participation” requires that non-state actors and especially civil society/NGOs are involved in the design and implementation of the SOPs.

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<sup>14</sup> ICMPD, Guidelines for the Development and Implementation of a Comprehensive National Anti-Trafficking Response, 2006, p. 19-27.

## Human Rights-Based Approach

The term “human rights-based approach” means that the mechanisms and procedures (as well as individual measures) should be normatively based on international human rights standards and operationally directed to promoting and protecting human rights, especially those of the victims.

## Multidisciplinary and Cross-Sectoral Approach

Trafficking in human beings is a complex phenomenon and it requires an interdisciplinary approach, which means that the knowledge and expertise of different disciplines as well as their respective methods are combined to ensure comprehensive support and assistance to the trafficking victims. The term “cross-sectoral” expresses that interventions should be designed and implemented in a way that they include all relevant sectors of society (e.g. law enforcement, judiciary, social services, NGOs, service providers, etc.).

## Sustainability

Sustainability means that the government ensures that the procedures and measures are implemented over the long term and to creatively adapt them to changing conditions over time. In this sense, it is very important to allocate financial, human and other resources to practically implement the procedures in order to avoid dependencies, such as major external donor funding or services provided by international organisations, which could easily cause the system to collapse.

## Special Measures for Child Victims of Trafficking

In case of children victims of trafficking, a pro-active but sensitive approach to the identification, protection, assistance and referral should be employed. It should be ensured that all of the relevant stakeholders are aware of the special needs of children and how to apply the special measures upon the identification of a child victim.

## The TRM Resources

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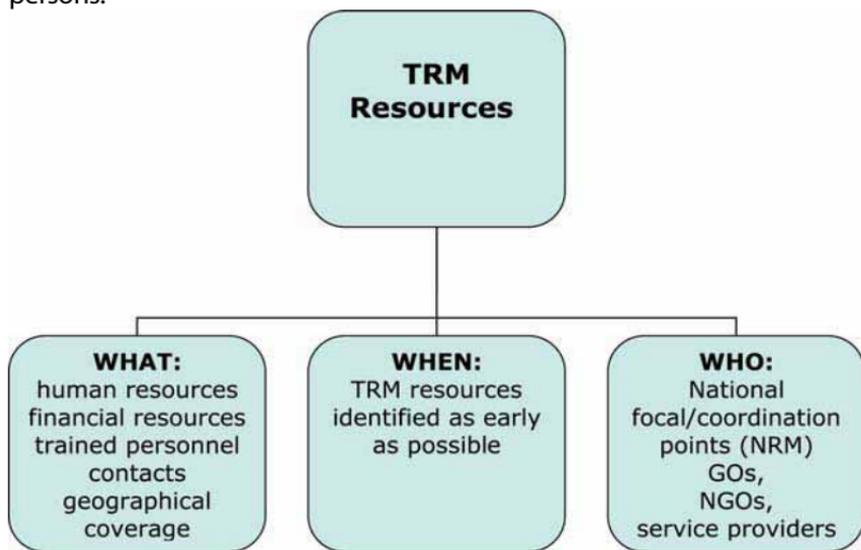
**WHAT resources constitute a TRM:** A transnational referral mechanism relies on appropriate allocation of human and financial resources, trained personnel and relevant contacts. A range of support services and resources should be identified in each country, and, where needed, in different

regions, in order to obtain good geographical coverage for victim support. International resources and contact points are an essential part of this network.

**WHEN are TRM resources identified and secured:** As early as possible (in the process of developing TRM). Contacts should be monitored and updated regularly by the responsible authority (e.g. Office of the National Anti-trafficking Coordinator).

**WHO is included in a TRM:** Service providers (GOs, NGOs, IOs etc.), law enforcement officials and representatives of the judiciary. Already designated national anti-trafficking coordination points (included in the NRM) responsible for the notification and referral of trafficked persons are provided in the contact list section.

**HOW are resources selected:** based on standards and structures existing in the country, keeping in mind the specific needs of the individual trafficked persons.



## Cross-cutting Issues

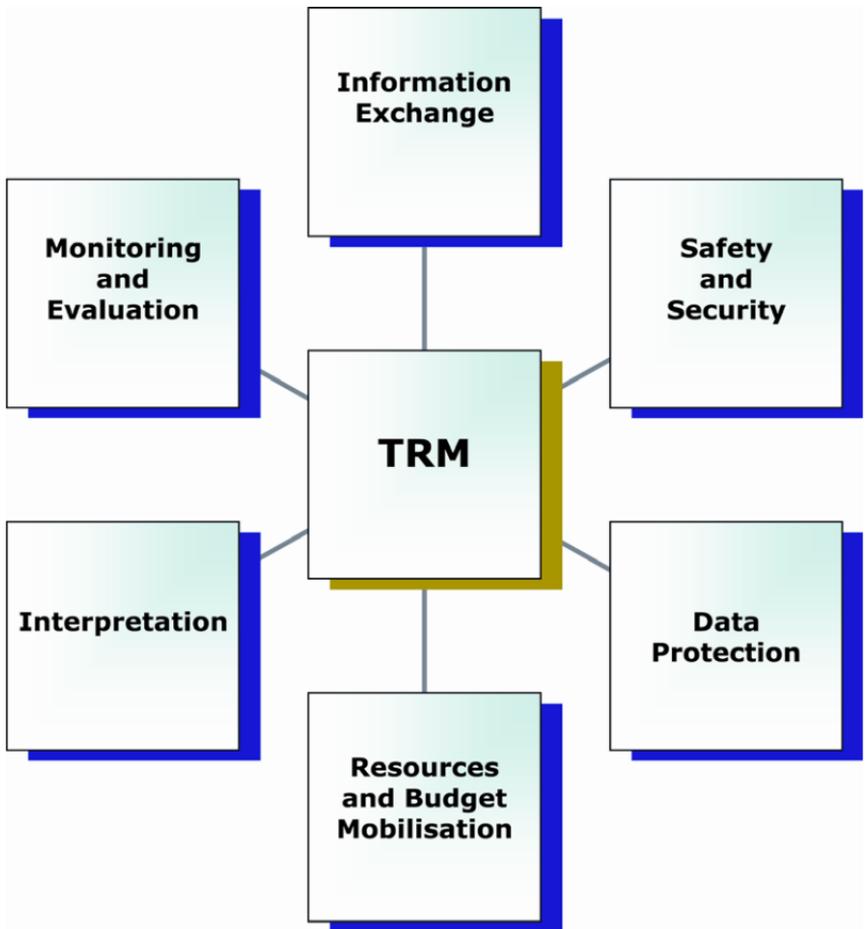
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The cross-cutting issues listed below are relevant throughout the process of transnational referral:

<b>Information Exchange</b>	Adequate information shall be exchanged in a timely manner between all relevant actors having as a primary consideration the safety, security and privacy of the victim (both on national and transnational level).
<b>Safety and Security</b>	All measures shall respond to the specific needs of each victim with due respect to his/her psychological and physical integrity.
<b>Data Protection</b>	Each country has its own legal framework with regard to data protection. In the absence of specific national legislation on processing and protection of personal data, it is recommended that countries refer to the principles and the letter of the EC Directive on Data Protection <sup>15</sup> ( <i>Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995</i> ).
<b>Human and Financial Resources</b>	Financial and human resources shall be allocated for the implementation of each specific measure by the responsible actors.
<b>Interpretation</b>	It is essential that all communication takes place in a language that is understandable to the victim, thus interpretation is a key element to providing adequate assistance.
<b>Monitoring and Evaluation</b>	The process of monitoring, evaluation and review assesses whether a mechanism functions; whether the procedures lead to the expected outputs and whether these outputs contribute to the achievement of the specific objectives and the strategic goals. Thus this process allows for an improvement of procedures at the operational level or a reformulation of goals at the strategic level based on the evaluation results.

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<sup>15</sup> Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data



# Part B: The TRM Guidelines

## What are the TRM Guidelines?

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The TRM Guidelines are the “manual” in which the SOPs are incorporated. Each SOP includes several measures that give an answer to four questions: WHAT is to be done; WHEN is action to be taken; WHO should be involved and HOW should the action be executed. Thus every necessary action comes with a concrete step-by-step guide for its implementation. Some measures further include a checklist of the important actions to be undertaken. The TRM Guidelines for Victims of Trafficking are thus a set of recommendations and practical measures that shall lead the participating countries through the necessary steps for the implementation of transnational referral mechanisms.

## Who are the Guidelines for?

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The Guidelines are primarily intended for all anti-trafficking actors that come into contact with a trafficked person (may she or he be presumed or identified) and are involved in any step of his/her identification, protection, assistance, criminal proceedings or return process; they are also designed for policy makers and planners who are responsible for the prevention, protection and prosecution policies and interventions. This might include practitioners and specialists of anti-trafficking NGOs, GOs, IOs and others:

- Drop-in workers;
- Shelter workers;
- Case managers;
- Psychologists;
- Counsellors;
- Interpreters;
- Intercultural mediators;

- Lawyers;
- Legal guardians;
- Law enforcement officers;
- Labour inspectors;
- Public prosecutors and judges;
- Policy-makers and planners;
- Others

The Guidelines are meant to equip the above-mentioned actors with the necessary tools to perform all necessary steps to ensure the full assistance and protection of a trafficked person at any stage of the national and/or transnational referral with due respect for the human rights standards.

It must be underlined that the Guidelines should be adapted to meet the national procedures established by the National Referral Mechanism (if any), the legislation and the country needs. In case of child victims, the Guidelines should complement and support the national child protection scheme in place.

## Part C: The Standard Operating Procedures

This section describes the Standard Operating Procedures (SOPs) to effectively establish and manage the TRM as to:

- Identification;
- First assistance and protection;
- Longer term-assistance and social inclusion;
- Return;
- Criminal and civil proceedings.

Each SOP consists of a set of measures that are explained in details:

- **What** they are;
- **When** they should be put in place;
- **Who** should be responsible for; and
- **How** they should be carried out.

Due to the different legislation frameworks in place, in some countries the order of the suggested measures may be provided differently.

For some SOPs examples of good practices are briefly described.

# I. SOP 1: Identification

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## WHAT is the identification stage?

The *identification stage* is the first phase of an NRM or a TRM through which a trafficked person is identified as such. This stage can be divided in two main parts: the *preliminary identification* and the *formal identification*:

### a) Preliminary Identification

1. **Initial referral:** Presumed victim is referred or self-refers to a body responsible for initial referral; the responsible body will vary depending on the country legislation and policies.
2. **Access to basic needs and information:** providing basic information to and enquiring about urgent needs of a presumed victim; responding to expressed concerns and/or emergency needs;
3. **Early risk assessment:** reviewing possible risks and securing the immediate safety for the presumed trafficked person;
4. **Language and Interpretation:** ensuring communication in a language the victim understands;
5. **Recovery and reflection period:** providing individuals the time and resources to assure that they can make sound decisions about next steps.

### b) Formal Identification

1. **Identification:** to determine the victim status through qualified/ authorised persons (e.g. law enforcement officers, specialised professionals) by asking questions and reviewing circumstances to identify the individual as a formal victim of trafficking (please note: formal identification also includes cases where the victim status has not (yet) been determined by way of criminal proceedings); and informing the person about the outcome and available future options to ensure informed decision making and consent on next steps.

Given the complexity of the trafficking crime, the benefit of the doubt should be given to a person claiming to have been subjected to exploitation possibly related to trafficking. A person presumed to have been trafficked shall be considered and treated as a victim as soon as the competent authorities have the slightest indication that s/he has been subject to the crime of trafficking.

## IDENTIFICATION

### Preliminary

#### Measure 1

#### INITIAL REFERRAL

- Step 1. Referring the presumed trafficked person to the first point of notification
- Step 2. Assessing if the presumed trafficked person is a minor
- Step 3. Appointing the guardian if presumed victim is/assumed to be a minor



#### Measure 2

#### ACCESS TO BASIC NEEDS AND INFORMATION

- Step 1. Explaining to the presumed trafficked person his/her rights/responsibilities & available assistance
- Step 2. Assessing imminent threat
- Step 3. Assessing urgent needs
- Step 4. Determining safety measures



#### Measure 3

#### EARLY RISK ASSESSMENT

- Step 1. Assessing imminent risks and determining safety and well-being measures
- Step 2. Inquiring on urgent needs
- Step 3. Addressing urgent needs/requests of the presumed trafficked person



#### Measure 4

#### LANGUAGE INTERPRETATION AND CULTURAL MEDIATION

- Step 1. Providing translation/interpretation between assistance providers/police and the presumed trafficked person
- Step 2. Informing interpreters/cultural mediators regarding their roles
- Step 3. Informing the presumed trafficked persons regarding their rights and the role of the interpreter/cultural mediator



#### Measure 5

#### RECOVERY AND REFLECTION PERIOD

- Step 1. Offering a time period for the presumed trafficked person to recover & stabilise
- Step 2. Informing the presumed trafficked person on available options
- Step 3. Providing safe accommodation
- Step 4. Providing basic services
- Step 5. Providing access to residence permits



### Preliminary

<b>IDENTIFICATION</b>	<b>Formal</b>	<b>Measure 6</b>	<p><b>IDENTIFICATION</b></p> <p>Step 1. Determining whether the individual is a trafficked person by formal procedures</p> <p>Step 2. Contacting relevant country authorities in the country of origin/transit/destination</p> <p>Step 3. Establishing trafficked person's identity</p> <p>Step 4. Establishing jurisdiction if the trafficked person is a minor</p> <p>Step 5. Following the identification providing relevant information on support options to the identified trafficked person</p>
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## Measure 1: Initial Referral

### WHAT:

It is the act of informing at the first point of notification of a person assumed to be a victim of trafficking.

A (presumed) trafficked person may come to the attention at the first point of notification through several channels:

- Private citizens
- Law enforcement personnel
- Immigration services
- Victim her/himself
- Other trafficked persons
- Family or acquaintances
- Labour inspectors
- NGOs workers
- IOs workers
- Health care professionals
- Embassy or consular officials
- Transportation personnel
- Other.

**Note: Each individual has the right to determine whether, preferably to which extent and when s/he wishes to be provided assistance and should be consulted before being provided with any support measures. However, an initial rejection of assistance shall not lead to the irreversible exclusion of access to assistance, should the victim change his/her mind later.**



As soon as a presumed trafficked person is believed to be a child, the relevant child protection authorities should be duly informed and a guardian should be immediately appointed **before** any other measures can take place. The appointed guardian<sup>16</sup> should accompany the child throughout the entire process and should closely work with the national child protection services, law enforcement, immigration (in case of a foreign minor), and other service providers until a durable solution in the best interest of the child has been identified and implemented.

Whenever the authorities come into contact with an unaccompanied minor, they have the duty to take proactive measures determining whether the child is or has been trafficked and ensuring that the full range of special protections and assistance for trafficked children are applied.

If the identification measures (⇒ **Measure 6: Identification**) cannot definitively determine the age of a presumed victim, then authorities and service providers must assume that the victim is a child and provide the relevant protection and assistance measures accordingly (⇒ **Measure 5: Recovery and Reflection Period**; ⇒ **SOPs: First Assistance and Protection**; ⇒ **SOPs: Longer-Term Assistance and Social Inclusion**).

#### **WHEN:**

Promptly after a person is presumed to be a victim of trafficking.

#### **WHO:**

The body that is the first point of notification of suspected cases of trafficking. The first point of notification is the institution/organisation that acts as a central point of information, referral and initial support for presumed victims.

The body differs from country to country and could be:

- a) National coordinating institution (e.g. national office of the anti-trafficking agency);
- b) Law enforcement agencies;
- c) Service providers (e.g. NGO, social services).

The first point of notification should be known to all relevant institutions and organisations whose personnel might get in contact with trafficked

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<sup>16</sup> The role of a guardian is **not** the same as that of a legal representative. If a child is to participate in legal proceedings, she or he must be provided with a legal representative (a qualified lawyer).

persons, such as law enforcement officers, immigration services officials, labour inspectors, non-governmental or international organisations' professionals, health care practitioners, embassy or consular officials, transportation employees, etc.

Proposal Romania: National Agency against Trafficking in Persons as first point of notification is in close cooperation with a multi-disciplinary team comprising different state and non-state actors. The institution/organisation that gets in contact with a presumed VoT will inform the Agency and the Agency will gather the other members of the multi-disciplinary team to decide the next steps.

## HOW:

The initial referral should be carried out:

- With due consideration of the safety, privacy and security of the presumed trafficked person;
- Carefully considering the opinions and concerns of the presumed trafficked person;
- By using clearly defined referral procedures;
- By immediately informing the competent child welfare authority if the presumed trafficked person is a minor or is suspected to be a minor.



**Practice “Mobile Teams”:** In Croatia mobile teams have been established in different regions comprising representatives from service providers. The mobile teams are called once a person is identified as a victim of trafficking and they ensure first crisis intervention and safe accommodation.

## Measure 2: Access to Basic Needs and Information

### WHAT:

It is the provision of: a) urgent basic needs and b) full information to the presumed trafficked person:

- a) The following basic needs should be met *before* providing any type of information by enquiring whether the presumed trafficked person has any urgent request or need<sup>17</sup> as to:
  - Food;
  - Water;

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<sup>17</sup> This information has been adapted from the “ Toolkit to Combat Trafficking in Persons”, UNODC (2006); Chapter 8

- Toilet and basic hygiene;
  - Clean clothing;
  - Rest;
  - Some privacy;
  - Urgent medical care;
  - Possibility of contacting family members.
- b) The provision of information is a key component of the referral process that allows the presumed trafficked person to decrease his/her anxiety and uncertainty about the future and progressively regain control over his/her life. It is also the first step to build a relationship of trust between the assisted person and the service provider/agency. Detailed information should, thus, be given as to:
- The rights and obligations as presumed trafficked person;
  - Functions of the recovery and reflection period;
  - Services available (accommodation, counselling, etc.);
  - Functions of the protection system;
  - Possible next steps of referral;
  - Current security concerns.

## WHO:

Designated professionals of local or national agencies that should be specifically trained to perform this task with the support of an interpreter or a cultural mediator<sup>18</sup>.



In the case of a child presumed trafficked person, the appointed guardian should be present at all times to assure that basic needs and child rights are met and the information provision should be handled by specialised officers trained in working with children.

## WHEN:

Immediately after the initial referral.

**Note:** No questioning or interrogation should take place until a victim has been fully informed about her/his rights, options, upcoming processes, her /his ability to decline to cooperate and has had an opportunity to pose questions, concerns and requests.

## HOW:

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<sup>18</sup> For a description of the profile of the cultural mediator, see Annex X.

The basic needs and the information should be provided:

- In a clear and professional, yet sympathetic, manner;
  - Using simple language and, in case of a foreign presumed trafficked person, with the support of an interpreter or a cultural mediator ➞
- Measure 4: Language Interpretation and Cultural Mediation**
- Orally and in writing in a language that the presumed trafficked person understands;
  - Encouraging the presumed trafficked person to pose clarifying questions;
  - Making sure that the presumed trafficked person has clearly understood all information given;
  - Helping to re-orient and assess the available options;
  - Using consent forms;
  - In the case of a child presumed victim, in a sensible (sensitive) manner and with a language appropriate to the developmental abilities of the child<sup>19</sup>. In the case of younger children, law enforcement officials may decide to share information initially with the guardian and then allow the guardian to share that information with the child.

Presumed trafficked persons should **not** be required to sign anything before or after receiving information. If a signature is required for documentation purposes, it can never be used as a precondition to receive assistance or follow-up information.

#### **WHERE:**

The conversation should take place in a comfortable and private setting with no unrelated listeners.

Individuals who decline to be interviewed (i.e. refuse assistance) should be provided with information and contact details for support services in the case that at a future time they decide to seek assistance.

**Practice: “National Help Line”: Romania operates a phone line which provides information and advice on risks involved when travelling**

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<sup>19</sup> For detailed special considerations on how to interview minors, see: Unicef, *Guidelines on the Protection of Child Victims of Trafficking*, New York, 2006, pp. 18-19; IOM, *Direct Assistance for Victims of Trafficking*, Geneva, 2007, p. 31-32.

abroad for work, education or tourism; requirements for visas and available assistance services to victims of trafficking (toll-free number 0 800 800 678 or + 40 21 31 33 100 for calls from abroad). Victims and their families are referred to specialized state-run institutions or NGOs at local or territorial levels to be provided with assistance and support.

### Measure 3: Early Risk Assessment

#### WHAT:

It is an evaluation procedure to carefully assess the presumed trafficked person's situation in order to:

- Identify any imminent risks to his/her health;
- Assess the need for emergency or urgent medical care or other pressing support needs;
- Assess any imminent or future safety risks as to his/her safety to the extent possible;
- Establish together the next steps to assure his/her safety and well-being.

The initial risk assessment for a child presumed trafficked person must in addition consider the following:



- concrete actions and steps to be taken immediately to ensure the best interests of the child as determined by the appointed guardian;

#### Transnational cooperation

In the case of a **foreign child**, the appointed authorities (usually the Ministry of Interior in cooperation with the social services) of the **hosting country** have a primary obligation to establish contact with the Ministry of Interior of the **country of origin**.

#### WHEN:

Immediately *after* the presumed trafficked person has:

- Been provided basic needs information;
- Been informed about the early risk assessment procedure;
- Had the opportunity to pose questions or make requests;
- Declared that he/she feels safe;
- Had given his/her consent.

The early risk assessment cannot take place if the presumed trafficked person:

- Is in a location where privacy and safety cannot be assured;
- Requires urgent medical aid;
- Asks for legal advice;
- Asks to postpone or decline the early risk assessment;
- Is a minor and no guardian is present.

#### **WHO:**

Designated trained professionals of police and/or NGO and/or prosecutor's office and an interpreter or a cultural mediator.

In case of a child presumed trafficked person, a representative of social services – either a psychologist or a social worker – should always be involved, along with the appointed guardian.

#### **HOW:**

Through an interview with the presumed trafficked person: The interview should begin with a question about the individual's health and safety as it is important to establish physical/psychological ability and preparedness. This demonstrates that the primary concern is the individual's well-being and helps to gain the trust of the interviewed person;

- Ethical and safety considerations<sup>20</sup> should be paramount during the interview;
- Questions should **never** be asked if another person from the exploitative environment is present (i.e. other exploited persons, traffickers, exploiters, accomplices, etc.);
- Confidentiality agreements should be in place and signed by all persons present during the early risk assessment interview.

The following table offers a range of risk indicators for which questions should be developed to gather relevant information as to the health and safety conditions of the presumed trafficked person. Questions may differ according to the country or situation and need to be in context and culture specific.

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<sup>20</sup> See Annex WHO Ethical guidelines.

**EARLY RISK ASSESSMENT CRITERIA****CASE DATA****HEALTH NEEDS**

No.	Item	Note
1	Physical health symptoms (headaches, fatigue, dizzy spells, back pain, stomach or abdominal pain, dermatitis, vision problems, colds, breathing problems, dental pain...)	
2	Mental health symptoms (memory problems, frequent crying, anxiety, anger, stress disorder, hostility, aggression, post-traumatic stress disorder symptoms...)	
3	Past or present injuries (self-harm, suicidal thoughts or attempts...)	
4	Disabling or high risk conditions (heart pathologies, epilepsy, asthma)	
6	Infectious diseases (TB, hepatitis B...), including sexually transmitted infections	
7	Addiction (alcohol, drugs, gambling...)	
8	Other	

**SAFETY ISSUES**

No.	Item	
1	Current safety concerns	
2	Past safety concerns	
3	Individuals who may cause harm	
4	Concerns for the safety of family members, friends or acquaintances	
6	Concerns or fears for others known to the individual	
7	Unsafe locations both in the destination and origin countries	
8	Other	

If the risk assessment indicates that special protection is needed, a risk management plan should be *promptly* designed and implemented. The plan should list the security measures identified and all related procedures should be carefully detailed. The plan can be implemented *only* if the presumed trafficked person is fully informed and gives his/her consent for its execution. The plan must be handled with due regard to security and confidentiality considerations and rules.

A risk assessment should be periodically conducted and the risk management plan should be reviewed to ensure the safety of both (presumed) trafficked person and assistance providers.

**Note: Individuals who decline to be interviewed (i.e., refuse assistance) should be provided with information and contact details for services in case at a future time they decide to seek assistance. Information should be provided in a way that enables the person to hide it, if needed.**

## Measure 4: Language Interpretation and Cultural Mediation

### WHAT:

Full conversation interpretation for foreign presumed trafficked persons who do not have the necessary skills to communicate in the language of the hosting country. For those who have a limited capacity and prefer to speak for themselves, an interpreter or a cultural mediator may be engaged to assist conversations if the assisted person gives his/her consent.

### WHEN:

Immediately after the initial referral when the presumed trafficked person requires speaking through an interpreter.

### WHO:

Interpretation should be provided only by:

- professional interpreters;
- cultural mediators possibly from the same cultural and language environment as the presumed trafficked person.

Both interpreters and cultural mediators must be:

- carefully screened;
- trained to work with vulnerable persons;
- trained on trafficking related-issues and victims' needs;



- in case of child presumed trafficked person, trained in children's cognitive development and emotional needs.

All organisations that come into contact with foreign trafficked persons should have a reference list of trained trustworthy interpreters and cultural mediators chosen according to a minimum set of criteria as follows.

<b>INTERPRETERS AND CULTURAL MEDIATORS MINIMUM SELECTION CRITERIA</b>		
<b>No.</b>	<b>Item</b>	<b>Note</b>
1	Do not know the presumed trafficked person from home (place of origin)	
2	Do not come from the same village/town	
3	Do not belong to the same (religious) community	
4	Do not come from the village/town where the presumed trafficked person was exploited	
5	Do not come from a conflicting ethnic/religious group	
6	Other	

<b>MINIMUM CONTRACTUAL ITEMS FOR INTERPRETATION</b>		
<b>No.</b>	<b>Item</b>	<b>Note</b>
1	Non-disclosure of information to other parties	
2	Limits to disclosure of information of interpreter/cultural mediator to the presumed trafficked person	
3	Restrictions to social and professional contacts with the presumed trafficked person	
4	Reporting obligations	
5	Post-interpreting debriefing	
6	Working hours and breaks	

MINIMUM CONTRACTUAL ITEMS FOR INTERPRETATION		
7	Times of availability	
8	Rights to refuse/decline to interpret	
9	Provision of security measures when needed	
10	Payment conditions	
11	Termination of interpretation contract	
12	Other	

**Note: Under NO circumstances should organisations rely on the interpretation of individuals who are found with the victim or in the same work venue to interpret for a reported victim - even if they claim to be a friend, family member, etc.**

## HOW:

Before starting to question and/or interview, the presumed trafficked person must be informed about the role, obligations and responsibilities of the interpreter or cultural mediator, and about his/her right, at anytime, to decline a designated interpreter/cultural mediator.

Interpreters and cultural mediators should be informed in advance by the contracting organisation of the nature of the interviews and their obligations and restrictions during and after the questioning and/or the interview. The interview's terms should be clearly communicated to the interpreters/cultural mediators both orally and in writing (instructions/contract).

Translation must be conducted in a sensitive and cultural responsible manner.

The interpreter and the cultural mediator must sign a statement for interpretation accuracy and confidentiality of the information acquired.

The presumed trafficked person has to sign a statement of acceptance of the translation service provided. In case she/he does not accept this service, she/he will sign a statement to declare that no interpretation is needed. In case of child presumed trafficked person, the statement must be signed by the appointed guardian.

Some presumed trafficked persons may not feel comfortable refusing the service of a given translator. It is the duty of the professionals involved at this stage to look out for non-verbal indicators that show a wish to actually reject the hired translator or cultural mediator.

## Measure 5: Recovery and Reflection Period

### WHAT:

A period of time, according to national legislation, to allow the presumed trafficked person to recover, escape the influence of traffickers/exploiters and take an informed decision about her/his future in full compliance with the respect of the human rights regulations<sup>21</sup>.

The reflection period should be granted regardless of a person's willingness to cooperate as a witness<sup>22</sup> and should be followed by the granting of a (temporary) residence permit. Cooperation with the competent authorities is at any stage in the process voluntary and never obligatory in order to acquire the status and rights of a trafficked person. Furthermore, no expulsion order should be enforced against the presumed trafficked person during this period.

The recovery and reflection period also serves to raise the assisted person's confidence in the State and its ability to protect his/her interests.

The main elements of a recovery and reflection period are:

- Secure accommodation;
- First assistance ➔ **see SOPs: First Assistance and Protection;**
- Information on available options for longer assistance, legal opportunities, return, etc. ➔ **see SOPs: First Assistance and Protection;**
- Suitable time to recover and consider options, including the possibility to cooperate with the competent authorities.

For a child presumed trafficked person, the recovery and reflection period should be used by the guardian, social services and relevant authorities to begin the process of identifying the medium and long term best interests of the child.

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<sup>21</sup> European Commission, *Report of the Experts Group on Trafficking in Human Beings*, Brussels, 2004, pp. 105-106, 173.

<sup>22</sup> Council of Europe Convention on Action against Trafficking in Human Beings (2005), articles 13 and 14.

The relevant authorities (usually the Ministry of Interior in co-operation with the social services) of the **hosting country** have a primary obligation to initiate contact with the relevant authorities of the **country of origin** to:

- Establish **jurisdiction** over the child, in the case of a **foreign unaccompanied child**;
- Identify a long-term durable solution.

A temporary residence permit to victims must be granted if the following circumstances exist:

- The competent authority considers that their stay is necessary owing to their personal situation.

The competent authority considers that their stay is necessary for the purpose of their co-operation with the competent authorities in investigation or criminal proceedings.<sup>23</sup> The residence permit for child victims, when legally necessary, shall be issued in accordance with the best interests of the child and, where appropriate, renewed under the same conditions.



#### WHEN:

The reflection period should be granted immediately after reasonable grounds are identified if believe that the person concerned is a victim and it should last a minimum of 30 days. A possibility to extend the reflection period shall be envisaged for child trafficked victims. A renewable residence permit to victims shall be granted after the expiry of the reflection period if the circumstances listed above require so.

**Good practice: In Bosnia and Herzegovina: The rights of the VoTs, in regards to reflection and residence permits are regulated by Law on Residence , movements of foreigners and the Law on asylum, Rules on protection of foreign victims of trafficking and Rulebook on protection of victims and victims-witnesses of trafficking BH nationals. The VoTs are entitled to independent and free of charge legal aid through whole care-from identification onwards-to the potential criminal proceedings.**

<sup>23</sup> Council of Europe Convention on Action against Trafficking in Human Beings, (2005), Article 14.

## WHO:

The appointed case manager of the hosting governmental or non-governmental service provider or, if a case manager cannot be appointed at this stage, another assigned staff member (social worker or psychologist) will support the presumed trafficked person during the reflection period. An immigration lawyer should be available to support the trafficked person in the application procedure for gaining a temporary residence permit.



In the case of a child presumed trafficked person, the appointed guardian is automatically assigned the role of case manager, as she or he is responsible for ensuring the child's best interest at all stages of the process.

## HOW:

The procedures for reflection and recovery period should entail:

- Clear information on the aims, duration, benefit and restrictions granted of the recovery and reflection period;
- Any expulsion order against the presumed trafficked person should not be enforced during this period;
- No interrogation should take place during this period;
- The decision to cooperate with the law enforcement agencies will be taken once the reflection is over.

The competent authority should inform the victim about the rights and obligations regarding the possibility of granting a residence permit. Having obtained consent from the victim, the assigned case manager shall support the victim in the application procedures.

**Good practice: In Macedonia and Croatia, the rights of the victims of trafficking to reflection period and residence permits are regulated by the Law on Foreigners.**

## Measure 6: Identification

### WHAT:

A procedure to establish if the presumed trafficked person has been a victim of trafficking or was in the process of being trafficked.

### WHEN:

After the recovery and reflection period upon the fully informed consent of the assisted person.

The identification procedure should NOT take place if the presumed trafficked person:

- Is severely distressed or anxious;
- Is depressed and tearful;
- Is hostile or aggressive;
- Is in a location where privacy cannot be assured;
- Needs medical aid;
- Asks for legal advice;
- Asks to postpone or declines the interview;
- Is a minor and no guardian is present or not yet appointed.



Interviews with a presumed victim of trafficking should take place only *after* she/he has been provided with clear information about the interview process and her/his options.

## WHO:

The appointed case manager or the designated persons at the national or local level (NGO personnel and/or police officers). The interviewers should be specifically trained and follow agreed identification procedures guidelines. If the presumed trafficked person is a foreigner and gives his/her consent, an interpreter or a cultural mediator should be present.

**Good practice: “Coordination and Identification of Victims of Trafficking”:** Moldova has piloted the initiative of a National Referral System (NRS) for the Protection and Assistance of Victims of Trafficking and Potential Victims of Trafficking in five *rayons* (district). Under the NRS each *rayon* was assigned a trained multi-disciplinary team comprising local authorities and civil society actors including the office of the National Coordination Unit (NCU). The NCU is in charge of coordinating the activities of the NRS, such as identification; protection and assistance upon return; crisis intervention, rehabilitation; reintegration and referral to different state and non-state organizations. From June 2006 – December 2007, 78 trafficking cases were referred through the NCU, additionally the NCU has identified and referred 70% of the total victims of trafficking ensuring necessary assistance and protection.



In the case where a child is presumed to be trafficked person, interviews should ideally only be conducted by persons who are trained in

techniques for interviewing children and the child's guardian should be present at all stages of the interviews.

**Good practice: In Albania the initial interview is carried out by the anti-trafficking police, border police, social worker/case manager.**

## HOW:

The identification should be carried out by means of:

- One or more interviews between a representative of law enforcement and/or service provider organisation and the presumed trafficked person;
- Gathering other evidence to identify the facts and check the information provided by the presumed trafficked person.

Before starting an interview, clear and accurate information should be given to the interviewee on the aims and consequences of the procedure and on her/his rights and obligations.

In case of an interview with a foreign trafficked person, interpretation and/or cultural mediation should be granted ➔ **Measure: Language and Cultural Mediation**

The identification interview<sup>24</sup> should be based on a wide set of questions to collect evidence to determine whether a person has been victim of trafficking or was in the process of becoming a victim of trafficking. The questions should be designed to specifically gather information on:

- Personal data;
- Recruitment phase;
- Transportation phase;
- Exploitation phase;
- Other collateral data.

**Good practice: In Macedonia and Kosovo, a detailed form for identifying victims of trafficking was developed and included within the national version of the SOPs and all of the authorities in charge are obliged to use it when interviewing victims of trafficking.**

The following are basic guidelines on how to conduct the identification interview. Their use can facilitate a fruitful interview putting the well-being of the presumed trafficked person into the centre of interest.

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<sup>24</sup> For an identification interview form sample, see Annex X.

IDENTIFICATION INTERVIEW GUIDELINES	NOTES
<b>Conduct the interview in an environment that ensures privacy</b>	While this basic rule is often difficult to follow, depending on the circumstances, every effort should be made to minimize disruptions during the interview.
<b>Put the interviewee at ease</b>	Emotions and stress play a big part in any type of interview. The interviewer will have a difficult time evaluating a nervous person. Starting the interview casually can have a calming effect. By defusing negative feelings and reinforcing positive ones, the interviewer can deal with the emotions exhibited by the interviewee.
<b>Define the objective</b>	The interviewer should ask questions carefully in view of the objective of obtaining as much essential information as possible (e.g. trying to establish if the person is a suspected trafficked victim).
<b>Good questioning techniques</b>	Knowing how to ask questions is just as important as knowing what questions to ask. Also making questions easy to understand is critical.
<b>Let the person being interviewed do the talking</b>	One of the biggest mistakes for an interviewer is talking too much. Accurate evaluations of persons or gathering crucial information regarding a crime depends on letting the interviewee talk under controlled conditions. The interviewer should control the interview, but not dominate it.
<b>Be a good listener</b>	A good interviewer is a good listener. Interviewers must discipline themselves to focus on what is being said and how it is being said. They should not look ahead to subsequent questions or begin to analyze an answer before the person finishes. Nor should they anticipate what the answer will be.
<b>Body language</b>	Reassuring body language is extremely important to get the confidence of the person to be interviewed. Be aware of body language techniques and apply them to circumstances as appropriate.
<b>Do not challenge answers given</b>	Interviewers must keep emotional reactions private and should not let personal feelings interfere with the interview. They should not show disgust or disbelief should some of the information be repellent or simply incredible. Victims of trafficking may have lived through situations that are beyond comprehension.

**Practice “Legal Definition of Victim of Trafficking”:** Bosnia and Herzegovina has codified an unambiguous definition of “victim of trafficking”, which facilitates the identification procedure. The *Procedures for Treatment of Human Trafficking Victims* state that: “a trafficking victim is considered to be every person for whom there are grounds for suspicion that s/he is a subject of exploitation, i.e. a victim of a criminal act of human trafficking”.



In case of a child presumed trafficked person, pro-active identification measures should be adopted and a child-sensitive approach should be employed when questioning<sup>25</sup>.

When there is a serious doubt about the age of a child, States may assess his/her age according to clear age assessment procedures.<sup>26</sup>

Age assessment procedures should take into consideration physical and psychological development, taking into account ethnic and cultural factors. Such procedures should be implemented by independent and trained professionals, specialized in working with children (i.e. paediatricians, social workers, psychologists and others).

The child should always be informed, in a language that s/he understands and according to his/her degree of maturity, about the fact that his/her age may be assessed, including information on the method of the procedures and the possible consequences of the result of the assessment. The child and/or his/her guardian should give fully informed consent to carry out an age assessment and to particular examinations.

Any medical examination should be performed in full respect of the child's dignity, selecting the less invasive exams, based on available good practices at international level. The guardian shall represent the child throughout the entire process.

The results of age assessment should always fully reflect the margin of error associated with the tests, based on scientific and ethical standards. A copy of the certificate of the results shall be issued to the child in a language that s/he can understand.

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<sup>25</sup> For special considerations in interviewing child victims, see UNICEF, *Guidelines on the Protection of Child Victims of Trafficking*, New York, 2006.

<sup>26</sup> Save the Children's Comments on the Commission's Proposal for the Revision of the Dublin II Regulation (2009)

Pending the age assessment results, and in case of any doubt arising out of the assessment, the person should be considered to be a child and benefit from his/her rights as such.<sup>27</sup>



Transnational  
cooperation

In case of a foreign presumed trafficked person, **countries of origin, destination and transit might have to contact each other to:**

- Establish or confirm the **identity of then presumed trafficked person**
- Gain further **evidence** for the trafficking situation (e.g. check if the child has been reported missing)
- In the case of a foreign child presumed trafficked person, the establishment of contact between state of destination and state of origin is essential in order to begin the process of establishing **jurisdiction over the child** and the identification of a long-term durable solution.

Once the identification process is completed, the person must be informed of the outcome and should be given detailed information on available options:

➔ **SOP 2: First Assistance and Protection**

➔ **SOP 3: Longer-Term Assistance and Social Inclusion**

➔ **SOP 4: Return**

➔ **SOP 5: Criminal and Civil Proceedings**

The information should ideally be provided both verbally and in writing.

Identified trafficked persons shall be referred to a service provider and be the recipients of assistance measures only if she/he gives her/his written consent.

Persons, who are not found to have been trafficked, but report other crimes or face assistance needs or security concerns should be referred to the appropriate service providers.

Persons, who are not found to have been trafficked and do not face any safety risk should be provided with detailed information about his/her rights and obligations, and is given the opportunity to express concerns and pose questions.

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<sup>27</sup> H. Crawley, *When is a child not a child? Asylum, age disputes and the process of age assessment*, Immigration Law Practitioners' Association, London, 2007, p. 193.

If the victim has not been identified in the country of destination and has been returned as an irregular migrant to the country of origin, the identification interview should take place in the country of origin. To facilitate such a process “irregular migrants” should be informed about help-lines and service providers in the country of origin.

**Practice “Strike Group”:** established by the Council of Ministers of Bosnia and Herzegovina, the Strike Force for Combating Trafficking in Human Beings and Illegal Immigration works on detecting, preventing and punishing criminal offences related to trafficking in human beings and illegal migration. The Strike Force provides coordination between the state and entity authorities, ensures information exchange, participates in case investigation and works to enhance the efficiency of anti- trafficking measures.

## II. SOP 2: First Assistance and Protection

The first assistance and protection stage is a crucial stage for the trafficked person who will be provided with all accurate information concerning the available social and legal options for her/his future and basic needs assistance will be given.

A risk assessment on her/his safety will also be performed to check if any imminent situation can endanger her/his life.

During this stage the main point of contact for the assisted person shall be a case manager who will work within a consultative team of other professionals when decisions are to be made. The case manager is responsible for ensuring access to the necessary professional services, for organizing safe referral and transport and accompanying her/him to all emergency services. However, all staff of assistance programmes should be trained to provide information.

The final aim of the first assistance is to support and protect the assisted trafficked person while helping her/him to consider her/his option and take full informed decisions for her/his future life.

<b>FIRST ASSISTANCE AND PROTECTION</b>	<b>Measure 1</b>	<b>INFORMATION ON ASSISTANCE OPTIONS AND CONDITIONS</b> Step 1. Providing the trafficked person with information on available services and obligations/conditions
	↓	
	<b>Measure 2</b>	<b>INFORMATION ON LEGAL OPTIONS AND CONDITIONS</b> Step 1. Providing the trafficked person with information on legal opportunities and obligations/conditions
	↓	

	<b>Measure 3</b>	<p><b>INTAKE &amp; NEEDS ASSESSMENT</b></p> <p>Step 1. Informing the trafficked person on the purpose of the intake procedure</p> <p>Step 2. Explaining who will and will not have access to the information</p> <p>Step 3. Informing the trafficked person of his/her right to decline answering any question</p>
	↓	
	<b>Measure 4</b>	<p><b>ASSISTANCE AND PROTECTION PROVISION</b></p> <p>Step 1. Providing assistance measures identified and agreed upon</p> <p>Step 2. Ensuring protection measures</p>

## Measure 1: Information on Assistance Options and Conditions

### WHAT:

It is the provision of clear and detailed information on the following first assistance services, on the attached rights and obligations, and related consequences for violating rules/agreements:

- Safe temporary housing;
- Meals;
- Clothing;
- Psychological counselling and assistance;
- Medical assistance;
- Social assistance;
- Legal information and assistance ➔ **Measure: Information on legal options and conditions;**
- Security measures;
- Language interpretation (for foreign persons).

### WHEN:

During the recovery and reflection period, immediately after the presumed trafficked person reaches the first assistance premises and before the intake and needs assessment starts.

## WHO:

The appointed case manager of the service providing agency and, in case of a foreign assisted person, an interpreter or a cultural mediator.

## WHERE:

In a private and comfortable setting.

## HOW:

Service options and conditions are to be communicated:

- Orally and in writing in a language that the victim understands;
- In a clear, professional, yet supportive manner;
- Encouraging the presumed trafficked person to pose clarifying questions;
- Helping to re-orient and assess the available options;
- With regular confirmation that the individual has understood what has been explained;
- In the case of a foreign assisted person, through interpretation into his/her native language or in a third-language she/he can understand;
- In the case of a child victim, in a sensible manner and with a language appropriate to the developmental abilities of the child.



## Measure 2: Information on Legal Options and Conditions

### WHAT:

It is the supplying of accurate information on available existing legal options and attached rights as to:

- Possibilities to co-operate with the competent authorities;
- Possibilities to apply for a temporary, long-term or permanent stay in the hosting country (in case of a foreign assisted person) or in a third country (in case of a national and foreign assisted person).

Depending on the laws of the particular country, the foreign trafficked person may be granted the right to a legal stay through asylum, humanitarian protection or through varying residence permit/visa options:

**Asylum:** The country of origin should not be contacted if the victim has expressed a wish to seek asylum, i.e. during the course of the asylum seeking procedures. Granting of a temporary residence permit to victims of

trafficking shall be without prejudice to the right to seek and enjoy asylum.<sup>28</sup>

An application for asylum should be supported by a relevantly trained lawyer, who can explain the asylum procedure to the trafficked person and support his/her application. (An application for asylum will probably be based on grounds different from human trafficking. In this case the victim should be informed of alternative options, if available, which may provide further/greater privileges.

**Humanitarian protection:** Trafficked persons may also receive protection against forced return based on general humanitarian reasons. Humanitarian protection is sometimes accorded when:

- Someone is threatened by the death penalty without being a refugee;
- Someone is threatened by torture or inhumane treatment without being a refugee;
- Someone needs urgent medical treatment which is not available at home;
- Someone is in danger at home for another reason;
- Someone has strong family links to a person living in [an EU state] and one depends on the other;
- A minor would not be looked after when returned home.

**Residence permits and visas:** a (presumed) victim of trafficking may be granted a residence permit. The requirements for granting the residency permits vary according to the national legislation; however the two general conditions for the issuance of a residence permit are that either the victim's stay be "necessary owing to their personal situation" or that it be necessary "for the purpose of their cooperation with the competent authorities in investigation or criminal proceedings."<sup>29</sup>

Residence permits can be granted on temporary or permanent bases or can be converted into a work/school permit provided that the person complies with the immigration and labour regulations of the country of residence.

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<sup>28</sup> Council of Europe Convention on Action against Trafficking in Human Beings, 2005, article 14.

<sup>29</sup> Council of Europe Convention on Action against Trafficking in Human Beings, 2005.

Temporary permits can vary in duration and may be renewable. They are linked to the specific time during which the victim needs to remain in the country:

- To recover and assess future options;
- Testify and assist during the trial;
- Institute civil proceedings for compensation against traffickers;
- To wait until the security risk for the trafficked person to return to the country of origin is removed.

**Good practice: In Serbia, in accordance with the Law on Foreigners, a victim of trafficking will be granted a temporary residence, if that is in the interest of criminal proceedings for criminal offence of trafficking in human beings. Furthermore, the Serbian Administrative Fees Tariff envisages that the foreigners, victims of human trafficking will be exempted from paying fees, when applying for temporary residence permits.**

#### **WHO:**

The appointed case manager, the lawyer and, in the case of a foreign assisted person, the interpreter or cultural mediator.

#### **WHERE:**

In a private and comfortable setting.

#### **WHEN:**

Along with the provision of available social assistance options and conditions.

#### **HOW:**

Legal options and conditions are to be communicated:

- Orally and in writing in a language that the victim understands;
- In a clear, professional, non-legalistic, yet supportive manner;
- Encouraging the presumed trafficked person to pose clarifying questions;
- Helping to re-orient and assess the available options;
- With regular confirmation that the individual has understood what has been explained;
- In the case of a foreign assisted person, through interpretation into his/her native language or in a third-language she/he can understand;



- In the case of a child victim, in a sensible manner and with a language appropriate to the developmental abilities of the child.

A separated child should never be returned or resettled simply because they do not have a legal right to remain in the host country or because they fit into an administrative return, transfer, re-entry or resettlement procedure. In any event a separated child should only return to their country of origin, or be transferred or resettled in a third country where it is considered to be in their best interests.<sup>30</sup>

### Measure 3: Intake and Needs Assessment

#### WHAT:

It is a procedure to assess the service and security needs of each assisted person. The intake procedural items may be different for native citizens and for foreigners and may require more than one meeting.

The following table contains some criteria that can be used for the intake and needs assessment.

INTAKE AND ASSESSMENT CRITERIA		
CASE FILE DATA		
No.	Item	Notes
1	Case file number	
2	Gender	
3	Date of birth	
4	Nationality	
5	Country of residence	
6	Language	
7	Legal status	
8	Family status	
9	Type of exploitation suffered	
10	Duration of exploitation	

<sup>30</sup> Separated Children in Europe Programme (SCEP), Statement of Good Practice, 4th Edition, Forthcoming

<b>BASIC NEEDS</b>		
<b>No.</b>	<b>Item</b>	
1	Accommodation requirements	
2	Dietary requirements	
3	Sleeping requirements	
4	Prescription medications	
5	Communication with significant others	
<b>RISK ASSESSMENT</b>		
<b>No.</b>	<b>Item</b>	
1	Current safety concerns	
2	Past safety concerns	
3	Individuals who might cause harm/problems to the person	
4	Concerns for the safety of family members, friends or acquaintances	
5	Unsafe locations for the presumed trafficked person both in the destination and origin countries	
6	Other	
<b>HEALTH NEEDS</b>		
<b>No.</b>	<b>Item</b>	
1	Physical health symptoms (headaches, fatigue, dizzy spells, back pain, stomach or abdominal pain, dermatitis, vision problems, colds, breathing problems, dental pain...)	
2	Mental health symptoms (memory problems, frequent crying, anxiety, anger, stress disorder, hostility, aggression, post-traumatic stress disorder symptoms, suicidal thoughts...)	
3	Past or present injuries (self-harm, scars, bruises, fracture ...)	
4	Disabling or high risk conditions (heart pathologies, epilepsy, asthma, ear impairment...)	

5	Learning disability	
6	Infectious diseases (TBC, hepatitis B...), including sexually transmitted infections (herpes simplex, Chlamydia, HPV-humane papilloma virus, hepatitis B, syphilis, HIV/AIDS, gonorrhoea...)	
7	Addiction (alcohol, drugs, gambling...)	
8	Other	
<b>LEGAL/ADMINISTRATIVE NEEDS</b>		
<b>No.</b>	<b>Item</b>	
1	Passport	
2	Identity card	
3	Residence permit	
4	Legal representation	
5	Health card/insurance	
6	Driver's licence	
7	Other	

All data shall be collected in compliance with the data protection policies of the country where the identification interview takes place.

#### **WHEN:**

After the assisted person has been provided information on the available services and legal possibilities and on any obligations or conditions associated with receiving services.

#### **WHERE:**

In a private and comfortable setting.

#### **WHO:**

The case manager assigned and, in case of a foreign assisted person, an interpreter or a cultural mediator.



In the case of children, the child's guardian will be responsible for undertaking the intake and needs assessment. Depending on the domestic law of the state, the guardian may also be responsible for other forms of documenting and reporting regarding the assessment of the child's interests and needs.

## HOW:

Prior to beginning the intake procedure, the case manager must:

- Review existing case file notes that may have been sent;
- Explain the purpose of the intake procedure (e.g. how it will be used, why it is useful);
- Explain who will and will not have access to the information;
- Explain the possibility of the individual to decline to answer any question.

Once the need assessment has been completed and examined, the assisted person should be informed of the outcome.

## Measure 4: Assistance Provision and Protection

### WHAT:

It is providing the assistance services identified through the need assessment in order to meet immediate or urgent necessities and to ensure the safety of the assisted person.

Prompt assistance and protection can occur at any time and multiple times during the whole process of assistance, stabilisation and social inclusion.

### WHEN:

After the assisted person has been given full information about the available service options, the related obligations or conditions, and she/he has given his/her written consent to be provided with the agreed upon measures.

### WHERE:

In the premises of the assisting agency and of the service providers.

### WHO:

The case manager and professionals involved in providing the identified services and measures agreed upon.

**Practice “Coordination of Victims of Trafficking”: The Serbian government has established an agency for the coordination of protection of victims of trafficking. The agency confirms all initial victim identifications and liaises with NGOs and law enforcement to provide the victim with the necessary social services and ensures the victim’s safety. The agency also provides technical assistance, such as transportation and facilitating document issuance.**

## HOW:

The following principles<sup>31</sup> should be employed by all service providers to ensure high quality assistance and avoid any risk of re-victimisation:

- Be non-discriminatory as to nationality, gender, legal status, age, ethnicity;
- Be non-judgemental with regard to the assisted person's former experiences and current choices and behaviours;
- Be confidential and not use and/or transfer any information on the assisted person without his/her consent;
- Respect any decision taken by the assisted person on a fully informed basis;
- Clearly define and respect expectations and obligations;
- Clearly define and respect roles.

Team meetings should be held to monitor the assisted person's situation, to identify and address new needs, to check and update the risk assessment plan. The results of all assessments should be communicated and discussed with the assisted person.

**Good Practice: In Albania, in an effort to harmonize and unify the VoT related information and provide reliable figures on THB, pursuant to the Joint Order by the Interior Minister, the Foreign Minister and the Minister of Labour, Social Affairs and Equal Opportunities, the Responsible Authority has been established. The objective of this Authority is the referral process coordination, the preliminary protection and long-term rehabilitation for all victims of trafficking, in close cooperation with other institutions, shelters inclusive. Communication links between members of this Authority and exchange of information are already functional.**

It is important for individuals in the first assistance programme to have the means and opportunity to report concerns encountered or report dissatisfaction with the services or the individuals involved in providing services. Complaint procedures should be developed and should incorporate the option of lodging a complaint anonymously, verbally, and in writing.

At the end of the first assistance period, the assisted person will decide if:

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<sup>31</sup> For the full description of the principles, see Experts Group, *op. cit.*, pp. 178-181.

- She or he wishes to go back to his/her place/country of origin or be resettled in a third-country and, once a risk assessment is successfully completed, the necessary procedures will be arranged for ➡ **SOPs: Return**
- She or he wishes to stay in the hosting place/country and, thus, the necessary procedures and services to provide longer-term assistance and support social inclusion will be arranged ➡ **SOPs: Longer-Term Assistance and Social Inclusion**
- She or he wishes to co-operate with the competent authority and apply for compensation ➡ **SOPs: Criminal and Legal Proceedings**

### III. SOP 3: Longer-Term Assistance and Social Inclusion

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Longer-term assistance is provided to national and foreign victims of trafficking who decide to join a support programme in the country of destination or origin or a third country (in the case of resettlement). During the longer-term assistance and social inclusion phase, the assisted person is supported by or referred to professional and trained service providers who are, at minimum, responsible to:

- Ensure safety;
- Monitor and assess the development of the IAP and revise it when necessary;
- Assist the individual in regaining sense of control and self-determination;
- Foster the individual's psychological stability;
- Avoid secondary victimization;
- Foster empowerment;
- Assess the risk of social stigmatization;
- Facilitate the social inclusion;
- Employ a multi-agencies and holistic approach.

The support programme aims to ensure that the assisted persons have greater participation in decision-making that affects their lives and access to their fundamental rights. Through such a process vulnerable groups are granted access to education, training, employment, accommodation, collective services, and health assistance.

The final aim of the longer-term assistance and social inclusion is to ensure to the assisted persons to have the opportunities and resources necessary to participate in economic and social life, securing a standard of living that is considered acceptable in the society in which they live<sup>32</sup>.



In the case of children, both first and longer-term assistance should be carried out as soon as possible or in parallel with actions undertaken to

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<sup>32</sup> See: [http://ec.europa.eu/employment\\_social/spsi/poverty\\_social\\_exclusion\\_en.htm](http://ec.europa.eu/employment_social/spsi/poverty_social_exclusion_en.htm) and Joint Report by the Commission and the Council on social inclusion (2003) [http://europa.eu.int/comm/employment\\_social/soc-prot/soc-ncl/final\\_joint\\_inclusion\\_report\\_2003\\_en.pdf](http://europa.eu.int/comm/employment_social/soc-prot/soc-ncl/final_joint_inclusion_report_2003_en.pdf)

determine a durable solution and formulating an assistance plan that ensures the best interests of the child at all stages.

<b>LONGER-TERM ASSISTANCE AND SOCIAL INCLUSION</b>	<b>Measure 1</b>	<p><b>JOINT DEVELOPMENT OF THE INDIVIDUAL ASSISTANCE PLAN (IAP)</b></p> <p>Step 1. Discussing the case with the assisted person and his/her support team</p> <p>Step 2. Inquiring and addressing the urgent needs/requests of the trafficked person</p> <p>Step 3. Formulating the plan according to the trafficked person's needs and wishes.</p>
	↓	
	<b>Measure 2</b>	<p><b>CONSENT PROCEDURES TO IMPLEMENT THE IAP</b></p> <p>Step 1. Providing translation/interpretation between assistance providers and the trafficked person</p> <p>Step 2. Informing interpreters regarding their roles</p> <p>Step 3. Informing the trafficked person regarding the role of the interpreter.</p>
	↓	
	<b>Measure 3</b>	<p><b>ADJUSTMENT AND SOCIAL INCLUSION ASSISTANCE</b></p> <p>Step 1. Providing access to social inclusion services</p> <p>Step 2. Assessing the implementation of the IAP and its update</p> <p>Step 3. Providing case monitoring and evaluation</p> <p>Step 4. Developing and providing access to the complaint procedures for trafficked persons.</p>
	↓	
	<b>Measure 4</b>	<p><b>LEGAL SUPPORT AND ASSISTANCE</b></p> <p>Step 1. Providing support for legal related matters</p> <p>Step 2. Procedures for legal stay, etc.</p>

## Measure 1: Joint Development of the Individual Assistance Plan (IAP)

### WHAT:

It is a plan that clearly details the steps and related measures that will be provided to the trafficked person who expressed his/her will to return home or be settle in a third country and receive further assistance. Otherwise, the trafficked person should only be provided with a contact list

of service providers available in the place/country of origin. It is a tailored-made plan that will be further developed and revised according to the needs assessed and the future plan of the assisted person. It may include:

- Accommodation<sup>33</sup>;
- Social counselling;
- Psychological counselling;
- Free legal counselling and assistance;
- Medical assistance;
- Social and health accompaniments;
- Language training;
- Educational activities;
- Vocational training;
- Employment counselling;
- Job placement assistance;
- Income generating programmes;
- Family/community reintegration measures;
- Family mediation;
- Recreational activities;
- Financial assistance;
- Case monitoring and evaluation.

For child victims, shelters are not usually the best solution except for very short periods of time. Other means of accommodating and caring for the child should be sought, utilising the existing child protection mechanisms for children deprived of parental care in a country<sup>34</sup>.



In the case of a child trafficked person a report from the relevant authorities of the child's country of origin should be ensured, verifying that the state has (a) established jurisdiction over the child, and (b) developed a durable solution for the long term care and protection of the child. Only upon receipt of such a report, or a court judgement ordering the return of the child to the country of origin, shall the destination state proceed with the arrangements for the return.

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<sup>33</sup> Different types of accommodation may be provided according to the local and cultural context: residential community shelters, co-shared apartments, non-residential solutions, family placement.

<sup>34</sup> For considerations on the care and assistance models that should be employed and considered when providing assistance to child victims, see *UNICEF, op. cit.*

**Good Practice: In Albania, The Ministry of Labour, Social Affairs and Equal Opportunities (MLSAEO) has developed a strategy for establishment of the “Children Foster Care” as an alternative service for orphan children and those affected by social problems. The main spheres of intervention of this strategy relate to: raising social awareness on this service; improvement and completion of the legal framework; upgrading of institutions dealing with these alternative services in implementation of the proposed pilot project.**

#### WHEN:

Prior to the return home or resettlement to a third country and once the assisted person decides to join a longer assistance programme and expresses his/her will to develop and sign an individual assistance plan.

#### WHO:

The case manager of the hosting place/country, the assisted person and the case manager of the country of origin responsible for the return. In case of a foreign individual, the interpreter or a cultural mediator.

Depending on national law, a child’s guardian may be required to consult with local child protection authorities regarding their assessment of the child’s needs and recommendations for short- and long-term assistance. Additionally, the guardian and social services might be required to hold regular reviews of the child’s assistance plan.



**Good Practice: In Serbia, Law on Foreigners stipulates that a foreigner minor must not be returned to the country of origin or the third state which is ready to accept him/her, unless the adequate reception is provided.**

#### Transnational cooperation

Depending on the individual circumstances, longer-term assistance and social inclusion will fall under the responsibility of the child’s guardian and the **social services of both destination and origin states**. When the child shall remain in the country of destination, the long-term assistance is provided in accordance with the national policy on the protection of children deprived of parental care.

Relevant authorities might be required to share information regarding the child’s care with the appropriate authorities of the child’s country of origin so that these authorities can start developing durable solutions for the child.



#### HOW:

The Individual Assessment Plan should be based on the needs of the trafficked person identified during the assistance period and developed

together with her/him. The final IAP should then be elaborated by the receiving organisation.

### Transnational cooperation

If the longer-term assistance and social inclusion takes place after the return of the trafficked person to the country of origin, the case manager responsible for the case from the country of destination should provide necessary information as well as recommendation and guidelines to the responsible authority in the country of origin to serve in the development of the IAP.

The information shall be exchanged in advance, before the victim returns from the country of destination to the one of origin.

See ➔ **SOP: Return (Measure 6)**

**Good practice:** In Macedonia, the NRM Office developed a Programme for re-socialisation and reintegration of victims of trafficking and a separate Programme for re-socialisation and reintegration of children victims of trafficking. Therefore, the IAPs are developed based on the needs, interests and abilities of the victims based on the available services and in line with the existing programs.



In the case of a child, the plan will be developed taking into account the child's views and the guardian's and social services' assessment of the best interests of the child.

**Good practice:** In Bosnia and Herzegovina, due to increased number of detected/ identified domestic victims, the trend in reintegration procedures, especially for BIH nationals, is to work on individual plans of the VoTs which would guarantee sustainable reintegration and re-socialization. After shelter based help a development of individual plan begins where both the VOT and the case manager participate.

Communication should include in full detail the measures and services available, including rights and duties attached to them.

**Good practice:** In Croatia and Kosovo, for each identified VoT individual program is designed according to her/his needs and depending on her/his age. Each programme is developed by case manager in cooperation with multi-disciplinary team (social worker, psychologist, teacher, doctor and lawyer, victim advocate and case manager in case of an adult VoT and in case of a minor VoT is his/her legal guardian).



**Good practice:** In Albania, pursuant to the National Strategy of the Social Services, Standard 2, the assigned social worker is the service provider to whom all reports concerning the beneficiary of the assistance are directed.<sup>35</sup>

The multi-disciplinary team (the social worker, the psychologist, the teacher, the doctor and the lawyer) develop a plan for the assessment of all needs of the beneficiary within a two-week period from identification, exception made in cases of emergency.

The social worker, responsible for the VoT, in coordination with the multi-disciplinary team, formulates a caretaking plan in line with the identified needs of the VoT and the capacities/possibilities of the service provider. At the end of this process, the VoT's consent is ensured.

#### **WHERE:**

The longer-term assistance and social inclusion take place either:

- After the return of the trafficked person in the country of origin; and/or
- In the country of destination if the trafficked person stays after the reflection period.

## **Measure 2: Consent Procedures to Implement the IAP**

#### **WHAT:**

The consent procedure determines whether the individual understands and agrees or disagrees to the assistance offered and to the associated terms and conditions.

#### **WHEN:**

Only after the service options and regulations have been clearly explained, she/he had an opportunity to pose questions and agrees to the conditions of the assistance.



In the case of a child, in addition to child's consent and understanding of the procedures and assistance, the final consent can only be given by the appointed guardian.

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<sup>35</sup> Albanian National Strategy on Social Services 2005-2010, Standard 2: Needs assessment and caretaking plan for the beneficiary; ratified by Council of Ministers's Decision, nr. 195, dt. 11.4.2007.

## WHO:

The case manager and the person assisted and, in case of a foreign person, the interpreter or cultural mediator. The appointed guardian is also involved in the case of a child victim.

## HOW:

The service organisation should develop a consent form that details, at a minimum, the following information:

- Accommodation and related conditions;
- List of services and activities offered, including their description (goals, roles, timeline...);
- Duration of each service;
- Financial support;
- Rights and obligations to be respected;
- Admission policy;
- Safety rules and safety plan;
- Reasons for terminating the assistance;
- Residence permit conditions (in case of a foreign victim);
- Data protection rules;
- Explanation of the complaint procedures.

The assisted person should be given a clear description of the services and activities offered, in a language that s/he can understand. S/he should be given adequate time to read the consent form or have it read and to consider the available options. Questions should be asked to ensure that the consent procedure and its implications are understood by the service recipient.

Consent is limited to those services that are listed on the agreement form. A victim cannot be subjected to any testing, procedures or assistance under this agreement. Other tests (e.g. HIV), interrogation (e.g. police), procedures (e.g. immigration) and communication of information require separate consent procedures. However, in some countries, medical checks are mandatory, often with the purpose to protect the service providers' staff and other assisted persons from potential infections. It is strongly recommended to carry out any mandatory medical checks in a sensitive manner to avoid secondary victimization.



The consent form should be signed by the person receiving the services and, in the case of a child, by his/her guardian as well. The signature and consent of the child alone are not acceptable.

**Good practice:** In Albania, pursuant to the National Strategy on Social Services, Standard 4, each VoT has an individual case folder, part of which is her/his declaration of informed consent for the assistance services. The declaration is countersigned by the VoT and a representative of the service provider.

### Measure 3: Adjustment and Social Inclusion

#### WHAT:

It is the time period during which the assisted person adjusts to his/her new living conditions and carry out his/her IAP to fully achieve the social inclusion in the place/country of residence. During this phase, the assisted person will implement the pre-departure individual plan that will provide for (some of) the following services and measures:

- Accommodation<sup>36</sup>;
- Social counselling;
- Psychological counselling;
- Free legal counselling and assistance;
- Medical assistance;
- Social and health accompaniments;
- Language training;
- Educational activities;
- Vocational training;
- Employment counselling;
- Job placement assistance;
- Income generating programmes;
- Family/community reintegration measures;
- Family mediation;
- Recreational activities;
- Financial assistance;
- Case monitoring and evaluation.

#### WHEN:

During the longer-term assistance in the country of destination or after the return in the place/country of origin or in a third country and as soon as the conditions are provided to start the process of social inclusion.

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<sup>36</sup> Different types of accommodation may be provided according to the local and cultural context: residential community shelters, co-shared apartments, non-residential solutions, family placement.

The duration of this phase can vary according to both personal factors (length of adjustment, health and psychological conditions, personal and job skills, etc.) and external factors (paper issuance, services availability, labour market accessibility, etc.).

The provision of minimal standards of health care, and other forms of assistance necessary for a child's welfare, should be provided by the relevant authorities, under the supervision of the child's guardian, at all stages of the process. Upon a child's return to his or her place/country of origin, it is the responsibility of his/her guardian and the relevant authorities to devise and monitor an assistance plan for the child.



Sometimes victims might refuse certain offers of assistance or come back to a service provider at a later stage of their lives.

### **WHO:**

A range of governmental and non-governmental service providers through several professionals who should be specifically trained to work with trafficked persons and up-to-date as to (anti)trafficking-related issues:

- Shelter operators;
- Psychologists/Psychotherapists;
- Social workers;
- Educators;
- Cultural mediators;
- Lawyers, paralegals;
- Medical staff;
- Vocational counsellors;
- Labour inclusion tutors.

### **HOW:**

A multi-disciplinary and multi-agency approach should be adopted to support the assisted person at all stages of the implementation of the IAP. The following principles<sup>37</sup> should be employed by all service providers to ensure high quality assistance and avoid any risk of re-victimisation:

- Be non-discriminatory as to nationality, gender, legal status, age;
- Be non-judgemental with regard to the assisted person's former experiences and current choices and behaviours;

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<sup>37</sup> For the full description of the principles, see Experts Group, *op. cit.*, pp. 178-181.

- Be confidential and not use and/or transfer any information on the assisted person without his/her consent;
- Respect any decision taken by the assisted person on a fully informed basis;
- Clearly define and respect expectations and obligations;
- Clearly define and respect roles;
- Promote and support the self-actualization and empowerment of the assisted person.

**Practice “Reintegration”:** In 2008, Albania implemented a pilot project establishing Child Protection Units at the municipal level. Child protection consists of a series of interdisciplinary measures taken to guarantee protection and development of the child and the Child Protection Unit is responsible for: a) identification of abused, neglected, exploited and trafficked children and children at risk; b) protection and case management for identified and referred children; offering direct services and coordinating protection actions in the best interest of the child; c) promotion and raising awareness of the community and stakeholders of the society on child rights and child protection.

#### Transnational cooperation

In case of a foreign victim, for the fulfilment of certain requirements related to some activities of the IAP, the case manager of the assisting agency of the residence place/country should contact the competent authorities or NGOs or IOs of the place/country of origin for the transfer of some documents (e.g. school certificates, etc.). For this purpose, the case manager in the destination country should establish and stay in close coordination with the authorities in the country of origin.

The country of origin should also inform the country of destination about the developments of the implementation of the IAP at least for one year after the victim was returned to the home country.

Team meetings and multi-agency meetings should be regularly held to monitor the implementation of the IAP, to identify and address new needs, to check and update the risk assessment plan. The results of all assessments should be communicated and discussed with the assisted person.

It is important for individuals in the support programme to have the means and opportunity to report concerns encountered or report dissatisfaction

with the services or the individuals involved in providing services. Complaint procedures should be developed and should incorporate the option of lodging a complaint anonymously, verbally, and in writing.

## Measure 4: Legal Support and Assistance

### WHAT:

It is the provision of professional legal support and assistance to the assisted person:

- To face questioning and interviews with law enforcement agencies and the judiciary;
- To apply for the discharge of the crimes committed as a result of being trafficked;
- To prepare the trial where she/he will act as a witness ➔ **SOPs: Preparing the Victim-Witness before the Trial;**
- To take part in the trial as a witness ➔ **SOPs: Victim-Witness Support during the Trial;**
- To claim compensation for the loss or harm caused by the perpetrator(s) ➔ **SOPs: Support for Compensation Claims;**
- To apply for temporary or permanent residence permit;
- To apply for asylum;
- To apply for the withdrawal of expulsion order(s);
- To discharge possible debts (loans, health insurance);
- To give updated information of any legal procedure in place;
- Other.

### WHEN:

During the longer-term assistance in the country of destination or after the return in the place/country of origin or in a third country.

### WHO:

 Lawyers, paralegals and, in case of a foreign person, an interpreter or a cultural mediator. In case of a child victim, the guardian should also be present at the different stages of legal support and assistance.

State authorities/persons designated under national laws will be involved in the above-mentioned procedures.

### HOW:

Legal procedures and systems vary according to domestic law of the hosting or third country. In any case, the professionals involved should:

- Provide accurate information orally and (if feasible) in writing in a language that the victim understands;
- Employ a professional and supportive manner;
- Be confidential and not use and/or transfer any information on the assisted person without his/her consent;
- Helping to re-orient and assess the available options;
- Respect any decision taken by the assisted person on a fully informed basis;
- Make sure the assisted person has understood the procedures and the related consequences;
- In the case of a child victim, in a sensible manner and with a language appropriate to the developmental abilities of the child.

Team meetings should be held to assess the legal situation of the assisted person and, in case of bottlenecks, to identify possible solutions.

#### Transnational cooperation

In case of a foreign victim with no identification papers, the case manager and the lawyer of the assisting agency have to contact the embassy or the consular offices of the country of origin in order to verify the identity and citizenship of the trafficked person and apply for the issuance of identity documents or any other paper required for the application of a given procedure.

The embassies and consulates should not be contacted if the victim has expressed a wish to apply for asylum or during pending asylum procedures.

## IV. SOP 4: Return

RETURN	<b>Measure 1</b>	<b>INFORMED DECISION TO RETURN</b> Step 1. Providing the trafficked person with relevant information on legal and social aspects of return Step 2. Obtaining written consent on voluntary and informed decision of the trafficked person to return
	↓	
	<b>Measure 2</b>	<b>RISK AND SOCIAL INCLUSION ASSESSMENT</b> Step 1. Inquiring on trafficked person's perception on risks and security Step 2. Conducting risk assessment/questions with various individuals/organizations
RETURN	↓	
	<b>Measure 3</b>	<b>RISK MANAGEMENT PLAN</b> Step 1. Outlining the possible risk and security scenarios and possible solutions Step 2. Informing the trafficked person on potential risks and available measures for protection
	↓	
	<b>Measure 4</b>	<b>FAMILY TRACING</b> Step 1. Identifying the relevant NGO/IO networks or competent government authorities Step 2. Initiating tracing process
	↓	
	<b>Measure 5</b>	<b>DOCUMENTATION</b> Step 1. Contacting relevant embassies/consulates to facilitate voluntary return Step 2. Ensuring accuracy of the travel documents Step 3. Ensuring the confidentiality and restricted access to the trafficked person's file
	↓	

<b>Measure 6</b>	<p><b>INFORMATION SHARING BETWEEN THE RECEIVING AND REFERRING ORGANISATION AND WITH THE ASSISTED PERSON</b></p> <p>Step 1. Informing the trafficked person of the risk &amp; security and social inclusion assessment outcome  Step 2. Contacting the service provider in the country of origin to exchange information and coordinate the return process;  Step 3. Informing the trafficked person on identity status; travel/transfer process; available assistance in the country of origin and reintegration plan  Step 4. Obtaining confirmation that the trafficked person will be received and assisted</p>
↓	
<b>Measure 7</b>	<p><b>SAFE TRANSPORT/TRANSFER AND ARRIVAL ASSISTANCE</b></p> <p>Step 1. Providing the trafficked person with necessary travel documents/items/information  Step 2. Ensuring the accompanied transfer of the minors  Step 3. Ensuring that the trafficked person is received/met by the service provider at the border/airport/harbour of the country of origin  Step 4. Providing preliminary orientation and assistance to the trafficked person  Step 5. Confirming/obtaining confirmation on the safe arrival of the trafficked person</p>

## Measure 1: Informed Decision to Return

### WHAT:



It is the decision freely made by the assisted trafficked person once she/he has been fully given detailed information on the options and risks related to remaining in the place/country of destination, returning home or being resettled. In the case of a child victim, the child's wishes and the advice of his or her guardian should be taken into account, *but* the relevant authorities will ultimately take the final decision. The child should be fully informed and consulted at all stages and provided with appropriate counselling and support; also the child's views on return, resettlement and transfer should be taken into consideration, in accordance with their age and maturity.<sup>38</sup>

### WHEN:

Immediately after the assisted trafficked person expresses the wish to return to his/her place of origin or the assistance agency may consider the

<sup>38</sup> Separated Children in Europe Programme (SCEP), Statement of Good Practice, 4th Edition, Forthcoming

return or the resettlement in a third country as the best viable option for the person. This can happen at any time of the assistance process (between initial referral and longer assistance period).

## WHO:

The case manager and, in case of a foreign trafficked person, also the interpreter or the cultural mediator.

## HOW:

The case manager will provide the assisted person with at least the hereinafter-listed information. The latter should be given both orally and in writing and, in the case of a foreign trafficked person, in a language that she/he can understand.

<b>INFORMATION PROVISION</b>	
<b>To stay in the place/country of destination</b>	<b>Details/Examples</b>
<p><i>FOR nationals and foreign trafficked persons:</i></p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Possibilities for accommodation (shelter, apartment, flat sharing...)</li> <li><input checked="" type="checkbox"/> Information on social services available</li> <li><input checked="" type="checkbox"/> Possibilities for psycho-social assistance</li> <li><input checked="" type="checkbox"/> Possibilities for medical assistance</li> <li><input checked="" type="checkbox"/> Possibilities for further education</li> <li><input checked="" type="checkbox"/> Possibilities for vocational training</li> <li><input checked="" type="checkbox"/> Information on labour market situation</li> <li><input checked="" type="checkbox"/> Transfer when needed</li> <li><input checked="" type="checkbox"/> Legal procedures to obtain redress</li> </ul> <p><i>Additional information FOR foreign trafficked persons:</i></p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Residence permit</li> <li><input checked="" type="checkbox"/> Work permit</li> <li><input checked="" type="checkbox"/> Possibilities to obtain citizenship</li> <li><input checked="" type="checkbox"/> Family reunification</li> <li><input checked="" type="checkbox"/> Possibilities for language courses</li> </ul>	<p>List of services Rules Details of contact persons for further information</p> <p>Funding possibilities</p> <p>Application procedures</p> <p>Details of contact persons for further information</p>
<b>To return to the place/country of origin</b>	
<p><i>FOR national and foreign trafficked persons:</i></p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Risk and social assessment procedure</li> <li><input checked="" type="checkbox"/> Risk management plan</li> <li><input checked="" type="checkbox"/> Documentation needed</li> <li><input checked="" type="checkbox"/> Family tracing option</li> </ul>	<p>List of services</p> <p>Details of contact persons for further</p>

<ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Pre-departure resettlement plan</li> <li><input checked="" type="checkbox"/> Travel procedures</li> <li><input checked="" type="checkbox"/> Possibilities for accommodation (shelter, apartment, flat sharing...)</li> <li><input checked="" type="checkbox"/> Information on social services available</li> <li><input checked="" type="checkbox"/> Possibilities for psycho-social assistance</li> <li><input checked="" type="checkbox"/> Possibilities for medical assistance</li> <li><input checked="" type="checkbox"/> Possibilities for further education</li> <li><input checked="" type="checkbox"/> Possibilities for vocational training</li> <li><input checked="" type="checkbox"/> Information on labour market situation</li> <li><input checked="" type="checkbox"/> Legal procedures to obtain redress</li> <li><input checked="" type="checkbox"/> Other</li> </ul>	<p>information</p> <p>Funding possibilities</p>
<b>To resettle in a third-country</b>	
<p>FOR <i>nationals and foreign trafficked persons</i>:</p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Residence permit</li> <li><input checked="" type="checkbox"/> Work permit</li> <li><input checked="" type="checkbox"/> Possibilities to obtain citizenship</li> <li><input checked="" type="checkbox"/> Family reunification</li> <li><input checked="" type="checkbox"/> Risk and social assessment procedure</li> <li><input checked="" type="checkbox"/> Risk management plan</li> <li><input checked="" type="checkbox"/> Documentation needed</li> <li><input checked="" type="checkbox"/> Pre-departure resettlement plan</li> <li><input checked="" type="checkbox"/> Travel procedures</li> <li><input checked="" type="checkbox"/> Possibilities for accommodation (shelter, apartment, flat sharing...)</li> <li><input checked="" type="checkbox"/> Information on social services available</li> <li><input checked="" type="checkbox"/> Possibilities for psycho-social assistance</li> <li><input checked="" type="checkbox"/> Possibilities for medical assistance</li> <li><input checked="" type="checkbox"/> Possibilities for further education</li> <li><input checked="" type="checkbox"/> Possibilities for vocational training</li> <li><input checked="" type="checkbox"/> Information on labour market situation</li> <li><input checked="" type="checkbox"/> Possibilities for language courses</li> <li><input checked="" type="checkbox"/> Other</li> </ul>	<p>Application procedures</p> <p>List of services</p> <p>Rules</p> <p>Details of contact persons for further information</p> <p>Funding possibilities</p>

After the provision of information, the assisted trafficked person should be given a sound time to make a decision. The decision should be documented and become part of the case file.

The pre-departure, travel and resettlement process should always ensure the safety of the trafficked person who should be given the opportunity to express whether, when and how to return home or settle in a third country.

**Good practice:** In Albania, the Additional Protocol of the Convention “On Protection of Individuals as Regards the Automatic Processing of Personal Data by the Monitoring Bodies and Cross-border Data Flow” is ratified, prescribing protection measures to be undertaken by monitoring bodies during the automatic processing of the personal data, as well as during their transmission beyond national frontiers.

Article 35 of the Constitution of the Republic of Albania, foresees that no one is obliged, except for cases prescribed by law, to make public his/her own personal data. Collection, utilization and publication of personal data is made with her/his consent, exception made for cases prescribed by law. Each and everyone enjoys the right to have access to data collected about herself/himself, exception made for cases prescribed by law, as well as to request correction or deletion of data which are untrue, incomplete or collected in violation of law.

## Measure 2: Risk and Social Inclusion Assessment

### WHAT:

It is an evaluation procedure to carefully assess the trafficked person's safety and well-being prior to his/her return home or resettlement in a third country. It is specifically aimed at:

- Identifying any imminent or future risks to his/her safety;
- Identifying any imminent or future risks to his/her significant others' safety;
- Evaluation of the social, cultural and economic conditions of the place to return or settle;
- Establishing the possibilities for the social inclusion in the home or in a third country.

### WHEN:

Immediately after the trafficked person decides to return home or settle in a third country.

In the case of children, such an assessment should begin immediately upon identification.

**WHO:**

The risk and social inclusion assessment to ensure a safe return or re/settlement is carried out by the case manager, the assisted person in close cooperation with the relevant institutions and actors of the country of origin and country of destination and/or third country:

- **Government authorities;**
- **National and/or local police (Europol or Interpol, if needed);**
- **Non-governmental service providers;**
- **International organisations;**
- **Child's guardian** (in case of a child victim).

In the case of a **child, cooperation between the relevant authorities of the receiving state and state of origin** will be governed by **national laws**. States will have established a **central authority** (usually the Ministry of Interior) to handle and expedite **exchanges of information** regarding the long-term solution for the child. Where decisions regarding jurisdiction and legal disposition are handled by court proceedings, courts shall follow the standard measures of judicial cooperation.

**HOW:**

By gathering information and data through file case review and interviews to different institutions and individuals (➡ **Who**).

The risk assessment should be done with due respect to the national data protection laws in order to ensure that personal data are recorded, stored and shared in line with the legislation.

<b>RISK AND SOCIAL INCLUSION FOR VOLUNTARY RETURN</b>	
<b>Suggested Questions</b>	<b>Notes</b>
<i>To trafficked person</i>	
1	<ul style="list-style-type: none"> <li>• How would you feel if you went home?</li> <li>• Where would you feel safe?</li> <li>• Has anyone threatened your family and/or friends?</li> <li>• Do the perpetrators know where you/your family live?</li> <li>• Are the perpetrators part of your family, friends, or close social groups?</li> <li>• What could be done to make you feel safe?</li> <li>• How will your family/friends react when you return home?</li> <li>• Do you want to go back to school, at work, university, etc.?</li> <li>• What is the worst that could happen when you return home?</li> </ul>

	<ul style="list-style-type: none"> <li>• How could you deal with this?</li> <li>• What could you do or what could be done to avoid this?</li> <li>• Are you aware that you can stay legally in this country? (Where applicable)</li> <li>• Do you think your medical condition can be treated sufficiently? (Where applicable)</li> </ul>	
<b>To law enforcement agencies</b>		
2	<ul style="list-style-type: none"> <li>• Have the perpetrators threatened the family or friends?</li> <li>• Are the perpetrator's acquaintances part of the family, friends, or social group?</li> <li>• Do the perpetrators know the person's place of residence?</li> <li>• Is the police in the place/country of origin capable and ready to protect the victim from possible reprisals or violence? (<i>in case of a foreign victim or a national from another area of the country</i>)</li> <li>• Have criminal charges been pressed against the perpetrator(s)?</li> <li>• Is it one perpetrator or is it an organised crime group?</li> <li>• What is the relation of the perpetrator(s) with the victim?</li> <li>• Can you provide police records and/or other information from third parties?</li> </ul>	
<b>To national anti-trafficking focal points, NGOs, IOs, diplomatic and consular missions</b>		
3	<ul style="list-style-type: none"> <li>• Would the trafficked person face the threat of criminal prosecution or civil sanctions for acts performed during the exploitation?</li> <li>• How are the infrastructure conditions?</li> <li>• Is the place of residence accessible?</li> <li>• Would the local police be capable to protect the trafficked person?</li> <li>• Would the trafficked person face stigmatization, marginalization and social isolation?</li> <li>• Would the trafficked person comply with the requirements to access the victim witness programme?</li> <li>• Would the trafficked person have access to the local social services?</li> <li>• Would the trafficked person have access to agencies providing accommodation?</li> <li>• Would the trafficked person have access to medical</li> </ul>	<div data-bbox="782 853 956 1156" style="border: 1px solid black; padding: 5px;"> <p><b>Transnational Cooperation</b></p> <p>If possible, the <b>two case managers</b> from <b>destination country and country of origin</b> should cooperate.</p> </div>

	<p>aid and treatment?</p> <ul style="list-style-type: none"> <li>• Would the trafficked person have access to psychological counselling?</li> <li>• Would the trafficked person have access to legal counselling and assistance?</li> <li>• Would the trafficked person be able to resume with professional training or education?</li> <li>• Would the trafficked person have access to permanent accommodation? How is the quality of this solution?</li> <li>• Would the trafficked person have the opportunity for long-term, independent financial security</li> <li>• Would the return to the family be possible?</li> <li>• How are the current family conditions (violence, etc.?)?</li> <li>• How are the current community conditions?</li> <li>• Is a civil unrest taking place?</li> </ul>	
<i>To the case manager and/or professionals of the assisting agencies</i>		<b>Notes</b>
<p>Collection and review of early and mid-term risk assessment reports and any other documentation that can contribute to assess the physical and psychological conditions of the assisted person and to evaluate the social, political, and economic conditions of the place to return or settle.</p>		

After the assessment, the trafficked person should immediately be informed about the final outcome.

A trafficked person should only return to the country of origin, based on his/her free will and if her/his security can be guaranteed. Otherwise, possibilities for a legal stay in the country of destination or resettlement in a third country should be foreseen.

In the case of a separated child the following assessments should be taken<sup>39</sup>:



- A careful assessment of whether it is safe to return the child to their home country or to the proposed transfer or resettlement country, taking into consideration risks of persecution, of being involved in armed conflicts, of violence and abuse, and of being exploited;
- A careful assessment is made of the family situation in the home country or proposed country of resettlement or transfer. It will be

<sup>39</sup> Separated Children in Europe Programme (SCEP), Statement of Good Practice, 4th Edition, Forthcoming

necessary to investigate the willingness and ability of the child's family (parents or other family members) to provide appropriate care;

- A careful assessment is undertaken concerning access to food, housing, health care, education, vocational training and employment opportunities in the country of origin or proposed country of resettlement or transfer;
- The child's parents, relatives or other adult caretaker agree to provide long-term care upon the child's arrival in the country of origin or country of resettlement or transfer;
- The family's views on the child's return, resettlement or transfer, should be investigated and taken into consideration;
- Prior to the return, resettlement or transfer, regular contact between the child and their family is facilitated;
- Mechanisms are in place to effectively monitor the ongoing wellbeing of the child.

### Measure 3: Risk Management Plan

#### WHAT:

It is a document designed to address the areas of risks identified through the risk assessment. The purpose of the plan is to minimize the risks and effectively manage them to ensure the protection of the assisted person, of his/her significant others and the staff that assist him/her.

#### WHEN:

It should be developed once the risk and social inclusion assessment has been completed.

Transnational  
cooperation

#### WHO:

The case manager in close cooperation with the trafficked person and the relevant institutions of the place/country of origin or third-country.

- **Government authorities;**
- **National and/or local police (Europol, if needed);**
- **Non-governmental service providers;**
- **International organisations;**
- **Child's guardian** (in case of a child victim).

#### HOW:

The risk management plan should include the identified risks specifying the related minimum level of security standards and the appropriate

procedures to ensure that each risk listed is reduced to a minimum and effectively managed<sup>40</sup> The plan should be treated confidentially.

The plan should be regularly reviewed and updated in the place/country of origin or in the third country once the trafficked person has been resettled.

The trafficked person should be fully informed about the potential risks and the measures that will be taken to protect her/him and his/her significant others.

**N.B. The principle of non-refoulement should be observed as much as possible, thus not returning a person to a country where a serious threat exists.**

## Measure 4: Family Tracing

### WHAT:

It is a procedure to trace the family in the case that the assisted person cannot reach them and wishes to establish a contact prior his/her return.



Residential care is the least preferred form of substitute care for any separated child because it fails to recreate the normal conditions in which children grow up and develop. Return to a child welfare institution in the country of origin or a third country should not take place unless it can be clearly demonstrated that this is in the child's best interests and ideally with the agreement of the separated child's parents or primary caretaker as part of an agreed and tangible plan to reunite the child with their family in a timely fashion. Parents or carers must prove their identity and guarantees must be secured that the child will be safe and protected.<sup>41</sup>

### WHEN:

Simultaneously with the risk assessment.

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<sup>40</sup> IOM, *op. cit.*, Geneva, 2007, p. 7.

<sup>41</sup> Separated Children in Europe Programme (SCEP), Statement of Good Practice, 4th Edition, Forthcoming

**WHO:**

The **case manager of the country of destination and a case manager from the country of origin** or a focal point from both places/countries in close cooperation with the **relevant actors (NGO/IO networks, government or competent national authorities, embassy or consulate...)**.

**HOW:**

Via conversations with the victim, phone contacts, e-mail contacts, third parties, police records, etc.

In case of a national trafficked person, the family tracing will be carried out by the case manager of the assisting agency in close cooperation with the relevant local and national actors that will use the same means as *supra*.

## Measure 5: Documentation

### WHAT:

Any identity or travel documents the trafficked person possesses. As the trafficked person may not possess any such documents, to allow him/her to return, it is necessary to facilitate the issuance of temporary travel and/or identity documents.

### WHEN:

The documents should be requested immediately after it becomes clear that the trafficked person is not in possession of any travel documents. The documents should be promptly issued and if possible not expensive.

**WHO:**

Case manager and relevant **embassy or consulate**.

**HOW:**

The **relevant embassies or consulates of the country of origin or of the third country in the destination country should be contacted** by the case manager to determine how the trafficked person return could be facilitated and the necessary documents be issued.

Embassies and consulates should, however, not be contacted if the victim has expressed a wish to apply for asylum or during pending asylum procedures.

If the travel documents cannot be obtained by the country of his/her nationality, the trafficked person may be given a temporary document by the national authorities of the hosting country.

The travel documents should not state that the person is a trafficked person or an irregular migrant since this might lead to criminal prosecution or administrative proceedings.

In case of a national trafficked person, the identity documents will be issued by the local or national competent authorities.

In order to ensure safety, it is best that the personal information of the victim be kept confidential and as few people as possible have access to it. Therefore, when communicating with anyone, including embassy or diplomatic personnel, caution should be taken to provide only the minimum amount of information required to obtain the necessary documents or assistance.

## **Measure 6: Information Sharing between the Receiving and Referring Organisation and with the Assisted Person**

### **WHAT:**

This refers to the exchange of information on the return process. In order to ensure that the trafficked person will be received and assisted by a service provider upon arrival, the service provider has to be contacted and a **constant and prompt flow of information between referring and receiving service delivery organizations** to coordinate the return process.

### **WHEN:**

Immediately after the completion of the risk assessment in order to ensure sufficient time for the receiving organization to prepare the receipt.

### **WHO:**

The case manager of the hosting place/country, the assisted person and the case manager of the organisation responsible for the return.

**HOW:**

In order to ensure a coordinated return process the following series of notifications between the referring and receiving organization are recommended<sup>42</sup>:

- Notification of a **request for assistance** by the referring organization;
- **Confirmation of request** for assistance by the receiving organization;
- **Long term assistance request** by the referring organization;
- **Long term assistance confirmation** by the receiving organization.

The **information provided by the referring organization to the receiving organization** should include:

- **Name** of the trafficked person;
- **Date of birth and place of residence** in the country of origin (if returning to country of origin);
- Any suspected or actual **medical condition or vulnerability** of the trafficked person;
- **Security and risk assessment**;
- Short outline of **assistance needs**;
- Recommendation and guidelines to serve in the development of the IAP;
- Estimated **date and time of departure**, if applicable;
- Other.

Based on this information, as well as on direct consultation with the referring organization, it is up to the **receiving organization to determine** whether or not the referred person is **eligible for assistance** and if assistance can be provided.

➔ **The confirmation message should include:**

- **Name** of the trafficked person;
- **Date of birth and place of residence** in the country of origin (if returning to country of origin);
- **Confirmation** that the trafficked person qualifies or does not qualify for **long term assistance**;
- If the trafficked person qualifies, outline shortly which **kind of assistance** could be provided to ensure the development of a realistic IAP; if not, possibly provide contact details of other organizations that might provide other forms of assistance;
- A **request for any additional information**, if necessary.

In the case of a **child victim**, following the **official legal or administrative decision** to return the child to his or her country of origin, **exchange of information**, including matters covered in the 'confirmation message' should be **transferred to the guardians of the child in his or her country of origin and the destination state through official (i.e. governmental) channels only**. Such details should also contain **clear instructions regarding the transference of guardianship and care duties**.



<sup>42</sup> Adapted from IOM, *op. cit.*

It is crucial to share all gathered information with the trafficked person to ensure that his/her return is based on a fully informed consent. The return process should avoid any re-victimization and secure the social inclusion of the assisted person. Therefore, the trafficked person should be informed and discussed the following issues with his/her case manager:

<b>INFORMATION/ISSUES TO BE DISCUSSED</b>	<b>Notes</b>
<p>Outcome of the assessments as to:</p> <ul style="list-style-type: none"> <li>○ current and future risks</li> <li>○ security measures</li> <li>○ social inclusion possibilities</li> <li>○ current health conditions</li> </ul>	
<p>Status of identity and travel documents</p>	
<p>How the transfer from one country to the other will function:</p> <ul style="list-style-type: none"> <li>○ accompanied or not</li> <li>○ means of transportation</li> <li>○ access to food and beverages</li> <li>○ money related-issues</li> <li>○ assistance during the transit</li> <li>○ who shall receive him/her upon arrival</li> <li>○ how to recognize the representative of receiving organisation during transit and upon arrival</li> <li>○ Safety risks</li> </ul>	
<p>Information about the first days in place/country of origin:</p> <ul style="list-style-type: none"> <li>○ Rights and options as returning trafficked person</li> <li>○ Accommodation possibilities</li> <li>○ Assistance possibilities</li> <li>○ Contact details for appropriate organisations/institutions</li> <li>○ Security risks</li> </ul>	
<p>Pre-departure individual social inclusion plan</p>	

## Measure 7: Safe Transport/Transfer and Arrival Assistance

### WHAT:

It is the safe transport or the transfer of the trafficked person from the host location of the place/country of destination to the new identified location of the place/country of origin.

### WHEN:

After issuance of travel documents and tickets for a pre-determined date if all conditions for a safe return are granted.

### WHO:

Designated persons of the governmental, non-governmental or international organisations responsible for return. The national institution(s) responsible for return will vary depending on national legislation. The person responsible for transporting the victim should be informed in advance of any expected complications, existing health conditions, security risks.

### HOW:

Before his/her departure, the trafficked person should be provided with all necessary basic means for his/her return:

- Travel and/or identity documents;
- Travel ticket;
- Emergency phone numbers;
- Mobile phone with SIM card and charger;
- Information on how to recognize the person who will meet him/her during transit and/or upon arrival;
- Information on the meeting point(s) at the transit and/or arrival;
- Personal belongings;
- Map of town of arrival if it is unknown to him/her;
- Other.

The trafficked person should be safely accompanied to the point of departure (e.g. airport, bus station, etc.) During check-in procedures at airports as well as in transit or at border crossings the trafficked person should be assisted. In some cases, due to serious safety reasons, the trafficked person might be escorted from the place of departure to the place of destination. Children should always be accompanied on their return. An adult responsible to the guardianship services and social



services of the receiving state must ensure that the child is accompanied to the point where he or she is transferred to the care of a guardian or the appointed representative of social services in his or her country of origin and that the receiving person possesses verifying documentations. During the journey the child should be properly accompanied by a person with whom they have a trusting relationship (e.g. a guardian or social worker).<sup>43</sup>

### Transnational cooperation

To ensure the safe return of a trafficked person, the timely **information flow between the sending and receiving organisations** as well as with possible **other organisations in transit or at border crossings** should be ensured. The following should be communicated:

- **Travel data** (means of travel, carrier's name, etc.), date and time of arrival at the final destination;
- Following the physical departure, **immediate confirmation** should be sent **to the receiving organization**. If any last minute changes in the schedule occurred, they should be highlighted;
- **Name(s) of escorts**, if applicable;
- **Confirmation that the victim will be met at the arrival point** and by whom, if applicable;
- **Confirmation that the victim arrived** and was met at the point of arrival and point(s) of transit.

### Success story

**Marina – a minor from Cahul, Moldova was trafficked to Ukraine at the age of 17. The trafficker promised Marina and her family a well-paid job in a hairdressing salon, but instead took away her documents after arrival in Ukraine and forced her to work as a maid at his own home. In 2007 after the trafficker was apprehended, Marina was released from the involuntary servitude by Ukrainian police and referred to IOM Kiev.**

**While Marina was undergoing medical and psychological treatment at the Rehabilitation Center in Kiev, IOM Kiev referred the case to IOM Moldova and asked support in confirming identity of the minor, family assessment and repatriation.**

**According to standard procedures of cooperation in the framework of NRS, IOM Moldova informed the NCU [National Coordination Unit] about the case of this minor. Taking into consideration that Marina**

<sup>43</sup> Separated Children in Europe Programme (SCEP), Statement of Good Practice, 4th Edition, Forthcoming

comes from Cahul region, NCU informed the coordinator of the Cahul CMT [Coordination Multidisciplinary Team] and asked for family assessment and all documents necessary for repatriation. The coordinator of Cahul CMT together with the mayor of the village and the local policeman conducted the family assessment and prepared all the necessary documents for the repatriation of the victim. After the completion of criminal proceedings in Ukraine, Marina was successfully repatriated to Moldova. She was escorted by an appointed guardian during her travel, and upon arrival in Chisinau, where she stayed overnight at the Rehabilitation Center, the social worker accompanied her to the home village.

To minimize the risk for the returning the trafficked person of being picked up by the traffickers, a service provider from the country of origin should be at the border/airport/harbour to receive the trafficked person.

The person receiving the trafficked person upon his/her arrival should introduce himself/herself, explain what is going to happen next. The trafficked person should also be asked if she/he has any urgent needs that must be met.

## V. SOP 5: Criminal and Civil Proceedings

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While taking part in criminal proceedings, the victim may need to be protected for possible retaliations and harm from perpetrators and related parties. The protection of a victim as a witness of a crime (i.e. trafficking and related crimes) requires tailor-made solutions to be implemented by the law enforcement agencies, prosecutors, judges and support agencies that must work in very close co-operation. A risk assessment is carried out to evaluate if the physical safety of victims (and of his/her significant others) is endangered and – when necessary – special resources are allocated to ensure his/her protection (and that of his/her significant others).



In the case of a child, all decisions regarding participation, assistance and cooperation with criminal and judicial proceedings shall be taken by the child's guardian in consultation with the child, and, where his or her family do not have custody of the child but retain parental rights, his or her family.

A victim of trafficking in human beings has a right to receive compensation from the trafficker(s) and exploiter(s) for the physical and psychological harm suffered and for not having being paid for their labour and services.

As stipulated in Article 27 of the Council of Europe Convention, “when investigating and prosecuting the crime of human trafficking, law enforcement agencies and the judiciary have to ensure that the offence concerned is not dependant upon the file lodged or accusation made by a victim, rather on complex and proactive investigation, involving different state actors and on gathering and presentation of diverse evidentiary material collected and presented during the trial.”<sup>44</sup>

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<sup>44</sup> Council of Europe Convention on Action against Trafficking in Human Beings, Warsaw, 16.V.2005, <http://conventions.coe.int/Treaty/EN/Treaties/Html/197.htm>

<b>CRIMINAL &amp; CIVIL PROCEEDINGS</b>	<b>Measure 1</b>	<p><b>EVIDENCE GATHERING</b></p> <p>Step 1. Informing the trafficked person regarding the rights/obligation in case of cooperation with the law enforcement agencies and/or participation in the trials</p> <p>Step 2. Consulting the case manager/service providers on psychological conditions of the trafficked person</p> <p>Step 3. If the trafficked person refuses to cooperate, ensure that the collection of evidence is not detrimental of his/her security.</p>
	↓	
	<b>Measure 2</b>	<p><b>PREPARING THE VICTIM-WITNESS BEFORE THE TRIAL</b></p> <p>Step 1. Providing information on victim's role in the criminal proceeding and timely updates on the case;</p> <p>Step 2. Providing guidance and advice regarding the trial process</p>
	↓	
	<b>Measure 3</b>	<p><b>VICTIM-WITNESS SUPPORT DURING THE TRIAL</b></p> <p>Step 1. Providing physical protection and privacy</p> <p>Step 2. Arranging all necessary measures for full protection (e.g. video testimony, closed door hearings, special waiting areas, interpretation...)</p>
↓		
<b>Measure 4</b>	<p><b>VICTIM-WITNESS SUPPORT AFTER THE TRIAL</b></p> <p>Step 1. Informing the victim about different risks/options related to return to the place/country of origin, to stay in the country of destination, to be resettled to a third country.</p>	
↓		
<b>Measure 5</b>	<p><b>SUPPORT FOR THE COMPENSATION CLAIMS</b></p> <p>Step 1. Informing the victim about his/her rights to compensation and related legal procedures</p> <p>Step 2. Providing free legal assistance during the legal procedures</p>	

## Measure 1: Evidence Gathering

### WHAT:

It is the act of collecting evidence for purposes of the police investigation and to present it in a legal proceeding to dis/prove a question under inquiry.

**WHEN:**

As promptly as possible as required by the national legal system. However, the safety and well-being of the victim should (must) be of paramount consideration and take precedence over the collection of evidence.

**WHO:**

Appropriately trained police officers, joined by a prosecutor, a lawyer and the case manager and/or the cultural mediator from a service provider. In the case of a child trafficked person, the guardian should be present at all stages of the process.

**HOW:**

Through proactive investigation (i.e. intelligence-led investigation) and reactive investigation (i.e. interviewing the victim).

The right of the victim to receive information should be observed. He/She should be informed at least about:

- Rights and responsibilities related to the evidence gathering interview;
- Rights and responsibilities if she/he provides the police with confidential information concerning the crime and perpetrators without acting as a witness;
- Rights and responsibilities if she/he provides the police with confidential information concerning the crime and perpetrators without acting as a witness;
- Rights and responsibilities if she/he decides to testify;
- Court procedures (e.g. no/contact with the perpetrator(s), closed/open door hearings...);
- Stages of a legal proceedings;
- Possibilities for claiming compensation for damage, loss, or injury suffered;
- Personal safety;
- Safety of her/his family or other persons close to the victim;
- Confidentiality and the risks of information disclosure;
- Other.

Prior to the interview, the case managers/service providers should be consulted on the psychological conditions of the trafficked person and on how to raise certain questions.

In case of a foreign trafficked person, neither the competent authorities of the country of origin nor the consular services shall be contacted to collect evidence if there is no written consent of the trafficked person and if his/her security could be jeopardized prior, during or after the trial.

**Transnational  
cooperation**

In case of a foreign trafficked person, if further information is needed but she/he returned home or has been resettled, an international liaison via SECI Centre, MARRI, EUROPOL and INTERPOL or bilateral liaison officers should be sought<sup>45</sup>. Also, existing international/bilateral treaties envisaging mutual legal assistance in criminal matters should be taken into account.

## Measure 2: Preparing the Victim-Witness before the Trial

### WHAT:

It is the procedure to ensure that the trafficked person who is acting as a witness in a criminal proceeding is fully aware of the following options:

- Attending the hearings;
- Having access to adequate interpretation;
- Giving new evidence and posing questions in court;
- Right not to respond to certain questions;
- Right to elaborate a compensation claim
- Having a close-door trial;
- Having an attorney.

The goal of the preparatory phase is to also ensure that the victim is:

- Fully aware of the value of the testimony for the proceedings and its possible consequences;
- Fully aware of the role of different persons involved in the legal proceeding;
- Fully aware of, where applicable, that all information provided may be subject to disclosure requirements;
- Fully aware of the court process;

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<sup>45</sup> For further information on international cooperation in criminal proceedings see: ICMPD, *Training Material for Judges and Prosecutors in EU Member States, Accession and Candidate Countries*, Vienna, 2006; ICMPD, *Anti-Trafficking Training Material for Frontline Law Enforcement Officers*, Vienna, 2006; ICMPD and UNDP, *Law Enforcement Manual to Combat Trafficking in Human Beings Unit*, Vienna, 2006.

- Provided with psychological support;
- Provided with safety measures.

## WHEN:

Prior to the trial.

## WHO:

Lawyer, case manager and interpreter or cultural mediator (in case of a foreign victim), a psychologist (when needed) of the assisting organisation. Generally, it is recommended to reduce as much as possible the number of people involved in the process.

### Transnational cooperation

In case of a foreign trafficked person that returned home, she/he is prepared in the country of origin or resettlement at the request of the public prosecutor or judge from the destination country, where the trial will take place.

The request is sent to the competent authorities in the country of residence through SECI, NGOs or IOs. Also, existing international/bilateral treaties envisaging mutual legal assistance in criminal matters should be taken into account.

**Practice “Social and Legal Assistance to Victims of Trafficking in Trial/Criminal Lawsuits”: In Moldova, the Centre for Prevention of Trafficking in Persons provides complex legal and social assistance to victims that have stated their willingness to testify against the traffickers. Such assistance is rendered from the point of identification of the trafficking victim, where the lawyer provides legal counselling regarding the case and the social worker identifies immediate and long-term needs and risks. The centre also provides further assistance such as referral to other organizations and emotional support.**

## WHERE:

In a comfortable setting in the assisting organisation’s premises and, partially, in some cases where the trial will take place.

## HOW:

The victim-witness will be provided orally and (to the extent feasible) in writing all necessary information to take part to the trial and a strategy for testimony will be developed. Where permitted, the victim-witness should be provided with a copy of his/her previous statements (if possible in a language he/she can understand).

**Good practice:** In Bosnia and Herzegovina the Law on Programme of Witness Protection and Law on Protection of Witnesses Under Threat and Vulnerable Witnesses defines activities of protection during the trial process. In case the VOT is a child, these laws are automatically implemented by the prosecutor-without need for prior determination of the victim –witness as vulnerable or under threat.

She/he might be taken to the court house before the trial date to familiarise with the building and the court room. If possible, the victim might sit in the witness box while the accompanying person will review how the court process will be conducted.

The victim-witness will be informed where to meet at the court house on the trial date.

**Practice: “Legal Aid to Victims of Trafficking”:** In Bosnia and Herzegovina the NGO *Vaša Prava* provides free legal aid for trafficking victims. Attorneys from *Vaša Prava* are available to domestic victims from the time they arrive at a shelter, even if they are not formally registered by the state, and arrange the residence permit procedures and asylum applications for foreign victims. If a victim chooses to testify, *Vaša Prava* represents the individual from the first statement until trial completion.

### Measure 3: Victim-Witness Support during the Trial

#### WHAT:

It is the provision of safety, psychological, and legal support to minimise the security risks and the risk of re-traumatisation the victim may face as a result of his/her participation to the legal proceeding. This will allow the victim to feel safe and give a meaningful statement.

#### WHEN:

During the trial.

#### WHO:

Police, prosecutor, legal representation, case manager and interpreter or cultural mediator (in case of a foreign victim) depending on national legislation.

#### HOW:

The support during the trial may be given through:

- Physical protection of the victim-witness;
- Testimony recording so that the victim-witness does not have to appear personally or at least will not be confronted with the perpetrator (e.g. video testimony, closed circuit television, use of screens, providing testimony in judicial chambers, written statement to be read during trial, closed hearing prior to the trial);
- Limited number of questionings;
- Escort of victims-witnesses to, in, and from the court;
- Avoidance of contact with the perpetrator, or the family (and to the extent possible also friends and other associates) of the perpetrator when entering the building (e.g. use of side entrance, separate waiting room, etc.);
- Provision of support persons to stand beside witness during testimony;
- Proper interpretation;
- Exclusion of the public from the court room;
- Protection of sensitive data (e.g. the personal history, name and photograph of the victim-witness) must be ensured.

### Transnational cooperation

If the trafficked person is requested to **travel from another country back to the country where the trial takes place, safe transportation** has to be ensured and the relevant authorities of the countries must be involved.

**If the victim may face high safety risks**, where possible, video-conferencing, telephone or video testimony or testimony given in writing and read during the trial should be considered. Also, existing international/bilateral treaties envisaging mutual legal assistance in criminal matters should be taken into account.



Regulations and systems for the participation of children in criminal investigations, judicial proceedings and other legal proceedings vary between countries: However, all countries have developed specialised measures to protect the interests and rights of children in such matters, whether they are involved as victims or witnesses.

**Practice “Victim Witness Coordinator”:** In Romania a Victim Witness Coordination Programme ensures that all necessary measures before, during and after the trial take place. The mandate of the Victim Witness Coordinator is to maintain permanent contact with the victim, provide the victims with information regarding their rights and the specialized assistance services available, to be informed about all aspects regarding the criminal process and to

**inform the victims about the development of the case and to inform and prepare the victims on the various situations that might appear during the criminal proceedings. The services provided by the programme include initial assessment of the victim assistance needs by the special inspectors; referral to the specialized assistance service and provision of free legal assistance through specialized personnel.**

## **Measure 4: Victim-Witness Support after the Trial**

### **WHAT:**

It is the support provided to the victim once the legal proceeding is over. Depending on the wish expressed by the victim, the risk assessment performed, and the legal possibilities available, the victim-witness will:

- Stay in the country of destination; ➔ **see SOP Longer-Term Assistance and Social Inclusion**
- Return to the country of origin; ➔ **see SOP Return**
- Be resettled in a third country.

In order to ensure the safety of the trafficked person, additional security measures may have to be implemented after the trial.

### **WHEN:**

After the trial and, as far as the safety measures are concerned, as long as the safety of the victim is at risk.

### **WHO:**

Actors of relevant organisations involved in the service provision identified and, in case of safety measures, police in close cooperation with the service providers.

### **HOW:**

Depending on the support measures chosen, see the “How section” of the related SOPs ➔ **SOPs Longer-Term Assistance and Social Inclusion; ➔ SOPs Return**

In case it is necessary to take additional safety measures to protect the victim, a new risk assessment should be promptly performed and the risk management plan revised. The victim should give her/his written consent for the plan implementation and should be timely informed about any change that occur (e.g. release of the perpetrator from the prison).

## Measure 5: Support for Compensation Claims

### WHAT:

It is the procedure to support the victim in obtaining damage compensation from for the physical and mental harm caused and/or for not being paid for labour services rendered the perpetrator(s).

The decision on compensation shall not be contingent upon the sentence handed down on the perpetrator(s) and it can be rendered in civil but preferably in the criminal court procedures.

### WHEN:

Depending on the national legislation of the country of the trafficked person, the national legislation of the country of the perpetrator, and the national legislation of the country where the crime was committed, in the cases in which these ones differ. Even during the first contact with the relevant authorities the victim should be informed on relevant judicial and administrative proceedings, as outlined in Article 15 of the CoE Convention<sup>46</sup>.

The trafficked person should be able to claim compensation, encouraged to do so during criminal proceedings, and is entitled to obtain a decision within reasonable time limits as per national legislation.

**Good practice: In Bosnia and Herzegovina the Criminal Code allows that the compensation claim be filled in within the criminal procedure and not raised separately through civil complaint procedures.**

### Transnational cooperation

The foreign victim can claim compensation even if they returned to the country of origin or resettled in a third country. In such a case, the support for the compensation claim should be arranged as well through the international liaison mechanisms available.

### WHO:

The claim shall be submitted by the trafficked person to the competent court, or administrative authority while the legal support shall be provided by the legal counsellor.

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<sup>46</sup> Council of Europe Convention on Action against Trafficking in Human Beings, Warsaw, 16.V.2005, <http://conventions.coe.int/Treaty/EN/Treaties/Html/197.htm>

## HOW:

The support is provided by:

- Informing the victim on his/her rights to compensation and about the necessary court procedures to follow;
- Ensuring free legal assistance during the procedures.

Apart from the effective compensation mechanism for the affected individual victim, formation of the state funds, which are originating from the traffickers' assets, seized in the relevant procedure, for general support of the victims of crime of human trafficking should be encouraged.

**Practice “Compensation claim”:** In Macedonia in a case of good cooperation between the victim and the police and judicial authorities, compensation of the victim was achieved by way of filing a claim for compensation in the criminal procedure. For the sake of protection of the claim for compensation in the criminal procedure, the court determined temporary measures for securing the claim for compensation that resulted from the perpetration of the criminal offence. The court awarded compensation for non-material damage in the amount of 216,666.00 MKD per accused.

## Part D: List of TRM Contacts

The contact lists are a crucial part of the TRM and should be updated regularly in order to ensure smooth transnational communication. This list of contacts is accurate and updated at the time of publication of the TRM Guidelines (September 2009).

<b>Albania</b>		
<b>TRM Measures</b>	<b>Responsible Body</b>	<b>Contact Details</b>
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Return	Chief; Readmission Sector- Border and Migration Directorate; Ministry of Interior; Tirana	Mr. Ylli Kumrija Tel:+ 355 4 2279 251 Fax:+ 355 4 2279 263 Mob:+ 355 69 41 02357 E-mail: <a href="mailto:kumrijay@mrp.gov.al">kumrijay@mrp.gov.al</a>
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State Social Services (Ms. Marjana Hamiti); <b>Durrës</b>	+ 355 52 26096	+ 355 69 37 98 602	
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<b>Bosnia and Herzegovina</b>		
<b>TRM Measures</b>	<b>Responsible Body</b>	<b>Contact Details</b>
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<p>Criminal Proceedings and Compensation Claims</p>	<p>Anti Trafficking police Unit; Ministry of Interior; Pristina</p> <p>State Public Prosecutor Office; Pristina</p> <p>Supreme Court; Pristina</p>	<p>Mr. Ramadan Ahmeti Lieutenant, KPS /Chief of THB Tel:+377 44 506 097 E-mail:<a href="mailto:shtqnj@gmail.com">shtqnj@gmail.com</a></p> <p>Mr. Besim Kelmendi Tel:+38138248018 E-mail: <a href="mailto:besim_kelmendi@yahoo.com">besim_kelmendi@yahoo.com</a></p> <p>Mr. Fejzullah Hasani <a href="tel:+38138243345/+38138243346">Tel:+38138243345/+38138243346</a></p>

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<p>Return</p>	<p>Sector for Trafficking in Human Beings and Illegal Migration; Ministry of Internal affairs; Skopje</p> <p>Sector for Border Affairs; Ministry of Internal Affairs; Skopje</p> <p>Transit Centre; Skopje</p>	<p>Mr. Sande Kitanov Head of the Sector Address: Dimce Mircev bb, 1000 Skopje Tel: +389 2 3116280 Fax: +389 2 3142201 Mob: +38970323497 E-mail: <a href="mailto:sande_kitanov@moi.gov.mk">sande_kitanov@moi.gov.mk</a></p> <p>Mr. Jovance Asprovski Address: Dimce Mircev bb, 1000 Skopje Tel: +389 2 3238034 Fax:+389 2 3143335 Mob:+38970364370 E-mail: <a href="mailto:jovance_asprovski@moi.gov.mk">jovance_asprovski@moi.gov.mk</a></p> <p>Mr. Pero Sareski Tel/fax:+389 2 3142613 Mob: ++38970276022</p>

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<p>Criminal proceedings</p>	<p>Public Prosecution; Department for prosecution of perpetrators for criminal acts concerning Organized Crime and Corruption; Skopje</p> <p>Department for Protection of Witnesses; Ministry of Internal Affairs; Skopje</p>	<p>Mr. Petar Anevski Tel: +389 2 3219850 Fax:++389 2 3219866 Mob:+38970367386 E-mail: <a href="mailto:petar_anevski@yahoo.com">petar_anevski@yahoo.com</a></p> <p>Mr. Ljupco Fidanovski Tel: +389 2 3225765 Fax: +389 2 3142277 Mob: +38970330347 E-mail: <a href="mailto:ljupco_fidanovski@moi.gov.mk">ljupco_fidanovski@moi.gov.mk</a></p>

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<sup>47</sup> If falling under the provisions of relevant national laws and/or international treaties on bilateral/mutual legal assistance in criminal matters

# Part E: Annexes

## Annex 1: The Child's Guardian<sup>48</sup>

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### Appointment process

As soon as a child victim is identified, a guardian shall be appointed by a competent authority to accompany the child throughout the entire process until a durable solution that is in his or her best interests has been identified and implemented<sup>49</sup>.

If the trafficked child is not unaccompanied, care should be taken to assess whether his or her current guardian is indeed suitable to ensure the child's best interests are fully represented. If the existing guardian cannot represent the child's best interests, another guardian shall be appointed.

States shall define the competent authority in charge of appointing the guardian (guardianship service), the legal status of the guardianship (legal guardian, temporary guardian, adviser/representative, social worker or NGO worker), and all the necessary protocols and procedures.

In appointing the guardian, the competent authority shall take into consideration whether the child is unaccompanied, separated, or with his or her parents. Agencies or individuals whose interests could conflict with those of the child, or any individual or institution who is accused of or

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<sup>48</sup> Unicef, Guidelines on the Protection of Child Victims of Trafficking, New York, 2006, pp. 16-17.

<sup>49</sup> CRC General Comment 06 c.21, c.33; Council of Europe Convention art. 10. The appointment of a guardian may be perceived as a challenging task in many developing countries due to administrative and financial constraints. Viable solutions at the local level may be explored.

complicit in the trafficking of the child, cannot be eligible for guardianship<sup>50</sup>

In appointing the guardian, the competent authority shall give due weight to the child's views and shall keep the child informed<sup>51</sup>.

The guardianship service will be held accountable for the acts of the appointed guardian. Review mechanisms shall be put in place to monitor the quality of the exercise of guardianship in order to ensure the best interests of the child are being represented throughout the decision-making process and, in particular, to prevent abuse<sup>52</sup>.

The State shall ensure that the guardianship service is empowered to take any action that is in the best interests of the child victim<sup>53</sup>.

All law enforcement personnel involved and any other relevant official services or NGOs shall be informed of the contact details of the guardianship service<sup>54</sup>.

Individuals appointed as guardians must have relevant child protection experience, knowledge of child rights/human rights and an understanding of the specific needs of child victims, including those specific to gender.

Guardians shall be given specialized training, professional support and appropriate assistance in the performance of their responsibilities<sup>55</sup>.

In large-scale emergencies, where it will be difficult to establish guardianship arrangements on an individual basis, the rights and best interests of separated children should be safeguarded and promoted by States and organizations working on behalf of these children<sup>56</sup>.

Such guardianship shall be maintained until the child has reached the age of majority, or has permanently left the territory and/or jurisdiction of the State<sup>57</sup>, or is returned to his or her parents or legal guardian within the

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<sup>50</sup> CRC General Comment 06 c.33, c.37, c.55.

<sup>51</sup> CRC General Comment 06 c.25: CRC art. 12.

<sup>52</sup> CRC General Comment 06 c.35.

<sup>53</sup> CRC art. 18.

<sup>54</sup> SEE Guidelines art. 3.3.3.

<sup>55</sup> CRC art. 18; Council of Europe Convention art. 29; CRC General Comment 06 c.95.

<sup>56</sup> CRC General Comment 06 c.38; Interagency Guidelines p. 47.

<sup>57</sup> It will be important to plan the transitioning to new guardian if children are sent to another country, in order to enhance cooperation and coordination during the process.

territory of the State<sup>58</sup>. Whenever possible, guardians should be the same gender of the child victim and the same person shall accompany the child victim as guardian throughout the entire process.

## Responsibilities of the guardian

Regardless of the legal status of the individual appointed as the guardian, their responsibilities shall include<sup>59</sup>:

1. To ensure that all decisions taken are in the child's best interests;
2. To ensure that the child has appropriate care, accommodation, health care provisions, psycho-social support, education and language support;
3. To ensure that the child has access to legal and other representation where necessary;
4. To consult with, advise and keep the child victim informed of his or her rights;
5. To contribute to the identification of a durable solution in the child's best interests;
6. To keep the child informed of all the proceedings;
7. To establish and maintain a link between the child and the various organizations which may provide services to the child;
8. To assist the child in family tracing;
9. To ensure that if repatriation or family reunification is possible, it is done in the best interests of the child;
10. To ensure the relevant paperwork is completed.

The guardian shall have the right to refuse the child to give testimony in criminal and civil (judicial) proceedings if this is in the best interests of the child<sup>60</sup>.

The guardian shall help the child throughout the law enforcement procedures. If the guardian feels at any time during police interviews that the child should have the benefit of legal counsel, he or she shall have the right and responsibility, to inform the police of the need to terminate the interview until legal counsel may be present<sup>61</sup>.

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<sup>58</sup> CRC General Comment 06 c.33.

<sup>59</sup> CRC art. 20; CRC General Comment 06 c.25, c.28.

<sup>60</sup> SEE Guidelines art. 3.2.2.

<sup>61</sup> *Ibid.*

In cases where children are involved in asylum procedures or administrative or judicial proceedings, they shall, in addition to the appointment of a guardian, be provided with legal representation<sup>62</sup>.

Until a durable solution has been found for the child's future, the child shall remain under the responsibility of the appointed guardian.

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<sup>62</sup> CRC General Comment 06 c.36; Inter-agency Guidelines p. 47.

## Annex 2: The Cultural Mediator

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The cultural-linguistic mediator<sup>63</sup> does a job that facilitates the placement of foreign citizens into the hosting social context.

The cultural-linguistic mediator<sup>64</sup> works within services, structures, bodies, institutions, public offices, schools, police stations and courts, respecting neutrality, professional secrecy and equidistance between institution and user.

The role of the mediator is an auxiliary role alongside people performing jobs that have already been consolidated and legitimated socially and institutionally (educator, teacher, social worker, etc.). The mediator is a professional who functions as an intermediary between the needs of migrants and the response of public services.

The mediator is generally called upon to intervene at the first symptoms of conflict to reduce the risk that these generate particularly negative and/or violent actions.

When circumstances allow, she/he takes preventive action by serving as a go-between who encourages and facilitates the relationship between people who belong to different cultures. By acting before conflicts appear, she/he prevents social selection mechanisms from discriminating simply on the basis of ethnicity.

Mediation may require highly differentiated measures, techniques and ways of getting involved: listening, company, support, guidance, information, translation and consultancy on aspects of cultural belonging.

The **main tasks** of a cultural mediator may be summarized as follows. He or she:

- Enables and ensures correct communication and mutual understanding between service operators (social services, medical staff, teachers, etc.) and foreign users;

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<sup>63</sup> As used in the Transnational Referral Mechanism for Victims of Trafficking (TRM-EU): Guidelines (forthcoming in 2010). In this context, the terms “cultural-linguistic mediator and “cultural mediator” are used as synonyms.

<sup>64</sup> Adapted from a documented developed by the International Training Centre of the International Labour Organization and the Italian Government (Turin), see: [training.itcilo.it/esf/tantetinte/docs/Cultural\\_mediator.doc](http://training.itcilo.it/esf/tantetinte/docs/Cultural_mediator.doc)

- Deals with the reception given to foreign users;
- Guides foreign users and informs them about other locally available services;
- Accompanies foreign users to local services;
- Sees to the translation of information material and documents;
- Helps with the writing of information material by handling aspects specific to the culture of ethnic minorities;
- Undertakes cultural interpretation (providing consultancy on cultural assumptions and stereotypes);
- Explains to foreign users the roles and competences of the staff who work for the local/national body or service;
- Makes suggestions to services on planning their activities with the specific needs of foreign users in mind.

A desirable set of **skills needed** for the role of cultural-linguistic mediator is as follows. He or she:

1. Has an excellent oral and written command of his/her mother tongue, together with a good command of the local language;
2. Is well informed about locally available services and opportunities;
3. Has good listening and communication skills;
4. Can render explicit what is often said implicitly;
5. Knows the customs, habits and specific features of both cultures;
6. Knows the institutional and regulatory framework governing health care, the school system, the training system, and access to the job market in the hosting country;
7. Is emotionally neutral;
8. Knows how to keep an equal distance between institution and user, without imposing or taking sides;
9. Knows how to handle micro-conflicts;
10. Knows how to encourage and enhance the factors that make for social inclusion by facilitating immigrants' access to the world of work, the education system, and public and private care;
11. Has the ability to endow each mediation action with a meaning that goes beyond the resolution of an individual problem or conflict to form part of a project of socio-cultural development for both the migrant and the host community;
12. Follows a method and an action model based both on professional competence, and hence on the acquisition of knowledge and

techniques, and on reference to a strategy of actions carried out in conjunction with other local services.

One professional skill is especially important, namely the ability to use feedback mechanisms to monitor the effects of measures taken.

The mediator must be able to compare him/herself with other mediators and with other mediation situations by periodically analysing the problems encountered and identifying new ways to provide support. It is therefore important for the mediator to be part of an associative context. This context (mediators' associations, groups or cooperatives) provides opportunities for comparison with other people doing the same work, together with access to consultants and experts regarding the most serious cases.

Three are the **main spheres of action** of a cultural-linguistic mediator.

The cultural mediator acts first at the individual level, through relationships that re-establish immigrants' identities and enhance respect for them. The mediator must make an unexpressed cry for help heard, and must seek shared areas of understanding between the parties.

The second sphere of action is at the organizational level, where the mediator mobilizes local public and private institutions and improves their ability to network, so that supply matches demand.

The third sphere of action is at the social level, where the mediator helps a welfare community to emerge, developing an education in rights not just in possession, together with a new social policy based on education in solidarity.

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This list of references is by no means exhaustive. The TRM Guidelines are based on a number of documents, procedures, regulations from SEE countries and a series of international documents. Here we only list the ones most relevant to the development of the Guidelines.

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# Guidelines for the Development of a Transnational Referral Mechanism for Trafficked Persons

## South-Eastern Europe

The Guidelines for the Development of a Transnational Referral Mechanism for Trafficked Persons: South-Eastern Europe (TRM Guidelines) have been elaborated in the framework of the *Programme to Support the Development of Transnational Referral Mechanisms (TRM) for Trafficked Persons in South-Eastern Europe (SEE)* implemented by the International Centre for Migration Policy Development (ICMPD) and financially supported by the United States Agency for International Development (USAID).

The fight against trafficking has been a recurring priority for the governments of SEE countries for a number of years. Efforts are well under way in terms of strengthening national multi-disciplinary, multi-agency, institutionalised and “locally owned” anti-trafficking coordination mechanisms such as national anti-trafficking strategies and action plans, as well as national systems for the referral, assistance to and protection of victims. Complementing and building upon these, the TRM Guidelines address the deficit regarding the transnational elements of comprehensive victim and victim witness assistance and protection schemes.

The TRM Guidelines are the “manual” in which five Standard Operating Procedures (SOPs) are incorporated. Each SOP includes several measures that give an answer to four questions: WHAT is to be done; WHEN is action to be taken; WHO should be involved and HOW should the action be executed. The Guidelines are a set of recommendations and practical measures that shall lead the participating countries through the necessary steps for the implementation of transnational referral mechanisms.