

**Support Tool for Service Providers on
Trafficking in Human Beings and
Standard Operating Procedures on Identification
and Referral of (potential) Victims of Trafficking**



MINISTERU GHALL-INTERN
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International Organization for Migration (IOM)

Ministry for Home Affairs and National Security - Statement

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LIST OF ACRONYMS

AG - Attorney General

AWAS - Agency for the Welfare of Asylum Seekers

CEA - Citizenship and Expatriate Affairs

CVU - Central Visa Unit

DIER - Department of Industrial and Employment Relations

ETC - Employment and Training Corporation

HT - Human Trafficking

IOM - International Organization for Migration

JRS - Jesuit Refugees Service

PTSD - Post traumatic stress disorder

SOPs - Standard Operating Procedures

THB - Trafficking in Human Beings

TIP - Trafficking in Persons

UNGIFT - United Nations Global Initiative to Fight Human Trafficking

UNTOC - United Nations Convention on Transnational Organized Crime

US - United States of America

VoTs - Victims of Trafficking

The definitions human trafficking, trafficking in human beings and trafficking in persons are used interchangeably in this support tool as they refer to the same phenomena.



INTRODUCTION

The aim of this support tool is to provide service providers in Malta with an easy and handy tool to facilitate their work in identifying, assisting and referring victims and/or potential victims of trafficking in human beings.

This support tool is part of a series of actions and assistance provided by the International Organization for Migration (IOM) through the LIMES “Launching Initiatives supporting Malta’s Efforts to Suppress trafficking” project to assist the Maltese government in its continuous efforts to counteract trafficking in persons, building on the already existing knowledge among national stakeholders about trafficking features in the country, and the ongoing efforts as outlined in the National Action Plan 2013-2014.

Among the initiatives and activities carried out within this project there are training activities on identification of victims of trafficking and helping relationship techniques, targeting the Maltese stakeholders involved in counteracting trafficking in persons; supporting the Maltese stakeholders in developing the Referral Mechanism; the development and analysis of a first draft of Standard Operating Procedures (SOPs) of the newly established Referral Mechanism in Malta and the production of the awareness raising campaign tools, such as the TV spots.







WHAT IS HUMAN TRAFFICKING?

DEFINITION AND ANALYSES

Providing a definition is not an easy task and this is a known issue by all experts on the topic, service providers and social workers and this will also emerge from this support too. The starting point has to be the definition of trafficking in persons given in the (at present) most important international document on this topic, the “Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children”, the so called “Palermo Protocol” to the United Nations Convention on Transnational Organized Crime (UNTOC), which Malta ratified on the 24th September 2003.

“Trafficking in persons” shall mean the **recruitment, transportation, transfer, harbouring or receipt of persons**, by means of the **threat or use of force of 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**.

Upon analysing the Palermo Protocol definition, one observes that the definition of trafficking entails three different phases:

- 1. The Action** - threats, force, coercion, abduction, fraud, deception;
- 2. The Means** - recruitment, transportation, transfer, harbouring or receipt of persons;
- 3. The Purpose** - 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.

If the victim of human trafficking is a **child** (under 18 years of age), it is a case of human trafficking even if “the action” referred to above (e.g. violence or threats) have **not** been used. Therefore, in the case of children (under age of 18) trafficking occurs even solely if “the means” and “the purpose” phases are fulfilled.

Thus, in the case of children there is no need for the action to be present to define the case as trafficking in human beings.



WHAT DOES NOT QUALIFY AS HUMAN TRAFFICKING?

Human trafficking is not migrant smuggling. Whilst human trafficking is exploitation-based, migrant smuggling is transportation-based.

Migrant smuggling, which is defined in the UNTOC “Protocol against the Smuggling of Migrants by Land, Sea and Air”, is the activity whereby a person is brought to Malta in contravention of the Immigration Act (Cap. 217 of the Laws of Malta). The smuggler is therefore involved in the unlawful transportation, or the facilitation of the unlawful transportation of migrants from another State to Malta. Alternatively, a migrant smuggler may facilitate the unlawful transportation of a migrant from Malta to another State. Therefore, the smuggler facilitates irregular migration, and his or her relationship with the smuggled person is based on the payment of a fee by the smuggled person in return for the aforementioned unlawful transportation.

What does this mean?

As seen in the previous paragraph, the definition of trafficking consists of three key elements: action, means and purpose. Upon analyzing these three elements a **distinction can be made between trafficking and smuggling.**

Smuggling is an organized illegal border crossing; regarding the action, it does not have elements of distortion of the free will of the person that we see in trafficking. The purpose of trafficking in human beings is the financial or in kind profit through exploitation while the purpose of smuggling is the financial or material benefit from the illegal border crossing.

Another difference between trafficking and smuggling is that for the latter to happen there has to be a border crossing. **Trafficking can be also internal that is, it can happen within the same country.**

	TRAFFICKING	SMUGGLING ¹
Financial Gain	Exploitation of victims	Facilitate Border - Crossing for migrants
Agreement	The victim agrees to travel on the basis of false information	Full Information
Relationship Status	The relationship continues in the country of destination <i>(trafficker - victim)</i>	The relationship end once the border is crossed <i>(smuggler - client)</i>
Border Crossing	Not Necessarily	Necessary
Legal Status in Destination Country	Not Necessarily irregular at entry	Irregular at entry

¹ Smuggling differs from irregular migration such that in the latter there is no need for a smuggler—a person can enter a country irregularly by him/herself.



WHAT IS THE LINK BETWEEN TRAFFICKING AND SMUGGLING?

Trafficking in persons and smuggling are two different phenomena as we have seen. It is important to stress that there is not a defined and fixed link. The two phenomena are often interlinked even if a common pattern cannot be identified. In certain situations a particular case may initiate as a smuggling case progress to a case of trafficking. By way of example, a migrant may choose to leave his/her country by relying on smugglers and might later find him/herself being a victim of trafficking by being kidnapped for ransom or organ removal.

MYTHS ABOUT HUMAN TRAFFICKING

- **All victims are abducted.** This is false; some of the victims follow the traffickers willingly as they might be initially deceived and realize only become aware of the situation at a later stage. For example, a young woman might know that she will be working in the sex industry once she arrives at the destination and agrees but then realizes the actual terms and conditions she then finds herself in are much worse. A person might believe that she/he will be working as a domestic worker and agrees to this. However, when they arrive at their place of destination, they find themselves in a situation where the terms and conditions imposed upon them are far from what they would have agreed upon.
- **Only undereducated people are trafficked.** This is false as well; victims of trafficking are not necessarily persons with a low level of education or no education at all. The deceiving component should not be underestimated.
- **Those who migrate legally are not victims of trafficking.** This is false, a victim of trafficking might have entered a country regularly (e.g. student visa, tourist visa, working visa, artist visa, dancer visa). A victim of trafficking may have legal status or might have it at the beginning and then lose it at a later stage.
- **Trafficking is always for sexual exploitation.** This is also false. As the definition of trafficking mentions, the purpose can be exploitation for forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.
- **All victims are children and women.** This is definitely not true; men and young boys are victims of trafficking too.



Responding to the challenge posed by such a complex phenomenon implies a comprehensive COUNTER TRAFFICKING STRATEGY and the involvement of many actors. The strategy is represented by an integrated approach based on the 4 “P”s of trafficking:

1. Prevention
2. Protection
3. Prosecution
4. Partnership

The aim of the 4P approach is to ensure capacity-building, direct assistance to victims of trafficking and raising awareness of the trafficking phenomena. “Partnership is an overarching element in this strategy, as actors have discovered that their work on prevention, prosecution and protection cannot be done single-handedly, and that it requires a range of national, international and non-governmental organizations to achieve success (UNGIFT)” .

Policy is also an element of importance in the fight against trafficking in human beings and it refers to the framework put in place by a country in order to help the authorities to prevent, protect and prosecute.

The figure below shows subpopulations and populations where victims of trafficking constitute subpopulations. The relative sizes of populations are hypothetical and likely to vary between regions .

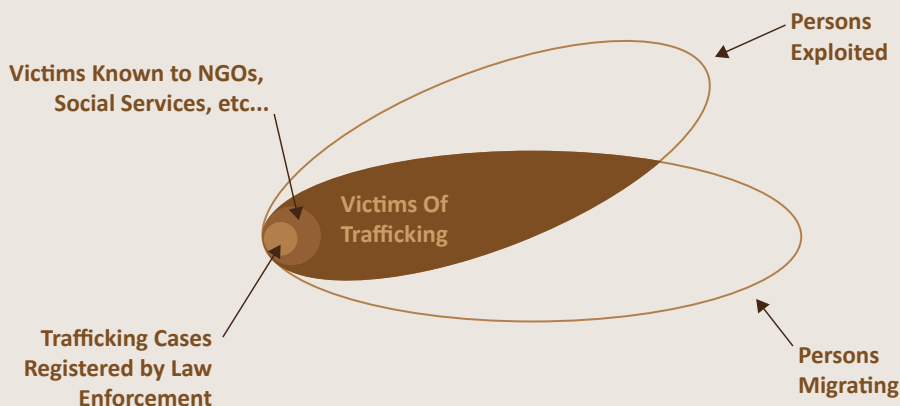


Figure from Tyldum and Brunovskis (2005) p. 23

² Evaluation of the Effectiveness of Measures for the Integration of Trafficked Persons, IOM, 2013, p. 16.

³ Ibidem.



CAUSES AND CONSEQUENCES OF HUMAN TRAFFICKING

The link between migration, whether internal or international, and trafficking is evident. The causes for migrating which lead an individual being a victim of trafficking can fundamentally be reduced to two main cases:

- Economic migration (personal/familial/country economic situation)
- Forced migration (escaping from war, civil war, persecution etc.)

Migration has consequences both for individuals and for states. Negative consequences are emotional disturbances, separation from family and culture, exploitation, social marginalization in the new country.

Migration has, at the same time, also some benefits such as remittances, personal development, security, lower labour costs, and overseas studies.

TRAFFICKING FOR THE PURPOSE OF SEXUAL EXPLOITATION

Victims of trafficking for sexual exploitation can both females and males of all ages. Students and job seekers may fall victim to human trafficking for sexual exploitation, as the traffickers would lure them into their trap with promises of better work or education opportunities abroad.

Traffickers usually intimidate and control their victims. Such control may be exercised by physically restraining the victim or by resorting to psychological restraint, such as threatening to harm family members in the country of origin or through debt bondage.

It should also be noted that a person may knowingly decide to work in the sex industry, including prostitution, but consequently be forced to continue providing sex-services or prostitution. In such cases, the exploiter would still be regarded as a human trafficker at law and the affected individual as a victim of human trafficking.





TRAFFICKING FOR FORCED LABOUR/LABOUR EXPLOITATION

A person may be 'assisted' by a human trafficker to travel to another country (including by legal means) in order to take up employment there. The victim would be assigned a particular job, usually underpaid, and told to pay back the trafficker for having 'assisted' with the travel arrangements and/or any other matter. This often brings about a situation of debt-bondage, particularly as a high interest rate would often have to be paid.

Such victims would typically be employed by the trafficker or a close associate, and may be controlled by several means, including physical segregation. There may be instances where such victims would have no knowledge of the language of the host country, thereby further increasing their vulnerability through inability to communicate. Such victims may also be living and working in sub-standard conditions, further to working excessively long hours.

OTHER FORMS OF HUMAN TRAFFICKING

Other forms of human trafficking have been encountered in Europe and elsewhere, including the trafficking of children for the purpose of conducting petty crime and begging activities, as well as organ removal, among others.

Human trafficking is an ever-changing phenomenon thus the forms of exploitation and the profiles of victims are constantly changing with the passage of time.

CASES OF HUMAN TRAFFICKING IN MALTA

Cases of human trafficking encountered in Malta so far involved sexual exploitation of adult women, with victims being mainly eastern European nationals who have entered the country legally. A change in trend has also been observed with the trafficking of adult women originating from Asian countries.

Trafficking for labor exploitation and domestic servitude is increasing in relevance worldwide and also in the Maltese scenario. Investigations and procedures relating to cases, including alleged cases of human trafficking for labour exploitation, are ongoing.



MALTESE LEGISLATION ON HUMAN TRAFFICKING ⁴

An offence of human trafficking entails an infringement of the provisions of the **Criminal Code (Cap. 9 of the Laws of Malta)** falling under the heading *“Of the traffic of persons.”*

A person may be accused of human trafficking if he/she **exploits** another person in:

- a) The production of goods or the provision of services
(including working in conditions that infringe labour standards, prostitution and other sex-related services)
- b) Slavery or practices similar to slavery
- c) Servitude
- d) Activities associated with begging; or,
- e) Other activities, including the removal of any organ of the body

In order for a trafficking accusation to subsist, the exploitation of a person of age, 18 years and over would be conducted by means of:

- a) Violence or threats, including abduction
- b) Deceit or fraud
- c) Misuse of authority, influence or pressure; or,
- d) The giving or receiving of payments or benefits to achieve the consent of the person having control over another person.

If the victim of human trafficking is a child, under 18 years of age, the person abusing him or her may be considered a trafficker even if the action referred to above (e.g. violence or threats) have not been used. Therefore, if a child is recruited and transported to Malta for the purpose of sexual exploitation, the person conducting such operation would still be subject to prosecution as a human trafficker even if the child has not been abducted, and/or subjected to violence and/or has not been deceived by the trafficker at any stage.

Typically a human trafficker forces another person to perform acts or work **against his or her will**. For this reason human trafficking is an **offence against the individual’s freedom and dignity**.

Article 248A of the Criminal Code and article 2 of the White Slave Traffic (Suppression) Ordinance, Chapter 63 of Laws of Malta, make human trafficking a crime. Subsidiary Legislation 217.07, Permission to reside for victims of trafficking or illegal immigration who co-operate with the Maltese authorities Regulations, proved that a victim of trafficking has the right to a reflection period of two months to decide on cooperation with the authorities and a six month renewable residence permit if the trafficked person collaborates with the Maltese authorities. This means that persons found in this situation are not subjected to immediate deportation. The residence permit allows them to work and receive training; they have the right to free medical care and access to public education. Victims of trafficking that decide not to cooperate have the possibility to return to their country of origin with the option of assistance.

⁴ <http://mhas.gov.mt/en/MHAS-Information/Pages/Human-Trafficking.aspx>

For more information visit the website of the Ministry for Home Affairs and National Security:
<http://mhas.gov.mt/en/MHAS-Information/Pages/Human-Trafficking.aspx>

INTERNATIONAL AND EU LEGISLATION ON HUMAN TRAFFICKING

Human trafficking is defined in the following international and regional conventions:

- “Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children”, so called “Palermo Protocol”, to the United Nations Convention on Transnational Organized Crime (UNTOC).

“Entry into force: 25 December 2003. Signatories: 117. Parties: 159. Note: the Protocol was adopted by resolution A/RES/55/25 of 15 November 2000 at the fifty-fifth session of the General Assembly of the United Nations. In accordance with its article 16, the Protocol will be open for signature by all States and by regional economic integration organizations, provided that at least one Member State of such organization has signed the Protocol, from 12 to 15 December 2000 at the Palazzo di Giustizia in Palermo, Italy, and thereafter at United Nations Headquarters in New York until 12 December 2002 .”

For more information visit the United Nations website on Treaty Collection: http://treaties.un.org/Pages/ViewDetails.aspx?mtdsg_no=XVIII-12-a&chapter=18&lang=en

- 2005 Council of Europe Convention on “Action against Trafficking in Human Beings”.
- “Entry into force: 1 February 2008. The Convention is a comprehensive treaty mainly focused on the protection of victims of trafficking and the safeguard of their rights. It also aims at preventing trafficking as well as prosecuting traffickers. The Convention applies to all forms of trafficking; whether national or transnational, whether or not related to organized crime and whoever the victim, women, men or children and whatever the form of exploitation, sexual exploitation, forced labour or services, etc. The Convention provides for the setting up of an independent monitoring mechanism (GRETA) guaranteeing Parties’ compliance with its provisions .”

For more information visit the Anti-Trafficking website of the Council of Europe website: http://www.coe.int/t/dghl/monitoring/trafficking/default_en.asp



- **Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011, on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA.**

“In addition to approximating EU States’ substantive criminal laws, it establishes robust provisions on victims’ protection as well as supports the principle of non-punishment for petty crimes and unconditional assistance.”

For more information visit the European Commission website:

http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/trafficking-in-human-beings/index_en.htm

For more information visit the website of the Ministry for Home Affairs and National Security:

<http://mhas.gov.mt/en/MHAS-Information/Pages/Human-Trafficking.aspx>

- **The EU Strategy towards the Eradication of Trafficking in Human Beings 2012–2016.** Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions.

“The communication was adopted in 2012. This updated the 2005 EU Action Plan on best practices, standards and procedures for combating and preventing trafficking in human beings. The strategy is a set of concrete and practical measures to be implemented over the next five years. These include prevention, protection, support of the victims and prosecution of the traffickers as well as the establishment of national law enforcement units specialized in human trafficking and the creation of joint European investigation teams to prosecute cross-border trafficking cases.”

For more information visit the European Commission website:

http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/trafficking-in-human-beings/index_en.htm

⁵ http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/trafficking-in-human-beings/index_en.htm





HUMAN TRAFFICKING INDICATORS

In the identification of a case of human trafficking it is fundamental to ascertain the three elements of human trafficking: action, means and purpose. To this, normally practitioners use indicators.

It is worth to notice once again that while for adults all the three elements have to be present for a case to be considered as a human trafficking case, for children (under age of 18), only the means and purpose (or intent to exploit) are taken into consideration, disregarding the action.

An **indicator** is a fact or even an attitude adopted by a person that may point to a human trafficking situation, as such fact or attitude is often associated with a situation of human trafficking.

NOTE: The aim of this list of indicators is to assist stakeholders involved in the sector to identify potential human trafficking situations. Stakeholders should refer suspected cases of human trafficking in accordance with the trafficking in persons Referral Mechanism, which will be presented in the next paragraph.

From Clues to Indicators

Step One: facts or ideas that serve to identify trafficking (CLUES)

Victims of trafficking (VoTs)

- Inability to speak Maltese or English (despite the fact that the person has been living in Malta for a long period of time)
- Inability to indicate precisely place of residence/address; no knowledge of village/town of residence
- No identification documents in their possession, or absence of identification documents
- Fear of the authorities, particularly the Police
- Person always accompanied, usually by someone speaking on his or her behalf/limited freedom of movement (person seems to be confined most/all of the time)
- Excessively long working hours
- Health aspects (signs of physical abuse/injuries/trauma and/or neglect)
- Overcrowded accommodation
- Students/young persons who don't speak English





- Marriages of convenience (in the context of a forced marriage)
- Signs of people living at the workplace (i.e. clothing hanging on the fence of a construction site)
- Unusually high turnover of staff, particularly at clubs, bars and other places of entertainment
- Domestic workers who are never seen outside and/or who are never seen outside on their own
- Extra security/doors closed during opening hours (places of entertainment)

Specific health conditions/situations may include:

- Signs of rape, sexually transmitted diseases often untreated and/possibly repeated pregnancies
- Post traumatic stress disorders (PTSD)
- Scars indicating removal of a kidney
- Person is under surveillance when visiting a doctor, hospital or clinic for treatment
- No health treatment coverage. Payment by cash and avoids going to state services where documents will be requested.

NOTE: The significance of these elements from a human trafficking point of view depends on the specific context of the case. The relevance of such elements from a human trafficking viewpoint increases when a number of elements are present in one scenario.

Potential perpetrators

- Transfers of inexplicably significant sums of money abroad
- Places of entertainment/other establishments providing services during closing hours
- Sudden and inexplicable change of lifestyle (i.e. new expensive car, purchase of real estate and so on)
- Submits visa or residence applications for other persons (in combination with other elements, e.g. first two elements above)



- Purchase of air ticket for other persons
- Posted workers (workers hired by foreign companies abroad and transferred to Malta)

NOTE: The significance of these elements from a human trafficking point of view depends on the specific context of the case, particularly in the case of the last three points.

Step Two: something that indicates the state or level of trafficking in persons
(from the victim's point of view)

- Isolation
- Having someone speaking on his/ her behalf
- Physical neglect (poor hygiene, shabby appearance, substance dependence)
- Forced to live and work in the same place
- No cash availability despite being employed
- Poor knowledge of local context
- Illegal arrest (is locked or otherwise forcibly confined)
- Debt bondage (illegal debts at a high interest rate- usury; e.g. debt owed to employer or person closely linked to employer)
- Not free to quit his/her job, occupation or activity/Person is working against his or her will

Signs that may indicate *attempted* trafficking in persons (before exploitation phase)

- Job offers that are too good to be true (e.g. promises of very high wages in proportion to customary payment for similar jobs)
- Organization of a person's journey by someone else (particularly when payment is to be effected upon arrival to country of destination)
- Situation of vulnerability (i.e. little knowledge of country of destination)
- Documentation (i.e. person's travel document is being held by someone else)

- Potential victim's background, including his or her country of origin. Persons from third countries (non-EU) are sometimes offered better jobs in EU Member States, only to be forced into prostitution or illegal employment upon arrival. Such victims may originate from several countries in Eastern Europe, Asia and Africa.

VICTIM CENTRED APPROACH

The degree of abuse, trauma and exploitation are some of the elements that distinguish trafficked persons from other victims of crime such as domestic violence, amongst others.

A victim of trafficking is a person who has suffered harm, which might include physical or mental injury, emotional suffering, economic loss, substantial impairment of their fundamental human rights and also self-blame for ending in such a bad situation.

Trafficked persons may not speak local language, may not see themselves as a victim, may feel responsible for a family debt, may fear of losing wages, may suffer "Stockholm Syndrome", have Post-Traumatic Stress Disorder (PTSD) and/or memory loss, and may be only in transit in this country therefore be confused as a case of migrant smuggling.

The consequences for victims of trafficking may include physical injuries and disabilities, sexually transmitted diseases (HIV-AIDS among others), psychological or mental diseases, psychosomatic reactions, substance and/or alcohol abuse and social reactions such as isolation, mistrust, loneliness, and stigmatization of fear.

Sometimes victims of trafficking might not remember facts, dates and events and sometimes they simply don't trust other people, particularly law enforcement authorities. It does not necessarily mean that they are lying or being uncooperative with authorities. This might be a self-protective reaction or even, to a higher or lesser degree of unconsciousness, a coping mechanism.



INTERVIEWING TECHNIQUES

Ethical and safety issues are important for both victim and interviewer when carrying out the interview. This is obviously the main concern and problem to take into consideration. Once safety has been granted and ethical issues have been taken into account there are a series of measures and behaviors which must be adopted.

It is important that the interviewer chooses the place for the interview carefully. This must be closed and private and only interested people must be present, as it is extremely important that the potential victim of trafficking builds trust in the interviewer/s. The environment should be pleasant, comfortable, calm and should give a sense of serenity. (Messy office rooms should be avoided, as well as transit rooms or busy receptions). Potential victims of trafficking and victims of trafficking cannot and should not be held against their will, unless on instructions of the law enforcement. It is important to always remember that they may come from a situation of lack of freedom or captivity. Therefore, perpetrating the same sensations and pattern, even for the best of reasons, will be counterproductive for the protection of the potential victim or victim of trafficking as well as to gain trust. Lastly, it would be counterproductive for the final aim to empower them.

Once everything is ready for the interview, the interviewer must introduce him/herself to the individual, describe his/her role and explain that everything said during the interview will be kept confidential. It is important to make sure that the person feels safe and comfortable without forcing him/her to speak. A contact can always be given to these victims in case they would feel to share their story later on. In most of the cases, social workers and law enforcement authorities need information as soon as possible, but in such cases patience is more productive. Furthermore it is important for the interviewer to do away with any prejudices or pre-conceptions he/she might have and try to not judge the individual in front of them.

With regards to children, there are specific procedures for interviewing children. The interviewer needs to make sure that the child feels safe and comfortable by keeping an informal and simple atmosphere.

Once a victim of trafficking has been identified, the next step for the interviewer is to focus on empowering the victim.

When assisting victims of human trafficking it is necessary to draw up an action plan based on individual needs and risk assessment: considerations should be given to possible family and/or children that are in need of assistance. A holistic approach to the victims needs and assistance is essential to his/her rehabilitation and reintegration. Once the plan is formulated, the implementation can start. When drafting the plan, it is important to do it together with the person. Also, it is necessary to monitor and evaluate the individual's needs and circumstances at short intervals. The action plan must be flexible and set in a manner that can be adapted to changing circumstances.

⁷ Stockholm syndrome, or capture-bonding, is a psychological phenomenon in which hostages express empathy and sympathy and have positive feelings toward their captors, sometimes to the point of defending them. These feelings are generally considered irrational in light of the danger or risk endured by the victims, who essentially mistake a lack of abuse from their captors for an act of kindness.



REFERRAL MECHANISM

There are two important phases in the setting up of a referral system:

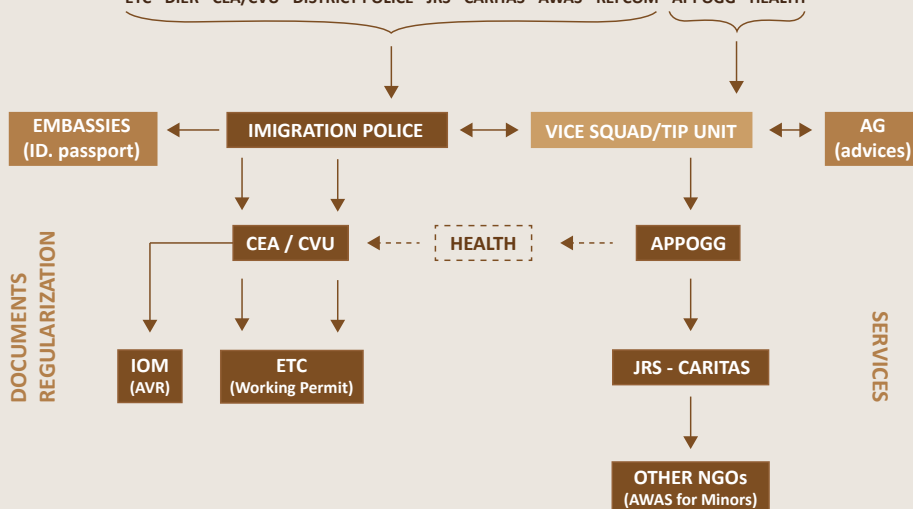
- Gather information about trafficking in the country, in this case Malta.
- Assessing the responses in Malta – what services are available and which are not; is there any system in place; what’s the legal framework; etc.

It is also relevant to consider which agencies to involve; define the roles and responsibilities of each one of them; the availability of financial resources; capacity building and training; monitoring and evaluation, etc.

MALTESE TIP REFERRAL SYSTEM

Entry Points, Agencies potentially involved in identification of victims
(other than TIP unit in the Police Vice Squad)

ETC - DIER - CEA/CVU - DISTRICT POLICE - JRS - CARITAS - AWAS - REFCOM - APPOGG - HEALTH



If the victim decides to return voluntarily to the country of origin, this has to be done through close cooperation between sending and receiving countries. In the return process it is important to first assess the situation of the family and community of the receiving country in order to make sure that there is no person involved in the trafficking process, to prevent re-trafficking; provide safety and protection and often including escort, continuous care, psychological issues, etc.

INVESTIGATION AND PROSECUTION

Concerning investigation and prosecution we have to make sure that the following steps are taken into consideration:

- Gathering of information
- Planning rescue and after care
- Rescue operation
- Immediate assistance
- Gathering of evidence
- Reflection period-determination
- Case preparation
- Court proceedings
- Recovery/re-integration

NOTE: Ongoing assistance to the victim of trafficking, including medical and psychological, has to be assured throughout the process.

There are two types of investigation: Reactive investigation and Proactive investigation.

In the case of Reactive investigation:

- Victim escaped by his/her own means and sought law enforcement assistance
- Victim are discovered or identified by law enforcement assistance

While in the case of Proactive investigation:

- Surveillance of known prostitution venues
- Inspection of workplaces, especially the expected ones

NOTE: Also during the investigation phase cooperation amongst all stakeholders such as law enforcement, NGOs social and health services is pivotal.

It is important to take into account that there are three types of victims:

- Victims who do not cooperate with the law enforcement authorities. If victims of trafficking decide not to cooperate, they have the possibility to return to their country of origin, with assistance.
- Victims that will provide intelligence but do not want to testify
- Victims that want to cooperate fully

For better comprehension of the situation during the investigation and prosecution phases, we shall outline some consequences in testifying shall be outlined in order to understand better the victims. The table below shows possible pros and cons.



Pros	Cons
<p>Traffickers punished Owed wages returned Compensation granted Status Legalised</p>	<p>Killed by traffickers Threatened by traffickers Socially ostracised/publicly exposed Years in close safe house/shelter Humiliated Re-traumatized Loss of /owed wages</p>

Common Concerns of victims may be:

- His/her own personal safety and that of his/her family
- That his/her involvement in prostitution or of having been victim of labour exploitation is disclosed to the family, the media or the public during the course of or as a result of the criminal proceedings
- That he/she will not have to testify or be in the physical presence of the trafficker

Status of victims

- The status of the victim as regards his/her legal presence in the country
- The status of the victim as an offender
- Illegal entry into or departure from the country concerned
- Involvement in prostitution
- Being irregular

Treatment of victims. Why do we care?

- With full respect
- Protect the rights of individuals
- Access to justice
- Desire to uphold the laws
- Prosecution of criminal elements
- Trafficking cases may be impossible to prosecute without cooperation of the victim
- Treat as victims of serious crime, do not re-victimize and criminalize victims
- Conduct continual assessment risk
- Be open and honest to establish trust
- Make victims fully aware of the issues involved, their responsibilities
- Ensure victims are made aware of and referred to support services





Reflection Period

Victims are granted a period of time to reflect on their situation (2 months in accordance to national law).

Discuss cooperation process openly and honestly:

1. At a safe venue
2. The Chief Immigration Officer may call a Non Government Organisation or another relevant association to give such information to the third country national concerned
3. To review benefits and risks of cooperation

Even in cases where the victim immediately states a desire to co-operate he/she should receive the verbal and written explanation and ask to take time to consider the decision carefully

The case preparation for prosecution:

Note that there are important issues to take into consideration. In some cases an individual who is presumed to be a victim could be a perpetrator. Moreover, it is important during the preparation of a case for prosecution not to rely solely on victim-witness testimony.

Obtaining evidence

- Obtain corroborating evidence such as:
 - - Employment contracts
 - - Financial transactions
- Initial response and necessary resources
- Interpreters of the language of the suspects and the victims
- Video filming and photographs
- Special investigation teams
- Forensic examination teams
- Specialist technical support (to search computers on other technical equipment for evidence)

Separating victims from suspects:

- Different vehicles
- Police stations

Protection

- Protection of witnesses
- Protection of assistance providers
- Others (judges, prosecutors) depending on risk assessment





There are different types of witness protection

- Safe accommodation
- Physical guarding
- Relocation
- Change of identity

Security and risk assessment

In order to protect the victim, we have to determine the potential level of risk and perform a risk assessment of each case. There are two phases of a risk assessment:

1. Generic risk assessment, circumstances and the situation of trafficking in the country of exploitation:

- The extent to which trafficking is controlled by organized crime
- Continuous review, minimum on a monthly basis
- A risk management to be taken if the security risk changes


2. Specific risk assessment, threat to the victim, their family members or the service provider:

- Shelter admission and movements outside of the shelter
- Cooperation with law enforcement agencies
- Pre and post-testimony
- Threats

It suffices to emphasize that each risk assessment should be accompanied by a risk management assessment:

- Always be aware when discussing issues of trafficking of who may be within hearing distance
- All new staff should be provided with security briefings and adequately trained
- Staff should share information on a case only on “a need to know basis”
- Using shredding machine to destroy unwanted material,
- Do not share information over the phone





STANDARD OPERATING PROCEDURES REFERRAL OF VICTIMS AND POTENTIAL VICTIMS OF HUMAN TRAFFICKING IN MALTA

PART I

OBJECTIVES AND MONITORING

Objectives

The primary objective of this document is to establish formalized procedures for the referral of potential and recognised victims of human trafficking to the entities best placed to provide them with the assistance and support required, in accordance with the commitments undertaken by Government in the National Action Plan 2013-2014 on Combating Trafficking in Persons .

Such procedures are required in view of the fact that a wide range of public entities, as well as NGOs, may come across potential victims of human trafficking in the course of their work. Victims can only be provided with the assistance they require if they are correctly identified and if they are referred to the entity best placed to support them.

The document also seeks to ensure that human traffickers are apprehended, through the involvement of the Police Force in the process. Whereas it is recognized that victim support and assistance is of utmost importance, the apprehension of perpetrators cannot be underestimated, not only with a view to ensure that justice is served, but also to prevent, insofar as possible, future instances of human trafficking.

Monitoring

The Anti-Human Trafficking Monitoring Committee is responsible for the monitoring of the implementation of the procedures set out in this document, as well as for the review of the document, should this be necessary. In this regard, the Committee may delegate specific tasks to the Stakeholder Taskforce.

The Anti-Human Trafficking Monitoring Committee and/or the Stakeholder Taskforce may require entities providing support to victims, including but not limited to Aġenzija Appoġġ, to provide statistics in relation to services provided to potential and recognized victims of human trafficking. The Monitoring Committee or the Stakeholder Taskforce may require that such statistics be provided in a specific format or according to a specific template.

The Anti-Human Trafficking Monitoring Committee or the Stakeholder Taskforce may also require the Police to provide statistics in relation to the prosecution of cases and/or the recognition of



victims. The Monitoring Committee or the Stakeholder Taskforce may require that such statistics be provided in a specific format or according to a specific template.

PART II STANDARD OPERATING PROCEDURES (SOPs) Step I: Identification

WHAT is the identification stage?

The IDENTIFICATION STAGE is the first phase of the procedure. It encompasses activities that are related both to criminal proceedings and to assistance and protection measures.

It can be divided in two phases:

Phase 1: **Initial Referral and Informal Reporting**; and
Phase 2: **Formal identification**.

PHASE I INITIAL REFERRAL AND REPORTING

1a. Initial referral: The process whereby the First Contact refers a potential victim of human trafficking to **Aġenzija Appoġġ**.

1b. Informal reporting: The process whereby the **First Contact** notifies the **Prostitution and Human Trafficking Unit, Vice Squad, Police (hereinafter referred to as Vice Squad, Police)** of a potential human trafficking case.

WHAT is initial referral? Initial referral is the referral of a potential victim of human trafficking to **Aġenzija Appoġġ**. The Agency nominates the officer responsible for the case (case manager). In the case of child victims, or potential child victims, initial notification must also be made to **Aġenzija Appoġġ**, the national body responsible for child protection.

WHAT is informal reporting? The **Vice Squad, Police** are informed of the existence of a potential case as per 1b above, as well as any relevant information, including whether the case has already been referred to **Aġenzija Appoġġ**.

⁸ Approved by the Anti-Human Trafficking Monitoring Committee on the 13.11.2012

⁹ The Anti-Human Trafficking Monitoring Committee is appointed by the Prime Minister.





Note: Whenever the Vice Squad, Police knows or is not certain whether Aġenzija Appoġġ is aware of a report they have received, they shall notify the Agency of the informal report.

WHEN As soon as possible when the person is presumed to be a victim of human trafficking.

WHO First Contact

The First Contact may be any of the following entities:

- Employment and Training Corporation (ETC)
- Department of Industrial and Employment Relations (DIER)
- Central Visa Unit (CVU)
- Department of Citizenship and Expatriate Affairs (CEA)
- District Police and other Police Officers
- The Jesuit Refugee Service (JRS)
- Caritas
- Agency for the Welfare of Asylum Seekers (AWAS)
- Office of the Refugee Commissioner (REFCOM)
- Aġenzija Appoġġ
- Department of Health
- Other parties

HOW Informal interview. The interviewer should take into account the Human Trafficking National Indicators issued by the Anti-Human Trafficking Monitoring Committee when considering referring a case to **Aġenzija Appoġġ**¹⁰.

As a minimum, whenever details are available, the First Contact should seek to obtain and transmit to **Aġenzija Appoġġ** and the **Vice Squad** the following information in relation to the presumed victim:

Name and Surname :		Date of Birth :	Age :
Sex :		Nationality :	Languages Spoken :
Address (In Malta) :		Residence Status : Documented / Undocumented	
Documentation available to presumed victim and relevant reference numbers :			
National Indicators applicable :			
Brief Description of case :			
Other considerations (if applicable) :			

¹⁰ The National Indicators were formally approved on 13.11.2012 during a meeting of the Anti-Human Trafficking Monitoring Committee



NOTIFICATION OF CASES

WHAT is the identification stage?

Aġenzija Appoġġ would inform the **Vice Squad, Police** of suspected cases of human trafficking and action being taken thereon.

Age determination of Child Victims:

Established practices shall be used whenever the person is undocumented and there are reasons to believe he or she may be a minor and it has not been possible to acquire identification documents from the country of origin.

Step 2: Follow-up and provision of initial support to Victim

Follow-up Stage: The Vice Squad Police shall conduct an interview with the potential victim, with the support of Aġenzija Appoġġ, in order to deliver essential information and to more clearly establish what are his/her needs and situation, as per points 2-5 hereunder.

The **Vice Squad, Police** and/or **Aġenzija Appoġġ** for:

2. Introductory information-sharing: providing information to the victim about his/her rights and services available, as well as enquiring about the urgent needs of a potential victim; responding to expressed concerns and/or emergency needs.
3. Language and Interpretation: ensuring communication
4. Early risk assessment: reviewing possible risks and securing immediate safety for the potential victim of trafficking
5. Reflection and recovery: providing information to victim about possibility to avail him/herself of the reflection and recovery period in accordance with the Permission to Reside for Victims of Trafficking or Illegal Immigration who co-operate with the Maltese Authorities Regulations (Subsidiary Legislation 217.07).

NOTE: Vice Squad, Police and Aġenzija Appoġġ would compile the Intake and Risk Assessment form indicated at Phase 2, Step 5 of this document, which may subsequently be reviewed.

Provision of Initial Support to Victim

WHAT comprises a **reflection and recovery period**? A reflection period should be offered to potential victims in order to give them time to recover, to stabilize and decide if they are willing to cooperate with law enforcement. The reflection period should be accompanied by the granting of a temporary residence permit whenever this is required.



WHEN should the reflection and recovery period begin and how long should it last?

The recovery period shall last up to two months in accordance with Article 3(3) of Subsidiary Legislation 217.07.

WHO One assigned staff member from **Aġenzija Appoġġ** (case manager/social worker), possibly with the assistance of another service provider is taking care of the victim of human trafficking during the reflection period (crisis intervention care), if the victim is willing to receive assistance. In the case of child victims, the case manager shall act in conjunction and in consultation with the guardian/institution appointed who is responsible for the child in order to ensure the child's best interests at all stages of the process.

Crisis Intervention Care

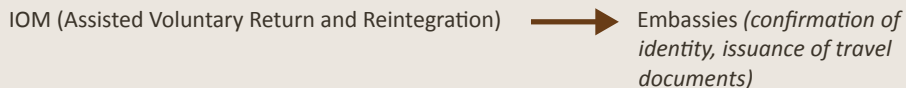
Crisis intervention care is intended to meet the immediate basic and social welfare needs of the victim.

All elements of this phase are carried out if the individual provisionally agrees to be assisted.

WHAT Crisis intervention care is the first step involving assistance to the victim.

The aim of crisis intervention care is to respond to the immediate or urgent needs of potential victims of trafficking and ensure her/his security including the following possible areas:

- Accommodation (emergency shelter- if not available at the shelter run by **Aġenzija Appoġġ**, shelter at suitable alternative locations shall be sought)
- Security measures, if needed (in cooperation with **Vice Squad, Police** as necessary)
- Referral to legal assistance: follow up on application for temporary residence permit
- Referral and liaison with the Police, where required
- Discussion/consultations between stakeholders involved about next steps
- Psychological counseling, according to identified needs
- Referral for medical diagnostic assessment, if required
- Contact with family and/or loved ones if requested
- Provide access to a means of communication; and,
- Start making arrangements to return home, when requested



PHASE 2

FORMAL IDENTIFICATION

Step 3: Police Formal Identification Interview

Identification interview (to determine victim status): asking questions and reviewing circumstances to identify the individual formally as victim of human trafficking.

Official identification would enable the victim to:

- Continue receiving assistance from Aġenzija Appoġġ (and other Agencies)
- **Residence Permit in terms of Regulation 217.07 issued**, or a **residence permit on humanitarian grounds will be issued for a period of up to 1 year**, e.g. if the provisions of Regulation 217.07 cannot be applied, but the victim requires permit to stay in Malta
- Gain access to free legal assistance in terms of Article 27 of the Restorative Justice Act, Cap 516, with a view to claiming compensation for criminal injuries sustained, as well as other legal assistance as provided for in legislation
- Returned, if and when necessary, by means of Voluntary Return and Reintegration; and,
- Assisted with tracing of family members (if requested by victim)

In order for a person to be formally identified as a victim of human trafficking (**recognized victim**), he/she would, in the view of the **Vice Squad, Police**, have been subject to an offence qualifying as a human trafficking offence in terms of the Criminal Code or any other relevant legislation. This would apply even if it would *de facto not prove possible for the offence to be prosecuted as a human trafficking offence in view of insufficient evidence, or if it would not be possible to prosecute the offender at all*.

WHAT The purpose of identification is to determine whether the individual is a victim of human trafficking. This interview is a two-way discussion between a Police officer and the potential victim that aims to discover evidence suggesting that the individual has been in a trafficking situation or was in the process of being trafficked.

WHEN should the identification interview take place? This formal identification interview should take place during or after the recovery and reflection period. If the victim does not avail him or herself of the recovery and reflection period accorded by legislation, then the process should take place at the earliest possible, with due regard to the situation of the victim. If the victim is irregularly present in Malta he/she may be issued with a temporary residence permit, issued on humanitarian grounds.

WHO should carry out the formal identification interview?

A Police officer knowledgeable in human trafficking issues, with the assistance of an interpreter where required. The case manager/social worker and/or psychologist may also be present, particularly in the case of persons who are seriously traumatized.



HOW should the identification interview be conducted?

The victim would have to be reminded of his or her rights, including the possibility to avail of a reflection period if he or she has not done so already.

Moreover, the identification interview should be conducted:

- In a setting that is private
- In a professional, supportive and helpful manner
- With regular confirmation that the individual has understood what has been explained
- Through interpretation, when necessary

The options available to the victim, and consequences of any decisions taken, would be set out:

Decision about victim status and implications:

- Cooperation with police, including possible outcomes
- Compensation possibilities
- Security risks

If victim decides not to testify:

- Information on legal stay
- Information on risk assessment prior to return
- Information on return options
- Information on assistance and conditions of assistance in country of destination

If victim decides to testify:

- Information on the relevant procedures, legal status and assistance available and conditions of assistance
- Evidence gathering process
- Judicial process
- Testimony and protection options

Aġenzija Appoġġ and other stakeholders, particularly those who assisted the individual victim, should be called to assist the Police in this process as necessary. The Police may also call on the assistance of the **Victim Support Unit within the Parole and Probation Service**.

In the case of children, interviews should be conducted by Police officers who are trained in techniques for interviewing children. The interview should be conducted in the presence of the person legally responsible for the child and possibly the **Aġenzija Appoġġ** case manager/social worker, in line with the relevant legislation.



DETERMINATION OF THE BEST INTEREST OF THE CHILD VICTIM

The best interest of the child shall be determined in accordance with national law, including the Children and Young Persons (Care Order) Act- Cap 285 of the Laws of Malta, and practices, and all decisions taken shall be with due regard to this principle.

With due regard to the best interest of the child victim and whenever it is appropriate and feasible, when a parent or parents, or other family member of the child victim is in Malta, he or she may be provided with the relevant support and assistance measures described in this document, including by way of provision of information, psychological support and accommodation, as well as assisted voluntary return.

The appropriateness and feasibility or otherwise of providing support to the parent, parents or of child victims shall be assessed by **Aġenzija Appoġġ**, in consultation with the Vice Squad, Police.



Step 4: Provision of Formal Information to Victim

Post identification information-sharing to ensure informed decision making and consent.

WHAT is post-identification information-sharing?

During the post-identification information-sharing phase an individual (whether identified as a victim of human trafficking or not) is given detailed information about the services available to her/him, including associated terms, conditions and restrictions and is given the opportunity to express his/her concerns and pose questions. Information regarding the Witness Protection Programme, on a case by case basis, is also provided. Information is also provided concerning assistance in claiming damages.

WHEN does post-identification information-sharing take place? After an individual's victim status has been determined, a clear summary of information on services and procedures should be given to the individual.

WHO should provide information on procedures relating to service provision for victims?

The appointed case manager/social worker of **Aġenzija Appoġġ** can provide information about services. Other stakeholders, such as AWAS, Caritas and JRS, may assist in this process, particularly those that have been in regular contact with and have assisted the victim. In the case of child victims, information should be provided in the presence of the person responsible for the child.

¹² Agency for the Welfare of Asylum-Seekers, Department of Citizenship and Expatriate Affairs and Central Visa Unit.



HOW should information be given to victims?

- In a setting that is private
- In a professional, supportive and helpful manner
- With regular confirmation that the individual has understood what has been explained
- Through interpretation, when necessary

Step 5: Intake and Needs Assessment

In order to assess the service and security needs of each victim an intake and needs assessment is necessary.

WHAT is intake and needs assessment?

There are differences in the intake procedural items for Third Country Nationals as regards permission to reside. For instance, the provisions of the Permission to reside for victims of trafficking or illegal immigrants who co-operate with the Maltese authorities Regulations (SL 217.07) only apply to Third Country Nationals.





Intake and assessment criteria		
CASE FILE DATA		
No.	Item	
1	Case file number	
2	Nationality	
3	Country of residence	
4	Date of Birth	
5	Language	
6	Gender	
BASIC NEEDS		
No.	Item	
1	Accommodation Requirements	
2	Dietary Requirements	
3	Sleeping Requirements	
4	Prescription medications	
5	Communication with home / family	
RISK ASSESSMENT		
No.	Item	
1	Current Safety Concerns	
2	Safety concerns in past [time period]	
3	Individuals who might mean harm to the person	
4	Concerns for family members or friends	
5	Concerns or fears for others known to the individual	
6	Locations that might be unsafe for the person to go or visit	
7	Been followed or harassed by anyone in the past [time period]	
8		
HEALTH NEEDS		
No.	Item	
1	Present health needs	
2	Serious medical problems causing distress or concern	
3	Past or Present injuries	
4	Severe stress or anxiety	
5	Mental Illness	
6	Disabling or high risk conditions	Heart, epilepsy, asthma
7	Learning Disability	
LEGAL / ADMINISTRATIVE NEEDS		
No.	Item	
	EU National	Third Country National
1	Residence Permit	
2	Other Permits	





WHEN The intake and needs assessment can first take place in Phase 1, Step 2 of this document; however it should wherever possible be reviewed after an individual has been provided information about the service options available and any obligations or conditions associated with receiving services.

WHO **Aġenzija Appoġġ** is responsible for undertaking the intake and needs assessment. **Aġenzija Appoġġ** shall be assisted by the **Vice Squad, Police** in relation to Risk Assessment and Legal/Administrative Needs. Other agencies, such as AWAS, CEA, CVU¹² Caritas and JRS, could also assist in this process.

In the case of children, the case manager/social worker and the person responsible for the child shall assist in the compilation of the assessment, especially in relation to basic needs and health care.

HOW Prior to the commencement of the intake procedure, the case manager/social worker must:

- Review existing case file notes that may have been sent
- Explain to the victim the purpose of the intake procedure
- Explain who will and will not have access to the information

Step 6: Issuance of necessary permits, including the permit for third-country nationals provided for by Subsidiary Legislation 217.07 on the Permission to reside for victims of trafficking or illegal immigration who co-operate with the Maltese Authorities.

WHAT The procedure may vary depending on whether the victim is an EU National or a Third Country National.

WHEN Once the victim has been formally recognized as such by the Vice Squad, Police and, in the case of third country nationals, the status has been determined by the Immigration Police.

WHO **Immigration Police, Citizenship and Expatriates Department, Central Visa Unit and the Employment and Training Corporation.**

Documentation to be presented: see **HOW** section below.

As far as identification documents are concerned, in the case of undocumented victims the Immigration Police, through the Ministry of Foreign Affairs, requests formal identification of the victim of human trafficking to the supposed country of origin of the victim through relevant Embassies or Consulates.

¹² Agency for the Welfare of Asylum-Seekers, Department of Citizenship and Expatriate Affairs and Central Visa Unit.





HOW According to national law SL 217.07 provides for the issuance of residence permits to third country nationals who are victims of human trafficking. Under SL 217.07, the Principal Immigration Officer may recommend the issuing of a residence permit to a third country national who is a victim of human trafficking who intends to cooperate with the competent authorities, in accordance with the circumstances of the case. The residence permit shall define the conditions under which it has been issued and it shall also include an authorization giving the third country national the right of residence within the territory of Malta. The third country national will be granted a period of reflection to enable him/her to make an informed decision on the possibility of cooperating with the authorities. At the end of the reflection period, the Principal Immigration Officer may issue such residence permit if he is satisfied that the third country national intends to cooperate and has stopped all relations with the traffickers. The residence permit shall be valid for a period of six months which may be renewed if the need arises. A residence permit shall not be renewed if the conditions for issuing such permit no longer subsist or if the proceedings have been terminated. The third country national will be granted a work permit for the duration of the residence permit.

Potential victims and victims benefiting from SL 217.07 shall be assisted as indicated in this document throughout the reflection period. Such assistance, as well as access to the labour market wherever possible, shall also be provided during the period covered by the Residence Permit itself.

Step 7: Assisted Voluntary Return and Reintegration (AVR&R)

WHAT The process of return should be voluntary and safe. Individuals who have been trafficked should be given the opportunity to express whether, when and how they would like to return home.

The following possibilities exist for such return arrangements:

- Government to government
- International Organization to International Organization (e.g. through the IOM Assisted Voluntary Return and Reintegration Program)
- Mixed systems (e.g. government via IOM)
- Individual returns at own expenses

WHEN is it appropriate to assess an individual's decision about returning home? victims' preferences to return home may be inquired about at several points throughout the assistance process.



In the case of **unaccompanied minors**¹³ the authorities, aside from providing the required care and protection in accordance with law, are to begin proceedings in order to establish contact with the authorities of the child's country of origin and to develop a plan for the future care of the child, in accordance with the principle of the best interest of the child.

WHO inquires about a victim's decision about his/her return? The case manager/social worker (**Aġenzija Appoġġ**) and the **Vice Squad, Police**.

In the case of a victim who is a minor the legal guardian or person responsible for the minor shall also be consulted.

HOW can a victim's willingness to return be assessed? A person can only be returned voluntarily to the country of origin if s/he gives her/his informed consent in writing. In the case of children, the decision will be informed by the child's wishes and the advice of his or her case manager/social worker, but will ultimately be the decision of the relevant authorities (parents or other legal guardians) – including, when appropriate, the courts.

1. Assessment of Risks and Security and Possibilities for Reintegration

WHAT A risk and security assessment prior to return is required in order to ensure that the victim as well as her/his family and friends are safe. A safe return could be assessed according to the perception of:

- i) The beneficiary;
- ii) Government authorities/police, prosecutor and court;
- iii) Non-governmental service providers.

WHEN is it appropriate to assess an individual's safety about returning home? Immediately after the victim expresses his or her desire to return home. In the case of children, such an assessment should begin immediately upon identification.

WHO

a) Inquires about the victim's perception on risks and security?
Police, case manager and/or social worker.

b) Carries out a risk assessment?

Vice Squad, Police with assistance of Immigration Police and other authorities if necessary, or IOM in cooperation with relevant national authorities.

HOW can a risk and security assessments be carried out?

Conducting a risk and security assessment involves having series of questions to be posed to different institutions and individuals (e.g. to the victim, police liaison officers, via EUROPOL to law enforcement agencies, to NGOs, to Immigration Officers etc...)

¹³ Individuals under age of 18.



Risk and Security assessment for return

Suggested Questions

Details / Examples

1. Questions to the victim of human trafficking

- If you go home, how would you feel?
- Where would you feel safe ?
- Were your family / friends threatened by anybody ?
- Were you threatened, blackmailed or intimidated by anybody?
- Do the perpetrators know where you / your family live ?

2. Risk assessment by law enforcement to answer the following questions

- WHO and HOW ?**
Police to gather information through established contact points, including at Europol and Eurojust.
- Were families or friends threatened by the perpetrators?
 - Did the perpetrators resort to any form of blackmail or intimidation?
 - Is the perpetrator's circle part of the family, friends or social group?
 - Are the perpetrators aware of the person's place of residence?
 - Are the police in the country of origin able and willing to protect the victim from possible reprisals or violence?

3. Reintegration in country of origin:

- Threat of criminal prosecution or civil sanctions
- State of infrastructure
- Protection possibilities via local police
- Stigmatization, marginalized, socially isolated
- Access to victim witness programme
- Institutions providing emergency accomodation
- Provisions for medical, psychological, legal counseling
- Possibility to continue with professional training or education
- Access to permanent
- Opportunity for long term, independent economic security
- Possibility to return to family?
Situation in family (Violence etc...?)
- Situation in community ?
- Civil unrest ?
- Access to necessary medical treatment

WHO?

The respective authorities of the two States involved.



HOW can the data be recorded?

The information exchange will be carried out through safe channels known by the partners. After the assessments have been carried out the victim should be informed about the result immediately.

2. Family Tracing

WHAT is family tracing/assessment?

If the victim expresses the wish to return home and stay with her/his family, all efforts have to be made to trace the family in case the victim has lost contact with them.

WHEN Simultaneously with the security assessments ensuring safe return.

WHO Contact is made through the Case manager from the country of origin or focal point from organization/institution ensuring repatriation in the country of origin.

HOW Based on the specific mechanisms for referral.

3. Documentation

WHAT The victim may not possess any identity or travel documents. To allow the victim to return it is necessary to facilitate the issuance of temporary travel and/or identity documents.

WHEN The documents should be requested once the victim decides to return home.

WHO Immigration Police, possibly through the Ministry of Foreign Affairs, would seek to obtain documents from relevant Embassies or Consulates. Contacts may also be made through International Organizations if required.

HOW Embassies and consulates should, however, not be contacted if the victim has expressed a wish to apply for international protection or when an application for international protection is pending. If the decision was made for the Victim to voluntarily return to the country of origin relevant embassies or consulates of the destination country should be contacted.

Data Protection

Personal data shall be collected, transferred and stored in terms of the Data Protection Act (Cap. 440) and other applicable legislation.

