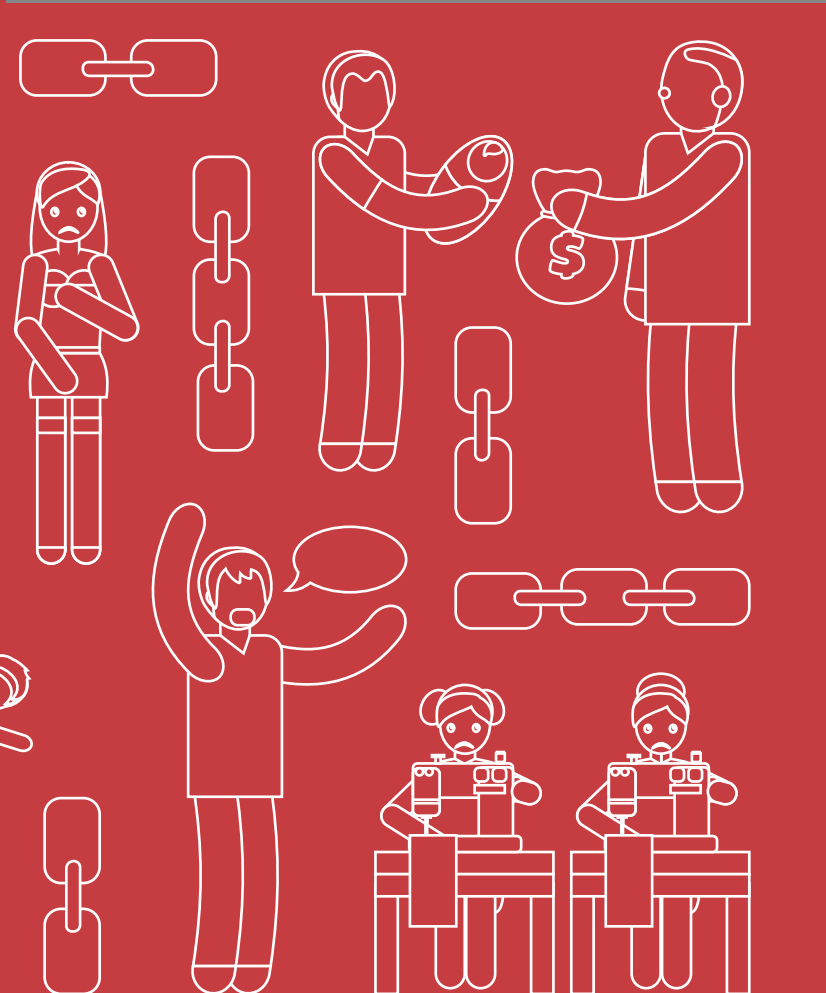


# DEVELOPING AND MONITORING NATIONAL ANTI-TRAFFICKING RESPONSE

## A PRACTITIONER'S GUIDE





# DEVELOPING AND MONITORING NATIONAL ANTI-TRAFFICKING RESPONSE

## A PRACTITIONER'S GUIDE

Prepared by the International Centre for Migration Policy Development, Vienna – Austria within the frame of the GIZ project on Preventing and Combatting Trafficking in Human Beings in the Western Balkans

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## ABBREVIATIONS

ACHPR	African Charter on Human and Peoples' Rights
ACHR	American Convention on Human Rights
ASEAN	Association of Southeast Asian Nations
ATC	Anti-Trafficking Coordinator
BMZ	German Federal Ministry for Economic Cooperation and Development
CBSS	Council of Baltic Seas States
CEDAW	Committee on the Elimination of Discrimination against Women
CIS	Commonwealth of Independent States
CRC	Committee on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
EC	European Commission
ECOSOC	Economic and Social Council
ECHR	European Convention on Human Rights
EU	European Union
GDPR	EU General Data Protection Regulation
GIZ	<i>Deutsche Gesellschaft für Internationale Zusammenarbeit</i> (German Agency for International Cooperation)
GLO.ACT	Global Action against Trafficking in Persons and the Smuggling of Migrants
GPC	Global Protection Cluster
IFRC	International Federation of Red Cross and Red Crescent Societies
ICAT	Inter-Agency Coordination Group against Trafficking in Persons
ICCPR	International Covenant on Civil and Political Rights
ICJ	International Court of Justice
ICMPD	International Centre for Migration Policy Development
IDP	Internally Displaced Person
ILO	International Labour Organization
IO	International Organisation
IOM	International Organization for Migration
LGBTQI+	Lesbian, gay, bisexual, transgender, questioning, intersex
MARRI	Migration, Asylum, Refugee Regional Initiative
MoU	Memorandum of Understanding
MS	Member State
MWC	Migrant Workers Convention
NAP	National Action Plan
NATCB	National Anti-Trafficking Coordinating Body
NGO	Non-Governmental Organisation
NFP	National Focal Point
NRM	National Referral Mechanism
NTF	National Task Force
OAS	Organization of American States
OHCHR	UN Office of the High Commissioner for Human Rights
OECD-DAC	Organization for Economic Co-operation and Development - Development Assistance Committee
OSCE	Organization for Security and Co-operation in Europe
PICUM	Platform for International Cooperation on Undocumented Migrants
RBM	Results-Based Management
SoM	Smuggling of Migrants

SOP	Standard Operating Procedure
SR/CTHB	OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings
TIP	Trafficking in Persons
TRM	Transnational Referral Mechanism
TWG	Thematic Working Group
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNCAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
UNCRC	Convention on the Rights of the Child
UNEG	United Nations Evaluation Group
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNGA	United Nations General Assembly
UNHCR	United Nations High Commissioner for Refugees
UNIAP	United Nations Inter-Agency Project on Human Trafficking
UNICEF	United Nations Children's Fund
UNODC	United Nations Office on Drugs and Crime
UNSC	United Nations Security Council
UNTOC	United Nations Convention against Transnational Organized Crime
UN Trafficking Protocol	Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime
USAID	United States Agency for International Development
VoT	Victim of Trafficking
WHO	World Health Organization

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## GLOSSARY OF TERMS

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**CHILD:** refers to any human being below the age of 18 years (UN Convention on the Rights of the Child, 1989) (UNCRC)). According to Article 3 (c) of the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention Against Transnational Organised Crime (2000) (UNTOC), the recruitment, transportation, transfer, harbouring, or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph (a) of this article, i.e. even if this does not involve 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.

**DEBT BONDAGE:** According to the UN Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices similar to Slavery (1956, Art. 1a.), the status or condition arising from a pledge by a debtor of his personal services or of those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined.

**EVALUATION:** Evaluation is the systematic collection and analysis of data in order to assess the relevance, effectiveness and impact of activities in light of project objectives. It involves assessing the strengths and weaknesses of projects, programmes, strategies and/or policies to improve their effectiveness. It involves giving feedback about the progress to donors, implementers and beneficiaries of the project. Evaluations are generally done either during the span of a programme (mid-term evaluation) to measure and allow for mid-stream programme adjustments, or upon completion of programmes (ex-post evaluation).

**FORCED LABOUR:** According to the ILO Forced Labour Convention No. 29 (1930) the term ‘forced or compulsory labour’ means all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily (Art. 2.1).

**GENDER:** Gender means the differences between women and men within and between cultures that are socially and culturally constructed and change over time. These differences are reflected in roles, responsibilities, access to resources, constraints, opportunities, needs, perceptions, views, etc. held by both women and men. Thus, gender is not a synonym for women, but considers both women and men and their interdependent relationships.<sup>1</sup>

**MEANS OF VERIFICATION:** Means of verification are sources of qualitative or quantitative information, which can measure whether the indicators and results have been achieved.

**MONITORING:** continuous, regular, systematic and purposeful observation, gathering of information, and recording of activities, projects, programmes, strategies and/or policies. To monitor is to check on how planned activities are progressing, to identify operational difficulties and to recommend actions. Monitoring is aimed at improving the efficiency and effectiveness of an initiative and at ensuring that activities are transformed into results/outputs. It involves giving feedback about the progress to donors, implementers and beneficiaries of the project. Monitoring is always undertaken during the implementation of activities, projects, programmes, strategies and/or policies.

**NATIONAL ACTION PLAN:** A National Action Plan (NAP) against trafficking in human beings is an essential tool for the sharing of responsibilities and coordination of action of anti-trafficking stakeholders such as governmental bodies, civil society, international organizations, etc. in a holistic approach. The National Action Plan should operationalize the specific objectives as identified in the national anti-trafficking strategy. It should define responsibilities and time lines for each activity assigned, contain resource plans and a budget, and include monitoring and evaluation criteria (e.g. indicators).

**NATIONAL REFERRAL MECHANISM:** 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.<sup>2</sup>

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<sup>1</sup> Moser, C. (1993). Gender Planning and Development: Theory, Practice and Training.

<sup>2</sup> OSCE/ODIHR (2021). National Referral Mechanisms – Joining Efforts to Protect the Rights of Trafficked Persons: A Practical Handbook (forthcoming in 2021). See also in OSCE/ODIHR (2004). National Referral Mechanism. Joining Efforts to Protect the Rights of Trafficked Persons. A Practical Handbook

**REVIEW:** Reviews are the assessment of the performance of an intervention, periodically or on an ad hoc basis. Reviews tend to emphasize operational aspects. Sometimes the terms ‘review’ and ‘evaluation’ are used as synonyms.<sup>3</sup> In this Guide, review is used for a less comprehensive process than evaluation, which is geared to the adjustment of activities, projects, programmes, strategies or policies in order to reach the defined objectives.

**RESULTS:** Results are the output, outcome (medium-term change), or impact (long-term change) intended or unintended, positive and/or negative of a development intervention. In other words, results are changes that come about due to a cause and effect relationship induced by an intervention.

**RESULTS-BASED MANAGEMENT:** Results-Based Management (RBM) is a management strategy focusing on performance and achievement of outputs, outcomes, and impacts.<sup>4</sup> RBM identifies strategic elements, such as results, outcomes, impact and outputs and their causal relationship, following a number of assumptions and risks identified. It involves the formulation of relevant indicators to measure success and performance. RBM, as a strategic approach, importantly affects reporting and decision-making.<sup>5</sup>

**SERVITUDE:** The condition or status of a tenant who is by law, custom or agreement bound to live and labour on land belonging to another person and to render some determinate service to such other person, whether for reward or not, and is not free to change his status. (The Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1956), Article 1b)

**SLAVERY:** According to the UN Slavery Convention (1926, Art. 1), slavery is the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised. According to the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, no. 226 (1956), institutions and practices, such as debt bondage, serfdom, forced marriage, exploitation of children, should be abolished, whether or not covered by the definition of slavery contained in Article 1 of the Slavery Convention.

**SMUGGLING OF MIGRANTS/MIGRANT SMUGGLING:** The procurement 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 permanent resident (UN Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the UNTOC (Art. 3 (a))).

**TRAFFICKING IN HUMAN BEINGS / TRAFFICKING IN PERSONS / HUMAN TRAFFICKING:** Trafficking in human beings (THB) or trafficking in persons (TIP) is internationally defined as “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.” (UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women And Children (UN Trafficking Protocol) supplementing UNTOC; Art. 3a).

The term ‘TIP’ is used throughout the UN-system, also by the Economic Community of West African States, some national governments (e.g. the US) and by the OAS. The Council of Europe (CoE), European Union (EU) and also the African Union (although not consistently) use the term ‘THB’. The term ‘human trafficking’ is used by some of the national governments (e.g. Canada<sup>6</sup>). All three terms are here used interchangeably.

**VICTIM OF TRAFFICKING/TRAFFICKED PERSON:** The terms ‘victim of trafficking’ and ‘trafficked person’ refer to persons who qualify as victims of trafficking in accordance with the UN Trafficking Protocol (Art. 3) and/or relevant national legislation. The term ‘trafficked person’ is used to acknowledge that person’s trafficking experience as central and in need of redress. For many people, the term ‘victim’ implies powerlessness and constructs identity around the individual’s victimization. However, from a human rights perspective, the term ‘victim’ is important as it designates the violation experienced and the responsibility for redress.

<sup>3</sup> Organization for Economic Co-operation and Development - Development Assistance Committee (OECD-DAC), Glossary of Key Terms and Concepts.

<sup>4</sup> OECD-DAC Glossary of Key Terms in Evaluation and Results Based Management.

<sup>5</sup> Adapted from UNESCO (2008). Results-based programming, budgeting, management, monitoring and reporting (RBM) approach as applied at UNESCO: guiding principles.

<sup>6</sup> The Minister of Public Safety and Emergency Preparedness of Canada (2019). National Strategy To Combat Human Trafficking 2019-2024.



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Two more terms need to be clarified at this point – a ‘potential victim’ and a ‘presumed victim’ of THB. A presumed victim is 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.<sup>7</sup> A potential victim is a person who belongs to a vulnerable group and due to that may become a victim of THB.<sup>8</sup>

Finally, the recent years have also introduced the term ‘survivor’. While it refers to a person who continues to live after a dangerous (life-threatening) event or suffering difficulties, in the anti-trafficking context the term refers to individuals with lived experience as a trauma-informed recognition of their ability to regain control over their lives and their renewed empowerment.<sup>9</sup> All three terms are used in this Guide.

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<sup>7</sup> See ICMPD (2010). Guidelines for the Development of A Transnational Referral Mechanism for Trafficked Persons in Europe: TRM-EU.

<sup>8</sup> See OSCE (2011). Trafficking in Human Beings: Identification of Potential and Presumed Victims. A Community Policing Approach.

<sup>9</sup> The Minister of Public Safety and Emergency Preparedness of Canada (2019), p. 7.

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## INTRODUCTION

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This Practitioner's Guide that you are holding in your hands hides in fact two landmark tools developed and published by the International Centre for Migration Policy Development (ICMPD) over a decade ago.

In 2006, ICMPD published the *Guidelines for the Development and Implementation of a Comprehensive National Anti-Trafficking Response*, and in 2010 it was followed by the *Monitoring and Evaluation Handbook for National Action Plans against Trafficking in Human Beings*. The *Guidelines* draw on the ICMPD's experiences in South Eastern Europe (SEE) together with the non-governmental organisations (NGOs) Ženska Soba (Croatia), Victimology Society of Serbia (Serbia) and La Strada (Moldova). The *Handbook* integrated ICMPD's experiences from the Caucasus - Armenia, Azerbaijan, and Georgia – along with the International Labour Organization (ILO), the International Organization for Migration (IOM) and the Organization for Security and Co-operation in Europe (OSCE). Fifteen years on, in a year that marked 20<sup>th</sup> anniversary of the adoption of the UN Trafficking Protocol, we decided to revisit both tools – in order revise and issue 'under one roof' as a complete Practitioner's Guide. After all, it was the intention of the *Handbook* (2010) - to be used as a practical tool complementing the *Guidelines* (2006).

The work on this Practitioner's Guide showed clearly that the issues and challenges for creating a sustainable anti-trafficking response in a country have persisted over the past 15-year period. This was well highlighted in 2020 when ICMPD carried out an assessment on the needs, gaps and good practices in developing, implementing and monitoring anti-trafficking strategic responses in the participants of Migration, Asylum, Refugee Regional Initiative (MARRI) - Albania, Bosnia and Herzegovina, Kosovo\*, Montenegro, North Macedonia and Serbia.

This Guide integrates ICMPD's experience of advising and supporting governments in their anti-trafficking efforts in the past fifteen years from many other regions across the world – from Brazil to West Africa, Middle East and the Caucasus. It is a tool that provides a step by step guidance on what a national anti-trafficking response is, how it should be designed or revised, and by whom it should be implemented. It outlines the key steps and issues to be considered in setting up effective structures and procedures for results-based monitoring, review and evaluation of national action plans to combat trafficking in human beings.

Specific needs and structures established for the fight against trafficking in human beings vary significantly across countries. The goals and actions presented in this Guide are based on European and international standards. Therefore, relevant stakeholders using this Guide will have to adapt the contents to their local context when setting up their anti-trafficking response and systems for monitoring, review, evaluation and learning.

The Guide consists of two main chapters. Chapter A walks the user through a comprehensive set of measures that need to be taken by the governments and anti-trafficking stakeholders to set up anti-trafficking response across the four main areas - prevention, assistance and protection of victims and victim-witnesses, investigation and prosecution of trafficking, and the overall enabling framework. It can be used as an exhaustive 'checklist' to help stakeholders to identify long and short term goals and actions to be taken according to the national priorities and needs. Chapter B provides guidance on how to monitor, review, evaluate and report on national action plans against trafficking in human beings, describing how, when and by whom effective review, monitoring and evaluation should be carried out. It is meant to guide everyone involved in a national anti-trafficking response, especially for those stakeholders responsible for coordination of the implementation of the national anti-trafficking response. Finally, in the Annexes we offer the templates of key tools for the main processes discussed in the Guide.

The reader will notice that a vast spectrum of recommended interventions addressed in the Guide can also be addressed through a dedicated counter-trafficking legislation - a special anti-trafficking law, relevant secondary legislation and their harmonisation and incorporation into a broader legislative framework. Nevertheless, there may be situations where adoption of a separate anti-trafficking law is not possible or a favoured option for several reasons, or the already existing anti-trafficking legislation is not comprehensive. Therefore, some or many of the issues still need to be addressed either through a strategy or a national anti-trafficking action plan.

Finally, even though the Guide has been designed based on the existing international standards and good practices, it does not aim to be an unmistakably complete and compulsory rulebook. Not at all, the Guide's main purpose is to provide the national anti-trafficking stakeholders with a roadmap with suggested stations and stopovers. How countries define their routes to and in between these, is solely up to them.

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



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The Practitioner's Guide was authored by the team of experts within the ICMPD's Anti-Trafficking Programme: Melita Gruevska Graham, Head of the Anti-Trafficking Programme, Madis Vainomaa, Senior Project Manager, and Elena Petreska, Project Officer.

This publication has benefited immensely from the collective know-how and expertise of two important mechanisms for coordinating the efforts of international organisations in the anti-trafficking field. First, the Inter-Agency Coordination Group against Trafficking in Persons (ICAT) - a policy forum founded in 2006, mandated to improve coordination and cooperation among United Nations entities and other relevant international organisations to facilitate a holistic and comprehensive approach to preventing and combating trafficking in persons. ICMPD joined the ICAT network in 2016, becoming one of the few non-UN organisations invited to participate. Second, the Organization for Security and Co-operation in Europe Alliance against Trafficking in Persons. Launched in 2004, the Alliance is an informal platform for advocacy and co-operation that includes international and civil society organizations. The draft Guide was circulated in January 2021 both through ICAT network and the Alliance Expert Coordination Team, soliciting comments, recommendations and suggestions.

ICMPD wishes to thank all its international partners who provided constructive and crucial feedback to the draft Guide. Particular gratitude goes to the esteemed colleagues at the ICAT, the International Federation of Red Cross and Red Crescent Societies (IFRC), Organization for Security and Co-operation in Europe (OSCE) - Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings (SR/CTHB), Organization of American States (OAS), United Nations Office on Drugs and Crime (UNODC) and its Global Action against Trafficking in Persons and the Smuggling of Migrants (GLO.ACT), and UN Women.





# Designing anti-trafficking response

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## A. DESIGNING ANTI-TRAFFICKING RESPONSE

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### A.1 International and Regional Legal Context

Before we dive into the technicalities of strategic and operational planning and gearing up the monitoring tools, let us take a quick tour through the key international documents regulating trafficking in human beings (THB), which also refer to the need of putting in place a strategic response.

The **United Nations** (UN) Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UNTOC (2000) (the UN Trafficking Protocol) did not only introduce the modern benchmark definition of trafficking in human beings. In addition, it also sets forth that:

*“States Parties shall establish comprehensive policies, programmes and other measures:*  
*(a) To prevent and combat trafficking in persons; and*  
*(b) To protect victims of trafficking in persons, especially women and children, from revictimization.”*  
(Article 9.1)

While it does not expressly refer to a national strategy or an action plan, the meaning of a “comprehensive policy /.../ to prevent and combat trafficking in persons and to protect victims /.../” is unambiguously clear.<sup>10</sup> The UN Global Plan of Action to Combat Trafficking in Persons (2010) uses the same phrase of ‘comprehensive policy’, but in addition to adoption also calling for their implementation.<sup>11</sup> The UN Recommended Principles and Guidelines on Human Rights and Human Trafficking (2002) recommend that states ‘should’ develop national plans of action to end trafficking.<sup>12</sup> The UNODC Model Legislative Provisions against Trafficking in Persons foresee that one of the tasks of the National Anti-Trafficking Coordinating Body is to develop a national plan of action, consisting of a comprehensive set of measures for the prevention of trafficking, identification of, assistance to and protection of victims, the prosecution of traffickers and the training of relevant State and non-State agencies, as well as coordinate and monitor its implementation.<sup>13</sup>

The regulatory environment of the **Organization for Security and Co-operation in Europe** (OSCE) called specifically for ‘national strategies /.../ to unite efforts directed towards combating trafficking in human beings’ as early as in 2002.<sup>14</sup> The OSCE Action Plan to Combat Trafficking in Human Beings recommends to consider establishing bodies responsible for co-ordinating activities among State agencies and NGOs and for elaborating measures to prevent THB (Chapter VI.2).<sup>15</sup>

The **Council of Europe** (CoE) Convention on Action against Trafficking in Human Beings (2005) (CoE Trafficking Convention) requires that its Parties establish or strengthen ‘effective policies and programmes to prevent trafficking in human beings’ and provides a specimen list of such policies and programmes (Article 5).<sup>16</sup>

The **European Union** (EU) Directive (2011) on preventing and combating trafficking in human beings (EU Trafficking Directive) encourages its Member States to establish or strengthen “policies to prevent trafficking in human beings’, including measures to discourage and reduce the demand that fosters all forms of exploitation, and measures to reduce the risk of people becoming victims of trafficking in human beings/.../”.<sup>17</sup> The EU Strategy towards the Eradication of trafficking in human beings under priority area D recognised the need for improved coordination and cooperation among key actors, stating that coherence is also essential to ensure that related policies incorporate anti-trafficking policy.<sup>18</sup> In 2017, the follow-up document to EU Strategy stated

<sup>10</sup> Even the Annotated Guide to the UN Trafficking Protocol does not provide any additional explanation or interpretation thereto. See Jordan, Ann D. (2002). Annotated Guide to the Complete UN Trafficking Protocol, p. 29.

<sup>11</sup> United Nations General Assembly (UNGA) (2010). United Nations Global Plan of Action to Combat Trafficking in Persons, A/RES/64/293, para. 15.

<sup>12</sup> OHCHR (2002). Recommended Principles and Guidelines on Human Rights and Human Trafficking, Guideline 1: Promotion and Protection of Human Rights, E/2002/68/Add.1, Guideline 1, para 3.

<sup>13</sup> UNODC (2020). Model Legislative Provisions against Trafficking in Persons, Art. 38(1), (2)b.

<sup>14</sup> OSCE Ministerial Council (2002). Declaration on Trafficking in Human Beings, MC(10).JOUR/2.

<sup>15</sup> OSCE Permanent Council (2003). The OSCE Action Plan to Combat Trafficking in Human Beings, PC.DEC/557; OSCE Permanent Council (2005). Addendum Addressing Special Needs of Child Victims of Trafficking for Protection and Assistance, PC.DEC/557/Rev.1; OSCE Permanent Council (2013). Addendum to the OSCE Action Plan to Combat Trafficking in Human Beings: One Decade Later PC.DEC/1107/Corr.11.

<sup>16</sup> Similar to the UN Trafficking Protocol, there is no additional elaboration on the term ‘policy’ in the Explanatory Report to the Convention. See CoE (2005). Explanatory Report to the Council of Europe Convention on Action against Trafficking in Human Beings, Council of Europe Treaty Series No. 197, p. 18.

<sup>17</sup> EU Directive 2011/36/EU of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA.

<sup>18</sup> European Commission (EC) (2012). The EU Strategy towards the Eradication of Trafficking in Human Beings 2012–2016, COM(2012)286 final.

the EU's commitment to take further steps to improve coordination of the internal and external aspects of EU anti-trafficking action, stressing thereby the importance of the role of the EU Anti-Trafficking Coordinator.<sup>19</sup> The EU Strategy on Combatting Trafficking in Human Beings 2021-2025, notes that the complexity of the trafficking phenomenon calls for a comprehensive response recognising a need for overarching legal, policy, and operational initiatives in a coherent and wide-ranging manner – from prevention to conviction.<sup>20</sup>

The Joint **EU-African Union** Ouagadougou Action Plan (2006) foresees that States should “consider developing a National Action Plan which, in a comprehensive manner, outlines all necessary measures to combat trafficking in human beings.”<sup>21</sup>

The **Organization of American States** (OAS) stipulates as an objective in its Second Work Plan against Trafficking in Persons in the Western Hemisphere 2015-2020<sup>22</sup> to “broaden and improve the work of government agencies and bodies involved in addressing trafficking in persons, in preventing, punishing and suppressing this crime, in prosecuting the perpetrators, in helping victims, and in protecting their rights, together with civil society organizations and other social actors, scholars, the private sector, and international organizations” and to devise strategies and develop the capacity to respond rapidly to TIP, principally for at-risk populations, especially women, children, adolescents, youth, migrants, indigenous communities, LGBTQI+ persons, and persons with disabilities, among others.

The **Association of Southeast Asian Nations** (ASEAN) Convention Against Trafficking in Persons, Especially Women and Children (2015) stipulates that its Parties are to ‘establish comprehensive policies, programmes and other measures’ both prevent and combat TIP and to protect the victims (Article 11.1).<sup>23</sup> The ASEAN Plan of Action against Trafficking in Persons, Especially Women and Children complements the ASEAN Convention, aims to provide specific action plans within ASEAN Member States’ domestic laws and policies. To achieve that the Member States committed to ensure implementation of national action plans, where applicable, to identify and prioritise key policies and programmes aimed at preventing trafficking in persons, and strengthen the implementation and coordination and monitoring mechanisms of such plans (Chapter IV, (A)f).<sup>24</sup>

The Model Law on Action against Trafficking in Human Beings of the **Commonwealth of Independent States** (CIS) foresees that that states ensure the development of ‘national programmes’ that include prevention, investigation and victim assistance and rehabilitation aspects (Article 4.2).<sup>25</sup> The Law foresees that the governments are to determine the main priorities of the state policy and ensure the financing of measures developed to implement the policy directives (Art. 15.2).

Efforts to coordinate anti-trafficking policies and enhance their coherence at a regional level can also be found within other regional initiatives, such as for instance the **Council of Baltic Sea States** (CBSS)<sup>26</sup> or **Economic Community of West African States** (ECOWAS).<sup>27</sup>

<sup>19</sup> EC (2017). Reporting on the follow-up to the EU Strategy towards the Eradication of trafficking in human beings and identifying further concrete actions, COM(2017) 728 final.

<sup>20</sup> EC (2021). EU Strategy on Combatting Trafficking in Human Beings 2021-2025. COM(2021) 171 final.

<sup>21</sup> Ouagadougou Action Plan to Combat Trafficking in Human Beings, Especially Women and Children As adopted by the Ministerial Conference on Migration and Development, Tripoli, 22-23 November 2006.

<sup>22</sup> In March 2018, the Permanent Council of OAS extended the period of implementation of the Second Work Plan until 2020 (initially foreseen until 2018). See OAS (2018). Declaration of Mexico (OEA/Ser.G, CSH/GT/RTP V-4/17 rev. 6, 7 March 2018), para. 31

<sup>23</sup> ASEAN (2015). ASEAN Convention Against Trafficking in Persons, Especially Women and Children.

<sup>24</sup> ASEAN (2015a). Plan of Action Against Trafficking in Persons, Especially Women and Children.

<sup>25</sup> CIS Assembly (2008). Decree on The Model Law on Action against Trafficking in Human Beings, No. 30-11 of 3.04.2008.

<sup>26</sup> See CBSS Task Force against Trafficking in Human Beings (2020). Strategic Plan 2020-2025, Strategic Objective 2.

<sup>27</sup> ECOWAS (2018). Plan of Action against Trafficking in Persons, Especially Women & Children (2018-2020), Theme 7.1.



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## A.2 Two-level Structure of the National Anti-Trafficking Response

A comprehensive national anti-trafficking response consists of two elements - the strategic (Strategy) and the operational level (National Action Plan). The exact format of each of the elements depends on and is guided by national legislation that provides the legal basis for the framework.

The Strategy refers to **WHAT** is to be achieved. It should include:

- a. Introduction that states the purpose and aim, and provides justification thereto;
- b. Background/analysis of the THB situation in the country and the existing institutional and legal framework;
- c. Strategic goals and specific objectives under each goal, together with indicators for both goals and specific objectives across minimum four main areas:
  - i. enabling (legal and institutional) framework
  - ii. prevention
  - iii. protection of and support for victims/trafficked persons and victim-witnesses
  - iv. investigation and prosecution of THB.<sup>28</sup>

Such thematic structure has its origins in the paradigm promulgated as the 3P's – prevention, protection, prosecution. The 3P's paradigm itself is rooted in the UN Trafficking Protocol and its statement of purpose defined in Article 2:

*“(a) To prevent and combat trafficking in persons, paying particular attention to women and children; (b) To protect and assist the victims of such trafficking, with full respect for their human rights; and (c) To promote cooperation among States Parties in order to meet those objectives.”*

These three thematic areas of prevention, victim protection and support, and investigation and prosecution have by now become a self-explanatory constant of an anti-trafficking strategy.

However, this paradigm has also developed over the time into what today in the global anti-trafficking community is known as the '4P's paradigm'. That fourth P is more commonly named as 'partnerships' or 'cooperation', or similar.<sup>29</sup> ICMPD sees partnerships as something that are overarching and inherently cutting across all the other Ps. Sometimes, such as in case of South Africa, the 'cooperation' is separated into two policy goals – international and national level cooperation.<sup>30</sup>

In the 2006 *Guidelines for the Development and Implementation of a Comprehensive National Anti-Trafficking Response*, ICMPD used a 'supporting framework' as the first component of the strategy. The supporting framework is overarching and it covers the following elements necessary to ensure the achievements of the 4Ps, such as: the legislative and institutional structures, including coordination mechanisms in the fight against human trafficking, as well as monitoring and evaluation framework, and systematised and harmonised data management and accessibility. ICMPD's work with anti-trafficking stakeholders in setting up national anti-trafficking responses subsequently showed that the stakeholders struggled to interpret the concept of a 'supporting framework' in such a wide manner. For that reason, this Guide has adopted a less constraining term for the first component - 'enabling framework'.

Naturally, this does not mean that the structure has to follow strictly such formula. More commonly we see the content relevant to an introductory part being spread across several chapters, that focus on legislative and institutional framework of the country in question, guiding principles, current trafficking profile, possibly presenting the results of the evaluation of the previous strategic planning cycle (for example, in case of Montenegro<sup>31</sup>).

There are also examples of taking this paradigm of four thematic areas further. For instance, Canada has introduced into its latest strategy an 'empowerment pillar'. The aim of that pillar is to empower youth and other vulnerable populations to protect themselves, test innovative interventions to support survivors, encourage

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<sup>28</sup> See also ICAT (2016). A Toolkit for guidance in designing and evaluating counter-trafficking programmes. Harnessing accumulated knowledge to respond to trafficking in persons, Part I, Section 1.

<sup>29</sup> For example, Government of Montenegro (2019). Strategy for Combating Trafficking in Human Beings, 2019-2024. "Partnership, coordination and international cooperation".

<sup>30</sup> Republic of South-Africa (2019). Prevention and Combating Trafficking in Persons. National Policy Framework, 2019-2022.

<sup>31</sup> See for instance Government of Montenegro (2019).

industry partners to revise supply chains to prevent forced labour.<sup>32</sup> Consequently, one can say that what started as 3P's, is constantly changing and developing.

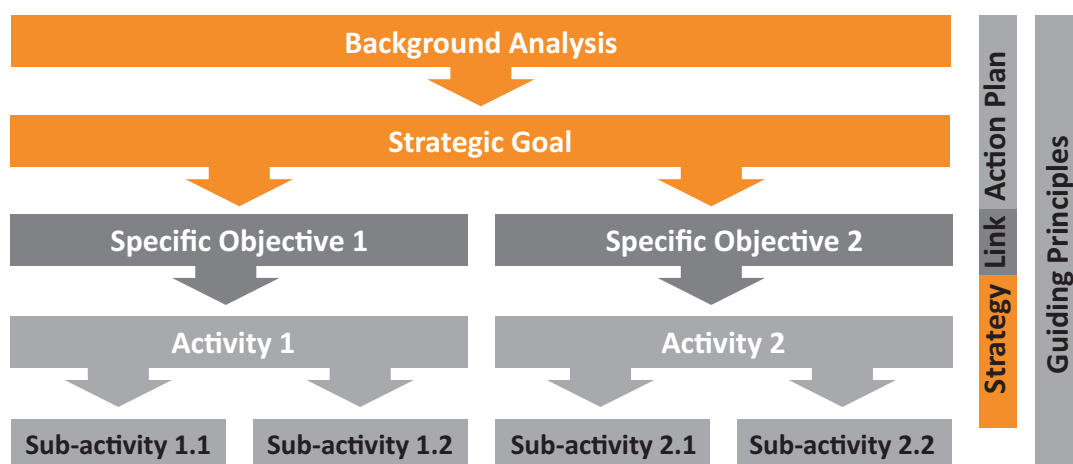
Accordingly, there are examples of strategic response documents that are not so technical in their language. For instance, Canada's strategy is concise and narrative in presenting the government's approach across the priority areas along with key activities thereunder, while the country situation, challenges and trends are presented in annexes.<sup>33</sup>

The operational level - National Action Plan - refers to **HOW** the defined strategic goals can be achieved. The purpose of the operational level is to identify concrete actions to reach the strategic goals and specific objectives identified in the national anti-trafficking strategy.

NAP should contain for each specific objective:

- Activities/sub-activities;
- Assigned responsibilities and time lines;
- Resource plans and budget;
- Indicators.

This chart illustrates the link and relation between the strategic and the operational level:



Practice suggests that anti-trafficking activities in a country are not always guided by, or aligned with, that country's NAP. Sometimes NAPs appear to be more like lists of activities with no clearly defined targets and priorities. Oftentimes, NAPs do not include a budget for implementation. Other shortfalls include:

- A lack of evidence or data informing the selection of interventions,
- Failure to assign responsibility for activities to specific actors,
- Omission of key risks and assumptions,
- Lack of a monitoring and evaluation framework.<sup>34</sup>

The NAP should operationalise the specific objectives as identified in the national anti-trafficking strategy. For each specific objective, the NAP should define activities and sub-activities across the key themes established in the strategy.

Furthermore, the NAP should define for each activity assigned responsibilities and time-lines, contain resource plans and budget and include monitoring and evaluation criteria.

Drawing on the accumulated knowledge, the table below sums up the essential elements of both the strategic and operational levels of the national anti-trafficking response.

<sup>32</sup> The Minister of Public Safety and Emergency Preparedness of Canada (2019), p. 8.

<sup>33</sup> Ibid.

<sup>34</sup> See ICAT (2016), Chapter 9.

ELEMENTS	EXPLANATION	GUIDING PRINCIPLES (government ownership, civil society participation, human rights based - victim-centred and gender-sensitive approach, sustainability)
<b>STRATEGIC LEVEL</b>		
<b>Introduction</b>	Outlines the overall purpose of the national anti-trafficking response	
<b>Background analysis</b>	Helps to define the problem and the strategic goals, and provides baseline data needed for future assessments	
<b>Analyses of the status quo of the areas covered by the axis</b>	Status quo analysis would confirm the relevance of the strategic objectives as well as the comprehensiveness of the strategy	
<b>Strategic goals and specific objectives</b>	The strategic objectives and sub- strategic objectives in the strategy are formulated.	
<b>Expected results</b>	Support the specific objectives	
<b>OPERATIONAL LEVEL</b>		
<b>Activities/sub activities</b>	The activities under each strategic goal are defined in the strategy document. However they should be listed in a National Action Plan, which will complement the Strategy. The activities should be formulated in order to facilitate the achievement of the indicators and will lead to the production of outputs.	
<b>Assigned responsibilities and timelines</b>	Since multiple stakeholders are involved in the implementation of the activities, their responsibilities should be clearly defined. The time line needs to be indicated based on realistic expectations.	
<b>Resource plan and Budget</b>	It is vital to draw up an approximate but realistic budget in order to be able to estimate the resources needed as well as to plan the funding of the specific activities.	
<b>Indicators</b>	Indicators are needed in order to measure the outcomes as well as to verify that the intended change is reached.	
<b>Monitoring and evaluation criteria</b>	The monitoring and evaluation criteria determine the success of the national anti-trafficking response and ensure the adaptation of the national anti-trafficking response to emerging trends.	

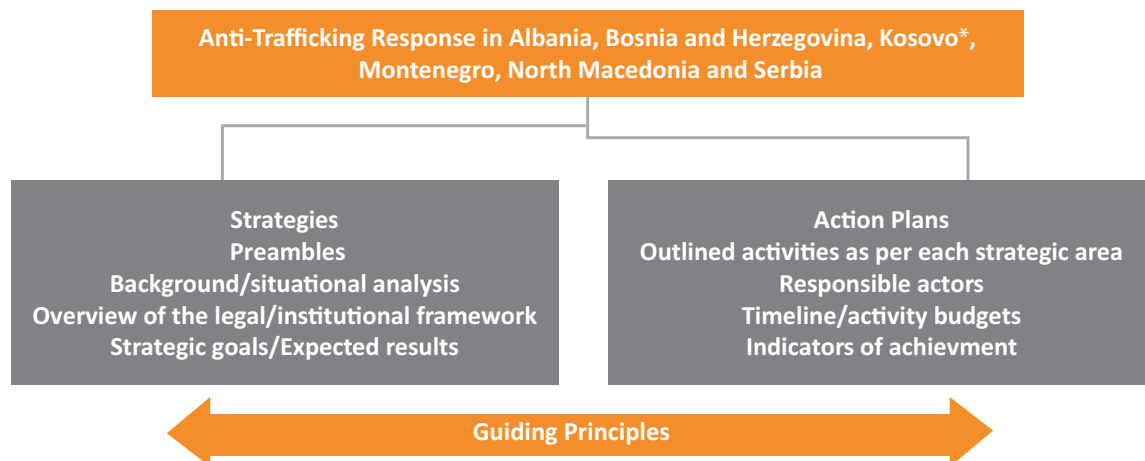
For examples of a strategy and a national action plan, see Annexes 2 and 3, respectively.

An assessment carried out in 2020 by ICMPD in Albania, Bosnia and Herzegovina, Kosovo\*, Montenegro, North Macedonia and Serbia<sup>35</sup> confirmed that they all followed the international standards and design their anti-trafficking response as per the recommended two-level structure. The structure of the analysed strategic and operational documents proved comprehensive with the activities designed according to the internationally recommended thematic set-up including prevention, protection, prosecution and supporting/enabling framework (elaborated in Chapter A4 of this Guide). The strategic documents consisted of preambles, background/situational analysis, strategic priorities and expected results from the planned actions. Most of the assessed strategies included to a varying degree, monitoring and evaluation criteria as valuable planning and implementation management processes demonstrating the determination of the beneficiaries to assess the progress, quality and impact of their anti-trafficking responses.<sup>36</sup> Current and the most recent action plans shared similar structures, foreseeing activities under each defined strategic area, assigning the actors responsible for the implementation, defining (to a varying degree) the available human and financial resources for each activity, as well as establishing indicators of achievement. The following infographic illustrates the general structures of the analysed anti-trafficking responses.

<sup>35</sup> This Assessment was carried out in the period May-October 2020 in the framework of the project “Strengthening the Strategic Anti-Trafficking Response in Western Balkans”, funded under the project “Preventing and Combating Trafficking in Human Beings in the Western Balkans”, commissioned by BMZ and implemented by GIZ.

<sup>36</sup> A review of NAPs in 11 countries under UNODC’s GLO.ACT programme (2016), for example, revealed that only four were informed by data, five had measurable indicators while none articulated risks and assumptions and none were fully budgeted. See ICAT (2016), Part II, Section 9, p. 69.

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



Both the strategy and NAP should reflect the following minimum guiding principles while designing goals and measures across the main thematic areas:

- Government ownership through interdisciplinary approach;
- Civil society participation;
- Human rights-based, victim-centred and gender-sensitive approach; and
- Sustainability.

We discuss these principles in the following section.

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## A.3 Guiding Principles

The following principles should shape the conceptual framework for the design and the implementation of a comprehensive national anti-trafficking response. Thus, they should integrate into all the elements at both the strategic and the operational level.

The list below does not suggest an order of importance or superiority. Each of these four guiding principles is equally vital for building a modern and functional response to human trafficking, and acts as a column, holding up the national anti-trafficking response. Should one of the columns crumble, the whole structure becomes at risk of collapsing.

### **(a) Government ownership through interdisciplinary approach**

The term ‘government ownership’ describes the relation the government should have towards the anti-trafficking measures applied in its country. ‘Government’ refers to state actors, e.g. those actors that are part of the public administration and directly linked to it (local, regional and national authorities). ‘Ownership’ in this context means that the government assumes full participation, responsibility and accountability in defining the objectives, implementing the activities and meeting the outcomes of the national anti-trafficking response.

This principle rests on a key rule of state responsibility under international law. Namely, the State is responsible for breaches of international law that can be directly or indirectly attributed to it. Building on that key rule, the UN Recommended Principles on Human Rights and Human Trafficking (2002) stipulate:

*“States have a responsibility under international law to act with due diligence to prevent trafficking, to investigate and prosecute traffickers and to assist and protect trafficked persons.”<sup>37</sup>*

The principle is expressly integrated into the key international documents on THB, such as the UN Trafficking Protocol and the CoE Trafficking Convention.

Being a complex phenomenon, trafficking in human beings cuts across different fields – human rights, migration, public security, organised crime, corruption, labour, unequal international economic relationships, gender inequalities, violence against women, girls and LGBTQI+ persons, feminisation of poverty, etc. Effective counter-strategies must consider these in order to address the different aspects of trafficking. To this end, it is necessary to have an ‘interdisciplinary’ approach, which means that the knowledge and expertise of different stakeholders and their respective methods are combined to develop measures to prevent and combat trafficking in persons (e.g. legal instruments, educational methods, social research, economic empowerment, psychological assistance, role of the media etc.).

Interventions should be designed and implemented to cover all sectors of a society (e.g. judiciary, education, labour market, etc.). Only a holistic approach allows tackling all aspects of trafficking at the same time.

The active involvement of state actors across different sectors at all levels of the national anti-trafficking response is important for several reasons:

- It is needed for a harmonisation of legal definitions, procedures and their application, and co-operation at the local, regional and national level in order to develop and implement an appropriate legal framework;
- Accountability;
- It is necessary for an interdisciplinary and cross-sectoral approach; and
- It is an important means to promote the sustainability of measures taken to prevent and combat trafficking.

Government authorities should:

- Initiate and bear the cycle of designing, implementing, monitoring and evaluating national anti-trafficking response;
- Ensure a multi-sectoral, co-ordinated approach. Appoint a National Anti-trafficking Coordinator (ATC) and a National Anti-Trafficking Coordinating Body (inter-agency anti-trafficking task force, a working group, a national team, commission or another suitable institutional format under the applicable legislation) to combat trafficking in human beings.<sup>38</sup>

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<sup>37</sup> OHCHR (2002). Principle 1, para. 2.

<sup>38</sup> CoE Trafficking Convention stipulates in Article 29.2:

“Each Party shall adopt such measures as may be necessary to ensure co-ordination of the policies and actions of their governments’ departments and other public agencies against trafficking in human beings, where appropriate, through setting up co-ordinating bodies.”

- Establishing a coordination mechanism ensures a regular exchange of information between the different actors;
- Such coordination mechanisms will also make it easier for relevant international actors and donors to harmonise their priorities and interventions in the anti-trafficking field with those of the host country;
- Address explicitly different fields and sectors at both the strategic as well as the operational level;
- Involve civil society and private sector in the design and implementation of the national anti-trafficking strategy and NAP;<sup>39</sup>
- Ensure a human rights-based, victim-centred, trauma-informed, and gender-responsive approach.

#### **(b) Civil society participation<sup>40</sup>**

The principle of ‘civil society participation’ requires that both the development and the implementation of programmes and measures against human trafficking are not only carried out by government authorities, but that they also involve stakeholders who are independent from the state and outside the government and public administration.

To involve civil society in the national anti-trafficking response does not only mean that civil society representatives are being allowed to take part in meetings, working groups, etc., but that they play an active role in decision-making and that their views and opinions are reflected adequately in the design and implementation of the national anti-trafficking response, and receive sufficient funds to implement corresponding activities.

The principle is set forth in UN Trafficking Protocol (Article 9.3), as the notion of ‘cooperation with non-governmental organizations’. The Protocol Annotation explains that the signing governments “must find appropriate ways to collaborate and cooperate with NGOs”, while such cooperation should also include government funding of NGO activities.<sup>41</sup>

The involvement of civil society representatives, especially of survivor-led organizations, is important because they are able to complement the support provided by the state and bring in a differentiated unique perspective. The civil society participation not only ensures adequate assistance to the victims, but also, as the victims’ willingness to cooperate improves with better attention to their needs, renders prosecutions more effective. Civil society representatives should be free to assist victims of trafficking regardless of whether the victims co-operate with law enforcement or not. Thus, the possibility for them to receive funding and/or to actively be involved in the national anti-trafficking response should not be conditional to the collaboration between the victim and the law enforcement. They can also play an important role in prevention by informing vulnerable groups of the risks and how to mitigate these, promote (self-) identification of presumed victims they encounter while working with vulnerable groups, and share insights into relevant trends and data with the state.

To ensure active participation of civil society in the national anti-trafficking response:

- Some members of the National Anti-Trafficking Coordinating Body (NATCB) and eventual Thematic Working Group (TWG) must be NGOs;
- NGO members of the NATCB and TWG must have voting rights;
- Civil society must be involved in the implementation of anti-trafficking measures in the areas of prevention, protection and prosecution (e.g. in providing assistance to the victim during the duration of legal proceedings through psychological assistance and safe housing). They should be part of the national referral mechanisms and have a prominent role in the identification, social assistance- and protection of the victims;
- NGOs must be part of a national information exchange mechanism; and
- NGOs should obtain sufficient funding to be able to carry out their activities, including during times of crisis (such as pandemics), as their service should be considered essential.

The UN Recommended Principles and Guidelines state that the process developing national action plans should be used to build links and partnerships between the relevant governmental institutions and relevant sectors of civil society. (OHCHR (2002), Guideline 1, para. 3) See also UNODC (2020), Art. 38.1.

<sup>39</sup> UNODC Persons (2020), Art. 40.2.

<sup>40</sup> For more elaborate discussion see e.g. OSCE-SR/CTHB (2018). Occasional Paper No. 8: The Critical Role of Civil Society in Combating Trafficking in Human Beings.

<sup>41</sup> Jordan, Ann D. (2002), p. 29.

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**(c) Human rights-based, victim-centred and gender-sensitive approach**

*“The human rights of trafficked persons shall be at the centre of all efforts to prevent and combat trafficking and to protect, assist and provide redress to victims.”<sup>42</sup>*

The term ‘human rights-based approach’ means that the national anti-trafficking response (as well as single measures) should be normatively based on international human rights standards and operationally directed to promoting and protecting human rights, especially those of the victims.<sup>43</sup> Human rights are related to the notion of human dignity, both are connected in such a way that one cannot be understood without the other. Thus, a human rights perspective that considers the full range of indivisible, interdependent and interrelated civil, cultural, economic, political and social rights of each individual should be part of any strategy, measure and policy to address trafficking in human beings.

The notion ‘right’ expresses that it should be a legally enforceable entitlement, which entails the obligation for the government to respect, promote, protect, and fulfil it. This includes that those not enjoying their rights (e.g. victims of trafficking) are given the possibility to claim them.

The concept requires that human rights obligations and principles be “integrated into all aspects of work, including by ensuring participation and inclusion of disadvantaged groups; strengthening human rights accountability of States; and promoting non-discrimination and equality, including gender equality”.<sup>44</sup>

A human rights-based approach includes a gender-sensitive approach as gender-related discrimination against human beings is recognised as a violation of their fundamental human rights, and are, as well, predominantly seen in the different forms of trafficking in persons.

The human rights-based approach offers a conceptual and normative framework that should give direction to the further development of policies in the area of combating trafficking. At the same time, it offers a framework to monitor and evaluate anti-trafficking policies, practices and actions for their real and potential impact on victims of trafficking and other groups concerned.

Indispensable elements of a human rights-based approach are the observance of human rights standards and the principle of non-discrimination, standard setting and accountability, the integration of a gender perspective and the recognition of human beings as subjects and holders of rights.

Some of the key human rights relevant to human trafficking situation and the relevant international treaties:<sup>45</sup>

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<sup>42</sup> OHCHR (2002), Principle 1.

<sup>43</sup> OHCHR (2010). Recommended Principles and Guidelines on Human Rights and Human Trafficking – Commentary, p. 49.

<sup>44</sup> UNODC (2021). Toolkit For mainstreaming Human Rights and Gender Equality into criminal justice interventions to address trafficking in persons and smuggling of migrants, p. 10.

<sup>45</sup> See also UNODC (2021), Part I.

<p><b>Right to life</b></p>	<ul style="list-style-type: none"> <li>▪ Universal Declaration of Human Rights (UDHR), Art. 3; International Covenant on Civil and Political Rights (ICCPR), Art. 6;</li> <li>▪ Migrant Workers Convention (MWC), Art. 9; Convention on the Rights of the Child (UNCRC), Art. 6; Convention on the Rights of Persons with Disabilities (CRPD), Art. 10;</li> <li>▪ European Convention on Human Rights (ECHR), Art. 2; American Convention on Human Rights (ACHR), Art. 4; African Charter on Human and Peoples' Rights (ACHPR), Art. 4</li> </ul>
<p><b>Right to liberty and security</b></p>	<ul style="list-style-type: none"> <li>▪ UDHR, Art. 3; International Convention on the Elimination of Racial Discrimination (CERD), Art. 5 (b);</li> <li>▪ ICCPR, Art. 9; MWC, Art. 16; CRPD, Art. 14;</li> <li>▪ ECHR, Art. 5; ACHR, Art. 7; ACHPR, Art. 6.</li> </ul>
<p><b>Right to freedom from slavery, servitude, forced labour, or bonded labour</b></p>	<ul style="list-style-type: none"> <li>▪ Slavery Convention, 1926, Art. 1; Supplementary Convention on the Abolition of Slavery, 1956, Art. 1</li> <li>▪ Convention Concerning Forced and Compulsory Labour, 1930, Arts 1, 2 and 4</li> <li>▪ UDHR, Art. 4; ICCPR, Art. 8; MWC, Art. 11; ECHR, Art. 4; ACHR, Art. 6; ACHPR, Art. 5</li> <li>▪ Convention Concerning the Abolition of Forced Labour, 1957, Art 1</li> <li>▪ Rome Statute, Arts. 7 (c) and 7 (g)</li> </ul>
<p><b>Right to freedom of movement</b></p>	<ul style="list-style-type: none"> <li>▪ UDHR, Art. 13; ICCPR, Art. 12;</li> <li>▪ Convention on the Elimination of All Forms of Discrimination against Women, Art. 15 (4);</li> <li>▪ MWC, Art. 8; CERPD, Art. 18;</li> <li>▪ ECHR, Art. 3; ACHR, Art. 12; ACHPR, Art. 12;</li> <li>▪ Refugee Convention, article 23.</li> </ul>
<p><b>Right to (physical and mental) health</b></p>	<ul style="list-style-type: none"> <li>▪ International Covenant on Economic, Social and Cultural Rights, Art.12;</li> <li>▪ Convention on the Elimination of All Forms of Discrimination against Women, Art.12; MWC, Art. 28; UNCRC, Art. 24; CRPD, Art. 15;</li> <li>▪ European Social Charter, Art. 11; Protocol on the Rights of Women in Africa, Art. 14</li> </ul>

*Excerpt from OHCHR (2010). Recommended Principles and Guidelines on Human Rights and Human Trafficking – Commentary.*

Anti-trafficking response that is built on a human rights-based approach aims to:

- change the conditions that give rise to trafficking and the exploitation of human beings under all forms of exploitation, such as forced labour or slavery-like conditions;
- avoid re-victimization;
- stop the abuse and investigate, prosecute and punish the perpetrators; and
- provide adequate and effective remedies to trafficked persons.<sup>46</sup>

<sup>46</sup> OHCHR, UNHCR, UNICEF, UNODC, UN Women and ILO (2011). Joint UN Commentary on the EU Directive – A Human Rights-Based Approach (2011), p. 27.



## Non-punishment of trafficked persons

A crucial element of the human rights-based approach is the principles of non-punishment of trafficked persons.

While the UN Trafficking Protocol does not address the issue, the Principle 7 of the OHCHR Recommended Principles and Guidelines state that “*Trafficked persons shall not be detained, charged or prosecuted for the illegality of their entry into or residence in countries of transit and destination, or for their involvement in unlawful activities to the extent that such involvement is a direct consequence of their situation as trafficked persons*”. The non-punishment principle is expressly included featured in the UNODC Model Legislative Provisions against Trafficking in Persons (Art. 13).

The CoE Trafficking Convention provides for the possibility of not imposing penalties on victims for their involvement in unlawful activities if they were compelled to do so by their situation (Art. 26).

The EU Trafficking Directive requires States to take the necessary measures not to prosecute victims of trafficking for criminal activities they have been involved in as a direct consequence of being trafficked (Art. 8).

The principle can also be found in the ASEAN Convention Against Trafficking in Persons, Especially Women and Children (Art. 14 (7)) and in the Commonwealth of Independent States Model Law on Providing Assistance to the Victims of Trafficking (Art. 5).

→ Comprehensive anti-trafficking frameworks must include law and policy measures that implement the non-punishment principle.

→ States should develop clear and understandable policies, practices and laws to support the effective implementation of the non-punishment principle at all stages of the criminal justice system, as well as in non-criminal processes that expose the victim to possible punishment (e.g., immigration matters, or administrative and publicorder related offences).

→ States should extend the non-punishment principle to enable criminal records to be vacated or expunged for individuals who were convicted of crimes committed as a direct result of trafficking.

→ Any indication that a victim of THB purportedly consented (either to the intended exploitation or to committing the alleged offence) must not be used to deny access to measures that implement the nonpunishment principle at the national level.

*For a more elaborated discussion see ICAT (2020). Issue Brief 8 Non-Punishment of Victims of Trafficking. See also OSCE-SR/CTHB (2013). Policy and legislative recommendations towards the effective implementation of the non-punishment provision with regard to victims of trafficking; and UNODC (2020). Model Legislative Provisions against Trafficking in Persons, Art. 13, pp. 44-49.*

The OHCHR Guidelines make a clear link between the identification of a trafficked person and their subsequent access to rights:

*“A failure to identify a trafficked person correctly is likely to result in a further denial of that person’s rights. States are therefore under an obligation to ensure that such identification can and does take place.”<sup>47</sup>*

Therefore, the most essential element to ensuring a human rights-based approach is for states to introduce measures for rapidly identification of victims of trafficking. This is the very essence and purpose of a National Referral Mechanism (NRM). NRM is a:

*“/.../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.”<sup>48</sup>*

The basic aims of an NRM are to ensure the respect of the human rights of trafficked persons and to establish the effective mechanism and tools to refer victims of trafficking to the necessary services.

In the case of migrants and refugees arriving to a country, it is possible that different groups of practitioners may identify victims of human trafficking at different stages and procedures. Therefore, ensuring a functioning victim identification in the first reception centres for refugees and migrants is crucial.<sup>49</sup>

<sup>47</sup> OHCHR (2002), Guideline 2.

<sup>48</sup> OSCE/ODIHR (2004), p. 15, OSCE/ODIHR (2021) (forthcoming).

<sup>49</sup> For more practical guidance on the subject matter see: OSCE-SR/CTHB (2019), Uniform Guidelines for the Identification and Referral of Victims of Human Trafficking within the Migrant and Refugee Reception Framework in the OSCE Region.

In addition, it is necessary that:

- The capacities of relevant NRM stakeholders (such as the judiciary, the police, social affairs, migration and asylum system, and others), should be improved so the services they provide ensure that the rights of victims of trafficking are respected and strengthened;
- Concerned individuals should be made aware of their rights and to the maximum extent possible, they should be involved in any policy or practical decisions pertaining to the development and implementation of the national anti-trafficking response;
- States must observe the international human rights standards set in the signed and ratified human rights conventions as well as international labour standards and child rights standards. Therefore, laws, policies and practices on anti-trafficking must not contravene such provisions;
- Measures taken by all actors for preventing and combating trafficking must be designed not to infringe on the safety and well-being of the victims and more generally, the human rights of all persons concerned;
- Measures should be taken to provide effective remedies and to promote the right to redress and compensation, including access to complaints mechanisms for civil, criminal and other legal remedies. These remedies, redress and compensation should be accessible for victims of all forms of trafficking, and also for people without a regular migration status;
- Victims of trafficking must be afforded assistance regardless of their standing in a formal (criminal) proceedings; They must be informed about their status before the law and their potential right to take legal action against discriminatory practises as well as on their rights to claim asylum in the destination countries; and
- In all actions concerning children, the best interest of the child shall be the primary consideration.

To ensure a gender-sensitive approach, states should:

- Acknowledge that everyone - women and men, girls and boys, and LGBTQI+ persons can become victims of trafficking;
- Recognise the similarities and differences in the trafficking in women, men, girls, boys, and LGBTQI+ persons. Recognise their different particular vulnerability to trafficking, different violations, consequences and policy and programme impacts;
- Acknowledge that these differences are deeply rooted in unequal gender norms and dynamics, which render women and girls disproportionately affected by this crime, and are intersected with other forms of discrimination, including age, class, ethnicity, origin, race, etc.;
- Empower victims to access remedies and claim rights through all measures taken by all actors; and
- Give practical effect to the above by enabling policy, legislative, institutional and programmatic initiatives appropriate to the specific concerns.

### Sustainable Development Goals

In 2015 the UN adopted the 2030 Agenda for Sustainable Development – a set of 17 commitments - Sustainable Development Goals (SDGs) - to be achieved by 2030. An overarching principle of SDGs is that States have a collective interest and responsibility to ensure that the most vulnerable people and populations – including migrants and refugees – are not left behind by economic, social and environmental progress.

THB is specifically mentioned in three targets under three goals: 5 (Gender Equality), 8 (Decent Work and Economic Growth) and 16 (Peace Justice and Strong Institutions). Also other targets and goals are relevant to THB, as it is deeply rooted in development issues at-large including poverty, education, child labour, abuse and exploitation, gender inequality and discrimination, migration and the effects of climate change.

Key recommendations for states regarding SDGs when designing their anti-trafficking responses:

- Adapt project programming, strategic objectives and communication activities to reflect the commitments made in the relevant SDG targets.
- State and non-State responses to human trafficking should be gender and age sensitive.
- Avoid duplication and pool resources of anti-trafficking actions through harmonising national, regional and global research and capacity building initiatives addressing trafficking in persons.
- Ensure adequate collection of sex and age disaggregated data, including on migrant, stateless and refugee populations and support consistent reporting towards SDG targets and indicators.

*For more elaborated insight, see ICAT (2018). Issue Brief No. 5, The Role of the Sustainable Development Goals (SDGs) In Combating Trafficking In Persons*

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UN Convention on the Rights of the Child (1989):

- Give primary consideration to the best interests of the child (Art. 3.1);
- Non-discrimination of any kind of the child or her/his parent (Art. 2);
- Respect the child's own views (Art. 12);
- Do not interfere with the child's privacy, family, home, or correspondence (Art. 16);
- The child has the right to state support in recovery and restarting their lives (Art. 39).

#### **(d) Sustainability**

*"A sustainable anti-trafficking response is one that endures over time, and is able to adapt creatively to changing conditions. Sustainability refers to coherence of practices in both time and efficiency."<sup>50</sup>*

In terms of a national anti-trafficking response sustainability means that the structure and system to be implemented is able to endure over the long term and to creatively adapt to changing conditions over time. There should be no critical dependencies, such as major external donor funding, which could easily collapse the system.

Sustainability ensures that the national anti-trafficking response serves the victims and the society at large not just within a limited short time frame but also as long as the problem of human trafficking persists. It requires that practices are coherent in both time and efficiency.<sup>51</sup>

From an economic point of view, it ensures that the use of existing resources is maximised and that investments into the national anti-trafficking response are not lost. A sustainable national anti-trafficking response will thus more easily attract necessary funding, both internal and external.

*"No anti-trafficking action, whether prosecution, prevention or protection, can be sustainable and successful without the full restoration of the human rights of trafficked persons."<sup>52</sup>*

The sustainability of a national anti-trafficking response is ensured:

- Through government ownership;
- Through civil society participation;
- Through periodical review of the NAP as well as regular/parallel monitoring and evaluation of the measures already implemented;
- By including human right standards, which strengthen the legitimacy of political processes;
- If the measures taken integrate with and build on local management structures;
- If the programme and project designs take adequate account of the capacity of local administrative systems;
- If regular state budget allocations are ensured for the financing of the anti-trafficking coordination structures as well as activities and measures of the involved actors;
- If anti-trafficking measures are mainstreamed (e.g. anti-trafficking training for police officials to be included in the regular police training curriculum of the academies); and
- If the multiplier approach (e.g. train the trainer approach) is pursued.

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<sup>50</sup> OHCHR, UNHCR, UNICEF, UNODC, UN Women and ILO (2011), p. 25.

<sup>51</sup> UNODC (2009). International Framework for Action To Implement the Trafficking in Persons Protocol, p. 9.

<sup>52</sup> OSCE-SR/CTHB (2015). Commentary to the OSCE Action Plan to Combat Trafficking in Human Beings (PC.DEC/557), the 2005 Addendum Addressing Special Needs of Child Victims of Trafficking for Protection and Assistance (PC.DEC/557/Rev.1) and the 2013 Addendum to the OSCE Action Plan to Combat Trafficking in Human Beings: One Decade Later (PC.DEC/1107/Corr.11), p. 12.

## A.4 Formulating the Response

### A.4.1 Introduction and Background Analysis

The introductory part should at a minimum outline the overall purpose of the national anti-trafficking response. It should explain that a comprehensive, efficient and appropriate national anti-trafficking strategy is needed in order to foster a shared understanding and co-ordinated action of all stakeholders and actors, but also to ensure political and financial (including external donor) support.

In addition, the introduction should outline the guiding principles, or these should be elaborated in a separate sub-chapter. It should also include a paragraph on the commitment of the state actors involved in supporting the implementation of the national anti-trafficking response.

A thorough analysis of the current situation:

- Helps to define the problems and consequently the strategic goals;
- Provides baseline data for future assessments of the national anti-trafficking response. It should therefore cover all fields for which strategic goals are being formulated, but at a minimum analyse the status quo (including the available statistical gender disaggregated data) of the four areas mentioned above. Special attention should also be given to the analysis of new trends with regard to forms of trafficking including profiles of victims and modus operandi; and
- Maps main actors involved in combating trafficking and their respective roles as well as stakeholders relevant for planned future action.

Such an analysis is valuable for the design and implementation of a well-functioning co-ordination structure. Among other things, the following issues should be considered:<sup>53</sup>

#### ENABLING FRAMEWORK

- **Coordination framework:** How are measures against trafficking presently co-ordinated at the national, regional, and local levels? Which actors are involved? Is there a clearly understood and institutionalised division of tasks and co-ordination mechanisms relating to the assistance to and protection of victims, i.e. standard operating procedures and memoranda of understanding (MoUs), especially between state and non-state actors?
- **Legislative framework:** Which laws relevant to trafficking are in place (also concerning the rights of victims) and which international instruments have been ratified/implemented? Which laws relevant to child protection are in place?
- **Prevalent trafficking profile:** Which forms of trafficking (trans-national, internal) and which types of exploitation (e.g. forced labour, sexual) occur in the country? Who is affected by the different forms of exploitation (girls, women, men, boys) and to what extent?
- **Data & research:** Which documentation and data are available on trafficking? Are there any major information deficits? What research relevant to trafficking has been conducted? By whom? What are the results?
- **Project environment:** Which projects have been implemented in the field of trafficking and by whom? Which problems did they address/focus on? Are there any monitoring or evaluation results available on these projects? If yes, what are their findings?

#### PREVENTION

- **Socio-economic:** Which projects have been implemented in the field of trafficking and by whom? Which problems did they address/focus on? Are there any monitoring or evaluation results available on these projects? If yes, what are their findings?
- **Education:** What is the educational situation, especially with regard to women and children? Do ethnic groups and girls, women, boys and men have the same access to education? Are girls encouraged to acquire high quality education/training and if so, how? What is the level of awareness of first line responders and communities on counter-trafficking issues (incl. e.g. social workers, medical practitioners, educators) also in terms of their ability to prevent THB and pre-identify THB cases or VoTs and react accordingly?
- **Vulnerabilities:** What are the anti-discrimination measures targeted at minorities in the labour market? What are the anti-discrimination measures targeted at women in the labour market? What are specific measures to reduce economic vulnerabilities?
- **Gender:** How is gender based violence countered, such as e.g. domestic violence, rape, sexual assault, molestation, sexual abuse of girls and boys, human trafficking?
- **Safe and legal migration:** Are there safe and legal migration mechanisms in place? How well are regular migration schemes functioning? What is known about awareness and risks of THB of specific migrant groups such as asylum seekers/undocumented migrants/ labour migrants? Are legal migrant labourers bound to one particular employer? Can third-country nationals who become relatives of a citizen of a country change the type of residence permit e.g. after divorce? Have there been any surveys on the population's general awareness on legal

<sup>53</sup> For other specific questions to consider in mapping and identifying responses to THB, see also: ICAT (2016), Part I, Section 2. For tools to support the analysis of the human rights and gender equality situation in a country see UNODC (2021), Part 2.

migration options? If yes, who is more aware of them, female or male persons? Have there been any surveys on the population's awareness of trafficking? If yes, what were the results and who is more aware of trafficking: girls, women, boys, and men? Are there information campaigns on the possibility to receive assistance and support for victims of trafficking? Is related information available/ accessible to the target groups?

- **Child protection/prevention:** Are there any systems/campaigns in place? Do they focus only on girls? Are different messages sent with regard to boys and girls respectively? Do protection systems include the group of unaccompanied minors?
- **Demand:** Are there projects and programmes in place that tackle the demand side of trafficking? If so, do these programmes mainly address men and the demand for sexual services provided by female persons, or do they also tackle the demand for forced labour, domestic work, servitude, begging, sexual services provided by male persons, etc.?
- **Re-trafficking:** Are victims empowered?

## SUPPORT AND PROTECTION OF VICTIMS AND VICTIMS-WITNESSES

- **Victims:** Number of identified victims (at national and regional level); data broken down by gender, nationality and age, and form of THB.
- **Identification:** Is there a formal identification procedure? Is victim identification separated from cooperation in the police investigation? How it works (existence of protocols, actors involved in the identification process, 24 hours and 7 days a week, contact points, addressing different target groups, outreach programmes, etc.)?
- **Assistance:** Do all victims of trafficking in persons enjoy the necessary needs-based assistance? Are there minimum standards for assistance that must be provided to each victim? Does this assistance differ according to gender, age and ethnicity, as well as according to the victims' choice? Which kind of social services are available to the victims? Profile of the victims according to e.g. age, sex, ethnicity. Shelters: Number and types of shelters (e.g. for national and foreign victims, child victims, short term or long term, gender, etc.) and services offered. Is there a temporary residence permit for victims without legal status? What specific procedures are in place for child victims of trafficking?
- **Return:** Is the return of victims organised with due regard for their rights, safety and dignity and for the status of any legal proceedings related to the fact that the person is a victim? Is there a preference given to voluntary return? What is the course of action in cases where return is not possible?
- **Protection:** Are there sufficient protection schemes for all victims of human trafficking, and victim/witnesses? Is there a multidisciplinary approach towards protecting victims?

## INVESTIGATION AND PROSECUTION

- Is trafficking in human beings criminalised including all forms of exploitation and all types of victims? Is it punishable to attempt to commit the offence of trafficking?
- Is there a police and prosecutorial department specialised for trafficking in human beings cases? If so, what is the proportion of women/of men, and do they receive gender-sensitive and human rights-sensitive training?
- What is the number and type of investigations (e.g. parallel financial investigations) at the national/regional level?
- Understanding impunity. The number of court cases/suspects/convictions on human trafficking. Number of court cases/suspects/convictions regarding related offences, such as facilitation of illegal immigration. Analysis of the sentences in THB cases versus the number of investigations i.e. assessing the effectiveness of the criminal justice response.
- Proportion of women/men among suspects/offenders.
- Proportion of girls/women/boys/men among victims, also with regard to different forms of exploitation, such as sexual exploitation/forced labour exploitation. Non-punishment of victims (e.g. as regards to any unlawful activity correlated to the situation of exploitation, such as illegal entry, illegal employment, using fake documents).
- How are victims/witnesses treated during the proceedings? Is due respect given to the different gender-specific experiences but also to the needs before, during and after the trial? Is there a possibility/obligation under the law to interview victims by officials of the same sex and that have received adequate training to avoid causing further harm?
- Is co-operation between law enforcement, judiciary and NGOs in place?
- Is the issue of trafficking in human beings included in the anti-corruption plan? Is confiscation of assets regulated by the national law?
- Compensation of victims; existence of compensation schemes/funds?

**Montenegro's strategy**<sup>54</sup> stands out as the one providing an elaborate background analysis as basis for defining the strategic priorities. It gives an ample introduction and background into the circumstances from which the current strategy is stemming from. It clearly states that the starting point for its drafting was an external analysis of the impact of the implementation of the Strategy for Combating Trafficking in Human Beings for 2012-2018, presented in detail in the strategy. It also provides the framework of the country's international relations and priorities thereof relevant to the strategy. The strategy provides an overview of the main achievements and challenges during the lifetime of the previous strategy for the year 2012-2018.

<sup>54</sup> Government of Montenegro (2019), p. 7.

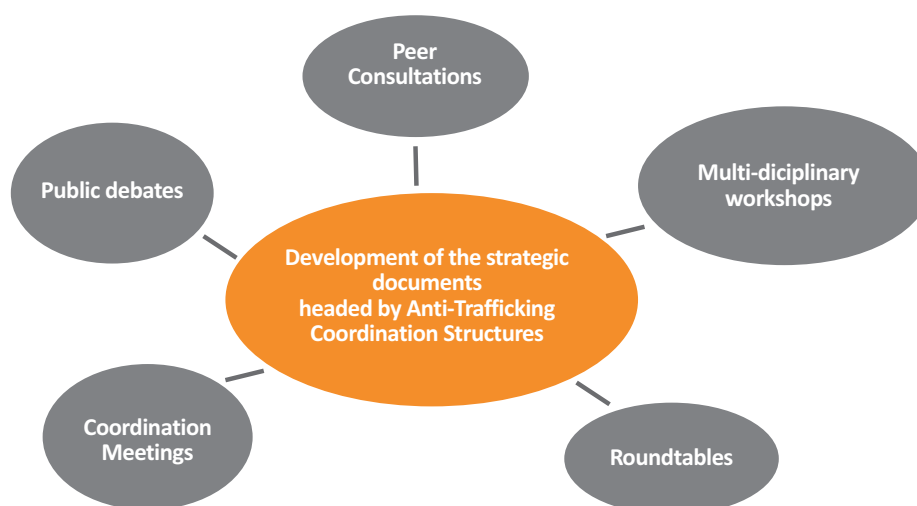
## A.4.2 Setting Strategic Goals, Specific Objectives and Defining the Activities

Before discussing strategic goals and objectives and defining corresponding activities, we would like to draw the reader's attention to the following important aspects that concern the process and the content.

**First, the process of development of the strategic documents.** While international experts can support the drafting of the document and also facilitate the preparation process, the content of the documents, the identification of needs has to come from the national anti-trafficking stakeholders.

A recommended pathway would be to form a working group for the development of the strategy (and/or national action plan), appoint relevant multidisciplinary national stakeholders. Each of the integral elements of the strategic response deserves to have a series of its own dedicated working meetings. In between the meeting, the relevant stakeholders would contribute by means of written inputs.

The following graph illustrates the variety of good practices in developing of strategic documents in Albania, Bosnia and Herzegovina, Kosovo\*, Montenegro, North Macedonia and Serbia.



In the contexts where a strategy or action plan are already in place, ample time will need to be reserved for the preparation of the document for the new cycle to avoid a situation where the previous one has expired but new one has not yet been developed/adopted.

**Second, the content matter of the strategic goals.** While this Section will discuss establishing the standard strategic goals and specific objectives, it is worthwhile to also devote attention to issues that have specifically been highlighted by ICAT. Specifically, ICAT recommends certain shifts in focus:

- **Action to be evidence-based:** Systematic monitoring and evaluation of anti-trafficking programmes will allow for advanced results-based initiatives. This requires systematically embedded monitoring and evaluation of counter-trafficking activities;
- **Reduction of vulnerability:** More attention devoted to the analysis of and response to the underlying social and structural inequalities that enable human trafficking;
- **Protection mechanisms tailored to victims' needs:** Victims of trafficking should have access to protection schemes, unconditionally and without discrimination, and be entitled to international protection;
- **Address impunity of traffickers:** Strengthen collaboration throughout and across investigation and prosecution;
- **Discourage demand;**

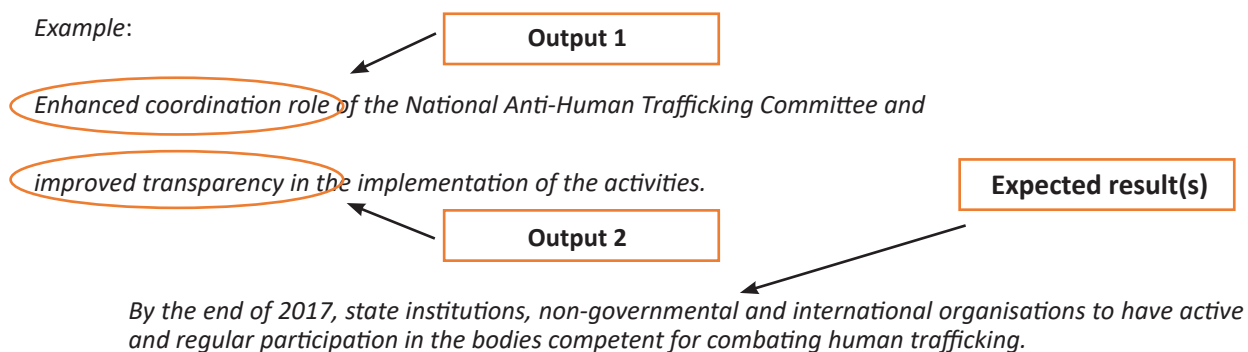
\* This designation is without prejudice to positions on status, and is in line with UNSC 1244 and the ICJ Opinion on the Kosovo declaration of independence.



- **Improve inter-agency efforts:** Fostering cooperation and dialogue among states, national coordination mechanisms, law enforcement, civil society, survivors of trafficking, international organizations working on the ground, media and private sector to be a pre-requisite to any viable anti-trafficking programme and response.<sup>55</sup>

**Third, the way of formulating the strategic goals and objectives.** When designing the new anti-trafficking strategy, the following needs to be kept in mind - operational response should break the strategic goals down into specific objectives supported by clearly defined expected results as illustrated hereunder.

Example:



The objectives should be formulated in a way to present the outcome as an intended change that will be a result from the actions taken.

The NAP should operationalise the specific objectives as identified in the national anti-trafficking strategy. For each specific objective, the NAP should define activities and sub-activities across the thematic areas defined in the strategy.

Furthermore, the NAP should define for each activity assigned responsibilities and time-lines, contain resource plans and budget and include monitoring and evaluation criteria.

### A.4.2.1 Enabling Framework

#### (a) Coordination structures<sup>56</sup>

It is essential to identify the main responsible actors from governmental institutions, and those from the civil society and international organisations (IOs) which are prepared to take responsibility for implementing the national anti-trafficking response. These actors should be included and actively engaged in a consultative process aiming at rendering anti-trafficking structures functioning and efficient.

At the same time, the involvement of a wide array of national institutions and actors can lead to duplication of efforts, inefficient use of resources, incoherent or contradictory interventions and therefore lead to an exact opposite result from what is sought - a less effective national response. This is precisely where the role of a National Anti-Trafficking Coordinating Body is crucial – to enable information exchange, ensure strategic planning, division of responsibilities and sustainability of results.<sup>57</sup>

The UN Trafficking Protocol does not detail on the issue of coordination and structures other than foreseeing that the States Parties shall establish policies, programmes and ‘other measures’ to prevent and combat THB and protect victims of THB (Art. 9.1), and these shall include cooperation with NGOs and other relevant organisations (Art. 9.3).

The UN Global Plan of Action encourages effective cooperation and coordination of efforts at the national level (para. 51), as well as promotes “cooperation and coordination among governmental institutions, civil society and the private sector, including the media, as well as workers’ and employers’ organizations, to strengthen prevention and protection policies and programmes”. (para. 53).

<sup>55</sup> Adapted from ICAT (2020b). 20th Anniversary of the Trafficking in Persons Protocol An analytical review.

<sup>56</sup> In some countries, national anti-trafficking co-ordination role is split between a high-level political person and a senior official within a ministry in charge with of co-ordinating the implementation of the anti-trafficking activities. In addition there may an inter-ministerial body, which is in charge of co-ordination of the implementation of NAPs. This body is called differently, e.g. National Committee, National Commission etc.

<sup>57</sup> UNODC (2009), p .12.

A technical assistance tool developed by UNODC that aims to assist UN Member States (MS) in the effective implementation of the UN THB Protocol clearly states that in order to improve national cooperation and coordination, the states are required to:

*“Establish a system or mechanism of multidisciplinary cooperation and coordination among relevant stakeholders, such as governmental institutions (including law enforcement agencies, judicial authorities, labour inspectorates, immigration and asylum authorities), non-governmental organizations, victim service providers, health institutions, child protection institutions, trade unions, workers’ and employers’ organizations, and the private sector.”<sup>58</sup>*

The CoE THB Convention (Art. 29.2) requires the Parties to:

*“/.../adopt such measures as may be necessary to ensure co-ordination of the policies and actions of their governments’ departments and other public agencies against trafficking in human beings, where appropriate, through setting up co-ordinating bodies”.*

The co-ordination structure should foresee multidisciplinary and cross-sector participation and should be created at the governmental level including:<sup>59</sup>

- National Anti-trafficking Co-ordinator (ATC) overall responsible for the design and implementation of the comprehensive national anti-trafficking response (i.e. national anti-trafficking strategy and NAP).<sup>60</sup> ATC should have an adequate administrative vehicle, such as a dedicated office with the necessary staff, to enable ATC to perform its foreseen role;<sup>61</sup>
- National Anti-Trafficking Coordinating Body for co-ordination of the implementation of national anti-trafficking response (NATCB). Such bodies are named differently across countries, e.g. National Committee, National Commission, National Task Force, etc. This body may include subgroups that are responsible for the design, implementation and regular review of the national anti-trafficking strategies and NAP in their respective thematic areas (e.g. children).

#### **Anti-trafficking Co-ordinator (ATC)**

- The government should nominate an ATC holding a high-ranking governmental position, e.g. representative of one of the national-level ministries with the necessary political and executive power, and should provide to her/him political and administrative support. Terms of Reference (ToR) for the position should clearly define the objectives and the mandate of the ATC should be drafted;
- According to the ToRs, the ATC should have the lead in the overall responsibility for the national anti-trafficking response. The ATC shall be responsible for the internal co-ordination as well as for the design and implementation of the national anti-trafficking response including all the anti-trafficking related activities;
- The ATC should co-ordinate all activities within the country by assuring local and regional as well as international co-operation, including data collection;
- The ATC should have knowledge about the THB situation in the respective country;

The government and/or the ATC should furthermore create ToR for the role, responsibilities and functioning of the Office of the ATC, a national anti-trafficking coordinating body for co-ordination of the implementation of NAP (NATCB), and Thematic Working Groups (TWGs) within NATCB (see below). Such ToR should also include mechanisms to ensure accountability of all relevant bodies engaged in the implementation of the activities at the local, regional and national level in order to guarantee a functioning network as well as self-monitoring schemes

The establishment of intra-service (within the same agency or ministry) and inter-service co-operation among the

<sup>58</sup> UNODC (2009), p. 12.

<sup>59</sup> See also UNODC (2020), Articles 38 and 40.

<sup>60</sup> On 13th December 2000, SEE Governments signed the “Anti-trafficking Declaration” in Palermo, whereby they committed to nominate NCs and set up official structures in order to tackle effectively trafficking at the national and regional level.

<sup>61</sup> The UNODC Model Legislative Provisions against Trafficking in Persons provide that an authorised authority would appoint a Governmental Coordinator of NATCB, whose primary responsibility is to assist NATCB in carrying out its activities and may have additional responsibilities as determined by the appointing authority. The Coordinator and NATCB are to consult with nongovernmental, intergovernmental, international or any other relevant organizations, victims of trafficking in persons and other affected groups. (UNODC (2020), Art. 38.3)



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actors involved in the national anti-trafficking response should be formalised and made effective (e.g. through governmental agreements, specific guidelines or legislation).

ATC should, subject to the national legislative framework:

- Be responsible for reporting to the government and the parliament;
- Be allowed to liaise with external partners, agencies and donors and organise meetings on a regular basis;
- Lead the budget and resource mobilisation and co-ordination;
- Be responsible for the overall monitoring, review and evaluation of the NAP;
- Co-ordinate information and data collection, analysis and sharing;
- Chair the NATCB and ensure its regular meetings; and
- Ensure political support from all the ministries and agencies concerned in order to support the focal points of the NATCB.

In all these activities the ATC shall be supported by a dedicated Office – Office of the ATC - that serves as the secretariat for the ATC and provides support to the ATC for the co-ordination of all the anti-trafficking activities.

The office should have dedicated staff members who work solely on THB issues in order to provide administrative and logistical support for the work of the ATC. Ideally, more persons, if needed, should also work for the Office as advisors to the ATC as well as driving forces for the implementation of the national anti-trafficking response.

Headed by the ATC, the Office should at minimum:

- Regularly liaise with the members of the NATCB and with those of the TWGs and ensure that the communication flow as well as a regular exchange of views among the stakeholders is in place (e.g. with a newsletter and/or website);
- Ensure that all relevant information is disseminated at the local and regional level and within the country;
- Run a database of projects/contacts, as well as a roster of NGOs, which is regularly updated and made available to all the stakeholders;
- Maintain regular contact with the donors in the country and, in order to co-ordinate funding and avoid duplication and/or overlapping of projects, call for regular meetings with all the donors; and
- Assist the ATC in all matters, as necessary.

### **NATCB**

A NATCB involving all relevant ministries, IOs and inter-governmental organisations and NGOs active in the anti-trafficking field as well as other relevant actors should be established under the co-ordination of the ATC.

Such body should be inter-ministerial, inter-disciplinary and include such actors as:

- at the governmental level:<sup>62</sup> Ministries of Interior, Foreign Affairs, Labour, Social Welfare, Gender Equality/ Women, Public Health, Justice, Finance, Youth, Education.
- Other actors:
  - Public prosecutors offices; Police institutions; and Judicial training institute.
  - Labour officials and institutions: Workers and employers' organisations; Labour inspectors;

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<sup>62</sup> This list is not exhaustive and has to be adapted to the Governmental structure in each country.

- National statistics and research institutions; and
- Child agencies.
- NGOs/IOs working in the anti-trafficking field (see below): Social partners; and
- IOs.

**NATCB shall carry out the following activities:**

- (a) Coordinate the implementation of this Law, including developing protocols and guidelines, and providing for their adequate implementation, including by raising awareness, skills and capacity of all anti-trafficking stakeholders through regular training and other means;
- (b) Develop [within [one year] of the enactment of this Law] a national plan of action, consisting of a comprehensive set of measures for the prevention of trafficking, identification of, assistance to and protection of victims, including victims who are repatriated from another State to [name of State], the prosecution of traffickers and the training of relevant State and non-State agencies, as well as coordinate and monitor its implementation;
- (c) Develop, coordinate and monitor the implementation of a national referral mechanism to ensure the proper identification of, referral of, assistance to and protection of victims of trafficking in persons, including child victims, and to ensure that they receive adequate assistance while protecting their human rights;
- (d) Establish procedures to collect gender-disaggregated data, and to promote research on the scale and nature of all forms of trafficking in persons, the factors that further and maintain trafficking in persons and best practices for the prevention of trafficking, for assistance to and protection of victims and the prosecution of traffickers;
- (e) Facilitate inter-agency and multidisciplinary cooperation between the various government agencies and between governmental and nongovernmental agencies;
- (f) Facilitate cooperation among countries of origin, transit and destination;
- (g) Act as a focal point for national institutions and other State and non-State actors, as well as international bodies and other actors, engaged in the prevention of trafficking in persons, the prosecution of traffickers and assistance to victims;
- (h) Ensure that anti-trafficking measures comply with existing human rights norms and do not undermine or adversely affect the human rights of the groups affected; and
- (i) [Monitor the victim fund.]

*Source: Article 38.2, UNODC (2020)*

The representatives of the Ministries shall co-ordinate with her/his respective Ministry.

The NATCB should be involved in the development and implementation of the national anti-trafficking strategy and the NAP and their regular monitoring, evaluation and review. The NATCB should have a clear mandate and be accountable according to agreed ToR.<sup>63</sup>

***Thematic Working Groups (TWGs)***

TWGs should be constituted as subgroups of the NATCB which work on specific topics, according to the particular needs and challenges of a country (e.g. as regards different forms of trafficking/of exploitation, types of victims).

They should be formed at working levels according to the thematic set-up (4P's) of the national anti-trafficking response, i.e. prevention, protection and prosecution, in order to establish regular channels of communication and action to develop, implement and regularly review the national anti-trafficking strategy and NAP in their respective thematic areas. Each of them should ensure gender mainstreaming relating to the planned and specific actions and activities.

<sup>63</sup> For good practices on national coordination, see e.g. CoE Group of Experts on Action against Trafficking in Human Beings (2016). Compendium of good practices on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings.

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Each TWG should appoint a Chair to co-ordinate its work. Representatives of the TWG should:

- Have the authority to make working level decisions;
- Be flexible to pursue projects without political constraints;
- Have sufficient time and capacity to dedicate to their function in the TWG;
- Act on behalf of the NATCB in their respective substance area;
- Have a clear mandate and be accountable according to the ToR; and
- TWG on children should have the authority and capacity to produce a separate NAP on trafficking in children that shall be endorsed, either as a separate document or as a fully formed annex to the NAP.

The TWGs, or their chairs, should meet in regular intervals in order to ensure full co-ordination of all anti-trafficking measures.

A dedicated TWG should be created for dealing with trafficking in children. This working group should have the capability to obtain additional funding from the relevant ministries responsible for child protection. On the matter of protection of trafficked children from identification until recovery and integration, the interventions should be guided by the UNICEF Guidelines on Protection of Child Victims of Trafficking, which are meant to be used as a platform for developing policies and practices, while considering local circumstances, constraints and resources.<sup>64</sup>

Role of the NGOs:<sup>65</sup>

- Civil society must be included in the co-ordination structure, taking into consideration the crucial role played by NGOs especially in the areas of prevention and victim assistance;
- NGOs should be represented in the NATCB and it should be mandatory to include NGOs representatives in each TWG. In this framework NGOs must be part of the decision making process and shall be consulted in order to provide their opinion and expertise; and
- Governments should ensure the participation of the NGOs in the NATCB by signing formal co-operation agreements (such as a MoUs), which should clearly set out the specific responsibilities of each actor and as well as the distinction of tasks.<sup>66</sup>

Role of the IOs:

- Together with inter-governmental organisations active in the country, support the development of the national co-ordination structures by providing the main actors with technical expertise, training when needed and financial support for the implementation of the NAP;
- Promote a human rights/gender-based approach and facilitate the implementation of the anti-trafficking activities as per the NAP leaving the leading role to the national stakeholders;
- Should participate in the NATCB as ‘observers’ in order to advise the ATC and the NATCB upon request;
- Provide support for NGOs networking and active participation within the co-ordination structure; and
- Provide support to governmental structures and social partners in order to ensure sustainability of anti-trafficking initiatives.

### **National Referral Mechanism (NRM)<sup>67</sup>**

Institutionalised, multi-agency co-ordination mechanisms must be established to ensure that all victims of human trafficking obtain the necessary and appropriate human rights-based and gender-sensitive assistance, support and protection. Note that while the strategy and NAP can explore the needs and identify steps to establish NRM, in order to be institutionalised, NRM needs to be embedded into the national legal framework.

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<sup>64</sup> UNICEF (2006), Guidelines on the Protection of Child Victims of Trafficking. For guidance on planning activities to prevent child trafficking see e.g. Dottridge, M. (2007). A handbook on planning projects to prevent child trafficking. Relevant guidance is also provided in: OSCE-SR/CTHB (2018a). Occasional Paper No. 9: Child Trafficking and Child Protection: Ensuring that Child Protection Mechanisms Protect the Rights and Meet the Needs of Child Victims of Human Trafficking (2018); UNGA (2010a). Guidelines for the Alternative Care of Children (A/RES/64/142\*), and UNICEF (2011). Application of the Guidelines for the Alternative Care of Children

<sup>65</sup> For a detailed insight on the role of the civil society, see also: OSCE-SR/CTHB (2018).

<sup>66</sup> For a comprehensive information on co-operation agreements please refer to OSCE/ODIHR (2004), OSCE/ODIHR (2021) forthcoming).

<sup>67</sup> For an elaboration on NRM see OSCE/ODIHR (2004) and OSCE/ODIHR (2021) forthcoming).

Such mechanisms should be centred on the needs of individual victims and include the initial detection and identification, their referral to appropriate services and support, legal stay, support during investigation, prosecution and trial (if any), complaint mechanisms, and leading to a durable solution such as return, (re)-integration, resettlement or social inclusion. Such systems must be institutionalised yet flexible to allow for process/case management tailored to the needs of individual victims.

The TWG on protection should assume the responsibility for designing the set-up of NRM at the operational level, as well as monitoring, evaluating and regularly reviewing its work with a view to optimising the process.

In 2018, the OSCE Ministerial Council adopted a Decision on Strengthening Efforts to Prevent and Combat Child Trafficking, including of Unaccompanied Minors, which recognises that “collaboration among States, first line responders and civil society, can further help safeguard children, including those who are unaccompanied, from being subjected to human trafficking.”

The Decision called on participating States to “strengthen national, regional and international co-operation for preventing and combating child trafficking, particularly with regard to reporting and sharing information, about child victims of trafficking, including those unaccompanied, in accordance with their respective domestic laws, including concerning the protection of personal data,” and to “consider the appointment of a national focal point to whom enquiries can be addressed by officials from other countries regarding child victims of trafficking, including those who went missing and/or whom they plan to return to in their respective country of origin”.<sup>68</sup>

### **(b) Legal and regulatory framework**

Adequate legislation is one of the major steps to tackle effectively human trafficking. Thus, policy makers and competent authorities should consider undertaking legislative reforms with the view to bring legislature in compliance with relevant international instruments.

An appropriate legal and regulatory framework should encompass the criminalisation of THB in all its forms, the provision of assistance, protection, privacy and confidentiality to victims of human trafficking, their protection, legal redress and compensation. Furthermore, the cooperation between state and non-state actors should also be regulated by the legislative framework.

National legislation should be harmonised according to international legal instruments. Furthermore, national legislation should be harmonised according to international human rights standards. The element of human rights is crucial and should be regarded when drafting or interpreting anti-trafficking laws, by-laws, regulations, procedures, code of conducts, agreements, MoUs, etc.<sup>69</sup>

Reform of the counter-THB legislation should provide for the protection of the basic human rights of presumed victims of trafficking regardless of immigration status, and include the adoption of laws to detect illegal employment, punish organisers of clandestine movement and those employing in abusive conditions, as well as promote national policies aimed at equal treatment of migrant workers with national workers.

The review of legislation and practices according to the well-established international anti-trafficking standards based on human rights law should actively involve policy makers, civil society representatives, as well as the legislators at the national and local levels. Experts from other countries as well as from IOs active in the field should be consulted in order to provide expertise and legal advice. Additionally, policy makers, legislators and other experts should be gender sensitive and understand gender aspects of trafficking so that gender is mainstreamed in policies, actions and programmes that relates to combating trafficking.

In line with the strategic objectives identified for the legal and regulatory framework the following standards should be considered while identifying activities:

- The country should ratify human rights instruments and incorporate them into national law;
- THB should be made a distinct offence included in national criminal law in compliance with the UN Trafficking Protocol;
- Separate legal provisions should exist on smuggling of and trafficking in humans, not only reflected in the definition but also in practice;

<sup>68</sup> For concrete recommendations for setting up such a focal point, see OSCE-SR/CTHB (2020). Establishing National Focal Points to Protect Child Victims of Trafficking in Human Beings.

<sup>69</sup> For practical self-assessment questionnaires concerning the international and national legal frameworks, see UNODC (2021), Sections 2.2. and 2.3.

- All practices related to human trafficking such as debt bondage, forced labour and forced prostitution should also be criminalised;
- Recognition of model employment contracts and their enforcement in destination country courts, even for workers with irregular status;
- Control and regulation of private recruitment and employment agencies, including the fees they charge, the employers and sub-contractors they collaborate with in destination countries and their minimum qualifications to operate as recruitment agencies, which can normally be standardised through a licensing system; and
- Special provisions for child trafficking should be applied.<sup>70</sup>

With regard to co-ordination and co-operation:

- The anti-trafficking co-ordination structure, including appointment of an ATC and NATCB, as well as their tasks including co-operation between state actors and NGOs in the framework of NRM, needs to be regulated.
- With regard to prevention the following issues should be in place: Anti-discrimination and gender equality provisions;
- Children rights and child protection;
- Legal and non-discriminatory migration possibilities;
- Regulatory instruments on exchange of information and training; and
- Non-discriminatory, gender-sensitive border control measures related to trafficking.

Concerning the protection of the victims, lawmakers should consider the following main issues:

- Ensure identification of victims (through instruction for law enforcement personnel and/or prosecutors, and co-operation agreements with NGOs);
- Measures to ensure access to civil procedures;
- Protection of the privacy of the victims;
- Gender-sensitive victim and victim-witness protection programmes;
- Necessary assistance to the victim, including also psychological and medical assistance, and the right to safety; the assistance should be provided by trained assistants of the same sex as the victim;
- Free legal counselling, interpretation services and cultural mediation for the victim;
- Legal stay for the victim;
- Data protection regulations;
- Measures to ensure social inclusion of victims, such as a (temporary) work permit, job training, access to education facilities and integration programmes;
- Measures to ensure that victims of trafficking are not returned to a country where they would be at risk of ill treatment or re-trafficking (*non-refoulement* protection); and
- Special needs of children have to be taken into account for all of the above.

As far as prosecution is concerned the following should be addressed:

- Criminalisation of trafficking in all its forms, for all kinds of exploitation and regarding all types of victims;
- Non-punishment of victims;
- Appropriate sanctions to the crime of trafficking;
- Mutual legal assistance;
- Compensation for the victims (provided directly to the victim);

<sup>70</sup> References to the relevant articles of the Hague Conventions on Child abduction etc. should be referred to/reinforced in countries that are signatories to those conventions of the Hague Conferences.

- Financial investigation procedures integrated within the criminal investigation procedures;
- Seizure and confiscation of proceeds;
- Extradition provisions;
- Evidentiary procedures to request and obtain evidence on trafficking crimes from a source or destination country;
- Specific provisions for under-cover operations;
- Pre-trial hearings; and
- Data and information exchange at the international level.<sup>71</sup>

### (c) Information management and research

In order to optimise the national anti-trafficking response, it must be ensured that all relevant information and data is available and accessible to the actors involved and exchanged regularly.

To this end, it is necessary to overcome three major challenges:

- A lack of common definitions among existing data sources, which in many countries leads to a mix of data related to human trafficking, smuggling and irregular migration;
- A lack of data concerning forms of human trafficking other than the trafficking of women and children for sexual exploitation; and
- A lack of reliable statistical data, which is the precondition for the review of a national anti-trafficking response.

A step to overcome this lack of data is to harmonise definitions at both the national and the international level. In addition, new data has to be collected by means of research and monitoring.

At the strategic level, information management and data collection are closely connected to monitoring.

**Data collection** on human trafficking should be linked to migration-related information systems (e.g. institutions, which already collect data on migration on a regular basis) and agencies that detect exploitative employment practices (e.g. labour inspectorates or police and employment tribunals that hold hearings on cases of labour exploitation). It will also benefit from a link-up with social welfare data collection systems – to have insight into the number of persons receiving assistance as trafficking victims.

**Research** should be based on the definitions provided by the UN Trafficking Protocol and other relevant international legal instruments in order to facilitate a systematic measurement and evaluation of the phenomenon and to be able to compare data on a multi-national level. Research should focus on the following issues:

- Elements related to intelligence (participation and activities of criminal groups);
- Socio-economic and gender profiles of perpetrators and victims and of their societies of origin;
- Main root causes for human trafficking giving due consideration to gender-related and migration-related causes and drivers;
- Consequences for the individuals involved as well as for the countries concerned; and
- Outcomes of prosecutions of human trafficking, including success and failures in victim protection, court room procedure, collection and presentation of evidence, conviction rates and types of sentences, awards of compensation and types of awards received (if any), and reasons for success and failures in prosecutions.

Information management and research should cover all areas of the national anti-trafficking response. In all fields, data should be collected separately for women, men, boys and girls, and LGBTQI+ individuals.

As for the format, both personalised and non-personalised data should be collected but the exchange of personal data should be subject to the victim's consent. The data collecting exercise should not cause further harm to the victim.

<sup>71</sup> For an exhaustive assessment of the Legal Framework, please refer to OSCE/ODIHR (2004), pp 39-42.



Research should be undertaken by specialised research institutes as well as by independent domestic experts including NGOs. In order to allow comparative research, cooperation with international research institutes, experts and NGOs and participation in international research networks should be sought.

In line with the strategic objectives identified for information management and research the following **standards** should be considered while identifying activities:

- Management and collection of personal data regarding trafficked persons' should be limited to the absolute necessary minimum. The process of data collection should ensure human rights and gender sensitive standards and prevent further harm to the victim.<sup>72</sup>
- The collected data on both victims and perpetrators of trafficking, should be disaggregated by all parameters considered relevant (including by sex, age, disability, ethnicity, nationality, immigration status, location, socioeconomic status and all forms of exploitation), where so permitted by national law. Such data collection, storage, sharing or dissemination must be carried out in a legal and ethical manner "with due accordance to international standards on privacy and confidentiality",<sup>73</sup>
- Data should be delivered by governmental authorities as well as by non-state actors, including national statistical offices, law enforcement agencies, labour inspectorates, inter-governmental organisations, NGOs, research institutes and IOs;<sup>74</sup>
- At the international level, information exchange should involve relevant agencies in both the target countries as well as the countries of origin of victims of trafficking. The ATC and NATCB should also regularly share information and experiences;
- The dissemination of information should take place via regular reports and a website. Reports and information of national organisations should be available in their mother tongue and in hard copy. (Not all countries have regular access to the Internet. In addition, governmental bodies often do not speak foreign languages);
- Research should be inter-disciplinary. It should be co-ordinated at a national level such as by establishing a national anti-trafficking research programme in close connection with the Office of the ATC. Research should be oriented towards the production of practical recommendations to curb trafficking and to establish appropriate protection and assistance to victims of trafficking. Finally, it should protect confidential and personal data and information;
- Regulations (applicable national legal framework and good practices<sup>75</sup>) concerning the transmission of data between criminal prosecution and immigration enforcement authorities, and counselling agencies. Co-operation agreements must include regulations guaranteeing that the identity of the victim of trafficking will not be forwarded by the criminal prosecution authorities to counselling agencies without her/his consent. In the same way, counselling agencies must not be pressured to divulge the identity of their clients or other information relating to them to the criminal prosecution authorities without the proper authority to do so. Counselling agencies should have strict regulations that prevent sharing of personal data with the authorities.<sup>76</sup>

<sup>72</sup> See WHO (2016). Ethical and safety recommendations for intervention research on violence against women Building on lessons from the WHO publication: Putting women first: ethical and safety recommendations for research on domestic violence against women.

<sup>73</sup> CEDAW (2020). General recommendation No. 38 on trafficking in women and girls in the context of global migration (CEDAW/C/GC/38), paras. 110, 111. Such standards include, e.g.: the CoE Convention for the Protection of Individuals with regard to automatic processing of personal data; the African Union Convention on Cyber Security and Personal Data Protection of 2014 and the ECOWAS Supplementary Act (A/SA.1/01/10) on Personal Data Protection within ECOWAS; also the EU General Data Protection Regulation (GDPR) of 2018. GDPR governs data processing, storage, use, and exchange of data in EU Member States and other countries, agencies, and private organizations outside of the EU that provide goods and services to the EU, and process data of EU residents. The GDPR prescribes what constitutes personal data, set rules for the handling of data, delineated roles and responsibilities of those who control and process personal data. As long as an organisation's processing of the data in the context of its activities occurs in the context of some arrangement that exists in the EU, this data processing is covered by the GDPR. Non-EU establishments are subject to the GDPR - e.g. when they process personal data to offer goods and services to EU residents. The GDPR does not apply to the processing of personal data for national security reasons and pursuant to the EU's common foreign and security policy, also to data processed by public authorities in preventing, detecting, investigating, and prosecuting of crime. For a detailed overview see UNODC University Module Series. Module 10: Privacy and Data Protection. Cybercrime.

<sup>74</sup> For data protection standards for NGOs – service providers for trafficked persons, see datACT (2015). Data Protection Challenges in Anti-Trafficking Policies A Practical Guide.

<sup>75</sup> Ibid.

<sup>76</sup> In 2018, the Dutch National Rapporteur on the Trafficking of Human Beings noted that "organisations without investigative powers (such as youth care institutions, NGO's and care coordinators) have to ask victims for written permission before they can report their case /.../. These organisations are raising alarm because it is becoming increasingly difficult to report cases to /.../ due to privacy legislation." On 5 November 2019, a Member of European Parliament Jeroen Lenaers posed a parliamentary question to clarify if GDPR prescribed the need to obtain explicit consent from an alleged victim of human trafficking before a report can be submitted. ([https://www.europarl.europa.eu/doceo/document/E-9-2019-003625\\_EN.html](https://www.europarl.europa.eu/doceo/document/E-9-2019-003625_EN.html)) [visited 15.03.2021]. In its answer on 17 February 2020, the European Commission clarified that "[i]n principle, processing of personal data for the purpose of reporting victims of crime to public authorities, may be carried out when there

#### (d) Resource and budget mobilisation

It is vital for an effective and sustainable anti-trafficking co-ordination to have a detailed plan of the resources needed and on how to mobilise them. Such a plan should comprise detailed provisions for technical and financial assistance and indicate the high priority of anti-trafficking measures.

Resource and budget mobilisation covers all inputs that are needed for a successful implementation of the national anti-trafficking response. This includes:

- Financial resources,
- Human resources; and
- Assets, services and equipment.

The mobilisation of resources must take place at both the strategic and operational level and must aim to ensure the allocation of resources from the regular budget of various governmental institutions allowing for the implementation of the NAP. Additionally, it should target external donors and could include also public-private partnership.

ATC should coordinate the overall resource and budget mobilisation with the support of NATCB. Subject to the specifics of national legal framework applicable to fiscal planning, all implementing agencies should inform ATC about their funding needs for the implementation of the activities foreseen in the NAP.

The following should be considered while identifying activities:

- Draft a detailed budget for each planned activity. For each action set out in the NAP a detailed budget describing all resources needed should be drafted, including allocated budget and in-kind contributions.
- Draft a national anti-trafficking resource plan. Based on these budgets the ATC Office should draft a national resource plan indicating the total resources needed for each area (supporting framework, prevention, protection and prosecution). It should also include a list of funds already awarded by external and internal donors as well as an indication of priority funding needs in line with the national anti-trafficking strategy and NAP.
- Prioritise securing state funding. Work with respective governmental structures to secure state/local funding. This may require further raising of awareness and sensitisation efforts with the Ministry of Finance, local administrations, municipalities and other relevant public stakeholders to ensure the necessary funding for the implementation of NAP.
- contact possible donors. The national secretariat should use the national anti-trafficking resource plan (or parts thereof) together with project outlines to inform potential donors and sponsors.
- Information for the implementing agencies on funding possibilities. The implementing agencies should be regularly informed about funding opportunities, e.g. via e-mail or a newsletter.

The activities identified above should be distributed along to the following:

- The ATC with NATCB's support should bear the overall responsibility for resource and budget mobilisation and should:

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is an obligation in EU or national law, or where EU or national law authorises such processing for reasons of public interest. In some cases, such processing may also be justified when necessary for protecting the vital interests of the individuals, in particular when their health or life is threatened. In addition, where the processing relates to special categories of data, such as data relating to health or one's sex life or sexual orientation, an additional justification is required under Article 9(2) GDPR. These justifications include the person's explicit consent, or a legal requirement under EU or national law which fulfils an objective of substantial public interest. It should be assessed whether reporting to the competent authorities would necessitate providing sensitive personal data or whether reporting on the basis of anonymised and/or aggregated data would suffice". (Available at: [https://www.europarl.europa.eu/doceo/document/E-9-2019-003625-ASW\\_EN.html](https://www.europarl.europa.eu/doceo/document/E-9-2019-003625-ASW_EN.html)) [visited 15.03.2021]



- provide an overview of the national anti-trafficking resource plan;
- work with the Ministry of Finance, local administrations, municipalities and other relevant public stakeholders to ensure the necessary funding;
- liaise with external donors and agencies; organise donor meetings at regular intervals; and
- inform the implementing agencies on funding possibilities (through the national secretariat).
- The Office of the ATC should support the ATC by:
  - drafting a national anti-trafficking resource plan;
  - liaising with donors and sponsors in the country;
  - setting up a roster of potential donors and funding opportunities;
  - being responsible for the monitoring of the budget of NAP in coordination with the agencies in charge of implementation of individual NAP activities;
  - co-ordinating the funding activities of internal and external donors; and
  - informing the implementing agencies on funding opportunities; and indicate how much resources should go to the beneficiaries.
- Implementing agencies should:
  - design detailed budgets for each activity;
  - inform the Office of the ATC about their funding requirements; and
  - seek donors and/or sponsors for their activities.

### **(e) Review, monitoring and evaluation**

While review, monitoring, evaluation and also learning are discussed in detail in Chapter B of this Guide, we would hereby clarify the relevance of some of these elements in defining the state's anti-trafficking response.

In order to determine the success of the national anti-trafficking response, it is not enough to evaluate only the elements of the operational level by examining anti-trafficking activities or to concentrate on the strategic level by determining the achievement of strategic goals. One has to look at all elements, namely activities, expected outputs, specific objectives and strategic goals.

The purpose of monitoring, evaluation and review is to check whether the programme really works, whether the activities really lead to the expected outputs and whether these outputs really contribute to the achievement of the specific objectives and the strategic goals. Based on the results one can improve activities at the operational level or reformulate goals at the strategic level.

**Review** of the national anti-trafficking response means to determine, at regular intervals, the degree of its success. Thus, the review focuses on the achievement of the envisaged goals, both at the strategic level as well as at the operational level. If necessary, adjustments must be made to reflect new requirements or changing situations.

To be able to conduct review, monitoring and evaluation in a systematic way, a "Review, Monitoring and Evaluation Framework" should be developed. This document should define the time lines and roles and responsibilities of the different actors involved. This plan should be developed and agreed upon by the stakeholders responsible for the implementation (e.g. the NATCB). Based on the Framework, detailed modalities for review, monitoring and evaluation should be elaborated and regulated in the "Terms of Reference for Review, Monitoring and Evaluation."

The review itself should be conducted internally by a special committee/working group for the NAP review within the existing structures, or externally by an individual person or a single institution, such as, for example:

- research institute;
- national rapporteur or similar agency; or
- external expert (this person/institution is responsible for the final design of the review according to the “Plan for Review, Monitoring and Evaluation”. The person/institution carrying out the review does not always have to be the same, but can change over the years.

The review should be based on the ToR for review. In order to conduct a review following preconditions are necessary:

- Definition of indicators to measure the strategic goals and specific objectives; and
- To determine a baseline on “what was the *status quo*”.

The basic questions to be answered by the review are:

- Are the strategic goals set out still relevant and valid?
- Which goals have been achieved and to what extent?
- Which specific objectives have been achieved and to what extent?
- Which factors have contributed to or impeded the achievement of the strategic goals and specific objectives?
- Which recommendations can be based on these findings?

The review must take place at regular intervals. To be able to react adequately to new developments in trafficking in human beings, a review of the NAP should take place at least every two years.

A body should be in place to ensure that all relevant stakeholders agree upon the final results of the review as well as the recommendations based on it. To this end, the results and recommendations should be discussed and endorsed by the NATCB.

**Monitoring** is a continuous collection and analysis of data. It aims at primarily providing indications of progress, or lack thereof and thus provides the basis for evaluation and review. Monitoring data should be collected on a regular basis from all actors involved in the implementation of anti-trafficking activities. Furthermore monitoring data should be collected according to a predefined monitoring template and it should be stored and accessible in a central place.

In the context of the national anti-trafficking response monitoring should take place at both the strategic as well as the operational level. At the strategic level should be conducted by a central national institution, which must be independent and should not have an executive, operational or policy-coordinating task, e.g. the national rapporteur.

Data should be provided by governmental authorities as well as by non-state actors, including national statistical offices, law enforcement agencies, inter-governmental organisations, NGOs, research institutes and IOs.

At the operational level, monitoring lies within the responsibility of the implementing agency.

Monitoring should be based on the ToR for monitoring. The ToR should include information on the time lines and on the data that should be collected at the strategic and operational level. Furthermore it should define the roles and responsibilities of all actors responsible for providing and collecting data.

Once the ToR for monitoring are defined, directives have to be given to all agencies that should collect information.

At the strategic or policy level the following data should be collected:

- Statistical data on the country context, e.g. data on the economic, political, sociological developments at national, regional and local levels; Anonymous and non-personal data in the areas of prevention, protection and prosecution; and
- General data on ongoing projects including areas of implementation, resources, and number of beneficiaries.

Monitoring at this level should take place continuously. Its results should be presented in regularly published reports.

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At the operational level, monitoring data should be collected and analysed for each implemented project or measure, including information on:

- Implementing body;
- Inputs (personnel and financial resources invested);
- Activities;
- Planned and achieved results;
- Time frame; and
- Indicators.

Monitoring at the operational level should take place periodically.

**Evaluation** is a systematic collection and analysis of predefined information to make judgements, improve programme effectiveness and/or generate knowledge to inform decisions about future programmes. The evaluation aims to improve the implementation (of strategic measures, projects) and to assess the achievement of the operational aims.

If funds are available, evaluation should be conducted by an external evaluator in order to gain an outside perspective. When the financial resources are limited, the evaluation can take the form of an internal evaluation carried out by the implementing agency. This requires adequate training for those who should conduct the evaluation.

Evaluation should be based on the ToR for Evaluation.

At a minimum, the ToR for evaluation should contain an analysis of:

- Expected outputs - determines whether the expected outputs have been delivered;
- Outcome status - determines whether the specific objective has been achieved and if not, if there has been progress towards its achievement; and
- Factors influencing the achievement of the specific objectives.

The ToR for evaluation should specify at what time evaluation should take place and by whom.

## 4.2.2 Prevention

Prevention is a primary and key element in any national anti-trafficking response. According to the UN Trafficking Protocol, state parties have an obligation to undertake preventative measures to prevent and combat trafficking in persons (Art. 9.1).<sup>77</sup>

Preventive measures should be multidisciplinary, based on an integrated and co-ordinated approach to address all root causes of trafficking according to a human rights and gender-transformative approach in a short-term and long-term perspective. Prevention measures should address risk groups:

- in the country of origin by promoting a sustainable development with particular focus on women and girls, minorities and children (female, male, and LGBTQI+); and
- in the country of transit and destination with special emphasis on the demand side.

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<sup>77</sup> See UNODC (2020), Section V.

Prevention measures should address the crime in countries of origin, transit and destination by identifying, regulating and monitoring risk sectors.

Preventive measures should be based both on empowerment strategies seeking the development of programmes that offer livelihood options and repressive strategies that aim at suppressing the phenomena of trafficking, through both the demand and supply sides.

### (a) Awareness Raising and Education

#### (i) Strategic level

Comprehensive awareness-raising and educational activities should provide tailor-made campaigns, contain clear information on the crime of trafficking in human beings, promote a human rights-based, gender-sensitive and multilingual approach and promote self-empowerment of at-risk groups.

Awareness-raising measures should focus on:

- Preparation and usage of surveys to identify at-risk groups;
- Prevention of trafficking in human beings through informational campaigns targeting identified at-risk groups as well as potential exploiters of the victims of trafficking;
- Gender sensitivities in the process of trafficking and all forms of exploitation (for example, focusing on combating trafficking for sexual exploitation, forced labour, etc.);
- Elements on how to identify cases of trafficking;
- Preparedness of institutions, organisations, groups and individuals to address trafficking in human beings and to correctly deal with the victims of trafficking.

The measures identified above should target:

- At-risk groups including particularly vulnerable individuals seeking to migrate legally and/or illegally to other countries (e.g. in institutional care, minorities, rural and poorly educated population, irregular and regular migrants, disabled and intellectually disabled, unemployed, refugees, asylum-seekers and sex workers). The focus on at-risk groups should not result in stigmatisation and discrimination on the basis of particular attributes, such as gender, poverty level, or member of a minority;
- Children, in particular unaccompanied minors, street children;
- Policy makers and legislative bodies;
- The population at large, such as students, trade unions, private sector clients and potential exploiters; and
- Actors dealing with potential victims such as police, judges, prosecutors, lawyers, journalists, social workers, medical doctors, teachers, psychologists, immigration officers, labour inspectors, border police and the consular service.

Questions to consider when planning the measures:

- What behaviour is the intervention trying to change or reinforce among the target group? What action do you want them to take?
  - What action do you want them to take?
  - How will these changed behaviours or actions contribute to reducing THB (e.g. through reducing the number of new victims, identifying existing victims, increasing reporting on THB cases)?
  - What evidence is available to suggest these actions will contribute to the desired outcomes?
  - What is the existing level of awareness among the target group(s)?
  - What barriers exist to the target group(s) adopting the desired behaviours or actions?
  - What are the most trusted information sources for the target group?
  - Should the target group be segmented and, if so, how? For example, are separate messages or information sources needed for children and youth, men and women, ethnic minorities, different language groups, those with different education or literacy levels?
- Source: ICAT (2016).

**Albania** is one of the countries taking into consideration trafficking survivors' experiences in designing its anti-trafficking strategic priorities. In 2019, Albania set up a **consultative board of survivors of trafficking in human beings**. Three board members - survivors of trafficking, cooperate closely with the office of the ATC and have a consultative role in designing the anti-trafficking action relevant to identification and protection of trafficking victims.

#### (ii) Operational level

In line with the strategic objectives identified for awareness raising and education, the following examples of possible areas of intervention should be considered while identifying activities.

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Activities related to migration processes:

- Promote safe and legal migration and provide information on multiple languages on the rights of the migrants and on the possibilities to receive support and assistance in the country of destination; and
- Informational campaigns on safe employment opportunities abroad and on relevant laws and policies in countries of destination as well as on legal migration possibilities.

Activities related to the media:

- Media campaigns on multiple languages for awareness raising for the general public (electronic and print media, social media), which should refrain from any kind of stigmatisation and discrimination; and
- Specific information for media professionals to sensitise their approach to the issue of trafficking, focussing on the protection and respect of privacy for the victims of trafficking.

Activities related to general awareness raising:

- Production of awareness raising materials on multiple languages particularly aimed at risk groups (leaflets, brochures, posters, etc.);
- Information campaigns on multiple languages on the different forms of exploitation with an emphasis on the invisible ones (e.g. domestic work). The awareness of the general public will be a first step in the identification of trafficking cases;
- Information campaigns on multiple languages on the rights of victims of trafficking and the possibilities to receive assistance and support in the country;
- Establishment of a nation-wide toll free hotline in destination countries and countries of origin;
- Specific campaigns multiple languages addressing the demand side, particularly regarding both sexual and labour exploitation;
- Specific campaigns on multiple languages targeting industries and the tourism sector with high incidence of forced labour exploitation (e.g. restaurants, manufactures, agriculture, domestic work, etc.) and targeted campaigns directed at insular communities in partnership with local community groups;
- Information and awareness raising campaigns for diplomats and staff of IOs;
- Information and awareness raising campaigns focussing on violence against children and women.

Activities related to education:

- All training curricula for schools and universities should be tailor-made according to the target group, multidisciplinary and gender sensitive in line with international human rights standards and best practices. Such trainings should be main-streamed and included into regular school and university curricula.
- Specific campaigns targeting youth and children and students as an essential part of their education.

Involve:

- Governmental organisations (e.g. ministries of education, foreign affairs, interior, health, equal opportunities, gender equality, welfare, and labour), NGOs (e.g. grass-root and survivor-led NGOs), schools and universities, vocational training institutions, media (TV, radio and press), survivors of trafficking, religious bodies, politicians, political parties, social partners, policy makers, outreach and street-workers, IOs and other.

## **(b) Reduction of vulnerability<sup>78</sup>**

### *(i) Strategic level*

Measures should be taken to decrease the vulnerability to trafficking and re-trafficking and to increase the livelihood options of at risk groups and individuals. These should respond to the needs of target groups and carefully consider the impact of the push and the pull factors.

Strategies for an effective prevention of trafficking include actions, which address the root causes and selected problem areas such as:<sup>79</sup>

<sup>78</sup> See UNODC University Module Series. Module 7: Prevention of Trafficking in Persons. Effective Prevention Strategies.

<sup>79</sup> More discussion on the root causes, see CEDAW (2020), Section IV.

- **Socio-economic factors.** Poverty, including the phenomenon of feminization of poverty, unemployment and economic dependence are the major root causes of the trafficking phenomenon. A growing poverty in the population enhances the need to find alternative ways out of a disadvantageous economic situation and represent a push factor to trafficking. Hence, special programmes should address these push factors, as well as the pull factor of demand<sup>80</sup>, as root causes of trafficking.<sup>81</sup> The knowledge based on the demand side should be widened through targeted research in order to design and implement effective counter strategies.
- **Discriminatory practices.** Special measures focusing on the equal treatment of women, men, minorities, children, and foreign migrants should be undertaken to encourage sensitisation and equal respect for human rights at large. In addition, programmes should be developed in order to offer livelihood options as well as basic education on anti-discriminatory legislation and sensitisation on all forms of discrimination, marginalisation and social exclusion. Measures to promote equal treatment of migrant and native workers should also be undertaken.
- **Gender equality.** Special measures that comprise the social and economic inclusion of women and girls, including strengthening their legal position and the creation of new job and education opportunities for them as well as programmes for reduction of violence against women and girls, including harmful practices, such as child marriage. Anti-trafficking measures should be integrated into national strategies on gender equality.
- **Safe migration.** Restrictive migration regimes very often represent a root-cause for trafficking; therefore, countries should increase the possibilities for legal and non-exploitative migration for workers as well as enhance the co-operation in the field of management of international migration to identify means to reduce emigration practices on the one hand and illegal entry methods on the other hand. Labour migration schemes between countries of origin and destination should be implemented and monitored with regard to the exploitation of migrants who seek legal work through migration schemes. Bilateral agreements to return irregular migrants to source countries should not permit deportation without safeguards to identify victims of trafficking and other forms of human rights violations.
- **Crisis-affected communities.** In crisis contexts and conflict settings, traffickers capitalize on the widespread human, material, social and economic distress caused by the emergency. Factors that make people more vulnerable to trafficking include limited ability to provide for one's basic needs, limited options to seek domestic or international protection safely and regularly, the breakdown of social safety nets and other social protection systems, etc., which are amplified by an inadequate legal framework, weak law enforcement capacity, impaired border control and lack of respect for human rights.<sup>82</sup>
- **Role of the media.** The language, portrayal and context in which media reports on human trafficking can do damage. It can incite hatred and further perpetuate stereotypes, create ignorance and misunderstanding, deflecting attention from root causes and obstructing much-needed public debate. Not only should the media be actively involved in the state's anti-trafficking response, they should also benefit from awareness-raising and capacity building initiatives designed specifically for them.<sup>83</sup>
- **Use of digital technology.** Trafficking offenders resort to technology as it allows to hide their identity and increase anonymity online; facilitates recruitment, exploitation and transactions, and to expand the ways to control a victim.<sup>84</sup> Growth of trafficking during the COVID-19 pandemic has additionally highlighted the importance of addressing the issue.<sup>85</sup>
- **Supply chains.** Today's globalized economy sees raw materials and labour sourced from across the world. The risk that some of these services are provided, or materials produced by, victims of trafficking, is clear and present. Combating human trafficking and labour exploitation in supply chains requires action and cooperation between governments, IOs, the private sector, civil society organizations and trade unions, including the sharing of good practices, tools, and information on individuals and business

<sup>80</sup> For more insight into the factors driving the demand-side of human trafficking and debates on policies to influence the demand, see the publications and issue papers of the Project Addressing Demand in Anti-Trafficking Efforts and Policies - DemandAT. Available at: <https://www.demandat.eu/publicationsnew>

<sup>81</sup> See also UNODC University Module Series. Module 7: Prevention of Trafficking in Persons. Root Causes; Supply side strategies: concerns and shortcomings; Demand side strategies: discouraging or prosecuting demand.

<sup>82</sup> For elaborated insight as to the authorities responses to human trafficking in crisis situations, see: Global Protection Cluster (GPC) (2020). An Introductory Guide to Anti-Trafficking Action in Internal Displacement Contexts.

<sup>83</sup> See for instance ICMPD (2017), Media and Trafficking in Human Beings Guidelines. See also UNODC University Module Series on Trafficking in Persons / Smuggling of Migrants, Module 7: Prevention. Role of the Media.

<sup>84</sup> For a more detailed elaboration see UNODC University Module Series on Trafficking in Persons / Smuggling of Migrants, Module 14: Technology facilitating trafficking in persons. See also ICAT (2019). Issue Brief No. 7. Human Trafficking and Technology: Trends, Challenges and Opportunities.

<sup>85</sup> CEDAW (2020), para. 37. See also Global Initiative Against Transnational Organized Crime (2020). Policy Brief: Aggravating Circumstances. How coronavirus impacts human trafficking.



enterprises, that are linked to human trafficking and labour exploitation. *Governments* with their billion-dollar public procurement portfolios should consider the human rights impacts of their procurement decisions.<sup>86</sup> Procurement officials should be included in national co-ordination mechanisms to combat human trafficking and supported to improve their understanding of human trafficking. *Business enterprises* should similarly commit to combating human trafficking and labour exploitation in their supply chains by, for example, including policies and codes of conduct, carrying out human rights due diligence on their supply chains and providing access to remedy when human rights and labour violations have occurred.<sup>87</sup>

(ii) *Operational level*

In line with the strategic objectives identified for reduction of vulnerability the following examples of possible areas of intervention should be considered while identifying activities:

- Developing and strengthening of economic empowerment, second chance education, and employment programmes by ensuring adequate access to the labour market and providing vocational training (especially for women);
- Creating a single labour market information system;
- Improving children's access to educational opportunities, increase the level of school attendance (especially for girls) as well as providing childcare and social welfare programmes;
- Ensuring that appropriate legal documentation for birth, citizenship and marriage is provided;
- Developing programmes to eliminate violence against women in all areas of social and family life;
- Ensuring non-discrimination through appropriate implementation of laws, policies and the use of model employment contracts;
- Making adequate use of poverty reduction plans (such as through UNDP and the World Bank) and of national action plans on gender equality, children's rights, etc.;
- Increasing opportunities for legal, gainful and non-exploitative labour migration as well as further targeting efforts to reduce emigration from particular geo- graphic areas within source countries by increasing investments in projects that will create jobs;
- Improving co-operation of migration management between sending and receiving countries and fostering bilateral and multilateral co-operation on the management of international migration as well as legal migration schemes;
- Linking programmes and measures to national employment and gender equality action plans (where existing);
- Offering small scale loans or micro-economic programmes to support small business creation, targeting at risk groups, as well as victims of trafficking;
- Based on survey findings, public campaigns for the general public should focus on gender equality and ending violence against women and children;
- Providing specific training for all different target groups focussing on gender discrimination and other root causes, to be delivered in co-operation with NGOs;
- Providing community-based responses; and
- Mainstreaming of anti-trafficking issues in other national policies (e.g. employment strategies).

While mainstreaming anti-trafficking issues into various national policies and action plans, particular attention should be devoted to the following issues.<sup>88</sup>

<sup>86</sup> See OSCE-SR/CTHB (2018b), Model Guidelines on Government Measures to Prevent Trafficking for Labour Exploitation in Supply Chains.

<sup>87</sup> For a more elaborate list of issues related to addressing human trafficking in supply chains see: OSCE-SR/CTHB (2021), Summary of OSCE Workshops on "Prevention of Human Trafficking in Supply Chains through Public Procurement" and recommended next steps, Section 2.1. For more background on the subject matter, see also Hunter, P., Kepes, Q (2012). Human Trafficking & Global Supply Chains: A Background Paper Prepared for the expert meeting convened by the UN Special Rapporteur on trafficking in persons, especially women and children, Ms. Joy Ngozi Ezeilo (2012).

<sup>88</sup> ICMPD's Guidelines for the Development and Implementation of a Comprehensive National Anti-Trafficking Response of 2006 made a reference to the Brussels Declaration on Preventing and Combating Trafficking in Human Beings, adopted following the European conference on "Preventing and Combating Trafficking in Human Beings – Global Challenge for the 21st Century" on 18-20 September 2002. The Declaration included a set of recommendations to use specific 'administrative controls' to combat trafficking in human beings and the 2006 Guidelines also presented these as a separate issue matter. Fifteen years later, we draw the attention to the need of having a comprehensive anti-trafficking response that should not omit any particular set of issues, including those that with the passage of time have become increasingly

### ***Licensing and monitoring systems***

States should introduce regimes and practices to regulate and monitor **private agencies** that frequently appear in the modus operandi of the trafficking crime (e.g. au-pair, bridal, escort and adoption agencies as well as individual commercial agencies).<sup>89</sup>

In addition, legislation should provide for penalties, including prohibition of those private agencies that engage in fraudulent practices. These penalties could include fines, criminal penalties, and confiscation of assets or loss of an operating license. It is of utmost importance that private employment agencies do not charge fees or impose costs upon workers unless the fees are “in the interests of the workers concerned”. In other words, fees for visas or travel costs at their actual prices may be charged, but overhead costs for providing these services or additional charges may not be imposed upon the worker.

Private agents or private employment agencies that send and receive migrants for employment should be encouraged to engage in self-regulation through a code of conduct. Such codes should be designed and implemented in conjunction with specialised personnel in state labour inspectorates, the Labour Ministry or any other relevant state body. A code of conduct to self-regulate a private employment agency should include:

- Minimum standards for the professionalization of the services of private agencies, including specifications regarding minimum qualifications of personnel and managers; and
- The full and unambiguous disclosure of all charges and terms of business of clients.

Private agents:

- Must obtain from the employer in advance all information pertaining to the job, including specific functions and responsibilities, wages, salaries and other benefits, working conditions, and travel and accommodation arrangements;
- Should not knowingly recruit workers for jobs involving hazards or risks or where they may be subjected to abuse or discriminatory treatment of any kind;
- Inform the migrant workers, as far as possible in their native language or in a language with which they are familiar, of the terms and conditions of employment;
- Should refrain from bidding down wages of migrant workers;
- Maintain a register of all migrant recruiters to be available for inspection by the competent authority provided that information obtained is limited to matters directly concerned with recruitment and that in all instances the privacy of the workers and their families is respected;
- Ensure in destination countries that a legally enforceable contract is signed between the parties that includes all terms and conditions previously agreed upon between the employer and employee.

States should monitor:

- Vulnerable sectors such as construction, sweatshops, agriculture, and tourist agencies. In this regard, states should apply innovative policies such as rating systems;
- And regulate employment relationships in formal and informal economic sectors;
- Enforcement of existing legal standards;

Multi-agency co-ordination and implementation of administrative control measures needs to take place on the operational level (e.g. labour inspection) and must include NGOs as well as trade unions. These multi-disciplinary teams:

- Should develop systems for the monitoring of vulnerable sectors such as construction, sweatshops, agriculture and au pairs;
- Shall share intelligence with one another, especially labour market inspectors and police investigators on a local and national level, but also at the regional and international level between countries of origin and destination countries;
- Shall identify victims of trafficking and collect intelligence, which can be used for large-scale investigation;
- Shall collect intelligence and identify crime and collect intelligence on perpetrators;

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streamlined into the overall anti-trafficking response.

<sup>89</sup> Refer to the ILO Private Employment Agencies Convention, C181, 1997.



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Data on fraudulent and suspect agencies, employers should – if legally possible - be shared among all relevant labour, law enforcement and consular staff nationally and regionally, in and between countries of origin and destination countries.

Destination countries:

- Should introduce and expand transparent labour admission systems and establish multi-agency and international enforcement mechanisms;
- Take intensified efforts to ensure that international labour standards are applied and enforced;
- Ensure access to complaint mechanisms and equality of treatment between migrant workers and nationals;
- Shall enhance the capacities for issuing of work permits, which are not bound or linked to only one employer, and the setup of support systems for the verification of documents and statements shall be submitted together with applications;
- Shall intensify consular co-operation with countries of origin with a view to better detecting potential cases of human trafficking and strengthening the network of liaison officers.

Countries of origin:

- Shall enhance the ability of their consular staff stationed in countries of destination, to protect their migrant workers abroad (e.g. providing basic anti-trafficking training, through labour attaches, outreach programs and sensitisation campaigns for migrants).

At **state borders**, the states shall improve anti-trafficking measures at borders through:

- Strengthening the knowledge and capacity of the border officials to identify and refer presumed victims;
- Profiling traffickers by border guard and customs officials;
- Having border guards dispense leaflets with relevant hotline numbers to all passengers;
- Putting special focus on unaccompanied minors and children travelling without their family:
  - Children of all ages should possess a proper passport/travel document;
  - Photo IDs taken of children and its accompanying adult shall be considered;
  - The relation between the child and the accompanying adult shall be properly checked; and
- Improvement of inter- and intra-service co-operative efforts among law enforcement officials but also between them and the TWGs.

### ***New technologies***

States shall establish mechanisms to monitor the Internet. This should serve as a means to detect and prosecute the misuse of websites for trafficking purposes (e.g. misuse escort, adoption and bridal agencies). Public-private partnerships with Internet providers and other businesses (including self-regulation by means of codes of conduct) shall be established.

The state should, for instance, consider:<sup>90</sup>

- Introducing policies to mandate or incentivize technology companies to undertake efforts to ensure that their platforms and resources are not being used to facilitate human trafficking;
- Supporting the effectiveness of technology-based solutions with accompanying evidence-informed policy. (For example: supporting faster official labour recruitment processes to make workers less susceptible to recruitment-induced, coercive debt obligations; promoting ethical online recruitment to reduce reliance on exploitative sub-brokers in rural areas; and enhancing laws and policies for regulating online temporary recruitment agencies);
- Developing international and/or national minimum standards for confidentiality in relation to the technology enabled provision of assistance and support to victims;

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<sup>90</sup> For a more extensive list of recommended actions, see: OSCE-SR/CTHB and Tech Against Trafficking (2020). Leveraging innovation to fight trafficking in human beings: A comprehensive analysis of technology tools, Chapter 6.

- Increasing resourcing of technology-based solutions for government entities entrusted with identifying trafficking cases (such, as supporting labour inspectors to use technology applications to verify conduct and ensure national labour laws are being upheld, and law enforcement to increase their abilities to counter online sexual exploitation and recruitment);
- Increasing resources and training for national and local law enforcement and service providers to support more effective use of technology-based solutions, and also training policymakers, law enforcement, service providers, NGOs and academia to understand the many ways in which technology is being used by criminals.

### **Supply chains**

The states should:<sup>91</sup>

- Pass legislation and policies to monitor the practices of its suppliers;
- Introduce procurement processes that are fair and transparent, government awards allocated on the ‘best value’ principle rather than the ‘lowest bid’;
- Include in government contracts provisions relating to responsible business conduct; and
- Implement the OSCE Model Guidelines on Government Measures to Prevent Trafficking for Labour Exploitation in Supply Chains.<sup>92</sup>

The states should also nudge the business community towards assuming responsibility to combating human trafficking and labour exploitation in their supply chains, including:

- establishing policies and codes of conduct, carrying out human rights due diligence on their supply chains and providing access to remedy when human rights and labour violations have occurred;
- being transparent and reporting on their efforts publicly.<sup>93</sup>

Involve:

- Governmental structures, NGOs, financial institutions, IOs (e.g. ILO, IOM, UNDP), labour organisations within the country, and the media.

### **A.4.2.3 Support and Protection of Victims and Victim-Witnesses<sup>94</sup>**

At its core, anti-trafficking response must include a comprehensive victim protection and assistance system based on human rights principles, and ensure that all victims of trafficking have access to adequate resources to provide for legal remedies and fair treatment, assistance and support, safety and protection, restitution, compensation, reinstatement of rights as well as regularisation of immigration status.

The implementation of these measures represents an obligation that states have under international law; namely to provide victims of human rights violations with effective remedies.

In order to ensure assistance to and protection of all victims of trafficking through a comprehensive human rights-based, victim-centred and trauma-informed approach, there is a need to establish and implement comprehensive and effective national and regional assistance and protection systems in the form of institutionalised co-operative frameworks.

Such institutionalised co-operative frameworks for victim support and protection should focus on the management of individual trafficking cases and cover the entire response to victims of trafficking including identification, assistance and protection, participation in legal proceedings and legal redress, compensation, and return (or alternative solution when return is not an option) and social inclusion of the victims in a destination, origin or third country, always ensuring that the victim is heard and her/his needs and preferences are considered.

<sup>91</sup> For a more elaborate list of issues related to addressing human trafficking in supply chains see: OSCE-SR/CTHB (2021), Section 2.1.

<sup>92</sup> For concrete steps and recommendations for implementation, see: OSCE-SR/CTHB (2018b).

<sup>93</sup> For a more elaborate list of issues related to addressing human trafficking in supply chains see: OSCE-SR/CTHB (2021), Section 2.1.

<sup>94</sup> Refer to UNODC (2020), Chapter 6 and UNODC (2009), p. 10-11.

See also: UNODC (2020a), Legislative Guide for the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime. Section IV; UNODC (2009a). Anti-human trafficking manual for criminal justice practitioners. Module 12: Protection and assistance to victim-witnesses in trafficking in persons cases; ICMPPD (2015), Human Trafficking – How to Investigate It. Training Manual for Law Enforcement Officers, lesson Plans 2-5.

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The system should be institutionalised. The co-operation of all actors involved should be formalised by defining their roles and responsibilities. Furthermore, adequate human rights and gender-sensitive support and protection of the victims throughout the whole response. The referral of victims to the specialised services for assistance, protection and return or (re)integration should be supported.

The system must be flexible to respond to all forms of exploitation and individual victims' circumstances and needs, adaptable to new trends, gender responsive and continually updated and improved through monitoring and review.

In order for victim support and protection systems to function, the various measures outlined in the sub-chapter Enabling Framework must be in place, including:

- Assessing the trafficking situation, profile of traffickers, existing forms of exploitation and their gender-related causes and consequences including assessment of the legal framework, as well as mapping of the main actors involved in the national anti-trafficking response, and their respective tasks;
- Establishing and institutionalising the co-operation of all actors involved, including the creation of the necessary legal, gender responsive and regulatory framework, e.g. by regulating the respective roles and co-operation between law enforcement, other state actors and NGOs (e.g. via MoUs); and
- Monitoring, evaluation and review of the system.

#### **(a) Victim identification**

The identification of all victims of trafficking at the earliest opportunity is a prerequisite for their recognition as victims. Their access to support and protection measures must become a primary consideration.

##### *(i) Strategic Level*

The measures should consider that self-identification of victims of trafficking rarely happens. Therefore sophisticated means for identification, including a non-exhaustive list of context-specific indicators should be developed.

Furthermore, such a system should operate on a 'presumption of trafficking' for the persons identified. For that reason they should be given access to all anti-trafficking protection measures. Finally, where the age of the victim is uncertain and there are reasons to believe that the victim is a child, the presumption shall be that the victim is a child. Pending verification of the victim's age, the victim will be treated as a child and will be accorded all special protection measures.<sup>95</sup>

Victims of trafficking should not be treated as criminals or irregular<sup>96</sup> migrants. Principle 7 of the OHCHR Recommended Principles and Guidelines state that "Trafficked persons shall not be detained, charged or prosecuted for the illegality of their entry into or residence in countries of transit and destination, or for their involvement in unlawful activities to the extent that such involvement is a direct consequence of their situation as trafficked persons". See the non-punishment principle elaborated above under the Guiding Principles (Chapter A3). Particular attention needs to be given to the rights of victims of trafficking as victims of crime.

Anti-trafficking strategies should encompass a system that allows for the identification of all victims in the country and that should:

- Ensure that law enforcement, first responders and other designated officials are, to the greatest extent possible, able to identify victims of trafficking;
- Comprise frequently updated indicators that help to identify victims;
- Be available 24 hours a day and 7 days a week; crisis intervention mechanisms should also be developed;

<sup>95</sup> UNICEF (2006).

<sup>96</sup> Not seldom reference is made to 'illegal migrants'. However, UN General Assembly requested already in 1975 that "the UN organs and specialized agencies concerned to utilize in all official documents the term 'non-documented' or 'irregular migrant workers'". (General Assembly, Measures to ensure the human rights of all migrant workers, 3449, 2433rd plenary meeting, 9 December 1975. For an overview of why the term 'illegal' is inaccurate and harmful, see Platform for International Cooperation on Undocumented Migrants - PICUM, Words Matter Initiative.

- Provide contact points where victims can be referred to; if it is not possible to secure gender balance among contact points there should at least be women available to provide assistance to female victims;
- Ensure that NGOs and social workers are able to easily reach out to victims and *vice versa*;
- Be responsive to detecting all forms of exploitation, in particular the invisible forms of exploitation (domestic work);
- Be responsive to current trends (e.g. to identify internal victims of trafficking); and
- Be tailor-made to the different types of victims and address specific target groups including different actors and to support co-operation between them.

*(ii) Operational level*

In line with the strategic objectives identified for victim identification the following examples of possible areas of intervention should be considered while identifying activities:

- Identification and classification of possible actors involved in the identification process;
- Development of a context-specific non-exhaustive list of indicators for the identification of victims of trafficking;
- Development of methods for establishing contact with victims of trafficking, for example, through:
  - NGOs and trade unions through outreach work;
  - Drop-in centres; and
  - Hotlines for victims and nation-wide advertisements providing the necessary information about where to find protection;
- Ensuring co-operation and regular information sharing between relevant authorities, officials and NGOs including networking with victim services and criminal justice and similar institutions which may communicate with victims;
- Elaboration of standardised questionnaires in order to facilitate the identification of victims of trafficking;
- Development and regular updating of standardised guidelines and procedures (SOPs) to allow all actors involved to properly identify victims of all forms of trafficking, especially internal trafficking, labour exploitation and child trafficking;
- Delivery of training for law enforcement and immigration enforcement officers, labour inspectors and other labour related agencies, health and social workers, children's institutions, judges and prosecutors in order to enable them to identify and properly refer victims of trafficking;
- Development of monitoring systems for the different sectors in which victims can be found (e.g. the sex market, high risk sectors of the economy, etc.) in order to detect forced labour or services through joint controls and information sharing among such groups as the police, labour inspectors and NGOs;
- Campaigns for communities to raise awareness of human trafficking and to increase their ability to detect trafficking cases; and

Periodic renewal of sanitary certification for all working in bars and restaurants to monitor the status of employees and training of medical staff operating these procedures in identifying possible victims. In the course of these regular checks, leaflets on available services (including information on a toll free hotline number) could also be distributed.

Involve:

→ Front-line police, border officials, specialised police, prosecutors, social workers, governmental institutions, ATC, NATCB, *ad hoc* TWGs dealing with specific issues relating to victims, local authorities, NGOs, asylum authorities and organisations, outreach workers, hotline employees, social welfare organisations, children's organisations, labour inspectors and other labour organisations, health workers, educators, the public at large and judges in order to better understand the identification process.

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## (b) Reflection/recovery period and residence status<sup>97</sup>

### (i) Strategic level

A **reflection period** should be offered to victims in order to give them time to recover and to stabilise. The reflection period should be followed by a (temporary) residence permit. Both the reflection period and the residence permit should be granted to the victims regardless of their willingness to co-operate as a witness and regardless of whether or not the perpetrators are prosecuted, and to presumed victims while their identification is being confirmed.

During reflection period, trafficked persons should be able to recover through access to safe accommodation and to all necessary assistance (e.g. free medical and legal aid, interpreters, contacts with relevant service providers in country of origin, etc.). As a result, victims should be in a better position to take an informed decision on whether to assist in criminal proceedings and/or pursue legal proceedings for compensation claims.<sup>98</sup>

The concept of a reflection and recovery period was not widely established at the time of drafting the UN Trafficking Protocol and it is not reflected therein. The CoE Trafficking Convention requires that a reflection period lasting at least 30 days be mandated by law.<sup>99</sup> The EU legislation provides for a reflection period, but leaves it up to Member States to determine its duration.<sup>100</sup>

The EU Group of Experts has recommended a reflection period of no less than three months as the minimum time necessary to ensure adequate assistance and support, to enable the victim to make an informed decision on co-operation in criminal proceedings, to pursue compensation claims or to return home.<sup>101</sup> The UNODC Model Legislative Provisions recommend a recovery and reflection period of not less than 90 days.<sup>102</sup>

Following the reflection period, victims should be granted a **temporary residence** permit with the possibility of renewal, independent of the victim's willingness to co-operate as a witness.

As with the case of the reflection period, the UN Trafficking Protocol does not set any concrete minimum standard (Art. 7.1). The CoE Trafficking Convention foresees the issuance of residence permits to victims of trafficking if the competent national authority considers their stay necessary either due to their personal circumstances, or for the purposes of co-operation in an investigation or criminal proceedings (Art. 14).

The EU Directive 2004/81/EC provides for the granting of residence permits on or before the date that the reflection period is due to expire, and foreseeing the minimum duration of the residence permit of six months and stipulating that it has to be renewable (Art. 8).<sup>103</sup>

The UNODC Model Legislative Provisions provide two scenarios – where a residence permit is mandate in all cases (for at least six months), and where it is mandatory upon cooperation with the authorities (also, for at least six months) and permissive in other cases (Art. 34).

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<sup>97</sup> UNODC (2020), Article 21 and 34.

For an elaborate analysis of the reflection period and residence permit, see Planitzer, J., Sax, H. (ed.) (2020). A Commentary on the Council of Europe Convention on Action against Trafficking in Human Beings. For a comparative overview of the EU and international legal framework on residence permits for some victims of crime including victims of human trafficking in national legislation in ten European countries (Belgium, France, Germany, Greece, Italy, the Netherlands, Poland, Spain, Switzerland and the UK) – see PICUM (2020), *Insecure Justice? Residence Permits For Victims of Crime in Europe*.

<sup>98</sup> See Planitzer, J., Sax, H. (ed.) (2020), para. 13.15.

<sup>99</sup> CoE Trafficking Convention, Art. 13.1. The recovery period is intended to apply to trafficking victims who are illegally present in a Party's territory or who are legally resident but with only a short-term residence permit. See CoE (2005), para. 172.

<sup>100</sup> Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities (OJ L 261/19), Art. 6.

<sup>101</sup> See Planitzer, J., Sax, H. (ed.) (2020), para. 13.15.

<sup>102</sup> UNODC (2020), Art. 21.2.

<sup>103</sup> A 2014 EC report analysing the application of the Directive 2004/81/EC, concluded that the possibility of issuing permits to third-country nationals in exchange for cooperation with the authorities was 'under-utilised'. It also found that it is unclear how often the permits are actually granted and on what basis the assessment of vulnerability and personal circumstances is carried out. (See EC (2014), COM(2014) 635 final) Note also that in 2011, the EU Trafficking Directive was adopted (OJ L 101, 15/4/2011). The Directive 2004/81/EC sets out specific rules concerning residence permits and treatment of third-country nationals cooperating with the authorities. The Directive 2011/36/EU applies as a horizontal framework to both EU and non-EU citizens reinforcing some of the provisions contained in Directive 2004/81/EC, including a strengthened protection and assistance framework for children. The two texts have to be read jointly. For a recent analysis of the implementation of the Directive 2011/36/EU, see European Parliamentary Research Service (2020). *Implementation of Directive 2011/36/EU: Migration and gender issues European implementation assessment, Part II*.

Residence permits should not be limited to victims who have suffered serious exploitation or limited to a group of victims who are ambiguously defined under the law.

*(ii) Operational level*

In line with the strategic objectives identified for reflection/recovery period and residence status the following examples of possible areas of intervention should be considered while identifying activities:

- Creation of a legal and political framework to offer a reflection period of not less than three months for victims to recover, followed by a temporary residence permit of at least six months;
- Reflection period should include the obligation to refer (presumed) victims of trafficking to service agencies that can offer assistance such as financial support and integration programmes;
- States may consider providing various governmental departments and social protection organisations that work closely with victims of trafficking with the ability to suggest the grant of a residence permit to the respective competent authorities through a formal agreement so as to ensure an efficient co-operation and to reduce the authority's discretionary power;
- Ensure sufficient monetary allocations in a national budget to fund provision of residence permits and all social benefits, including social security, job training, medical and psychological assistance and legal aid;
- Granting of a long-term resident permit if:
  - Repatriation would pose a serious risk to the safety of the victim of trafficking and/or her/his family members or if repatriation would cause the risk of being prosecuted in the home country for trafficking related offences;
  - A social assistance programme has been successfully completed and employment has been found; and
  - Asylum has been applied for in accordance with international refugee law;
- If a victim of trafficking is granted a temporary or permanent residence permit, the victim of trafficking should be entitled to family reunification with their minor children, whom should be granted a residence permit on the same conditions as the victim of trafficking;
- If there are substantial reasons to believe that family members of the victim of trafficking, including possible children, are at risk in the home country such family members should be entitled to temporary or permanent residence on the same conditions as the victim of trafficking; and
- Conducting risk assessment before deporting or returning a victim of trafficking or deciding upon an application for a permanent residency permit on humanitarian or asylum grounds.

Involve:

→ Law- and policy makers, Ministry of Foreign Affairs, Ministry of Interior, agencies mandated with victim protection (such as Ministry of Social Affairs), other governmental institutions, NGOs, child care services and education training institutions.

**(c) Benefits, services and protection of victims<sup>104</sup>**

Social support, assistance and protection of all victims of trafficking, irrespective of their willingness to cooperate with the authorities in criminal proceedings, are the central pillars of a human rights-based national anti-trafficking strategy.<sup>105</sup> In addition to fulfilling the states' human rights obligations and preventing the re-victimisation of victims of trafficking by the state authorities, timely and effective assistance is essential to for recovery and reintegration of the trafficked persons while delays and limitations in assistance may lead to vulnerability and re-trafficking or abuse.<sup>106</sup>

<sup>104</sup> UNODC (2020), Article 23. See also UNODC (2020a). For an elaborate discussion over the content of the assistance to trafficking victims, see Planitzer, J., Sax, H. (2020), pp. 160-182.

<sup>105</sup> UNGA (2019). Report of the Special Rapporteur on trafficking in persons, especially women and children, A/HRC/41/46, para 11.

<sup>106</sup> CoE Europe Group of Experts on Action against Trafficking in Human Beings (2019), 8th General Report on GRETA's Activities, covering the period from 1 January to 31 December 2018, para. 87.



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*(i) Strategic level*

Social support systems should be in place to provide at minimum the following services, tailored to the needs of the specific groups of victims of trafficking such as foreign and national victims and minors and based on individual needs:

- Safe and appropriate accommodation;
- Health care and medical treatment on voluntary basis. Governments should recognise that many victims of trafficking suffer serious types of exploitation and violence, including gender based violence, other forms of assault, abuse and acts of physical and mental exploitation. Thus, health care and medical treatment for these victims should be sufficient to treat and address such serious forms of abuse and exploitation;
- Financial assistance;
- Gender sensitive and psycho-social counselling and support;
- Interpretation and cultural mediation in the local language of the victim;
- Assistance in establishing contacts with the family;
- Free legal assistance and counselling such as for re-establishment of identity documents;
- Education and vocational training; and
- Training and employment opportunities (e.g. training for small business development), as well as access to the labour market.

All services must be tailored to individual needs, provided on a voluntary and confidential basis and in a non-discriminatory and non-judgmental manner and in compliance with a number of basic principles derived from international human rights standards such as respecting privacy, confidentiality and free choice. The victims must be seen as bearers of rights; thus, the support provided to them must aim at their empowerment.

It is important to reiterate that the services must be supplied regardless of the willingness or capacity of the victims/witnesses to co-operate to press charges or give testimony against their traffickers.

Measures undertaken to protect trafficked children should be based on the principles enshrined in the UN Convention on the Rights of the Child (1989):

- Primary consideration to be given to the best interests of the child (Art. 3.1);
- Non-discrimination of any kind of the child or her/his parent (Art. 2);
- Respecting child's own views (Art. 12);
- No interference with child's privacy, family, home, or correspondence (Art. 16);
- Right to state support in recovery and restarting their lives (Art. 39).<sup>107</sup>

*(ii) Operational level*

In line with the strategic objectives identified for social support and protection of victims the following examples of possible areas of intervention should be considered while identifying activities:

- Provide safe and adequate shelters or other forms of accommodation for the victims and establish appropriate standards and/or codes of conduct for the management of these shelters (e.g. via MoUs with the service providers and/or regulations by relevant state authorities);

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<sup>107</sup> For an elaborate discussion on the post-identification decision-making process that chooses a comprehensive, secure and sustainable solution in the child's best interests for children who are outside their country of origin and children who have not left their own country, see OSCE-SR/CTHB (2018a), pp. 21-22.

- Management of the shelter by a multi-disciplinary team of trained professionals is to be based on a set of specialised services and to include mechanisms for crisis intervention. A victim of trafficking should be fully informed what to expect from the service provider and the professionals she/he is in contact with and what is expected from her/him;
- Inform victims of trafficking of their rights (e.g. access to diplomatic and consular representatives) and provide free legal counselling (e.g. establishment of nationwide pool/roster of qualified legal counsellors);
- Establish tailor-made support programmes to the needs of each victim (e.g. offer a tailored programme co-elaborated by the victim and the assistance provider);
- Co-operation with interpreters and cultural mediators including providing cultural mediation in the native language of the victim (e.g. creation of a nation-wide pool/roster of qualified translators/interpreters);
- Provide social and health services as well as social and psychological counselling (e.g. creating a pool/roster of qualified psychosocial professionals). Physical examination shall only take place with the informed consent of the victim;
- Offer education, vocational guidance, training and job placement in order to achieve social and labour inclusion. Financial support shall also be provided;
- Establish mechanisms for monitoring and evaluation based on transparency and accountability to assess the performance of the activities, the work of the professionals, the efficacy of the strategies implemented and the fulfilment of the needs of the person assisted should be in place; and
- Provide specialised services to trafficked children to meet their specific needs and protect their rights.<sup>108</sup>

Involve:

- Governmental authorities, NGOs, social workers, children care services, local authorities, medical and legal professionals, labour officials, IOs and inter-governmental organisations.

#### **(d) Access to civil procedures, witness protection and judicial treatment<sup>109</sup>**

##### *(i) Strategic level*

A special protection system should be established for all victims and victim-witnesses who are prepared to press charges against their perpetrators and/or assist in criminal proceedings.

Support and assistance to the victims should be provided before, during and after criminal proceedings in a language they understand, and a continuous risk assessment should be at the core of anti- trafficking strategies in order to ensure the safety of victim and victim-witness.

Legal and other assistance shall be provided to victims of trafficking for the duration of any criminal, civil or other actions against suspected traffickers.

Special victim-witness programmes for children should be in place.

Assistance to the victims should not depend upon the preparedness of victims to cooperate with law enforcement officers and on the willingness to testify against their perpetrators.

##### *(ii) Operational level*

In line with the strategic objectives identified for access to civil procedures, witness protection and judicial treatment for victims of trafficking the following examples of possible areas of intervention should be considered while identifying activities.

Key features to ensure the protection of the victims/witnesses during criminal proceedings are the co-operation concepts. They are mainly concerned with co-operation between the police and the counselling centres, however, such concepts may also include provisions on liaising with local authorities and social services in order to ease the way for obtaining work permits, social benefits, etc. for the victim-witness.

<sup>108</sup> See UNICEF (2006).

<sup>109</sup> Refer to UNODC (2020), Articles 24 through 33.



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The co-operation concept should include agreements on and provisions for at least the following aspects of victim-witness treatment:<sup>110</sup>

- The criteria a witness must fulfil in order to be taken into a witness protection programme (willingness and capability to testify, willingness to accept protection measures when required, etc.);
- The point in time when the counselling centre will be included in the proceedings;
- The role of the counsellors during the various stages of the proceedings (e.g. during raids, pre-trial, trial, post-trial phases);
- A clear division of work between the counsellors and the witness protection officers with regard to obtaining legal documents, work permits, social benefits, etc. with other authorities, to avoid misunderstandings which lead to unnecessary delays and insecurity;
- The responsibility for finding safe accommodation for the witness;
- The financial responsibilities during the various stages of the proceedings and for the various measures offered to the victim-witness (medical care, food, accommodation, language courses, etc.);
- Support in obtaining legal documentation for the victim-witness (e.g. temporary residence permit, work permit); and
- Treatment of victims of trafficking who are unsuitable as witnesses (e.g. agreement to contact the counselling centre or inform the victim how to contact a counsellor; time allowance to prepare to return via a reintegration programme as opposed to immediate deportation, etc.).

Involve:

- Police officers, judges, prosecutors, organisations providing victim assistance, NGOs, lawyers and legal counsellors.

#### **(e) Return<sup>111</sup>**

##### *(i) Strategic level*

Victims of trafficking run a considerable risk not only to be re-victimised but also to be re-trafficked. After the return of victims of trafficking to their home countries, apart from the risk of reprisals and/or of being prosecuted themselves, victims of trafficking may be stigmatised, discriminated, rejected by their families and suffer social exclusion.

The OSCE's Office for Democratic Institutions and Human Rights developed seven guiding principles for situations of non-voluntary return, when trafficked persons must return or be returned. These principles detail the following:

- 1) Return must be safe:** While the return should preferably be voluntary, then the return process must at all times be safe and conducted with due regard for the rights and dignity of the person being returned and the status of legal proceedings.
- 2) Due process:** The process of returning trafficked persons should not result in a violation of any of their rights, including the right to due process of law.
- 3) Protection measure when return is not an option:** In such cases, destination countries are obliged to consider complementary humanitarian or other immigration options, and resettlement in another country.
- 4) Special protection measures in returning child victims:** In cases where the victim's age is uncertain and there are reasons to believe that the victim is a child, the presumption shall be that the victim is a child.
- 5) Durable solution without further harm:** Safe return of trafficked victims may not be possible if they are at risk of re-victimization, prosecution, retaliation and/or re-trafficking upon return.

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<sup>110</sup> See e.g. Co-operation Concept between Counselling Services and the Police concerning the Protection of Witnessing Victims of Traffic in Human Beings, developed by the German national round table on trafficking in women and currently used to create working co-operation concepts at the German Federal State (Laender) level.

<sup>111</sup> Refer to UNODC (2020), Articles 34 through 37.

- 6) **Access to effective remedies:** Trafficked persons have the right to seek and receive effective remedies for the harm committed against them and they should be provided with adequate reparations for harm suffered, including restitution, compensation, recovery, satisfaction and guarantees of non-repetition.
- 7) **Co-operation and monitoring:** Safe and, preferably, voluntary return of trafficked persons requires co-operation between the returning and receiving states.<sup>112</sup>

*(ii) Operational level*

In line with the strategic objectives identified for (re)-integration, social inclusion, return the following examples of possible areas of intervention should be considered while identifying activities:

- Inform victims on their rights to contact diplomatic and consular representatives and provide them with assistance and counselling in the receiving country;
- Create risk assessment procedures before any decision is made to return victims of trafficking in order to ensure that they are not sent back to a situation that endangers their life, health or personal freedom and/or would submit them to inhuman or degrading treatment. NGOs and other service agencies that are providing assistance to the victims of trafficking concerned should be actively included in this process;
- Inform victims of their rights to claim asylum (or other available procedures to regulate their status) in destination countries;
- For national victims (internally trafficked or victims returned from third countries), ensure proper reintegration support including long-term shelters as needed or semi-independent living facilities for a reasonable period of time so as to support them in their efforts to gain independence;
- Provide access to vocational training, free access to legal aid and employment opportunities;
- Provide victims of trafficking and their eventual dependants with proper identity documents as well as basic necessities during the repatriation process;
- Ensure the well-being for persons who return to their country of origin through appropriate and free physical and psychological care. Their social reintegration must be facilitated and re-trafficking must be prevented through housing and educational and employment services;
- All actors involved have to respect the right to privacy. No confidential information shall be given to the authorities in the home country without the consent of the victim of trafficking;
- Establish long-term assistance programmes after return in order to secure the safety and well-being of victims of trafficking and aim at their empowerment;
- Safe return should be assured by the receiving country and the country of origin through co-operation policies among countries;
- Enhance co-operation with agencies in the countries of origin to ensure continued reintegration support to the returned victims in order to diminish the danger of re-trafficking; and
- Organise community awareness campaigns in order to counteract the stigmatisation of victims within society.

In case of children:

- States are obliged to ensure that return of a child is conducted in accordance with international standards regarding passage of unaccompanied minors etc.<sup>113</sup> and not against the child's best interest. In addition, in 2018 the OSCE Ministerial Council adopted a Decision on Strengthening Efforts to Prevent and Combat Child Trafficking, including of Unaccompanied Minors, which called on the participating States to "consider the appointment of a national focal point to whom enquiries can be addressed by officials from other countries regarding child victims of trafficking, including those who went missing and/or whom they plan to return to in their respective country of origin".<sup>114</sup>
- The principle that applies to all governmental structures, including those implementing returns, foresees that the best interests of the child must be the primary consideration in all decisions and measures that concern child victims.<sup>115</sup> Child's best interests should be assessed for each individual case, and should consider the specific circumstances of each child, including circumstances relating to the

<sup>112</sup> OSCE/ODIHR (2014), *Guiding Principles on Human Rights in the Return of Trafficked Persons*.

<sup>113</sup> For further information see the UNICEF (2006); CRC (2005). General Comment No. 6 on the Treatment of Unaccompanied and Separated Children outside their Country of Origin.

<sup>114</sup> For concrete recommendations for setting up such a focal point, see OSCE-SR/CTHB (2020a): *Establishing National Focal Points to Protect Child Victims of Trafficking in Human Beings*.

<sup>115</sup> Convention on the Rights of the Child, Art. 3(1).

individual characteristics of the child (age, sex, level of maturity, experience, having a physical, sensory or intellectual disability, child's social and cultural context, presence or absence of parents, etc.).<sup>116</sup>

- Child victims shall not be returned to their country of origin if, following a risk and security assessment, there are reasons to believe that the child's safety or that of its family is in danger.<sup>117</sup>
- States shall establish procedures to ensure that the child is received in the country of origin by an appointed responsible member of the social services of the country of origin and/or the child's parents or legal guardian.<sup>118</sup> Prompt appointment of a guardian is a key procedural safeguard for ensuring the best interests of the child are met.<sup>119</sup>
- The first step in finding a durable solution is to look at the possibility of family reunification.<sup>120</sup> Where family unification is not an option, the return can proceed if secure and concrete arrangements of care and custodial responsibilities upon return are established in advance.<sup>121</sup> OSCE participating States have committed to making every effort to find a durable solution for child victims of trafficking, consisting of either a return to and reintegration in the country of origin, local integration into the country in which they are identified, or relocation to a third country.<sup>122</sup>
- In exceptional cases the return may go ahead if there are other rights-based considerations that override the best interests of the child, including situations in which the child constitutes a serious risk to the security of the state or to the society.<sup>123</sup> Meanwhile, non-rights-based arguments (e.g. those relating to general migration control) cannot override considerations of the child's best interests.<sup>124</sup>
- Special policies and programmes for children shall be developed to minimise the danger that children end up again in the hands of the traffickers.

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Family and/or relatives account for 41% of recruitment of children for trafficking.

Children are most commonly trafficked into forced sexual exploitation, begging and domestic work. Children are most likely to be coerced into trafficking through physical, sexual and psychological abuse, suggesting the need for more prevention efforts specifically targeting children and their families.

Boys are more likely to be recruited by a family member than girls.

**Source: IOM, *The Counter-Trafficking Data Collaborative (November 2017)*.**

Involve

- NGOs, state authorities from sending and receiving countries, IOs and inter-governmental organisations.

<sup>116</sup> CRC General Comment No. 14, para. 48. Also, UNHCR Emergency Handbook, Best Interests Procedure.

<sup>117</sup> UNICEF (2006). The CoE Trafficking Convention prevents states from returning a child victim if there is an indication, following a risk and security assessment that the return would not be in the best interests of the child (Art. 16.7).

<sup>118</sup> Idem.

<sup>119</sup> CRC (2005), para. 21.

<sup>120</sup> Ibid, para. 79.

<sup>121</sup> Ibid, para. 84.

<sup>122</sup> 2005 Addendum to the OSCE Action Plan, Rec. 9.

<sup>123</sup> CRC (2005), para. 85.

<sup>124</sup> Idem.

#### A.4.2.4 Investigation and Prosecution of Trafficking<sup>125</sup>

As part of a comprehensive national anti-trafficking response, states must thoroughly investigate and prosecute those participating in or aiding trafficking activities and related offences with respect for the primacy of international law. In doing so, the importance of human rights of individuals must be fully respected. A dual responsibility exists to punish the offenders but also to respect and restore the human rights and needs of victims of trafficking, including their access to legal redress and compensation.

Moreover, a clear definition and criminalisation of ‘trafficking in human beings’ is crucial not only for the conviction of offenders but also for the investigations and international judicial co-operation.

##### (a) Balance of proactive and reactive investigation<sup>126</sup>

###### (i) Strategic level

Measures should be taken to successfully investigate and prosecute traffickers without relying entirely on the victim’s co-operation and testimony. To this end, a balanced mix of proactive and reactive investigation is indispensable.

Proactive (intelligence-led) investigation is the use of a combination of intelligence gathering, human and technical surveillance, undercover deployment and standard investigative techniques with the objective of securing evidence other than the victim’s testimony and thus arresting and prosecuting traffickers without having to rely on the victim’s co-operation and testimony.

Reactive (victim-led) investigation is based on a set of circumstances that arise and require an immediate police reaction; namely when a victim gives information or when another victim or third party informant provides intelligence or evidence concerning victims of trafficking.

Financial investigations and investigations of money laundering should be an integral part of any anti-trafficking investigation in order to effectively break the cycle of human trafficking.

###### (ii) Operational level

In line with the strategic objectives identified for a balance of proactive and reactive investigation the following examples of possible areas of intervention should be considered while identifying activities:

- Creation of well-trained and well-equipped specialist anti-trafficking law enforcement units as well as mixed investigation units including specialised police and prosecutor’s offices. Such units should include female police officers;
- Development of investigation methods to remove the burden of co-operating and testifying from the victim and relying more on intelligence led investigations and other sources of evidence. Methods to secure intelligence and evidence against the perpetrators from other sources such as surveillance techniques, and monitoring of financial transactions should also be developed;
- Development of legal regulations relating to special investigative measures combining timely collection of intelligence data and investigation techniques to be conducted by police forces under the control and supervision of relevant prosecutors and judges such as through phone tapping or undercover investigators;

<sup>125</sup> The judicial systems differ by countries. In this chapter we use the terms judges and prosecutors, acknowledging that in some countries the ‘investigative judges’ play a very important role in the detection of THB cases. For a recent international discussion on the challenges in the subject matter see: OSCE-SR/CTHB (2020b), Highlights of the 20th Conference of the Alliance against Trafficking in Persons Ending Impunity Delivering Justice through Prosecuting Trafficking in Human Beings. See also UNODC (2020a), Section III; UNODC (2009), p. 10. On the facilitating role of technology in human trafficking, and links with cybercrime, see UNODC University Module Series on Trafficking in Persons / Smuggling of Migrants, Module 14.

<sup>126</sup> For a more detailed insight into investigation please see also ICMPD (2015). The training manual includes introductory lessons on the difference between irregular migration and human trafficking, and spotting the indicators of trafficking, covering also such advanced subjects as how to conduct screening interviews, the use of specialist investigative techniques, supporting the needs of victims during investigative procedures, and conducting evidential interviews. See also ICMPD (2006a). Anti-Trafficking Training for Judges and Prosecutors – Curriculum and Handbook, ICMPD. This training manual aims to enhance the capability and skills of judges and prosecutors to adequately detect trafficking cases and implement anti-trafficking legislation in line with agreed European and international standards. See also UNODC (2006). Toolkit to Combat Trafficking in Persons. Tool 5, Law Enforcement and Prosecution.

- Offer law enforcement training, which is human rights-based and follows a ‘victim-first’ approach at three main police levels:
  - At the generalist level, training should be directed to all non-specialised police officers, aimed at raising awareness on THB as a serious crime and a human rights violation. It should focus on identifying and addressing indicators of the crime, victims of the crime, as well as low-level intelligence gathering;
  - At the specialist level, targeting specialised police and investigators who hold specific responsibility for dealing with the crime of THB and focusing on victim-sensitive investigation methods;
  - Other organised crime teams that might be involved in intelligence gathering related to THB.
- Establish multi-agency co-operation among law enforcement agencies, prosecution services, inter-ministerial departments and IOs and NGOs in both identification and treatment of victims as well as intelligence gathering on human trafficking with due respect to the best interests of victims of trafficking;
- Establish mechanisms for the detection of trafficking for forced labour and services through the establishment of multi-agency administrative control teams, including police, labour inspectors, trade unions and NGOs;
- Regulate tax and labour inspection to collect evidence on employer-employee relations and to monitor identity fraud, which may facilitate forced labour;
- Co-ordinate financial investigations for money laundering with anti-trafficking investigations, including mechanisms for the seizure of assets;
- Establish standard operating procedures as well as self-monitoring schemes for the police; and
- Ensure the identification of victims by developing, applying and enhancing indicators that help to identify victims of trafficking.<sup>127</sup>

Involve:

- Police officers, specialist investigators, specialised organised crime and anti-corruption units, border police, labour officials and inspectors, tax inspectors, judges, prosecutors and representatives from other governmental Ministries.

## **(b) International law enforcement and judicial co-operation<sup>128</sup>**

### *(i) Strategic level*

Effective co-operation among law enforcement agencies and prosecution services depends on the ability of law enforcement officers to gather evidence from other jurisdictions and prosecute the offenders. Thus, all states should take concrete steps in order to enable effective international co-operation in criminal matters.

Different forms of international cooperation include, among others:

- Extradition;
- Mutual legal assistance;
- Transfer of criminal proceedings;
- Transfer of sentenced persons;
- Cooperation for purposes of confiscation to deprive traffickers of criminal assets;
- Cooperation between law enforcement authorities including exchanging information and cooperation in conducting inquiries;
- Joint investigations;
- Cooperation in using special investigative techniques.<sup>129</sup>

<sup>127</sup> More on indicators see UNODC (2009a), Module 2. See also ICMPD (2015). For indicators especially designed for labour inspectors, see ICMPD (2018). Training Curriculum for Labour Inspectors on Trafficking in Human Beings in Jordan.

<sup>128</sup> See also UNODC (2006), Tool 4; and UNODC (2009a), Module 6.

<sup>129</sup> UNODC (2009a), Module 6: International cooperation in trafficking in persons cases.

Co-operation in investigations and prosecutions with the neighbouring countries and international law enforcement agencies such as INTERPOL, EUROPOL, EUROJUST, or regional initiatives such as Southeast European Law Enforcement Center (SELEC)<sup>130</sup> or Regional Law Enforcement Cooperation (RELEC),<sup>131</sup> should be strengthened.

International agreements on extradition and legal mutual assistance, bilateral and multilateral treaties as well as agreements on extradition should be concluded with other countries for facilitating extradition in cases of trafficking in human beings.

The rogatory process with countries that are either a frequent source or destination country of victims of trafficking should be improved.

States should ratify and implement treaties that enhance mutual assistance between countries, such as the Council of Europe Convention on Mutual Assistance in Criminal Matters.

#### *(ii) Operational level*

In line with the strategic objectives identified for international law enforcement and judicial co-operation the following examples of possible areas of intervention should be considered while identifying activities:

- Identification of focal points to facilitate the communication, data sharing and the exchange of information in the context of international co-operation. Preferably the focal point should be an active intermediary with the task of facilitating judicial co-operation among states and international agencies (e.g. SELEC, INTERPOL and EUROPOL);
- Extradition provisions must exist that allow for the extradition of the suspects to the country where prosecution is taking place should be applied;
- Provisions of various mutual legal assistance must exist between the countries that allow for the collection and transfer of supporting evidence, search premises on warrant and seize evidence, interview witnesses, and the country where the prosecution is being conducted;
- Harmonisation of the legal definition of the crime as well as sanctions among the countries may help the request for mutual assistance and extradition;
- Law enforcement agency to law enforcement agency requests must be possible and in use for operational assistance such as surveillance, controlled deliveries, intercepts etc.; and
- Establishment of data protection regulations with the aim to ensure the right to self-determination over personal information. Such regulations should:
  - Guarantee that the processing of data (whether in its compilation, storage or transmission) only occurs in line with legal framework and/or with consent of the person affected.<sup>132</sup> If the victim has information on future criminal acts, this information should only be passed on if the personal data of the victim is held back;
  - Be used only for which it was originally compiled; and
  - Ensure that personal data should only be collected, used and exchanged on a need basis.

Involve:

- Police, prosecutors, judges, special investigative units, Ministries, INTERPOL, EUROPOL, EUROJUST, SECI and IOs.

### **(c) Prosecution and Conviction of Offenders<sup>133</sup>**

#### *(i) Strategic level*

Very often domestic laws link the admissibility of instruments of law enforcement, in both national and transnational proceedings, to the severity of the crime, which is judged by the gravity of sanctions. Therefore, the lack of adequate sanctions does not only fail to serve as a means of effective prevention, but also impairs the effectiveness of proceedings.<sup>134</sup>

<sup>130</sup> See more at: <https://www.selec.org>

<sup>131</sup> RELEC - Regional Law Enforcement Cooperation on irregular migration, migrant smuggling and human trafficking, facilitated by ICMPD. It is an initiative among Afghanistan, Bangladesh, Iran, Iraq, Pakistan and Turkey with the main objective to enhance regional cooperation on preventing irregular migration, migrant smuggling and human trafficking. See more at: <https://www.budapestprocess.org/component/attachments/download/398>

<sup>132</sup> For example, note the elaborate data protection framework in the EU stipulated by the 2016 General Data Protection Regulation (2016/679).

<sup>133</sup> See also UNODC (2009a), Module 14 Considerations in sentencing in trafficking in persons cases. See also UNODC (2020).

<sup>134</sup> OSCE/ODHIR (2001). Reference Guide for Anti-Trafficking Legislative Review with Particular Emphasis on South Eastern Europe.

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Very often the sanctions for trafficking in human beings are too weak and do not have a deterrent effect upon traffickers.

The crime of trafficking in human beings should be clearly and comprehensively defined – depending on the applicable legal culture, whether in a state’s criminal law or in a separate anti-trafficking law, and should be considered as a separate offence.

All forms of trafficking should be criminalised and effective, proportionate and dissuasive criminal penalties should be established in order to reflect the nature of the human rights violation and the gravity of the crime and to have a preventive and deterrent effect.

It is paramount, however, that a state’s criminal justice system prosecutes the offender and not the victim.

*(ii) Operational level*

In line with the strategic objectives identified for prosecution and conviction of offenders the following examples of possible areas of intervention should be considered while identifying activities:

- Define the offence of trafficking as a separate crime, as a severe form of a human rights violation in the country’s criminal law or other statutes according to the international legal instruments;
- Define and criminalise all forms of trafficking and all forms of exploitation such as forced prostitution and other forms of sexual exploitation (e.g. in pornography, striptease, massage, sexual services online, etc.), forced labour exploitation (e.g. in domestic or factory work, “sweatshops”, agricultural, construction, restaurant work, etc.), slavery, slavery-like practices and servitude. However, forced labour should not be limited to specific forms of labour exploitation. The term “abuse of vulnerability” should be defined specifically under the criminal law. According to the interpretative note to the UN Trafficking Protocol, this term should be understood to refer to any situation in which the person involved has no real and acceptable alternative but to submit to the abuse;
- Effective, proportionate and dissuasive criminal penalties should be applied to punish perpetrators for the crime of THB;
- Criminalise the attempt of THB. Consider that the crime of trafficking according to Article 3 of the UN Trafficking Protocol is completed at a very early stage, even if exploitation did not take place.<sup>135</sup> Furthermore, THB does not always occur in the context of organised crime in particular with regard to forced labour exploitation;
- Consider that discovering and prosecuting trafficking often relies upon the identification of exploitative situations in destination countries. Individuals often consent willingly to be moved from a source to a destination country and only fall into exploitative situations upon arrival in a destination country where they are particularly vulnerable to exploitation;
- Criminalise other activities related to trafficking representing a violation of human rights such as:
  - Slavery or slavery-like practices, servitude and forced labour;
  - Debt bondage;
  - Forced marriages, forced abortion and forced pregnancy;
  - Torture, cruel, and inhuman or degrading treatment;
  - Rape, sexual and other forms of assault, battery, homicide and kidnapping<sup>136</sup>; and
  - Withholding the victim’s passport or identity documents.
- Establish mechanisms for the collection of judicial data on THB cases and trafficking-related offences;
- Apply additional penalties to those who are found guilty of THB in aggravating circumstances, especially with regard to offences involving trafficking in children;
- Establish as criminal offences:
  - The attempt to commit such an offence;
  - The participation as an accomplice as well as organising or directing other persons to commit such an offence; and

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<sup>135</sup> See: UNODC (2020a). See also UNODC (2020), Article 14.

<sup>136</sup> OSCE/ODIHR (2001), p. 48.



- Deliberate negligence by state officials (e.g. the border guard that turns a blind eye to the traffickers passing the border).<sup>137</sup>
- Establish liability for trafficking offences both for natural persons as well as for legal persons, including sanctions against legal entities, counting confiscation of proceeds, fines, closure of establishments and compensation for victims of trafficking;
- Take legislative measures in order to regulate the confiscation of assets of a crime or of property where the value corresponds to such proceeds (according to Article 9 of the UN Convention against Transnational Organised Crime);
- National legislation should consider the link between THB, money laundering, falsification of documents and corruption;
- Establishment of specialised investigation units, such as mixed units of police and prosecutors, and co-operation should be furthered with SELEC, EUROPOL or INTERPOL;
- Provide joint training for police officers and prosecutors to effectively use and implement the legal instruments at their disposal in order to increase the arrest and prosecution of traffickers. The training should be delivered with the input of NGOs;
- Develop guidelines based on human rights standards for dealing with trafficking cases, focusing in particular on the treatment of victims of trafficking; and
- Establish specialised units for the prosecution of trafficking.

Involve:

- Legislators, judges and prosecutors as well as their respective professional training institutions, law enforcement, lawyers, and court/prosecutorial instances mandated to provide recommendations to lower courts and public prosecutor offices.

#### **(d) Legal redress and compensation for victims<sup>138</sup>**

##### **(i) Strategic level**

A victim of crime is entitled to legal redress and compensation for physical injuries, violation of fundamental rights and losses for suffering severe mental stress and psychological problems.

UNTOC Convention foresees the establishment of appropriate procedures to provide access to compensation and restitution for victims and communication of that right to victims (Art. 25(2)).

The UN Trafficking Protocol requires that States Parties ensure their domestic legal systems contain measures that offer victims of trafficking the possibility of obtaining compensation for damage suffered (Art. 6(6)).

The CoE Trafficking Convention states that each State Party shall provide, in its internal law, for the right of victims to obtain compensation from perpetrators (Art. 15(3)). In the situation where compensation cannot be obtained from offenders, State Parties must adopt legislative or other measures necessary to guarantee compensation for victims (Art. 15(4)).

The EU Trafficking Directive stipulates that victims of trafficking in human beings must be ensured access to existing schemes of compensation to victims of violent crimes of intent (Art. 17).

Finally, the United Nations' Secretary General's 2020 Report on Trafficking in Women and Girls recommends that compensation "should not be reliant on the seizure of assets from traffickers, cooperation with law enforcement or the exhaustion of remedies through judicial processes."<sup>139</sup>

Prosecutors and judges should play a major role in ensuring that victims receive compensation for physical, psychological and financial harm suffered, either through mandatory restitution, within the criminal proceedings, or in seeking compensation or from punitive damages from traffickers through civil action.

<sup>137</sup> UNODC (2020), Chapter V.

<sup>138</sup> For an elaborate overview of the issue discussing the relevant international legal framework, procedural rights, national mechanisms for remedies, see: ICAT (2016a). Issue Paper: Providing Effective Remedies for Victims of Trafficking in Persons. See also: UNODC (2009a), Module 13 Compensation for victims of trafficking in persons, and UNODC (2020), Articles 31-33.

<sup>139</sup> UNGA (2020). Trafficking in women and girls. Report of the Secretary-G (A/75/289).

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Part of a victim-oriented approach is the development and implementation of co-operation concepts between police, prosecutors and specialised non-governmental organisations who counsel and support victims of trafficking.

Comprehensive concepts include provision for the support and protection of victim-witnesses before, during and after trafficking trials.

*(ii) Operational level*

In line with the strategic objectives identified for legal redress and compensation for victims the following examples of possible areas of intervention should be considered while identifying activities:

- Provide information and assistance to the victims of trafficking on their right to pursue civil claims and on the development of the proceedings;
- Victims should be entitled under national law to receive compensation for physical, psychological and material damages including lost wages and all rights provided by legal work contract, such as paid vacation, either through criminal and civil proceedings. Compensation is a crucial step towards the reintegration of the victims, and should not be dependent on the seizure of assets from traffickers, cooperation with law enforcement or the exhaustion of remedies through judicial processes. (Depending on the national legislation, civil proceedings may be initiated automatically alongside criminal proceedings unless victims specifically opt out of a civil proceeding to obtain compensation);
- Use all legal means, in conformity with the criminal code of procedure, to protect the victim from further negative consequences, taking into account that she/he has been subjected to violence, abuse, and she/he can have suffered from trauma; Provide the possibility to hold an employer liable for the actions of a sub-contractor if the victim is unable to seek criminal or civil redress from a sub-contractor who has exploited the victim;
- Establish “state compensation schemes”, which guarantee fair and appropriate compensation to victims of trafficking according to the national law and the international instruments. Confiscated assets should be used to compensate the victims of trafficking and to pay the assistance and legal services which are provided to them; Provide free legal assistance to the victims;
- The state should establish a compensation fund for victims of trafficking with the confiscated assets of individuals and legal persons involved in trafficking;
- Legal barriers that prevent irregular migrants from appearing before national courts to obtain compensation should be eliminated. Additionally, there should be no obligation that requires irregular migrants to reveal their immigration status. Regular and irregular migrants should be able to contest poor wages, long working hours and poor work conditions before employment tribunals without having to notify or contact law enforcement personnel. Countries should consider implementing mechanisms that provide legal aid or assistance to migrants, both regular and irregular, who appear before national courts; and
- Allow for the impunity as regards offences such as illegal entry to a country and illegal work status of the victim of trafficking such as through a specific non-punishment clause.

Involve:

→ Legislators, criminal, civil and labour court judges and prosecutors as well as their respective professional training institutions, law enforcement, lawyers, and court/prosecutorial instances mandated to provide recommendations to lower courts and public prosecutor offices.

**(e) Police and judicial treatment of victims/witnesses<sup>140</sup>**

*(i) Strategic level*

Victims and victim-witnesses should be treated with dignity, compassion and respect. Every effort should be made to prevent secondary victimisation. Good practices already exist in cases of domestic violence or sexual violence, or other crimes that cause a serious trauma to the victim.

The protection of the victim requires not only the protection from retaliation of the traffickers, but also an approach

<sup>140</sup> See also UNODC (2009a), Modules 8-12.

aimed at minimising the negative impact of criminal proceedings on the victim. In turn, the psychological stability of the victims will improve their credibility later on as witnesses in court.

Victims of human trafficking who are prepared to testify are in need of and entitled to support and protection that goes beyond the assistance and protection afforded to all victims of trafficking.

Police officers as well as prosecutors and judges should pursue an anti-discriminatory and human rights led approach while acting in the context of anti-trafficking measures. The human rights of the victims as well as security issues must be considered.

In particular, police, prosecutors and judges should be aware that victims of trafficking typically suffer from trauma. Thus, they should consider the following elements in trafficking cases:

- The psychological state of the victim of trafficking; and
- The victim of trafficking may have difficulty communicating during the trial due to fear or traumatic experiences and while testifying, fragmentation of perception, feelings, consciousness, action and memory could appear.

Moreover, it should be considered that victims of trafficking often confront the legal system in the capacity of asylum seekers rather than in connection with trafficking prosecutions. Therefore, immigration judges and lawyers should also be sensitive to the particular needs and characteristics of victims of trafficking.

*“Child victims and witnesses of trafficking require special protection, assistance and support in order to prevent additional hardship as a result of their participation in the criminal justice process and in order to ensure that their best interests and dignity are respected.”<sup>141</sup>*

It has to be remembered that children are specifically vulnerable and require special protection appropriate to their age, level of maturity and individual special needs. Girls are particularly vulnerable and may face discrimination at all stages of the justice system.<sup>142</sup>

#### *(ii) Operational level*

In line with the strategic objectives identified for police and judicial treatment of victims/witnesses the following examples of possible areas of intervention should be considered while identifying activities:

- Provide specific and gender, age, and victim-sensitive training to judges and prosecutors on anti-trafficking. Only those that have received specific training on anti-trafficking issues should deal with anti- trafficking cases;
- Develop standard operating procedures focusing on victim protection and assistance during the duration of the legal proceeding for co-operation among law enforcement officers, prosecutors, judges and organisations providing assistance to the victims. Such procedures should include hearings taking place behind closed doors, in other venues at the request of the victim, in the presence of the defendant or defendant’s attorney but without direct visual contact; use of videoconferencing, audio-visual recording or other protected means to avoid direct communication between the defendant and the victim or witness; and avoid requesting the victims to repeat the testimony multiple times;
- Inform victims of trafficking of their rights and of the consequences of the decision to testify in court when they have been recognised by independent legal counsels;
- Allow organisations rendering victims’ assistance to be present during the criminal proceedings. Those who provide the victims with legal and psychological assistance have the duty of confidentiality, which should be respected through- out the hearings;
- Grant temporary residence permits to victims and victim-witnesses during legal proceedings;
- Create a gender-balanced roster of lawyers specialised in the assistance of victims of trafficking;
- Provide legal assistance and representation as well as interpretation to the victims during criminal proceedings. It is suggested that special funds for this purpose should be available through the court holding jurisdiction on the case;

<sup>141</sup> UNICEF (2006), Section 10.

<sup>142</sup> UN Commission on Crime Prevention and Criminal Justice (2005): Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime.

- Protect the identity and the privacy of a victim and victim-witness through clear rules and procedures for collecting, storing and sharing personal information on victims of trafficking in line with data protection;
- Provide separate premises for victims/witnesses in court;
- Create witness protection programmes;
- Inform the organisations supporting and/or housing the victims as well as the police on possible release of the defendant in case their release could pose a threat to the safety of the victim;
- Provide gender, age, and victim-sensitive training for the media on how to handle the information on anti-trafficking cases especially focusing on the protection of the identity of the victims. Publication of the personal history of the victim as well as the name and photography should be forbidden;<sup>143</sup>
- Maintain and regularly update statistics on victim protection and monitor how the victim-witness protection is implemented in practice in accordance with the exiting legal instruments; and
- Provide a contact roster for victim assistance including NGOs, specialised law enforcement officers, media personnel, legal counsellors and make it available in the Office of the ATC.

Involve:

→ Police officers, judges, prosecutors, lawyers, organisations providing victim assistance, NGOs, translators, psychiatrists and trauma specialists.

#### **(f) Anti-corruption measures<sup>144</sup>**

##### *(i) Strategic level*

Human trafficking networks are often identical to those set up for smuggling of people, drugs and stolen goods. These highly organised networks are also able to carry out high-level corruption and money laundering.

Human trafficking is often controlled by organised crime networks. Being corruption one of the modus operandi of organised crime, the link between trafficking and corruption is evident. As a consequence, anti-corruption measures are an indispensable prerequisite for securing the resilience of law enforcement and judicial authorities against the influence of criminal organisations.

Victims may have difficulties in acknowledging that an offence has occurred, where the state, supposed to be protective, mistreats victims. Therefore, fighting corruption and fostering the commitment of law enforcement authorities is an important element of anti-trafficking strategies.

##### *(ii) Operational level*

In line with the strategic objectives identified for anti-corruption measures the following examples of possible areas of intervention should be considered while identifying activities:

- Take visible actions against corruption at all levels and respond immediately with investigation and prosecution of public officials, which participate and/or facilitate trafficking (e.g. arrest, dismissals, disciplinary actions);
- Establish internal codes of conduct and internal control systems within the public administration in order to secure an efficient disciplinary policy and administrative sanctions. The public administration should work in a transparent way and have clearly defined and verifiable competences at all levels. Public officials involved in trafficking should also be punished according to criminal law sanctions, which have a repressive effect;
- Create incentive programmes for public officials in order to report corruption and, as a deterrent, inform the public on the actions taken;

<sup>143</sup> See ICMPD (2017). The guidelines provide the editors and journalists covering topics related to THB with better understanding of the complexity of the issue to ensure factual and reliable reporting. They provide advice and suggestions to assist journalists in reporting trafficking, to consider the legal and human rights issues involved, the treatment of the victims, their privacy and welfare, and how to tell the story with humanity and style while helping audiences to understand better what actions may be taken. The manual discusses the basic legal understanding of the issue, newsroom strategies for covering such issues, examples of good practice, as well as guidelines for photojournalism, and includes useful links and contacts.

<sup>144</sup> See UNODC (2006), Tool 9.4 – Corruption Prevention.

- Create a special investigative unit on anti-corruption to receive specialised training;
- Guarantee independence of the judiciary;
- Include the issue of trafficking in the anti-corruption plan of action; and
- Create a hotline for reporting cases of corruption.

Involve:

- Policy makers, legislators, public administration, special investigative units, judges and prosecutors.

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### A.4.3 Indicators<sup>145</sup>

To measure the outcomes developed, corresponding indicators need to be defined. The indicators should help to verify that the intended change is reached.

Indicators need to be measured afterwards with either quantitative or qualitative data (sometimes with a mixture of both). In the case of NAPs your indicators might need to be a mix of outcome and output (as a result of the activity) indicators in order to measure concrete ongoing implementation as well.

#### Quantitative and Qualitative Indicators<sup>146</sup>

The following indicators are examples, which could be used within a NAP. Note that the sources and baselines or percentages indicated are purely indicative and would need to be established and replaced with those valid for your country's context.

The indicators cover different areas of the 4P's as indicated in the [brackets].

Remember - indicators, no matter whether quantitative or qualitative, have to be SMART (specific, measurable, achievable, realistic and time-bound) and related to the formulated outcomes.

**Quantitative indicators** are **statistical measures**.

With **quantitative indicators**, you measure results in terms of:<sup>147</sup>

- **Number** → E.g. the number of victims of trafficking assisted through specialized NGOs (disaggregated data by sex and key demographic characteristic) has risen from X (baseline established in December 2020) to X+n (the end of December 2021) (Source: Statistics from NGOs). [Protection].

- **Percentage** → e.g. the number of calls received by the national hotline increased by 25% by the end of 2021 (Source: Statistics from the organisation or institution managing the hotline) [Prevention and Protection].

The number of cases of THB brought to court increased by 20% in 2021 (Source: Statistics of the Ministry of Justice, baseline established in 2020) [Prosecution].

- **Rate** → e.g. the rate of re-trafficked victims among identified victims decreased by 25% between 2015 and 2020 (Source and baseline 2015: Police statistics) [Protection].

**Qualitative indicators** reflect people's judgements, opinions, perceptions and attitudes towards a given situation or subject. They **can include** changes in sensitivity, satisfaction, influence, awareness, understanding, attitudes, quality, perception, dialogue or sense of well-being.

With **qualitative indicators**, you measure results in terms of:

- **Compliance** → with international/national standards, legislation, procedures, etc. E.g., the national legal framework concerning THB complies with the undersigned conventions and standards by 2022. (Source: GRETA reports, CoE Trafficking Convention communication/reports) [Prosecution].

- **Quality** → e.g. 80% of interviewed trafficked persons assess the quality of re-/integration services provided as adequate and targeted to their gender and age specific needs (Source: Qualitative survey by an authorised state institution or another structure) [Protection];

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<sup>145</sup> For an elaborate insight into applying performance indicators, see: UNODC (2018), Handbook. Results-based Management and the 2030 Agenda for Sustainable Development. Chapter IV, L.

<sup>146</sup> For more detailed sample lists of monitoring and evaluation indicators on strategy and policy, legislative assistance, capacity-building, regional cooperation, protection and assistance, see UNODC (2021), Chapter 4.3.

<sup>147</sup> Adapted from UNDP (2009), Handbook on Planning, Monitoring and Evaluating for Development Results.

In 2022, 80% of victims of trafficking re-integrated are satisfied with the assistance rendered in the process by the different authorities involved (Source: Qualitative survey conducted by an authorised state institution or another NRM structure with all victims that have been re-integrated) [Protection]. *Please note that the 80% of victims in this context do not make this indicator quantitative but rather represent an inbuilt quantitative target.*

- **Level** → e.g.: The level of knowledge on THB among the participants of trainings has increased (Source: Questionnaire). [Prevention];

The level of coordination among the relevant stakeholders (government and non-governmental actors) for the fight against THB has increased (Source: Schedule of regular meetings and minutes, survey amongst stakeholders). [Enabling Framework];

The (level of) awareness of the general population on governments action in the fight against THB has increased (Source: Survey and downloads of monitoring reports) [Enabling Framework, relating to M&E, Prevention]

- **Extent** → e.g.: The extent of NGO involvement in the national anti-trafficking response significantly increased by the end of 2022 (Source: survey amongst NGOs) [Enabling Framework];

The extent of regular joint analysis of monitoring results increased significantly by the end of 2022 (Source: Anonymous questionnaire to stakeholders) [Enabling Framework];

The extent to which standards for interviewing victims are observed increased by the end of 2022 (Source: Police reports, Interview protocols, baseline 2010) [Protection].

Where necessary, the indicators need to be disaggregated (according to sex, age, geographical area, special needs or ethnicity). When designing the indicators, you need to reflect how you can measure the indicator as you will need to identify in your monitoring and evaluation plans, how specifically you will measure the fulfilment of the indicators.

### Checklist for Outcomes and Indicators<sup>148</sup>

Quick checklist for reviewing outcomes and indicators	Yes	No
The outcomes and their indicators are Specific, Measurable, Achievable, Realistic and Time-bound (SMART)		
The outcomes clearly outline an area of work where all relevant institutions and partners can have significant influence		
The outcomes are worded to communicate changes - what has changed, for whom (if relevant) and when		
The outcomes clearly address the specific interests and concerns of men, women and/or marginalized groups (if relevant)		
The outcomes address changes in institutional capacities and behaviour that should lead to sustainable improvement in the area of combating trafficking in human beings in the country (or region, if relevant)		
The outcomes speak to changes in conditions and capacities and not the delivery of products and services		
The outcomes have indicators that signal how the desired change will be measured		
The outcome and its indicators provide a very clear and precise image or picture of what the future should look like and is not so general that it could cover almost anything		

<sup>148</sup> Idem.



There are indicators that measure both the process of producing the outputs (e.g. how many of something was done), as well as the quality and/or effect of what was produced (e.g. level of usage or user satisfaction with what was produced).		
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See also steps to take for monitoring of NAPs, in the Chapter B.1.3 (Table: Steps to set up a Results-Based Monitoring and Evaluation system).

#### A.4.4 Operational Tools for Successful Implementation

The political commitments for implementing the strategies and action plans need to translate into a full-fledged **financial commitment**.

The practice shows that the commitments of the governments are oftentimes made clear under the sections dedicated to the financing of the anti-trafficking activities. Sometimes the ensuring financing for implementing the strategy and the action plan is formulated as a specific strategic objective (stating that the funding will be provided by the public budget and the approved projects.<sup>149</sup> Some strategies acknowledge that funding should be ensured by the respective institutions through support of development partners<sup>150</sup>, while others provide an estimated total for the first years of implementation (per year and per specific institution), clearly indicating the funding sources.<sup>151</sup>

The overall financial commitments are usually reflected in the action plans to a varying degree. Some countries specify dedicated amounts for each specific activity, some state only the funds available at the time of planning, while others list the institutions responsible for implementation, without specifying any costs of the activity. Some strategies/action plans mention beside the public budget also international donors, with or without specifying any amounts.

The financial planning process:

- Must be transparent and multidisciplinary;
- Should be headed by the anti-trafficking coordination structures, which provide overview of the anti-trafficking resource plan and liaise with external donors and agencies while the institutions inform the coordination structures on the funding requirements according to the planned activities;
- Should include coordination meetings between the public institutions, non-governmental organisations and international donors in order to fill in the financial gaps for implementation of the foreseen activities
- Could include the creation of a separate document - so-called resource plan - at the beginning of each strategic cycle covering the whole strategic cycle period. The plan should be:
  - Be developed in parallel with the development of the action plan, and in coordination with all relevant institutions/organisations;
  - Complement the action plan, indicating the total resources needed for each area for the whole planning cycle and specifying the entities responsible for funding of a specific activity;
  - Updated annually;
  - Could be used by the anti-trafficking coordination structures to inform the potential donors of the planned activities for which no budget has is planned/available.

<sup>149</sup> See for example, the Bosnia and Herzegovina, Council of Ministers of (2020). Strategy to Counter Trafficking in Human Beings in Bosnia and Herzegovina 2020-2023, p.16.

<sup>150</sup> Kosovo, Ministry of Internal Affairs (2015). National Strategy against Trafficking in Human Beings in Kosovo, 2015-2019, p. 26.

<sup>151</sup> Government of Republic of Serbia (2017). Strategy to Prevent and Suppress Human Trafficking especially Trafficking in Women and Children and to Protect Victims 2017-2022, pp. 25-30.

The strategic documents:

- Should ideally set out an overall estimated total cost for the full term of the strategy; and
- State clearly the funding sources:
  - the public budget (allocated to each institution competent for the implementation of the strategy), and
  - where possible - international donors (alternatively indicating the amount that is not covered by the national budget and whereby support from international donors will be sought);
- Foresee adequate public funding to the NGOs and civil society organisations responsible for protection and assistance of trafficked persons;
- Where suitable and applicable, increase the financial support to the stakeholders who work on local level;

Action plan:

- Must include a budget for the implementation of each of the foreseen activities.
- During the preparation of the action plan, the stakeholders responsible for the implementation of defined activities would consent to the implementation as well as securing the financing necessary for the implementation.
- Depending on the legislative framework, such planning may require that the Ministry of Finance provide its opinion on the proposed strategic documents.

In addition to the above financial planning processes and tools, a specific operational tool can be helpful in the actual implementation process. An **operational plans for implementation**<sup>152</sup> of the foreseen activities are an important tool that enables efficient implementation of the activities foreseen in the action plan. Such operational plans should be developed according to the action plans. These plans should be developed and implemented on an annual basis, and would thereby improve transparency in the resource allocation (human and financial) and their adjustments according to the actual needs and situation, and would also provide a clear division of the roles and responsibilities among the actors.

One more planning tool can prove useful – a **specific operational plan**. Such plans would be developed for the implementation of a concrete set of actions. For instance, there can be a specific implementation plan to implement recommendations by international monitoring bodies for the country in question. These plans should be integrated into the annual operational plans.

The COVID-19 pandemic in 2020 highlighted the **lack of adequate strategies for implementing the anti-trafficking action in crises**. This has manifested itself as a significant gap in the provision of the overall anti-trafficking response. The pandemic response required reallocation of the funds initially dedicated for direct victims' assistance to other public budget lines. Moreover, the victims' access to immediate services like shelter, medical and social support, as well as the transnational referral of victims was challenged due to the quarantine measures. As a result, victims were left with no adequate assistance. The need for reallocation of the dedicated anti-trafficking resources was also evident during the management of the migrant influx in the Western Balkans region in 2015, or when dealing with the consequences of natural disasters (such as the 2019 earthquake in Albania).

<sup>152</sup> An operational plan should contain: a list of activities planned for the forthcoming year (as per NAP) including the budget planned, eventual changes in the implementation (delays, some activities that have been planned but for some reason not implemented, unforeseen activities – e.g. upon recommendation from international community), updated budget and plan for action for the next year, and indicate the responsible institutions/organisations for each activity.

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Hence, countries:

- Need to put in place adequate strategies for operating in different crises scenarios, which would also need to include **contingency planning to ensure minimum functionality of the anti-trafficking system** in such emergency conditions. These contingency plans must ensure the availability of a minimum package of services to the victims to meet their immediate needs during the period of reduced possibilities for referral, protection, investigation and judicial proceedings;
- Could prepare for **different scenarios**, such as natural disasters or massive migrant influx situations. These scenarios, according to the stakeholders, should be prepared on the basis of **risk assessments** and could include countermeasures to an anticipated lack of resources in the implementation of anti-trafficking policies along with decreasing reintegration and employment opportunities, increased vulnerability to irregular labour migration, etc.





**B.**

**Monitoring, Evaluation and Learning  
in Anti-Trafficking Responses**

## B. Monitoring, Evaluation and Learning in Anti-Trafficking Responses

The year 2020 marked the twenty-year anniversary of the UN Trafficking Protocol. Yet, the key question raised more and more frequently over the past decade concerns the actual effectiveness of the anti-trafficking responses, be it on a level of a single project or state level. When designing anti-trafficking responses and interventions, how the measurement, evaluation and learning will be integrated into the response intervention to track its progress toward goals, understand its impact and effectiveness, and to strengthen and improve it further.<sup>153</sup>

This part of the Guide is intended to contribute to national reporting and self-assessment. The monitoring results at the national level should - besides guiding further actions - be used for policy review and analysis and should be able to direct national decision-making on the matter. National level monitoring results will also feed the state reports to the international bodies. This further underlines the vast importance of monitoring the national action plans against trafficking in human beings.

Monitoring, review and evaluation are essential for all anti-trafficking work in order to measure the degree to which a project, programme, strategy and/or policy has realized its objectives and outputs and to observe its long-term effects. They provide the basis for accurate reporting and allows for the identification of lessons learned and obstacles faced, which can be used to plan new programmes as well as to adjust and tailor existing programmes. They are also a valuable planning and management tool. Building monitoring systems and envisaging evaluations at the outset of the programme helps to design and review objectives and to anticipate needed resources. Monitoring, review and evaluation support the process of continuous learning.<sup>154</sup>

### B.1 Complementary Roles

While monitoring focuses on WHERE the programme is at a given time in terms of implementation, evaluation focuses more on WHY outcomes and goals might or might not have been achieved, highlighting achievements and offering recommendations on possible improvements (see Chapter B.3 of this Guide for more details on evaluation).

#### Complementary Roles of Monitoring and Evaluation

CHARACTERISTIC	MONITORING	EVALUATION
<b>TIME</b>	Continuous process during the implementation of a project, programme, plan or strategy	Either done during the span of a project, programme, plan or strategy (mid-term evaluation) or upon completion of projects, programmes, plans or strategies (ex-post evaluation)
<b>FOCUS</b>	Check how planned activities are progressing, identifying operational difficulties; recommend actions for improved implementation	Assess achievement of results, relevance, effectiveness, and impact of activities and their contribution to results.
<b>AIM</b>	Improve efficiency and effectiveness; ensure the transformation of activities into results/outputs	Explore intended and unintended results; formulate recommendations for adjustments
<b>CONTENT</b>	Progress attained measured against the set indicators	Fulfilment (degree of and quality) of the indicators

<sup>153</sup> ICAT (2016).

<sup>154</sup> A recent survey showed that evaluations of counter-trafficking efforts appear limited in approach and quality, without rigorous designs or not producing evidence of effectiveness, also infrequently exploring contribution to outcomes using mixed methods research designs. Often clear evidence was lacking to support a claimed “good,” “effective” or “successful” practices. The interventions often appeared not to have employed key evaluation tools. An articulated theory of change and programme logic was often lacking and did not always use knowledge accumulated from earlier anti-trafficking efforts or evaluation-based recommendations and lessons learned, about the relevance and promise of an activity. Evaluation practices themselves tended to be limited by programme design, timelines and resources allocated to evaluation and in some cases, available evaluation skills and capacity. See ICAT (2016b). Issue Paper 8: Pivoting toward the Evidence: Building effective counter-trafficking responses using accumulated knowledge and a shared approach to monitoring, evaluation and learning, p. 8.



<b>TARGET</b>	Primarily implementers	Implementers, but also donors and beneficiaries, the interested public and research community (should the results be made public)
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### Mechanisms for Monitoring and Reporting on Trafficking in Human Beings

Monitoring in the area of trafficking in human beings is ultimately about reporting on actions taken, activities, strategies and/or plans implemented, and results achieved. As the fight against trafficking in human beings implies different dimensions and levels in the international context, monitoring of action in the fight against trafficking also takes place on different levels. Therefore, three different mechanisms can be identified for monitoring and reporting:

#### a) National reporting (and/or self-assessment)

There are several models adopted by different countries in the area of national reporting. It takes place in the form of an inter-institutional task force (such as one formed within the NATCB), office of the ATC, or a special national rapporteur<sup>155</sup> reporting on the progress made in the area of combating trafficking in human beings. In some cases, reporting is carried out by a parliamentary committee with the responsibility to oversee the government's performance in the fight against human trafficking.

#### b) State reports submitted to international bodies (e.g. on CEDAW, CoE Convention on Trafficking)

States are required by international law to report to specialized treaty bodies - committees set up within the UN for the monitoring of compliance with the respective international conventions ratified. The conventions, which require reporting on progress in the fight against trafficking in human beings, include CEDAW, CRC, the UN Trafficking Protocol, as well as some regional instruments. Reporting on the CoE Trafficking Convention must be provided to its monitoring body consisting of independent national experts appointed by the CoE (GRETA).

#### c) International reporting by an international body

The **OSCE** has in 2003 set up the Office and post of Special Representative and Co-ordinator for Combating Trafficking in Human Beings (OSCE-SR/CTHB) to help OSCE's participating States develop and implement effective policies. At the core of the OSCE-SR/CTHB mandate are country visits that serve to establish a direct and constructive dialogue with participating States on anti-trafficking policy and support their implementation of OSCE anti-trafficking commitments by raising the profile of anti-trafficking efforts in the OSCE region.

The **UN** Commission on Human Rights decided in 2004 to appoint, for a three-year period, a Special Rapporteur on trafficking in persons, especially women and children, to focus on the human rights aspects of the victims of trafficking in persons. In July 2020, the mandate of the Special Rapporteur was extended again for three years by Human Rights Council. Besides dealing with individual complaints, the Special Rapporteur also undertakes country visits in order to study the situation in situ and formulate recommendations to prevent and/or combat trafficking, and protect the human rights of victims of trafficking in specific countries and/or regions, and submits annual reports to the UN Human Rights Council and the General Assembly.

The **EU** Trafficking Directive created in 2011 the post of the EU Anti-Trafficking Coordinator.

<sup>155</sup> Establishment of national rapporteurs or equivalent mechanisms is foreseen for instance by the EU Trafficking Directive (Art. 19). The tasks of such mechanisms are to include the carrying out of assessments of trends in trafficking in human beings, the measuring of results of anti-trafficking actions, including the gathering of statistics in close cooperation with relevant civil society organisations active in this field, and reporting. See also UNODC (2020), Article 39.

## B.1.2 Results-Based Management and Theory of Change<sup>156</sup>

The way planning, monitoring and evaluation are carried out has changed considerably over the past two decades. The focus in international development cooperation and public institutions has shifted towards improved effectiveness in all efforts, accountability (e.g. of governments towards their citizens or of implementers towards their financiers) and sustainability, just to name a few of the underlying principles.

As a result, developing projects and programmes has gradually moved from activity-based planning (*What are we going to do?*) to a stronger focus on the overall results (*What do we want to achieve?*). The focus, thus, lies in the results and consequences of actions and implementation. The envisioned changes have shaped a different strategic approach called results-based management (RBM). The focus has shifted from ensuring and monitoring that activities are being implemented to ensuring and monitoring that these activities further enable the envisioned **change**.

A theory of change describes **why** the required results are expected to be achieved by the proposed actions and the outputs from the actions, the results chain diagram (and work plan) describe **how** and **when** the results will be achieved.<sup>157</sup> A review looking at the use of theory of change, found that there to be no single definition of what theory of change is or no set methodology. However, the review identified that there was consensus on its basic elements considered to include the following:

Results-based management is a strategy that lays the foundations for an integrated approach to project and programme management, including planning, monitoring and evaluation. When adopting an approach, all actors contributing directly or indirectly to achieving a set of results must ensure that their processes, products and services contribute to the achievement of the desired results. The actors, in turn, use information and evidence from the actual results to inform decision-making on the design, resourcing and delivery of programmes and activities as well as for issues related to accountability and reporting.

*Source: UNODC (2018). Handbook. Results-based Management and the 2030 Agenda for Sustainable Development*

- “Context for the initiative, including social, political and environmental conditions, the current state of the problem the project is seeking to influence and other actors able to influence change
- Long-term change that the initiative seeks to support and for whose ultimate benefit
- Process/sequence of change anticipated to lead to the desired long-term outcome
- Assumptions about how these changes might happen, as a check on whether the activities and outputs are appropriate for influencing change in the desired direction in this context.
- Diagram and narrative summary that captures the outcomes of the discussion.”<sup>158</sup>

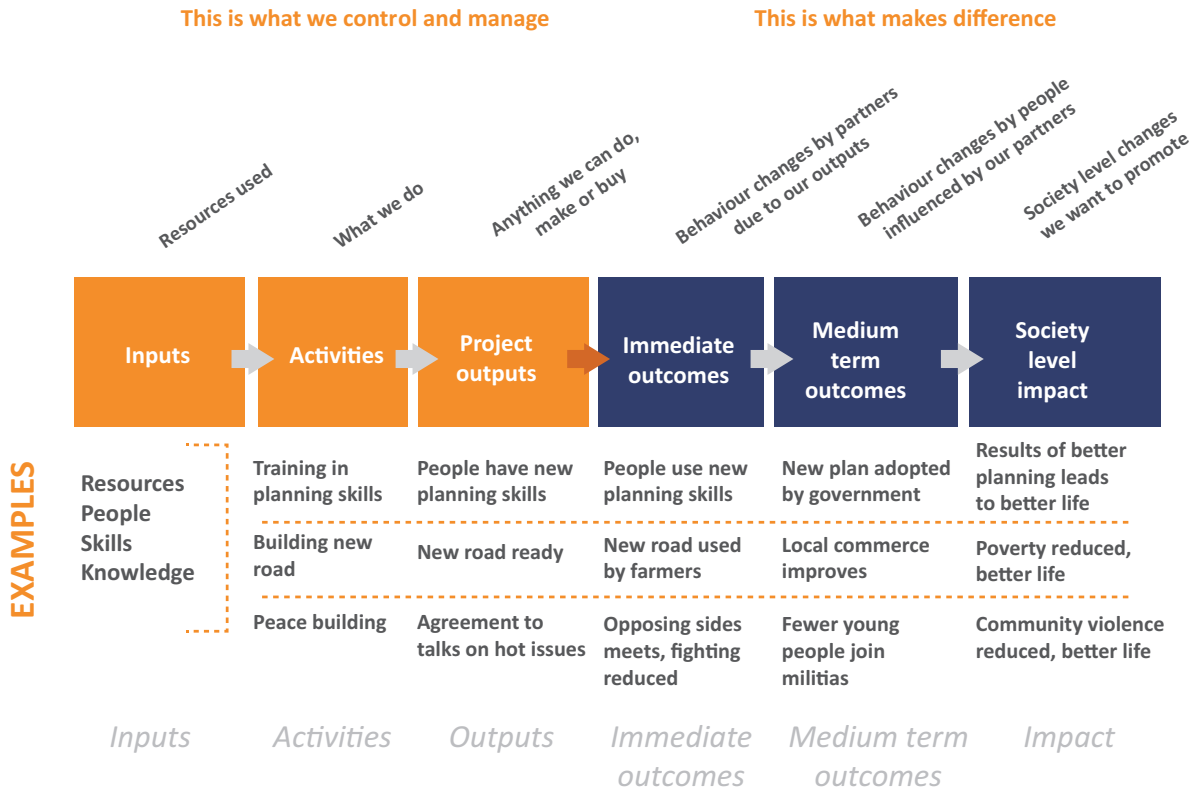
The results chain is a description of the various stages of an intervention that lead to the changes that are intended – from the inputs at the start, to the end effects at a societal level for the beneficiaries.<sup>159</sup>

<sup>156</sup> For a more elaborate discussion on the results-based management in UN context, see UNODC (2018).

<sup>157</sup> Definition provided by ©resultsbased.org 2016, 2017, 2018, 2019 & 2020. An elaborate insight into developing the theory of change can be found in UNODC (2018), Chapter IV, C.

<sup>158</sup> See Vogel, I. (2012). “Review of the use of ‘Theory of Change’”, in international development. Available at: [https://assets.publishing.service.gov.uk/media/57a08a5ded915d3cfd00071a/DFID\\_ToC\\_Review\\_VogelV7.pdf](https://assets.publishing.service.gov.uk/media/57a08a5ded915d3cfd00071a/DFID_ToC_Review_VogelV7.pdf)

<sup>159</sup> Definition and graphic description of the Results Chain via ©resultsbased.org 2016, 2017, 2018, 2019 & 2020.

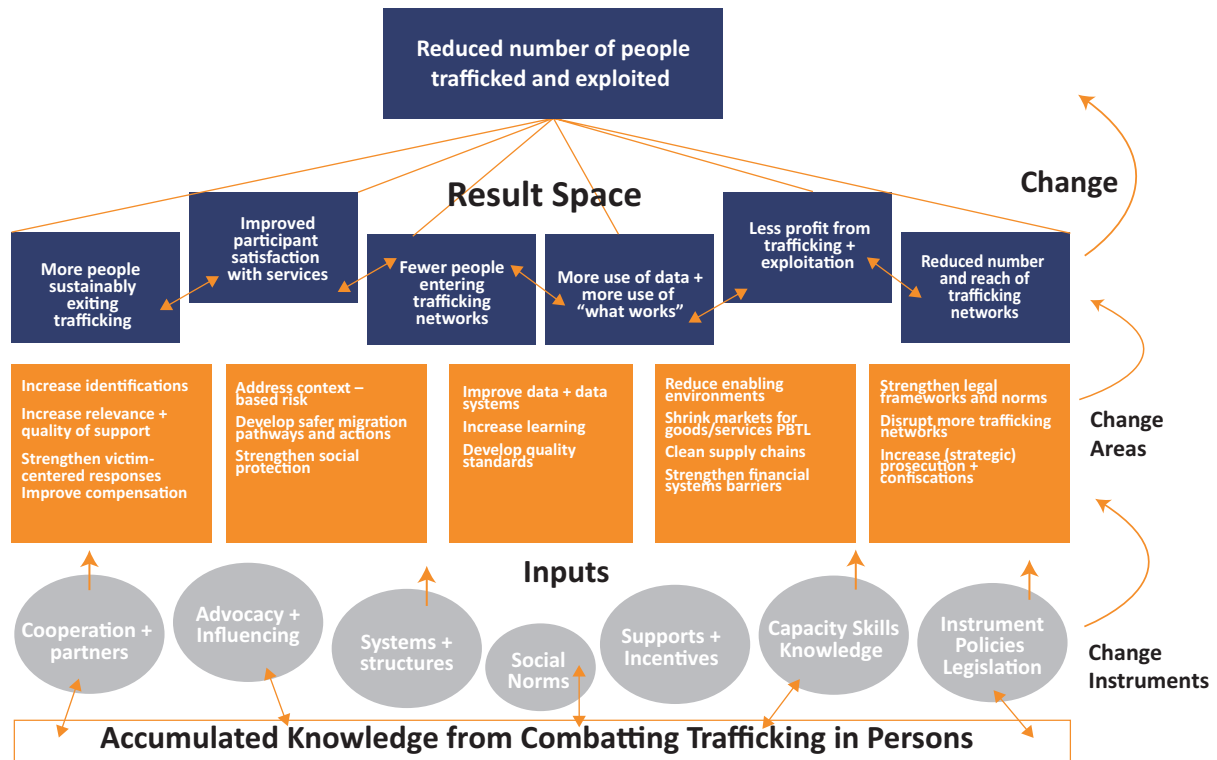


The results chain depicted above is not a theory of change, but it describes the sequence by which results will be achieved.<sup>160</sup>

Results-based monitoring, therefore, refers to observations on changes achieved with the use of resources or services of the project or programme, plan or strategy. Results-based monitoring is one part of the overall RBM approach.

ICAT has developed a recommended measuring, evaluating and learning (MEL) approach for counter-trafficking interventions, which aims to build a “credible evidence base of effective counter-trafficking initiatives including how and under what circumstances they can be effective”. This MEL approach model (see below) visualizes how change instruments contribute to a shared set of desired results across the arenas that constitute the counter-trafficking sector, while documenting those shared goals and objectives at the level of outcomes and results

<sup>160</sup> Note also that there are two views on theories of change:  
 A cause-and-effect type of theory of change – suitable in an ordered (or linear) situation, based on “if this – then that” relationships from the inputs through to the impacts.  
 A theory of change based on people, process, participation and learning – suitable in a complex adaptive situation where cause and effect are not repeatable. Instead, adaptability is crucial, and adaptive programming provides one of several ways to address the complex domain. The theory of change presented in this Guide is the one suited for an ordered intervention. (See ©resultsbased.org)



The concept of a MEL approach model in responding to trafficking in human beings promoted by ICAT.<sup>161</sup>

### B.1.3 Principles and Elements of Results-Based Monitoring

Results-based monitoring encompasses four dimensions:

- **specified results** that are measurable, trackable and relevant;
- **resources** that are adequate for achieving the targeted results;
- **organizational arrangements** that ensure authority and responsibilities are aligned with results and resources; and
- **processes** for planning, monitoring, communicating and resource release that enable the organization to convert resources into the desired results.

In order to target these four dimensions, results-based management should follow the subsequent principles:

- **Orientation on outcomes instead of activities:** This requires a shift in focus from single activities to the overall defined and measurable results and impact of an intervention in anti-trafficking work. It also considers not only the intended but also potential, non-intended negative outcomes.
- **Clear responsibilities and timeframe:** In order to be able to monitor the progress of a certain strategy, policy, programme and/or project, what data is needed, who is undertaking certain tasks, and due dates must be clearly defined.
- **Relevance:** There are different working areas in the field of anti-trafficking measures. When setting priorities, the relevance of certain measures has to be examined and assessed during monitoring and evaluation.

<sup>161</sup> For detailed elaboration on each of the elements, see ICAT (2106b), p. 26-27.

- **Effectiveness and efficiency:** RBM entails asking if the right things are being done and if they are being done well. It has to be assessed whether resources are available and determined that the most possible positive results can be achieved for the given inputs.
- **Sustainability and impact:** Through RBM, it should be measured if the goals that were set for an intervention have been achieved. Furthermore, it should be monitored whether the impact of a certain strategy or activity is likely to last after the intervention has ended. If not, there should be additional targets such as organizational development or process support to secure sustainability.
- **Scale and innovation:** During planning, it should be assessed if the intervention has the potential for reaching large numbers of the target population. This should be monitored throughout the process.
- **Transparency and accountability:** Governments have the obligation and responsibility to ensure the protection of all human rights for all individuals and to prosecute individuals and government officials who violate the rights of others. In the context of trafficking, a government is responsible for acts committed by its own actors, such as immigration officials, border patrols or police. Individuals can hold governments accountable under international laws embodying human rights principles. In terms of monitoring and evaluation, the obligation is to provide transparent and comprehensible information on strategies, priorities, activities, as well as possible harm. In the case of anti-trafficking work, this means distribution of information to and discussion with all relevant stakeholders.
- **Participation, ownership and empowerment:** A participatory approach means strengthening the ability of (especially marginalized) groups to participate actively in planning and monitoring processes, to take responsibility and to influence institutions, policies, strategies and programmes according to their specific interests and needs. At the same time, the empowerment of marginalised groups underpins the prevention of trafficking.
- **Non-discrimination and inclusivity:** It has to be ensured that different groups have access to the services provided. Evidence suggests that especially marginalized groups of people, such as migrants, internally-displaced persons, refugees and asylum-seekers, often suffer from negative consequences and that anti-trafficking measures have been counter-productive for some of the very people they are supposed to benefit most directly. Hence, through specific target group analysis during planning, monitoring and evaluation, the negative impact on specific population groups and stakeholders has to be assessed.

There are certain **obstacles** when dealing with results-based monitoring:

- Indisputably, baseline studies are a prerequisite for any monitoring and evaluation efforts. However, the **availability and quality of data** is an obstacle in monitoring and evaluation of anti-trafficking work. In general, qualitative data is difficult to find (e.g. on the quality or long-term effects of reintegration efforts). Furthermore, data often become available only with a time lag, particularly for outcome measures (e.g. a reduced number of trafficked persons). The question is how the results of a current strategy or programme can be judged on the basis of results achieved before the strategy was put in place. Often, certain data has to be collected for the cause of a project or programme. Fragmented data collection systems, additionally, often lead to double counting within the existing data.

**Attention:** When collecting personal data of trafficked persons, it has to be ensured that the data is protected and cannot be accessed and misused by anyone, thereby causing additional harm to the trafficked person (e.g. when a trafficked person who is a mother is filing for custody of a child, the fact that she was formerly trafficked might be used against her during court procedures).

- The lack of unified **definitions** in the field of anti-trafficking work often makes it hard to rely on certain data (e.g. confusion between illegal migrants, smuggled persons, trafficked persons, non-trafficked persons in exploitative conditions).
- **Attribution** of certain changes to the activities undertaken by a one certain programme. Especially in anti-trafficking work, where the efforts of many different stakeholders are combined, it is hard to judge the success or failure of a certain policy, strategy or programme. Furthermore, certain parameters, such as the poverty index, unemployment rates or gender inequality influence the phenomenon of trafficking, which has to be considered when judging the outcomes of policies, strategies and programmes.

## Steps to set up a Results-Based Monitoring and Evaluation System<sup>162</sup>

Steps to take (general)	Questions to ask	Steps to take for monitoring of NAPs in THB
<b>Formulate outcomes and goals</b>	What do we want to achieve?	(Re-)Formulate a NAP with clear goals and outcomes.
<b>Select outcome indicators to monitor</b>	What are we specifically looking at to measure achievement?	Formulate respective outcome indicators.
<b>Define how to verify that indicators are met (set means of verification)</b>	How do we measure it? What or who is the data source?	Set the means of verification for the indicators.
<b>Gather baseline information on the current condition</b>	Where are we today relative to our goals?	Gather baseline information on the indicators.
<b>Set specific targets to reach and dates for reaching them</b>	When do we want to achieve what?	Set realistic targets (percentages, numbers etc.) and timelines for targets in the NAP (be specific).
<b>Set responsibilities on the regular and constant collection of data</b>	Who is responsible for data collection?	Designate those responsible for the data collection and submission.
<b>Regularly collect data to assess whether the targets are being met</b>	How are we doing relative to our targets?	The different responsible institutions regularly collect the data to assess the attainment of the indicators and report regularly to the defined body (Working Group/Commission/Task Force etc.)
<b>Analyse and report the results</b>	What did we achieve and what needs to be done?	The responsible national body (Working Group/Commission, National Rapporteur, Task Force...) analyses the data collected and develops an annual report on the status of the implementation of the NAP, which includes an assessment of the general situation and impact of the interventions in the area of trafficking in human beings. The results are discussed with all relevant stakeholders and if necessary, joint informed decisions are taken.
<b>Define role, frequency and schedule of evaluation (external, internal, mid-term evaluation vs. final evaluation etc.)</b>	When do we evaluate our actions?	Define with the relevant stakeholders how evaluation is going to happen (external vs. internal evaluation) and discuss funding sources for it. Define a cycle of evaluation (mid-term vs. final evaluation) based on the life-span of the NAP.

UNODC offers another set of key questions to guide the process of designing monitoring frameworks:<sup>163</sup>

1. What information is needed and how will it be used to track progress on results and indicators? What is the relevance of that piece of information to guiding the project? *Tip: Avoid the duplication of data collection efforts (two different teams or divisions collecting the same data for different projects in the same sector).*
2. How will data be collected and analysed? *Tip: There are several methods for collecting and monitoring data, including participatory approaches, an analysis of records and secondary data, observation, surveys, field trips, focus groups and interviews.*
3. What information is needed? Who needs it? When is it needed? What decision-making processes need to be supported by data? *Tip: Maximize the use of the same data for different purposes or for various users and collect data that are "decision-oriented" (related to the information needs of decision makers).*
4. How will information be maintained and managed for different uses? (for example, project performance assessments, identifying corrective actions, reporting and evaluations) *Tip: Whatever platform one chooses (paper-based or electronic), it is important to remember that an information management system should be set up to ensure that information is effectively collected, stored and analysed.*
5. What resources (human, technical and financial) are needed to support monitoring functions? What are the costs of information-gathering and can those costs be justified in relation to the overall project budget? *Tip: To the greatest extent possible, minimize the use of resources for data collection.*

<sup>162</sup> Adapted from The World Bank (2004). Ten Steps to a Result-Based Monitoring and Evaluation System.

<sup>163</sup> UNODC (2018), pp. 36-37

Last but not least – **learning**. Learning is a core feature of results-based management because it allows for reflection on what has worked and what has not. It provides an opportunity to refine the strategy and approach to achieve or improve results. Lessons learned is a learning - reflecting critically on the quality of the results from performing actions and activities, and it draws on both positive and negative experiences.<sup>164</sup>

The process of identifying lessons learned and/or best practices entails critical reflection around the following key questions:

1. What was the particular challenge or circumstance being faced at the time (context)?
2. What was the approach taken by the project or programme to overcome the challenge and/or to capitalize on the situation, and what were the results achieved (positive, negative, neutral)?
3. Which causes led to those results?
4. Which actions and/or methods employed by the organization worked well and which did not? What improvements could be made to the approach to ensure better results in the future, if any?
5. Which concrete recommendations stemming from that experience could we adopt in order to make things work better next time?

*Source: UNODC (2018). Handbook. Results-based Management and the 2030 Agenda for Sustainable Development*

## B.2 Monitoring National Action Plans

Here we discuss the different phases of monitoring and offer guidance on what, how and with whom to do, and when activities take place for successful monitoring of the national action plan against trafficking in human beings.

### B.2.1 Phases of Monitoring

Monitoring is a continuous and rolling process that should inform on progress made towards the planned results. Monitoring as such can be divided into different phases:

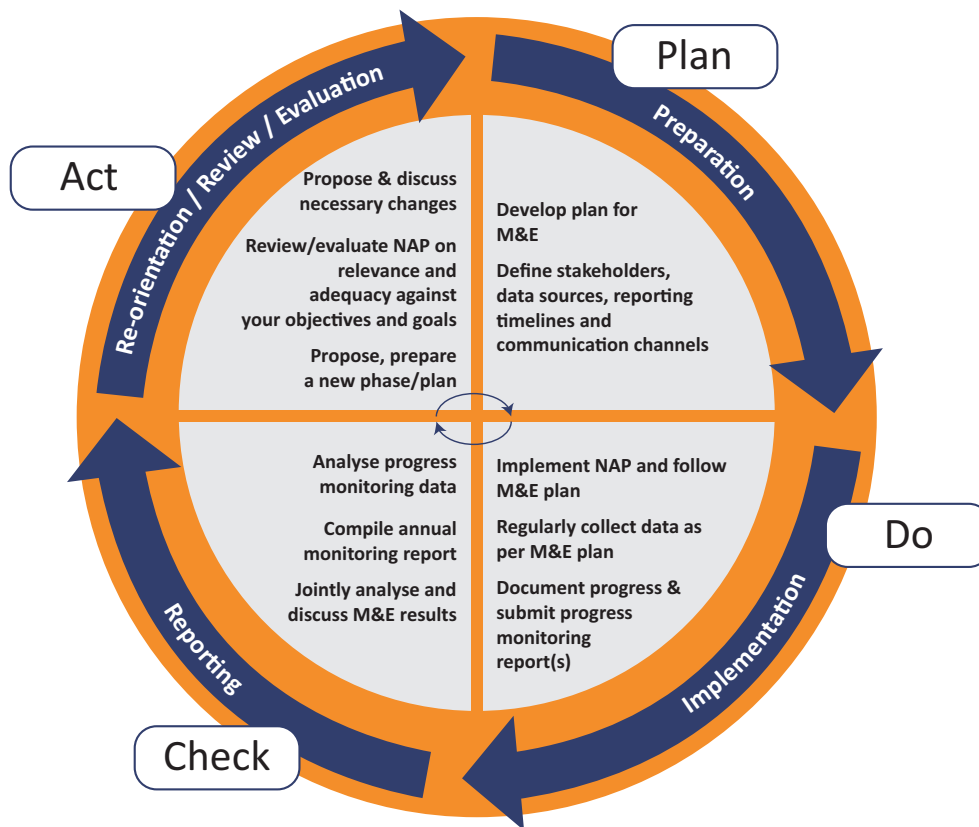
- A) Preparation:** Defining how the results of the national action plan should be monitored, including responsibilities, communication and structures for monitoring of the national action plan.
- B) Implementation:** The constant collection of qualitative and quantitative data while implementing the national action plan.
- C) Reporting:** Analysing the data gathered and potential lacks of data when producing a monitoring report.
- D) Review:** Depending on the results of the monitoring report analysis, the strategy and plan might have to be revised, vis-à-vis changed practices and developments in the area of trafficking in human beings.

Different needs and actions characterize the outlined phases as explained in the following sections in more detail. However, the phases are not necessarily always in sequence but sometimes overlap. Nonetheless, the phases and the corresponding actions to take are part of the following monitoring cycle:

<sup>164</sup> Ibid, Chapter IV, D.



## Monitoring and Evaluation Cycle



**Attention:** The outlined phases as well as the sequence in the monitoring cycle should be taken as a helpful guidance, however in the specific cases the phases might not be as clearly distinguishable and may overlap. Most important you need to be aware that it is a process that requires steering and certain actions at a certain time.

### B.2.1.1. Preparatory Phase

The preparatory phase lays the groundwork for the success of the monitoring and evaluation of the NAP.

**WHAT** you have to do in the preparatory phase is:

**Develop the monitoring and evaluation plan to set up your monitoring system with the stakeholders involved:**

- Define whether to do a review and/or evaluation and when to do it;
- Determine your data sources for the indicators (means of verification), your baseline and your targets;
- Determine the specific responsibilities for data collection and reporting (who reports to whom on what);
- Set reporting timelines;
- Define your communication.

## HOW

**Develop the monitoring and evaluation plan to set up your monitoring system.**

To develop the monitoring system for the NAP, one first has to ensure the NAP follows the basic principles and the structure of the NAP outlined in Chapter A of this Guide.

In a participatory approach involving the relevant stakeholders of the national anti-trafficking response, determine your monitoring system by jointly drawing your M&E plan with the relevant stakeholders involved. The participatory approach is vital here as the anti-trafficking response draws upon multiple stakeholders. Consequently, those stakeholders mostly have a role to play in the collection of relevant data for the monitoring.

The monitoring plan predominantly follows the structure of the NAP, using its outcomes, outputs, activities as well as indicators. However, the monitoring and evaluation plan needs to be more specific on how to measure the indicators and who should be doing it. Jointly with the relevant stakeholders, discuss and fill the plan with the information you determine following the outlined steps.

**For a template Monitoring and Evaluation Plan** see Annex 4. Adjust it according to your needs and situation.

**Determine whether to do a review and/or evaluation**

You need to determine for your plan whether you want to do a review of the NAP and/or an evaluation. The evaluation can be external or internal and either a mid-term and/or an end evaluation. The determining factors for such decisions are to identify:

- a) the purpose of the review and/or evaluation;
- b) whether the duration and the planned impact of the national action plan call for or require an evaluation and
- c) what resources are available.

(For further details on the differences of a review and an evaluation, see Chapters B.2.1.3 on review and B.3 on evaluation.)

**Determine your data sources to measure the indicators, baseline and targets**

You need to determine **suitable data sources** (your means of verification) to measure your indicators. Doing so, you need to look into what exactly you need to measure to show the fulfilment of your indicators and to determine what sources are best placed to provide you with that data. In general, it is important to use whatever data is already there (though it also needs to be reliable data), e.g. at the statistics office, records that are being kept, etc. Depending on the country, there might already be databases for certain types of data in place, e.g. a victim-centred database or a trafficker-centred database. Only where necessary, establish your own databases or undertake a separate assessment, as you will have to have the necessary resources for doing so.

In case there is already a broader information and data gathering process established in the country, the monitoring data sources for the national action plan should, to the greatest extent possible, feed into the existing process.

As a next but related step, you should determine the **baseline** - in other words, document the actual status of indicated information. This refers to the data your indicators relate to at that particular moment in time. If the indicator relates to increased availability of shelters, record the actual number of shelters or the number of spaces available in each shelter available at that moment. The baseline is important since it gives you a description of the status before the intervention, before the implementation of the action plan.

The next step is to identify your **targets** by looking at the outputs and indicators determined to establish your targets. Suitable targets are e.g. an increase in percentage or a definite number of something. You also have to state by when this target should be reached. Depending on the duration of the action plan, you can identify percentages/numbers per year or put down a certain percentage or number to be reached by the end of the implementation period. Sometimes, however, a sequence of actions is advisable so it is clear that certain steps

would come before others, so be as specific as possible. Targets can, for example, look like the following: Increase by percent by the end of (year); X number of trainings held by (month/year). It is important, however, that you formulate realistic and relevant targets.

### Determine specific responsibilities for data collection

By looking at the data sources, you can identify different institutions and organizations that might provide this data on a regular basis. There might be a ministry or other government institution involved in the shelter for victims or a non-governmental organization, and whoever runs the shelter would be reporting on the numbers of trafficked persons served and the kind of services provided.

For your plan, you therefore have to identify the adequate institution or organization to provide the data on a regular basis. If possible, write down specific persons to be responsible for the provision and follow up on the data. If you put down the whole institution or organization, nobody might feel responsible in the end, herewith compromising the quality of your monitoring. Fill in the respective column (responsible for data collection) in the plan corresponding to the data the identified responsible stakeholders report on.

Furthermore, you need to clarify in the section on reporting who the respective responsible persons in the institutions or organizations submit the monitoring reports to.

#### **The Dutch Model: The National Rapporteur on Trafficking in Human Beings in the Netherlands**

In 2000, The Netherlands appointed a National Rapporteur on trafficking in human beings. The rapporteur is an independent position and reports to the Dutch Government, which in return responds to the presented report to Parliament. Furthermore, all reports of the National Rapporteur are publicly available on the rapporteur's website (<http://english.bnrm.nl/reports>). The National Rapporteur, however, does not have power of criminal investigation nor is it a complaints body.

### Set reporting timelines

In order to collect the data regularly, you have to set strict and clear reporting timelines. Usually an annual monitoring report is produced to inform the Parliament or Cabinet and sometimes even the President. This annual monitoring report is based on the data collected by the institutions and organizations you have identified. However, to improve the monitoring underway, it is important to collect the data continuously and regularly. Therefore, quarterly monitoring reports could be envisaged to be submitted to the responsible party for the annual monitoring report.

However, this person or structure has to regularly follow up on these quarterly monitoring reports, ensuring their quality and/or determining where implementation of the national action plan is not going well. This information provides the basis for eventual steering of the implementation, should this be necessary.

### Define the communication channels

It is important to clarify in the monitoring and evaluation plan, who communicates to whom on what. This depends a lot on the national structures of the anti-trafficking response. The more actors involved, the more important is this kind of clarification.

Discuss and clarify who communicates on the regular monitoring reports with whom, to whom challenges in the implementation would be directed, etc. There are different possibilities:

- communication channels can either be established in a centralistic way where one person and its supporting structure is responsible (which has the downside of putting a lot of responsibility on very few people who need to coordinate and communicate everything), or
- assign focal points within the national anti-trafficking response for either the 4P's or their subsections who then in the end report back to the person/body overall responsible of the anti-trafficking response.

As there are many ways to do it, these need to be discussed, clarified, documented (e.g. in the plan) and communicated to everybody.

## WHEN

The monitoring and evaluation plan ideally has to be determined right after the national action plan has been drawn and before implementation starts.

It is, however, still possible and – if not done earlier - necessary to draw the monitoring plan even if implementation has already started. After the first quarterly monitoring reports, the plan can and should be revised for possible changes in responsibilities or the like. In general, such a plan is a living and rolling document and should therefore be used as such. It needs to be adjusted as well if any changes are made to the national action plan.

## WHO

The drafting of the monitoring plan should be initiated by the highest level within the national anti-trafficking response. Since the structures vary from country to country, it can be either a single person or an inter-agency working group structure or a task force.

However, in all cases, the task to initiate the drawing of the plan can be delegated or assigned to a relevant person within the anti-trafficking response.

As the exercise should be participatory and include the relevant actors, the relevant stakeholders should therefore form part of the process.

### ARTICLE 39. ESTABLISHMENT OF THE OFFICE OF A NATIONAL RAPPORTEUR [NATIONAL MONITORING AND REPORTING MECHANISM]

1. This Law hereby creates a National Rapporteur on Trafficking in Persons, which will be supported by an office.
2. The National Rapporteur [National Monitoring and Reporting Mechanism] shall be an independent body and shall report annually directly to Parliament.
3. The National Rapporteur [National Monitoring and Reporting Mechanism] shall be appointed by Parliament [other competent body] each time for a period of five years.
4. The main tasks of the National Rapporteur [National Monitoring and Reporting Mechanism] shall be to collect data on trafficking in persons, which should be gender-disaggregated, to monitor the effects of the implementation of the national action plan and other measures, policies and programmes concerned with trafficking in persons, to identify best practices and to formulate recommendations to improve responses to trafficking in persons.
5. To this end the National Rapporteur [National Monitoring and Reporting Mechanism] shall be authorized to have access to all available national data sources and to actively seek information from all State agencies, nongovernmental organizations and the private sector involved.

*Source: UNODC (2020). Model Legislative Provisions against Trafficking in Persons*

## Key Questions and Actions for the Preparatory Phase

Questions	Actions
Do you have a monitoring & evaluation plan?	Ensure that it defines the data to be collected, roles, responsibility for the different actors involved and clear and specific timelines.
<b>If you don't have a monitoring &amp; evaluation plan, then consider the following steps:</b>	
Do you need a <u>review</u> of the NAP or an <u>evaluation</u> (mid-term, end evaluation, externally or internally conducted) or <u>both</u> ?	Document your decision in the plan (using the template in Annex 4).
What data do you need for effective monitoring of your NAP?	Analyse your NAP and identify the different data needed to measure your indicators. Identify which source will provide you with the data. Consider results oriented data showing differences in the situation observed additionally to quantitative data.
Which data is available from within the national statistics system or existing databases for THB? How reliable is the data?	Analyse which data needed can be provided by the national statistics system or existing trafficking databases. Remember: data for trafficking in human beings needs to be specific, taking into account gender, age, citizenship etc.

<b>What other (external) sources for relevant data exist? Who else could provide the data?</b>	Assess which different institutions/organizations can help with providing the necessary data or could assist in the regular collection. Document and involve them if they are not already part of your task force/committee.
<b>Who needs to be involved in the regular collection of that necessary data?</b>	Define specific and clear responsible parties for the collection of data relevant to monitor your NAP. Those responsible need to agree to their designation.
<b>What institutional responsibilities exist? Who has to report on the implementation of the NAP, to whom and when?</b>	<p>Identify reporting responsibilities (national, regional, international level).</p> <p>Identify the responsible institution/structure to provide the ultimate reporting on implementation of the NAP at national level.</p> <p>Identify who receives the reporting (e.g. annual report to the parliament, government and/or the president, quarterly monitoring reports to the national anti-trafficking structure).</p> <p>Identify when the reporting is due.</p>
<b>When is the data needed (regularly, annually and/or quarterly)?</b>	<p>Define deadlines for all other under-year monitoring reports (e.g. quarterly dates).</p> <p>Define when the data is needed for the national reporting (set deadline for relevant data for annual reporting at 1 month prior to that date in order to submit on time; with regular reporting this will not be necessary).</p>
<b>Who will need the data? In which form and format is the data/reporting on implementation of the NAP needed or wanted to be reported on?</b>	Define who will need to receive the data and how (in which format). If there is no format defined, discuss the necessary format with the receiving entity.
<b>Have you considered everything that is needed for effective monitoring of your NAP?</b>	Having considered all the necessary details develop your monitoring & evaluation plan. Include the information you gathered in the format (see template in Annex 4); share and discuss the finalised plan again amongst the stakeholders involved, if necessary.

### B.2.1.2 Implementation Phase

#### WHAT

During the implementation phase, the following steps have to be undertaken:

#### Regularly collect the relevant data as indicated in the monitoring and evaluation plan:

- Observe the relevant standards and national legislation for data collection and transmission in the area of trafficking in persons;
- Inform and, if necessary, train all institutions/organizations involved in the data collection and transmission on the relevant standards, legislation and necessary procedures;
- Coordinate the data collection amongst the different parties involved (different ministries, police, border police, NGOs).

**Fill out monitoring progress reports within the timeframe agreed upon in the monitoring plan and submit the completed progress report to the designated national entity.**

HOW<sup>165</sup>

There are certain standards, which you should follow when collecting and analysing the data necessary for the monitoring. Train the relevant institutions and responsible party involved, if necessary:

**Ten guiding principles for the ethical and safe conduct of interviews with persons who have been trafficked**

**1. Do no harm**

Treat each person and the situation as if the potential harm is extreme until there is evidence to the contrary.

Do not undertake any interview that will make the person's situation worse in the short or longer term. Avoid asking questions that are not strictly necessary and consider gender and age vulnerabilities.

**2. Know your subject and assess the risk**

Learn the risks associated with trafficking and each person's case before undertaking an interview.

**3. Prepare referral information – do not make promises that you cannot fulfil**

Be prepared to provide information in the person's native language and the local language about appropriate legal, health, shelter and social support and security services, if requested.

**4. Adequately select and prepare interpreters and co-workers**

Weigh the risks and benefits associated with employing interpreters, co-workers or others and develop adequate methods for screening and training.

**5. Ensure anonymity and confidentiality**

Protect a respondent's identity and confidentiality throughout the entire interview process.

**6. Get informed consent**

Make certain that each respondent clearly understands the content and purpose of the interview, the intended use of information, the right not to answer questions as well as to terminate the interview and to put restrictions on how the information is used.

**7. Listen to and respect each person's assessment of his/her situation and risks to his/her safety**

Recognize that each person will have different concerns, and that the way he/she views his/her concerns may be different from how others might assess them.

**8. Do not re-traumatize the interviewed person**

Do not ask questions intended to provoke an emotionally charged response. Be prepared to respond to a person's distress and highlight his or her strengths.

**9. Be prepared for emergency interventions**

Be prepared to respond if a person says he or she is in imminent danger.

**10. Put information collected to good use**

Use information in a way that benefits an individual or that advances the development of good policies and interventions for trafficked persons.

*Adapted from: WHO (2003). Ethical and safety recommendations for interviewing trafficked women.*

The process of data collection should, in general, be as simple as possible. Data collection is a means for monitoring, review and evaluation, not a means in itself. Hence, **time and effort** spent on data collection should be justified considering the insights that can be gained through the analysis of the collected data. Therefore you should use any data already collected by other actors, ensuring that the relevant standards are met during data collection.

**Legal provisions** usually regulate the protection of personal data and also that of (potential) victims. (See also Chapter A.4.2.1(c) - Information management and research) Besides the national legal provisions on data

<sup>165</sup> More detailed methodological and practical guidance on monitoring individual re/integration plans and integration services for trafficked persons can be found in Surtees, R. (2010), for The King Baudouin Foundation and The Nexus Institute. Monitoring anti-trafficking re/integration programmes. A manual.

protection (which, if they are not in place yet or not yet harmonized with international or EU standards, could be one important area for action within the action plan), international ethical guidelines (e.g. by the UN)<sup>166</sup> should be applied when dealing with (potential) victims of trafficking.

Related to this, the **rights of trafficked persons** have to be protected during the collection of data. (Potential) victims of trafficking have to agree to be interviewed and have to give their consent for the collection of their personal data as well as for the further use of their data. Data should, as a safety and human rights measure, be saved anonymously. Because victims are often traumatized, in order not to re-traumatize them, the below-mentioned principles should be guiding the interviews.

It is important to secure the **confidentiality** of staff involved in the collection of data. This can be done by a confidentiality agreement. However, one has to be aware that confidentiality is often limited when it comes to court procedures and staff might have to serve as witnesses.

Neither trafficked persons nor traffickers are a homogeneous group. In order to be able to analyse the data and to adapt strategies, policies, programmes and projects, data collected should be disaggregated, meaning it should indicate certain **categories**, such as male/female, age, nationality, ethnicity, disabilities. One of the main problems is the duplication of data and cases, especially with anonymized data. When collecting the data be aware of the danger of duplication. Cross-checking the information in the mentioned categories helps to identify possible duplication.

The responsible party in the designated institutions and/or organizations reporting on a specific indicator or a specific set of indicators must **regularly (e.g. quarterly) fill in the monitoring progress report** with the relevant data and **submit it to the nationally assigned institution/responsible** to collect and process the data ultimately for the annual monitoring report.

**For a form for gathering information on NAP Implementation progress, see Annex 5**

**Attention:** Since there are a variety of different actors involved in the data collection (ministries, police, social services, NGO, border police, etc), it is important that:

- a) the data collected is based on the same definitions and assumptions;
- b) data is collected, if possible, based on the same templates (see IOM/FMIA 2009 for examples and templates) and should be centrally stored;
- c) data collected for the monitoring contributes to national databases if possible and
- d) the collection of the data is well managed and coordinated as part of a constant and rolling monitoring process aiming at constant improvement of the data.

Where necessary, MoUs can be drawn with the collecting institutions/organization, outlining the specific reporting task, timelines and responsibilities.

#### WHEN

The data collection is a consecutive process. However, a deadline and pressure for submission of the collected data (e.g. in a quarterly progress report) usually supports the sustainability and commitment. The submission of the monitoring progress reports depends on the set timelines in the monitoring and evaluation plan and can be monthly, quarterly (recommended) or bi-annually.

#### WHO

All relevant stakeholders that have been identified as responsible for a data source or for collecting the data for indicator(s) in the monitoring and evaluation plan.

The (assigned) responsible for the management, steering and coordination of the collection process.

<sup>166</sup> See, for example, UNEG (2020). Ethical Guidelines for Evaluation, Annex 3: Checklist of ethical issues for those who conduct evaluations to consider during evaluation phase. See also: United Nations Inter-Agency Project on Human Trafficking – UNIAP (2008). Guide to Ethics and Human Rights in Counter-Trafficking Ethical Standards for Counter-Trafficking Research and Programming; OHCHR (2002). Several relevant ethical aspects in the fight against trafficking in human beings can also be found in: UNODC (2008), Tool. 6.12.



## Key Questions and Key Actions for the Implementation Phase

Questions	Actions
Are the relevant actors involved in the regular data collection familiar with the relevant standards and legal implications of data protection?	If they are not familiar, train them and raise their awareness. Where possible, operate with standardized templates and/or discuss them in your task force or working group.
Do all the responsible parties identified submit progress data reports?	If the progress data reports are not submitted on time, a list could be circulated on the submission status of the data.
Is there need for coordination of the data collection?	Data being collected by different entities requires coordination and contact of those entities involved. The NC might need to enforce such close cooperation and dialogue.
Would any kind of cross-country cooperation/ regional cooperation on the monitoring help? If so, who could you cooperate with?	In view of THB being a problem that does not stop at borders, consider and reinforce cooperation across borders, especially in the area of data collection (particularly true in the case of identified victims and repatriation). Additionally, consider taking part in the efforts around harmonizing data collection and information-sharing e.g. in the OSCE area.

### B.2.1.3 Reporting Phase

Reporting is the use of gathered data to report against the indicators defined at the outset of the intervention (NAP) to illustrate whether the planned targets have been reached, surpassed or missed. Results-based reporting does not focus only on activities, but instead carries information about key activities, outputs and the resulting outcomes or changes associated with the output strategy. Quality criteria for results-based reporting include: completeness, balance (positives and negatives), consistency, substantiveness and reliability, and clarity.<sup>167</sup>

#### WHAT

Within the overall implementation of a national action plan, different types of reporting with different timelines apply:

- Monitoring progress reporting (within the year, e.g. quarterly or bi-annually)
- Annual progress reporting (by the respective party responsible for reporting)
- Review and/or evaluation report
- International reporting

#### HOW

##### Monitoring progress reporting (within the year, e.g. quarterly)

The submitted progress reports by the individual institutions should be jointly stored and analysed upon receipt. Depending on the preference, a database can be established for the data to be reported regularly. More important than the actual administration of the overall data in terms of safe storage, however, is that the data is analysed by the responsible party for the national anti-trafficking response.

The data submitted should be used to steer the implementation of the action plan and to act where necessary on shortfalls in the implementation. With the monitoring progress reports, challenges in implementation can be identified and acted upon. This shows that, under certain circumstances, the reporting phase importantly overlaps with the implementation phase.

<sup>167</sup> See UNODC (2018), Chapter VI.

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## Annual progress reporting

The annual progress reporting on the implementation of the NAP by the structure regularly reporting to the parliament, government, president or other authorities in the country can in some cases coincide with the general annual reporting foreseen by the National Rapporteur, if established. In the latter case the reporting should be combined. Therefore, a structure for an annual monitoring report is proposed that entails a general section on assessment of developments in the area of trafficking in human beings, trends emerging, meaning possible changes in the scope of the problem or in patterns, either how traffickers operate (recruitment, routes, means of exploitation, etc.) or changes related to the victims (vulnerability, re-trafficking, gender, age, geographical areas or ethnicity). The analysis of the country's legal framework, the compliance with the legal international framework is also important and should be integrated into the report.

This combined annual monitoring report furthermore offers one section on monitoring of the implementation of the NAP at outcome level, presenting and assessing the results and achievement. The progress reports feed into this annual monitoring report as they provide the basis for the data and an assessment whether the implementation of the action plan is on track or whether and where it requires adjustment.

In preparing this report, the progress data has to be analysed differently and put into broader perspective. Where possible, the party responsible for preparing the annual monitoring report should seek as much input from the wider stakeholder group as possible (e.g. a preparatory meeting of the M&E group two months before the report is due with the wider group of stakeholders to discuss the different topics to be reflected in the report). If possible, make the annual monitoring report publicly available (e.g. through a website).

For a template Annual Monitoring Report see Annex 6. Adapt to your situation and needs.

## Sharing of the review and/or evaluation report

The review and/or evaluation reports concerning the national action plan have to be widely disseminated and available and accessible to inform the general public.

## International reporting

There are sections in the reporting on CEDAW, CRC and the UNTOC and the UN Trafficking Protocol that require the input of the national responsible parties on THB. The arrangements in the development and submission of such reports differ amongst countries. The important issue, however, is that the respective responsible structure/person provides the input required on activities and changes in the area of trafficking, which is facilitated by regular and responsible monitoring and reporting. If a National Rapporteur has been appointed, his/her role in the (international) reporting has to be clarified.

### WHEN

There are different timelines for the different ways of reporting related to trafficking in human beings:

- For the **monitoring progress reports** the due date is fixed in the monitoring plan (e.g. quarterly dates)
- For the **annual reporting** on the implementation of the national action plan of the responsible for the national anti-trafficking response the due date is fixed every year at a specific time.

The **reporting on relevant international conventions** is usually due every four years and the due dates and years differ from country to country.

### WHO

Those responsible for the submission of the quarterly reports are identified in the monitoring and evaluation plan.

The annual reporting (to the parliament, government and/or the president) usually lies within the responsibility of the corresponding national responsible party and/or the appointed National Rapporteur in the country. If the National Rapporteur is reporting, it should, however, be combined with information on the status of implementation of the action plan.

According to the responsibilities set out, the national responsible or National Rapporteur has to submit his/her input to those responsible for the international reporting.

## Key Questions and Key Actions for the Reporting Phase

Questions	Actions
<b>How should the progress report information be stored?</b>	Decide how to centrally and safely store the data of the progress reports (e.g. develop one database to inform annual reporting).
<b>What do the progress reports reveal on the status of implementation?</b>	Have the national responsible party, possibly within his/her team, analyse what the progress reports reveal on the status of implementation. Act where necessary if the data show challenges in the implementation.
<b>What trends can the data offer in the three different areas and the supporting framework? Are there new developments in the area of trafficking in human beings that would require the legislator to act, the executive to get differently engaged, actors to be trained on new phenomena?</b>	Document new developments in the annual monitoring report. If necessary, discuss these beforehand in a meeting with a broader group of stakeholders to come up with a majority opinion and consensus.
<b>How should it be ensured that information on the status of implementation of the NAP is available?</b>	According to national possibilities and regulations, grant access to the annual monitoring information to the wider public.
<b>What do we need to report on international conventions and when?</b>	Ensure that relevant input for reporting on CEDAW, CRC, UN Trafficking Protocol is granted.

### B.2.1.4 Review of National Action Plans against Trafficking in Persons

#### WHAT

The regular review of the NAP is especially important when no anti-trafficking strategy is in place, since in this case it outlines both the strategic and operational response to THB in the country. The timelines for a review depend again on the duration of the NAP, which tends to vary (usually these run from 2-5 years).

A review is often referred to as an evaluation. However, in the case of national action plans against trafficking in human beings, a review refers to looking at the overall plan, analysing whether the goals, outcomes and planned activities to reach the outcomes are still valid. The review is, thus, not so much related to the actual overall achievements of the action plan but rather related to ensure a possible adaptation of the plan to newly emerging trends, facts or changes that occurred in the general framework of the anti-trafficking response. The purpose of a review is to ultimately enable the national anti-trafficking response to adequately react to and adjust to new developments in trafficking in persons.

The review, therefore, has to profoundly deal with the following issues:

- What are the general developments in the area of trafficking in human beings?
- Are the envisioned results in the action plan still relevant when taking into account the general developments in trafficking?
- Were all the necessary areas covered with the national action plan (supporting framework, prevention, protection and prosecution)?
- The attainment of results
- General assessment and description: What results have been attained, what is the impact?
- Which outcomes have been achieved and to what extent (against the baseline established)?

- Which outputs have been produced and how have they been used to achieve the outcomes and results?
- What have been contributing / impeding factors for the implementation of the national action plan and the attainment of the results?
- What are important lessons learned (content, implementation and implementation structures, resources)?
- Should the national action plan in its present form be adapted or changed?

A review report has to be drawn with the discussions and conclusions of these issues, disseminated and made publicly available.

#### HOW

A review should generally be a participatory process involving the strategic decision-makers as well as the implementers of the national action plan. This way, both perspectives can importantly complement each other.

##### Participatory review

The review should be initiated and steered by the top national co-ordination structure of the anti-trafficking response but undertaken in a participatory approach involving the broader group of relevant stakeholders. Get an experienced moderator or two to guide you through the process. Calculate 1-2 days for adequate results.

The outlined relevant issues for the review should be discussed and documented in working groups to attain an assessment of the situation by majority and consensus. This way the review qualifies as a learning process for everybody involved.

All results should be documented in a report which should first be circulated for comments and additions and made publicly available thereafter.

##### Centralized review

Should the national situation and structure of the anti-trafficking responses not support such a participatory review, a centralized review can still be considered. This review would only include the top of the national anti-trafficking response—the strategic responsible parties rather than the operational implementers. However, the discussions and considerations have to be the same; the outlined questions have to be discussed in meetings of the designated group which should still be composed in a way to represent at least the 3 P's and the supporting framework. At least one opinion-holder from the implementers group should in this case be allowed to either participate or give an input on the perceived adequacy of the national action plan as it has been implemented, outlining possible areas for improvement. The results of this smaller review group should afterwards be submitted to the stakeholders involved for comments and additions. The final review report should again be publicly available.

#### WHEN

A review of an action plan against trafficking in human beings should take place at least every two years. If an evaluation (mid-term or end) takes place, the evaluation replaces the need for a review process.

#### WHO

The overall responsible structure for the anti-trafficking response in the country is responsible for steering, supervising and undertaking the review jointly with the other stakeholders. Issues arising need to be discussed with all stakeholders involved during a review. The role of a National Rapporteur (if established) in a review should also be clarified. He/she could however, give substantial input and recommendations throughout the review.

#### **Key Questions and Key Actions for the Review of National Action Plans**

Questions	Actions
<b>What do you need to undertake the review and who should participate in it?</b>	Start the necessary preparations for the review; decide on the scope, the timeline and relevant participants.
<b>During the review, discuss the following issues:</b>	
<b>What are the general developments in the area of THB?</b>	Discuss and document the trends and new patterns in the area of THB.

<b>Did the plan cover all areas (supporting framework, protection, prevention, prosecution)?</b>	Discuss the plan as a whole, whether it succeeded in covering the necessary areas for the anti-trafficking work in the country. Was something missing?
<b>Are the results envisaged in the action plan still relevant and adequate?</b>	Discuss the relevance of the results vis-à-vis the previous discussion.
<b>What results, outcomes and outputs have been attained?</b>	Jointly analyse your results. Did our interventions have an unintended negative impact on certain population groups? Jointly analyse the findings.
<b>What have been contributing / impeding factors for the implementation of the NAP?</b>	Get more knowledge about the framework conditions and its impact on your work.
<b>What are lessons learned?</b>	Discuss and analyse whether you have been doing the right things. Are the institutional arrangements adequate, did you have enough resources and were they spent wisely? What could/should be done differently, what led to good results and could be replicated elsewhere?
<b>What is the way forward?</b>	Depending on your lessons learned, revise or adjust the action plan. Decide and plan the next steps for it.

### B.3 Evaluation of the Anti-Trafficking Response

Evaluation refers to the overall project, programme strategy or policy achievements and their relevance, in this case, to the evaluation of the achievements, results and relevance of the national action plan against trafficking in persons. In general, an evaluation can have varying purposes, such as to improve the project, programme, strategy or policy, to contribute (with learning points) to a continuation or new phase of the project, programme, strategy or policy and/or to account for the resources spent.

Evaluations, similar to review and monitoring should follow a participatory approach involving all relevant stakeholders and, if possible, selected beneficiaries. This allows not only an overall view on the achievements, results and changes accomplished (or not) but also caters for improved ownership, accountability and transparency for everybody involved in the implementation of the national action plan against trafficking in persons.

#### WHAT

##### Determine the scope of the evaluation to be conducted:

- External evaluation versus internal evaluation
- Mid-term evaluation versus end evaluation

##### Conduct the evaluation:

- Develop terms of reference for the evaluation.
- Identify internal or external evaluation and anti-trafficking expert(s).
- Disseminate results of the evaluation.
- Use results of the evaluation for a follow-up plan.

#### HOW

##### Determine the scope of the evaluation to be conducted.

The decision of whether to undertake an evaluation of the national action plan against trafficking in human beings and which type of evaluation depends on a number of factors:

- **The general purpose and objectives of the evaluation:** What is the purpose of the evaluation? Do we have concrete questions we want to answer through the evaluation?

- **The duration of the plan:** Does the duration of the plan justify a mid-term evaluation?
- **Impact of the evaluation:** Is the assumed impact significant enough to justify an evaluation? Can the information needed also be obtained during a review mission?

#### External or internal evaluation:

An external evaluation would mean to involving evaluation experts not related to the national action plan or its implementation, herewith bringing in an external perspective. This has, however, financial implications as external evaluators will require to be identified and be paid for their services.

If an evaluation is to be conducted externally, a related question is how big the evaluation team should be (one person or a team). This mostly depends on the size, the extent and complexity of the national action plan to be evaluated.

If, however, an evaluation is to be conducted internally, evaluators with the necessary capacity and profile should be selected. Another important aspect is that the internal evaluators should have the trust of the stakeholders. They would need to follow a strict set of rules, guiding questions etc., which they need to develop such as is the case in the framework of an external evaluation (for more information on the necessary steps see external evaluation section below).

**Attention:** When choosing evaluators, it is important to ensure they have the full acceptance of all relevant stakeholders. Acceptance might increase with a transparent and open selection process. Otherwise, it might be difficult for them to access certain information, especially qualitative data during the actual evaluation.

#### Mid-term or end evaluation:

As already outlined, deciding on when evaluation takes place depends on the duration of the plan. With a 2-year national action plan, a review would be the adequate instrument and, if the duration is four years, a review or mid-term evaluation after two years and an evaluation at the end could be considered. However, the decision is very much dependent on the situation in the country, on the structure of the national anti-trafficking response and on how inclined the implementation structures are towards **learning** from an evaluation of the implementation of the national action plan since a mid-term evaluation provides the opportunity for important insights and corrections in the implementation undertaken.

### Conducting the evaluation

When conducting an external evaluation, you have to:

- Determine the duration and timing of the evaluation;
- Secure funds for conducting external evaluation; and
- Develop ToR for the evaluator(s).

When conducting an internal evaluation, you have to:

- Determine the duration and timing of the evaluation;
- Identify suitable internal candidates to undertake the evaluation, ensuring their capacity, independence and acceptance within the anti-trafficking response;
- Ensure time and availability of the internal evaluator(s) identified;
- Develop ToR for the internal evaluator(s), identifying scope and methodology (desk review and interviews or focus group discussions with all relevant stakeholders) and circulate them amongst the stakeholders.

### Terms of Reference for Evaluators

The ToR for the evaluator(s) should outline all important details:

- Goals, purpose of the evaluation;
- Background on the issue (outlining the national action plan, institutional arrangements, mapping of the different actors involved);

- Approach/Methodology to apply for the evaluation (research and collection of the necessary data, participatory approach, conduction of interviews, focus groups - all including wide-range consultation of stakeholders), including guiding evaluation questions according to the purpose you have defined for the evaluation;
- The detailed terms of the evaluation:
  - number of days,
  - place,
  - expected outputs (e.g. a report with the evaluation results with concrete recommendations for action and lessons learned, a dissemination workshop),
  - remuneration;
- The services and or products that will be rendered to the evaluators during the evaluation (e.g. transportation, relevant materials, access to a meeting room and workstation, support for appointments etc.). In addition, it must be ensured that the evaluator(s) have access to all relevant data and materials available;
- Expected profile(s) of the evaluator(s) (impartial, with no prior contact to the project, implementation and plan; independent, qualified, dutiful etc.). If it is a team, the expertise should be complementary with a balance of evaluation skills and relevant thematic and national or at least regional knowledge (in TIP) as well as gender balanced.

### Ethical Principles for Evaluation

The United Nations Evaluation Group recommends the application of an ethical lens in the carrying out of evaluations. The four ethical principles - integrity, accountability, respect and beneficence - are forward-looking and aim to support the 2030 Agenda for Sustainable Development.<sup>168</sup>

### The five DAC Criteria for Evaluation

The Development Assistance Committee of the Organisation for Economic Co-operation and Development (OECD-DAC) has developed a set of criteria for evaluation. They are not only helpful in assessing results but also, being international criteria and often observed, offer a certain degree of comparability of results. It is, therefore, useful to integrate these criteria as an evaluation design to the ToR.

The evaluation report (one of the expected outputs) must cover:

- The development and policy context
- The institutional context
- The socio-political context
- Implementation arrangements (including monitoring arrangements)
- Assessment of results.

The assessment criteria:

- **Relevance.** Is the national action plan relevant (consistent with the national framework and policies, relevant to the beneficiaries etc.)?
- **Effectiveness.** To which extent were the intended outcomes, results and outputs achieved?
- **Efficiency.** Were resources cost-effectively put to use while implementing the national action plan in relation to the achieved results?
- **Impact.** Positive and negative, primary and secondary long-term, intended or unintended effects produced directly or indirectly by an intervention.
- **Sustainability.** Will the benefits of the achievements of the national action plan remain and continue on a long-term basis? How sustainable are the achievements of the national action plan?

<sup>168</sup> UNEG (2020).



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#### Identify evaluation expert(s):

With the ToR developed, you can identify your experts through a tendering process. Select suitable candidates from the applications sent in based on an assessment of their financial/technical proposal and their references.

#### Disseminate results of the evaluation:

For an optimal learning process, the results of the evaluation should be disseminated and discussed by the evaluator(s) in a participatory approach with the involvement of multiple, relevant stakeholders of the anti-trafficking response and the implementation of the national action plan.

#### Use results of the evaluation for a follow-up plan:

The results of the evaluation, recommendations and lessons learned need to be further used and should feed into the development of a new action plan or any other planned action in the area of the anti-trafficking response in the country. It is recommended to have a participatory workshop at the end of the evaluation to share and discuss the findings and to undertake a joint analysis of critical questions.

#### WHEN

Depending on the decision taken, the evaluation would be undertaken either:

- Mid-term or
- At the end of the national action plan against trafficking in human beings.

**Attention:** An evaluation requires a lot of time and dedication in its preparation and conduction. Be aware of this fact and – in case of an end evaluation - start preparations as early as five months before the end of the national action plan.

#### WHO

The overall coordination of the evaluation should lie within the official responsible structure for the national anti-trafficking response. In addition, it is recommended to appoint a civil society representative to accompany the evaluation in order to ensure the integration of a broader and more independent perspective on government actions. Especially when civil society and NGOs contribute importantly to the anti-trafficking interventions, their representation and/or concrete participation should be ensured.





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# Annexes

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## ANNEXES

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### ANNEX 1: SELF-EVALUATION CHECKLIST

Based on the recommended standards that we have presented in this Guide, we have developed a quick self-evaluation checklist. It contains the essential elements related to the development, implementation, monitoring and evaluation of anti-trafficking responses:

Structure and Elements of the Anti-Trafficking Strategies and Action Plans
<ul style="list-style-type: none"><li>→ The anti-trafficking response embodies a <b>complementary two-level structure</b> consisting of:<ul style="list-style-type: none"><li>a. <b>Strategy</b>, including mid- and long-term strategic goals and objectives, as well as expected results, and</li><li>b. <b>Action Plan</b>, listing concrete actions to reach the strategic goals and objectives;</li></ul></li><li>→ Both, the strategy and action plan reflect the internationally recommended <b>guiding principles</b> enshrined in the relevant instruments (such as UN<sup>&lt;?&gt;</sup>, EC<sup>&lt;?&gt;</sup> and CoE<sup>&lt;?&gt;</sup>), such as government ownership, multi-disciplinary approach involving civil society, human rights-based and victim-centred approach, as well as sustainability;</li><li>→ The strategic documents include:<ul style="list-style-type: none"><li>a. all <b>forms of human trafficking</b> as described in the relevant instruments (such as UN, EC and CoE) and include provisions for all potential victims (female and male, nationals and migrants, minors and adults);</li><li>b. a thematic logic that follows the <b>international standards according to the 4P approach</b> - prosecution, protection, prevention and partnership, as the fundamental framework applied globally to combat human trafficking;</li></ul></li><li>→ The response confirms a continuous <b>commitment to the international and regional legal obligations and standards</b> relevant for the fight against THB by incorporating the recommendations prescribed in the relevant strategic documents (e.g. by the EU), monitoring documents (e.g. by UN treaty monitoring bodies, CoE GRETA reports, European Commission's annual reports on the countries' progress towards EU accession, US TIP reports) and other relevant instruments;</li><li>→ Action plans include activities for each strategic area, with <b>clearly assigned responsibilities, time-lines, resources plan and budget</b>, as well as <b>measurable, realistic and time-bound</b> (short-term, medium, long-term) <b>indicators</b>;</li><li>→ The strategic documents are equipped with <b>monitoring, evaluation and review criteria</b> and define the responsible actors/procedures accordingly (e.g. the roles of the responsible actors, as well as the relevant monitoring and evaluation procedures);</li><li>→ The strategic documents include <b>risk assessments</b> and relevant <b>mitigation strategies</b> in the strategies to address the potential obstacles to successful implementation.</li></ul>
Development of the Anti-Trafficking Strategies and Action Plans

- The strategic anti-trafficking response is based on a **comprehensive background and situation analysis** determining the problems and defining the strategic goals, as well as providing baseline data needed for future assessments of the anti-trafficking response;
- A **transparent and inclusive (multi-disciplinary) process** is applied by involving all relevant public, civil society and private actors, including governmental authorities, non-governmental organisations and civil society, law enforcement, migration, labour, health, education professionals, as well as academia, researchers etc.;
- **NGOs/civil society representatives play an active role in the development process** and their views and opinions are reflected adequately in the design of the anti-trafficking response;
- **Survivors** (persons with lived experience) of human trafficking are invited to give input in the development process;
- **Expert support and resources to designing the strategic anti-trafficking response** are available according to the international standards and guiding principles;
- **Action plans** are realistic, reflecting the strategic goals, taking into consideration the available human and financial resources both on central and local level, as well as the capacities of the actors responsible for implementation;
- **Contingency plans** are in place to ensure **minimum functionality of the anti-trafficking systems in emergency conditions**. The contingency planning does not, necessarily, have to be part of the Anti-trafficking Strategies, but it can be part of such wider planning on participants' level;
- **A minimum package of services available to the victims** is envisaged in the contingency planning to meet their immediate needs during the period of reduced possibilities for referral, protection, investigative and judicial proceedings.

#### Financial Commitment and Planning

- Ensured **financial framework** to implement the anti-trafficking action by dedicated amounts from the public budget for anti-trafficking actions and attracting external donors to complement already planned and funded actions;
- **Transparent and precise financial planning** conducted in the action plans, with detailed calculations of the costs of the activities (including available public funds and funding gaps), in order to constitute a solid ground for implementation of the activities as well as for further planning, possible adjustments of the action and coordination with the donors;
- Integrated **systematic financial planning for anti-trafficking response** by dedicated specific budget lines within individual institutional budgets;
- **Adequate proportion of the public funding provided to NGOs and civil society organisations**, in order to overcome the difficulties and delays in securing funds for provision of direct support and services to the trafficked persons during the identification, referral, protection, investigative and judicial proceedings;
- The **budgets of the local structures** (municipalities, cantons, regions), where possible, planned and exploited in terms of funding the anti-trafficking actions that should be taken on local level;
- **Countermeasures to the consequences of the anticipated economic crisis** (lack of resources for supporting the implementation of anti-trafficking policies, decrease of reintegration opportunities for victims due to the challenges the economies in the MARRI region will face, decrease of employment opportunities, increased vulnerability to irregular labour migration, etc.) planned.



## Implementation of the Anti-Trafficking Strategies and Action Plans

- **High-level political support** to the implementation of the overall anti-trafficking action is ensured;
- Continuous **building of the capacities** of the coordination structures and other relevant public, civil society and private actors, in order to address the staff turnover and to achieve long-term impact and sustainability of the anti-trafficking action;
- **Enhancing cooperation** between all relevant actors at participants' and transnational level (including the anti-trafficking coordinators) in order to maximise the effects of cross-sector intervention and to effectively implement the anti-trafficking policies and norms;
- Foreseen anti-trafficking activities carried out by **integrating and building upon the local structures**;
- **Annual operational plans** for implementation of the foreseen activities developed and implemented on the basis of the general action plan, in order to address the emerging needs, to take into consideration the recommendations from relevant international monitoring bodies/reports, to enable eventual adjustments of the originally planned actions as well as to provide transparency in allocation of human and financial resources.

## Monitoring and Evaluation of the Anti-Trafficking Response

- The overall anti-trafficking action integrates **effective monitoring, review and evaluation mechanisms** in order to:
  - periodically self-monitor the achievement of the foreseen goals and objectives and implementation of the planned activities;
    - a) review the implementation of the action plan in order to plan new anti-trafficking actions or to adjust the existing ones, and
    - b) evaluate the overall response in order to assess the lessons learned as well as the relevance, efficiency, effectiveness, impact and sustainability of the anti-trafficking actions taken.
- **Qualitative indicators in the forthcoming action plans** included (by adding baselines and targets) in order to ensure **result-based monitoring**, that would support observing the changes achieved with the implementation of the activities and resources, instead of ensuring a mere implementation of the planned activities;
- An independent **Rapporteur on Trafficking in Human Beings** (where relevant) established to ensure continuous and independent monitoring of the progress, to act as a corrective mechanism and conduct review and evaluation of the overall anti-trafficking response.
- Continuous, regular and systematic self-monitoring of the implementation of the action plans enabled by defining, revising (where needed) and enforcing **progress monitoring procedures** that will be led by the anti-trafficking coordination structures of a particular MARRI Participant. The procedures engage all actors involved in the implementation and might include quarterly or bi-annual reporting; collecting the input by the stakeholders on the implementation status; development of quarterly, bi-annual or annual reports; multi-disciplinary meetings and workshops etc.;
- The monitoring process supported by **complementary monitoring tools** (progress monitoring templates to collect the input from the stakeholders, templates for documenting the input received, periodical report templates etc.);
- Mid-term (during the strategic cycle span) conducted;
- Ex-post **evaluations** (upon completion of the strategic cycle) conducted to assess the relevance, efficiency, effectiveness, impact and sustainability of the overall anti-trafficking action by using the internationally accepted evaluation criteria and methodology.

## ANNEX 2: EXAMPLE OF A NATIONAL ANTI-TRAFFICKING STRATEGY

[TITLE: may vary in wording depending on which aspect the authorities wish to underline, e.g. whether it is a strategy to *fight* or *combat*, or *prevent* or *end* trafficking in human beings, or other]

[clearly stated period of validity, e.g. 2020-2025]

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# I Introduction

## Preamble

- The global / regional context of THB
- Overview of the country's efforts to combat THB
- Why the National Strategy is needed
- What it aims and entails

## Structure of the National Strategy

- Overview of the Strategy's structure and its elements

## Methodology

- Describe the process of preparing the Strategy

## Guiding Principles

- List and elaborate the key guiding principles in the development and implementation of the strategy: e.g. human rights-based approach, civil society participation, government ownership, interdisciplinary approach, integrating child's best interests, etc.

## Analysis of THB situation in the country + Legal and Institutional Framework

- Detailed analysis of the country's THB profile. (This should include as a minimum: incidence of THB - both registered victims and estimates of numbers of victims; most prevalent forms of THB; sectors where THB is found; background of victims; analysis of gaps in available THB data; court cases and convictions.)
- Overview of the country's legal and institutional framework relevant to combating human trafficking across the 4Ps. (This should go beyond a mere listing of pieces of legislation, explaining the relevance of these legislative/normative acts to THB. Similarly, the mandates of relevant institutions regarding fighting THB should also be briefly introduced.)

## Lessons learned from the evaluation of the previous strategic cycle [if there was a Strategy]

- Detailed insight into the results of the evaluation
- Recommendations put forth by the evaluation and explaining how these have been (or not) integrated into the new Strategy

# II Strategic Framework<sup>169</sup>

## Goal statement

E.g. by 20XX, the state will improve the efficiency and functionality of the system for the purpose of prevention, identification, protection, assistance and monitoring of victims of trafficking in human beings with a special focus on children, and improve the efficiency of investigations, criminal prosecutions and adequate sanctioning in accordance with its criminal legislation.

**PLEASE NOTE: the following wording serves only as a sample and not as a definite template regarding both the multitude and content of the Aims and Specific Objectives in a particular Strategic Area.**

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<sup>169</sup> The sample wording offered in the model Strategy is adapted from the Strategy for Combating Trafficking in Human Beings 2019-2024 of the Republic of Montenegro.

### Strategic Area 1. Enabling Framework

Aim 1: To strengthen the co-ordination and partnerships among numerous stakeholders, from all sectors of the society on both the national and international level and to promote networking.

Specific objective 1.1: To strengthen the co-operation and coordination of relevant institutions and organisations that are competent for the prevention and combat against trafficking in human beings and assisting and protecting victims of trafficking in human beings.

Specific objective 1.2: To strengthen strategic partnerships on both the regional and international level.

Baseline	Indicator of Impact
The goals of the previous Strategy are implemented only at the national level, but are not included in local-level strategic documents.	At least 10 percent of the objectives of the current Strategy are implemented through local government activities in cooperation with local civil society organizations.
The country has signed bilateral protocols / Memoranda on cooperation in the field of combating trafficking in human beings with three countries in the region.	Implementation of existing and signing bilateral Memoranda of Cooperation with two other countries in the region by 20XX.

### Strategic area 2. Prevention of trafficking in human beings

Aim 2: To improve preventive activities and involvement of all stakeholders on the state level in their implementation.

Specific objective 2.1. To improve the knowledge of all professionals and representatives of the NGO sector who are in touch/may come in touch with victims of trafficking in human beings in terms of the identification, referral and protection of victims and criminal prosecution of offenders.

Specific objective 2.2. To continue to raise awareness of all segments of society and support efforts in reducing the demand for services of victims of trafficking in human beings.

Baseline	Indicator of Impact
No research conducted on the level of knowledge of the general public on the phenomenon of human trafficking.	The initial value determined at the beginning of the implementation of the Strategy and the increased knowledge of the general public on trafficking in human beings by 10% by 20XX
In the period XXXX - XXXX, there were YYY calls to the SOS line for victims of trafficking in human beings	Increased number of calls to the national SOS line for victims of trafficking in human beings by 10% by 20XX

### Strategic Area 3. Support and Protection of Victims and Victim-Witnesses

Aim 3: To improve the identification of victims of trafficking in human beings and the quality of protection and assistance provided to them during their social reintegration.

Specific objective 3.1. To improve the identification of victims and potential victims of trafficking in human beings among vulnerable groups.

Baseline	Indicator of Impact
At present, there is no established system for formal identification of victims of trafficking in the country.	A system for the formal identification of victims of trafficking in human beings is established by 20XX.

**Strategic area 4. Investigation and Prosecution of Trafficking in Human Beings**

Aim 4. To strengthen the capacities of criminal prosecution bodies for the prosecution of trafficking in human beings, for the purpose of having more efficient criminal and financial investigations.

Specific objective 4.1. To ensure a more proactive approach of the police and prosecution with the aim of supressing of all forms of trafficking in human beings.

Specific objective 4.2. To strengthen capacities in the judiciary in order to have an efficient criminal prosecution and more effective identification and confiscation of proceeds originating from criminal offences.

Baseline	Indicator of Impact
In the period XXXX-YYYY the Police filed XX criminal charges for the criminal offense of trafficking in human beings	Number of filed criminal charges, increased by 20 percent by 20XX.
In the period XXXX-YYYY there were no cases of financial investigations along with criminal investigations into human trafficking.	By 20XX, minimum YY financial investigations conducted along with a criminal investigation in human trafficking cases.

**Budget**

Ideally provide the total estimated costs for the implementation of the Strategy for the entire period and the funding sources.

**Implementation, Monitoring, Reporting and Evaluation**

- Describe the process of implementation particularly its coordination
- Establish how implementation will be monitored and by whom
- Detail the reporting obligations and timelines of the implementing stakeholders as well the institution coordinating the implementation
- Set forth the evaluation dynamics (only post-implementation or also mid-term).

## ANNEX 3: EXAMPLE OF A NATIONAL ACTION PLAN

**Example of a National Action Plan for the year XXXX for the implementation of the Strategy on Combating Trafficking in Human Beings<sup>170</sup>**

NOTE: Given the different cultural, legislative and institutional contexts, varying needs and priorities, this draft offers examples rather than a model

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<sup>170</sup> The sample wording of objectives and activities offered in the example of an Action Plan is adapted from the Action Plan for the year 2020 for the Implementation of the Strategy on Combating Trafficking in Human Beings 2019-2024 of the Republic of Montenegro.

**PLEASE NOTE: the following wording serves only as a sample and not as a definite template regarding both the multitude and content of the Operational Objectives and Activities.**

**Strategic Area 1 – Enabling Framework**

<b>Operational objective 1 : Strengthen the coordination and partnership between different actors in this field, from all sectors of society on national and international level, and promote networking</b>					
Performance indicator:	Initial value	Target value in the middle of the implementation of the strategic document	Target value at the end of the implementation of the strategic document		
Signing of bilateral Agreements on cooperation in the field of combating trafficking in human beings with two more states in the region, by 202X	The country has signed protocols/agreements on cooperation in the field of combating trafficking in human beings with the following three states in the region (....., ....., and .....)	Signing and implementation of the bilateral Agreement on cooperation in the field of trafficking in human beings with another state in the region, by the end of 202Y	Signed and implemented two more bilateral Agreements on cooperation in the field of combating trafficking in human beings by 202X		
Key measure 1.1: Strengthen the cooperation and coordination of relevant institutions and organizations responsible for prevention and combating trafficking in human beings and providing assistance and protection to victims of trafficking in human beings					
<b>Activity</b>	<b>Responsible Bodies</b>	<b>Starting date</b>	<b>Planned completion date</b>	<b>Result indicator</b>	<b>Financial estimate</b>
1.1.1. Adopt the annual work plan of the [body responsible for monitoring the implementation of the Strategy for Combating Trafficking in Human Beings]	[Body responsible for monitoring the implementation of the Strategy for Combating Trafficking in Human Beings]	I quarter	I quarter	Annual work plan of the body responsible for monitoring the implementation of the Strategy for Combating Trafficking in Human Beings implemented	XXXXX Euros or no funding required
1.1.2. Hold regular meetings of the [body responsible for monitoring the implementation of the Strategy for Combating Trafficking in Human Beings]	Strengthen the coordination and partnership between different actors in this field, from all sectors of society on national and international level, and promote networking	I quarter	IV quarter	At least four meetings of the body responsible for monitoring the implementation of the Strategy for Combating Trafficking in Human Beings	XXXXX Euros or no funding required
1.1.3. Appoint contact persons to monitor the revised Agreement on Mutual Cooperation in the Field of Combating Trafficking in Human Beings	[list the relevant state bodies]	I quarter	I quarter	Appointed contact persons to monitor the revised Agreement on Mutual Cooperation in the Field of Combating Trafficking in Human Beings	No funding required
1.1.4. Strengthen the cooperation between the police and NGOs in the field of combating trafficking in human beings	[list the institutions in charge]	I quarter	IV quarter	At least one meeting of the representatives of the police with the representatives of the NGOs	No funding required



## Strategic Area 2 - Prevention of Trafficking in Human Beings

Operational objective 2: Improve prevention activities and participation of all state-level actors in their implementation					
Performance indicator	Initial value	Target value in the middle of the implementation of the strategic document	Target value at the end of the implementation of the strategic document		
Increased knowledge on trafficking of general public by 10% by 202X	So far, no research has been conducted on the level of knowledge of the general public about the phenomenon of trafficking in human beings	Increased knowledge on trafficking of general public by 5% by 202X	Increased knowledge on trafficking of the general public by 10% by 202Y.		
Increase in calls to the National SOS Line for Victims of Trafficking by 10% by 202X	In the period XXXX-XXXX, there were a total of ZZZZ calls to the SOS Line for Victims of Trafficking	Increase in calls to the National SOS Line for Victims of Trafficking by 5% by 202X	Increase in calls to the National SOS Line for Victims of Trafficking by 10% by 202Y		
Key measure 2.1: Improve prevention activities and participation of all state-level actors in their implementation					
Activity	Responsible Bodies	Starting date	Planned completion date	Result indicator	Financial estimate
2.1.1. Organize trainings for officers of the [structural unit] assigned to work with foreigners, foreigners seeking international protection and foreigners granted international protection in relation to the identification of the victims of trafficking in human beings	Ministry of the Interior (specific structural unit)	IV quarter	IV quarter	A training for officers of the [target unit] in relation to the identification of the victims of trafficking in human beings	XXXX Euros (Ministry of the Interior budget)
2.1.2. Conduct trainings on "Combating early and arranged marriages, trafficking in human beings, and forced begging" for professional staff employed in Centres for Social Work	State institution in charge of social and child protection	III quarter	III quarter	- Conducted XX trainings for professionals employed in Centres for Social Work on early and arranged marriages, trafficking in human beings and forced begging - YY professionals employed in Centres for Social Work underwent training	XXXX Euros (State institution in charge of social and child protection)
Key measure 2.2: Continue to raise awareness in all segments of society and support efforts to reduce demand for services for victims of trafficking in human beings					
Activity	Responsible Bodies	Starting date	Planned completion date	Result indicator	Financial estimate
2.2.1. Production of audio-visual material (video) which indicates negative phenomenon of trafficking in human beings, recommendation for public, commercial and non-profit broadcasters to broadcast the material	Ministry of XXXX	III quarter	III quarter	Audio-visual material indicating negative phenomenon of trafficking in human beings is produced and broadcasted	XXXX Euros (Ministry of XXXX budget)
2.2.2. Organize a meeting on the role of media in combating trafficking in human beings with media representatives	Ministry of XXXX in cooperation with the Ministry of XXXX, Public Prosecutor's Office .	II quarter	II quarter	Implemented a meeting with media representatives on their role in combating trafficking in human beings	No funding required

### Strategic Area 3 - Support and Protection of Victims and Victim-Witnesses

Operational objective 3: Improve the identification of the victims of trafficking in human beings and the quality of protection and assistance in their social reintegration						
Performance indicator	Initial value	Target value in the middle of the implementation of the strategic document			Target value at the end of the implementation of the strategic document	
Established system for the formal identification of victims of trafficking in human beings by 202X	There is currently no system in place for the formal identification of victims of trafficking in human beings	Established system for the formal identification of the victims of trafficking in human beings, trained Team for formal identification, and assured status of the victims based on standardized forms in 100% of cases by the end of 202Y			Team for formal identification is functional and produces results	
Key measure 3.1: Improve the identification of victims and potential victims of trafficking in human beings among the vulnerable groups						
Activity	Responsible Bodies	Starting date	Planned completion date	Result indicator	Financial estimate	
3.1.1. Organize a training for the members of the Team for formal identification on the specifics of the implementation of Standard operating procedures for the identification of victims of trafficking in human beings and specific techniques for conducting interviews with victims	Ministry of the Interior – Department for Combating Trafficking in Human Beings	II quarter	II quarter	Organized training for the members of Team for formal identification of victims of trafficking in human beings on the specifics of the implementation of Standard operating procedures for the identification of victims of trafficking in human beings and specific techniques for conducting interviews with victims	XXXX Euros (funding source)	
2.1.2. Organize meetings for the Team for formal identification of victims of trafficking in human beings	Ministry of the Interior – Department for Combating Trafficking in Human Beings	I quarter	IV quarter	The meetings are recorded in the annual report of the Team for formal identification of victims of trafficking in human beings	No funding required	

### Strategic Area 4 - Investigation and Prosecution of Trafficking in Human Beings

<b>Operational objective 4: Strengthen the capacity of the authorities to prosecute trafficking in human beings, for more efficient criminal and financial investigations</b>					
Performance indicator	Initial value	Target value in the middle of the implementation of the strategic document	Target value at the end of the implementation of the strategic document		
Increased number of criminal charges filed against trafficking in human beings by 20% by 202X	In the period XXXX-XXXX, Police administration filed YY criminal charges filed against trafficking in human beings	Increased number of criminal charges filed against trafficking in human beings by 10% by 202Y	Increased number of criminal charges filed against trafficking in human beings by 20% by 202X		
Key measure 4.1: Provide a more proactive approach to police and prosecution efforts in combating all forms of trafficking in human beings					
<b>Activity</b>	<b>Responsible Bodies</b>	<b>Starting date</b>	<b>Planned completion date</b>	<b>Result indicator</b>	<b>Financial estimate</b>
4.1.1. Monitor the activities of the Operational Team for Combating Trafficking in Human Beings	List relevant state bodies	I quarter	IV quarter	Quarterly reports on the work of the Operational Team for Combating Trafficking in Human Beings are made	No funding required
4.1.2. Enhance the surveillance of the facilities and people of interest in relation to sexual exploitation through controls and other operational activities	Police administration	I quarter	IV quarter	Surveillance of at least X facilities of interest carried out	No funding required
Key measure 4.2: Strengthen the capacities in the judiciary to achieve effective prosecution and more efficient identification and confiscation of property acquired through criminal activities					
<b>Activity</b>	<b>Responsible Bodies</b>	<b>Starting date</b>	<b>Planned completion date</b>	<b>Result indicator</b>	<b>Financial estimate</b>
4.2.1. Conduct training for judges and prosecutors on combating trafficking in human beings	[Relevant institution in charge of training the judiciary and prosecution]	I quarter	I quarter	Implemented two-day training for judges and prosecutors on the basis of a specific training programme	XXXXX Euros (funding source)
4.2.2. Develop and implement distance-learning course (e-learning) for judges and prosecutors on Combating Trafficking in Human Beings and Protection of Victims of Trafficking in Human Beings	[Relevant institution in charge of training the judiciary and prosecution]	I quarter	I quarter	Implemented distance-learning course (e-learning) for judges and prosecutors on Combating Trafficking in Human Beings and Protection of Victims of Trafficking in Human Beings	XXXXX Euros (funding source)

# ANNEX 4: MONITORING, EVALUATION AND LEARNING PLAN

<b>Purpose:</b> - Plan for monitoring and evaluation of the National Action Plan against Trafficking in Human Beings in country xxx, running from xxx to xxx.						
<b>Context:</b> - Short paragraph on national structures, roles and definition of responsibilities for THB - Communication: what are the channels of communication and who communicates with whom on what (progress, challenges, general implementation issues), who is the entry point to the ultimately responsible structure (however, some things might have to be clarified with supporting structures)						
<b>Reporting:</b> - Short text clarifying: o Which data and reports go when to whom (Monitoring) o Who writes the annual monitoring report o Joint discussion of the annual monitoring report o Presentation of the annual monitoring report to Cabinet, Parliament or the like (including timeline, if it exists)						
<b>Review &amp; Evaluation:</b> - Define whether to do a review of the NAP or an evaluation (mid-term or end evaluation) - Define purpose of the review / evaluation - Define timing / frequency of review / evaluation - Who is responsible for the review and/or evaluation? (overall responsibility, detailed responsibilities)						
<b>Enabling Framework</b>						
<b>Outcome x:</b>						
Outputs	Indicators	Baseline	Targets	Means of verification	Frequency of data collection	Responsible (who collects the data)
<b>Outcome x:</b>						
Outputs	Indicators	Baseline	Targets	Means of verification	Frequency of data collection	Responsible (who collects the data)
<b>Outcome x:</b>						
Outputs	Indicators	Baseline	Targets	Means of verification	Frequency of data collection	Responsible (who collects the data)
<b>Prevention</b>						
<b>Outcome x:</b>						
Outputs	Indicators	Baseline	Targets	Means of verification	Frequency of data collection	Responsible (who collects the data)
<b>Outcome x:</b>						
Outputs	Indicators	Baseline	Targets	Means of verification	Frequency of data collection	Responsible (who collects the data)

Outcome x:						
Outputs	Indicators	Baseline	Targets	Means of verification	Frequency of data collection	Responsible (who collects the data)
<b>Support and Protection of Victims and Victim-Witnesses</b>						
Outcome x:						
Outputs	Indicators	Baseline	Targets	Means of verification	Frequency of data collection	Responsible (who collects the data)
Outcome x						
Outputs	Indicators	Baseline	Targets	Means of verification	Frequency of data collection	Responsible (who collects the data)
Outcome x						
Outputs	Indicators	Baseline	Targets	Means of verification	Frequency of data collection	Responsible (who collects the data)
<b>Investigation and Prosecution of Trafficking in Human Beings</b>						
Outcome x						
Outputs	Indicators	Baseline	Targets	Means of verification	Frequency of data collection	Responsible (who collects the data)
Outcome x:						
Outputs	Indicators	Baseline	Targets	Means of verification	Frequency of data collection	Responsible (who collects the data)
Outcome x:						
Outputs	Indicators	Baseline	Targets	Means of verification	Frequency of data collection	Responsible (who collects the data)

# ANNEX 5: FORM FOR MONITORING IMPLEMENTATION

Institution / organization (filing the progress report)		
Contact person		
Reporting period		
Reporting to		
General observations / comments (on changes observed etc.)		
Field (Enabling Framework, Prevention, Protection, Prosecution)		
Outcome x		
Planned result /target		
<i>Achieved result(s)</i>		
Indicator (x1) <sup>&lt;?&gt;</sup>		
Planned result /target		
Baseline		
Output(s) (achieved)		
Activity /activities (implemented)		
Assessment: the result is	Off track:	On track:
Budget		
Donor(s)		
Comment		
Indicator (x2)		
Planned result /target		
Baseline		
Output(s) (achieved)		
Activity /activities (implemented)		
Assessment: the result is	Off track:	On track:
Budget		
Donor(s)		
Comment		

*Please observe:* if your institution has the responsibility for more than one outcome or respective indicators, repeat the columns from the thick line below for another outcome. For more indicators, just copy and add from the column Achieved result(s) up to the next indicator.

Assess whether (measured against the target(s) set) your achievements are on track or off track. This assessment must be realistic and match the targets set against the achieved results. If necessary, include any explanation and/or observations in the comment line.



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## ANNEX 6: ANNUAL MONITORING REPORT

### Annual Monitoring Report on the implementation of the National Action Plan and general developments in the area of trafficking in human beings – template

#### 1. Introduction

- Who reports on what (institution, contact person)
- Reporting period
- Who to report to
- Who has been part of the reporting

#### 2. Observations of developments in the area of trafficking in persons

- Nature and scale of the problem and developments
- Developments in the modus operandi of perpetrators in trafficking in persons
- Developments in the profile of victims (important information for possible prevention measures)

#### 3. The national anti-trafficking policies and legal framework

- Changes in policies and the legal framework

#### 4. Compliance with the international legal standards

- Status of and/or changes in the legal framework relating to compliance with the international legal standards

#### 5. Progress in the implementation of the National Action Plan against Trafficking in Human Beings (year – year)

##### a. General observations:

- How has the implementation been proceeding in the reporting phase, general assessment
- Institutional arrangements for implementation, general assessment
- Challenges identified
- Review /evaluation planned (if review/evaluation in progress, present a short summary of the findings)

##### b. Detailed progress of the implementation of the NAP:

Overall results and achievements in the reporting period:

- Description of overall results /achievements of the implementation (in relation to the goals and outcomes, the changes the NAP has aspired to, describing the changes that can be attributed to the activities as part of the implementation of the national action plan)

Detailed results and achievements in the reporting period:

Enabling Framework:		
Outcome x		
Outcome x		
Outcome x		
Achievements:	- Description of change achieved, taking into account the data collected	
Activity /activities implemented		
Assessment: The implementation in this area is (measured against the fulfilment of the indicators)	Off track:	On track:
Comments (provide further information if the implementation is off track)		
Resources spent:		
Prevention:		
Outcome x		
Outcome x		
Outcome x		
Achievements:	- Description of change achieved, taking into account the data collected	
Activity /activities implemented		
Assessment: The implementation in this area is (measured against the fulfilment of the indicators)	Off track:	On track:
Comments (provide further information if the implementation is off track)		
Resources spent:		
Protection:		
Outcome x		
Outcome x		
Outcome x		
Achievements:	- Description of change achieved, taking into account the data collected	
Activity /activities implemented		
Assessment: The implementation in this area is (measured against the fulfilment of the indicators)	Off track:	On track:
Comments (provide further information if the implementation is off track)		
Resources spent:		
Prosecution:		
Outcome x		
Outcome x		

Outcome x		
Achievements:	- Description of change achieved, taking into account the data collected	
Activity /activities implemented		
Assessment: The implementation in this area is (measured against the fulfilment of the indicators)	Off track:	On track:
Comments (provide further information if the implementation is off track)		
Resources spent:		

c. Observations, comments

- Outline any observations or comments relating to the implementation of the NAP you might have.

d. Lessons learned

- Outline any lessons learned in the reporting period that will cater for a different approach in the next reporting period.

e. Next steps / Way forward

- Give an overview on how you (the anti-trafficking response) plan to proceed in the next reporting period, taking into account either institutional changes, changes in focus, necessary changes through new developments, follow-ups on a review or evaluation or the upcoming preparation of one.

# ANNEX 7: QUESTIONNAIRE FOR INTERNAL EVALUATION

on the implementation of the Strategy and the Action Plan for Combatting Trafficking in Human Beings (20..-20..)

Organisation/institution

Representative

*(Please fill the questionnaire in electronically and use as much space as you need)*

## EVALUATION OF THE FULFILMENT OF THE STRATEGIC GOALS FOR COMBATTING TRAFFICKING IN HUMAN BEINGS

1. Please explain how does your institution/organization give befitting contribution to combatting trafficking in human beings (THB)/ in ..... (in the sense of the role and activities that have been undertaken)?

2. Do you think that the strategic goals for combatting THB set for the period 20..-20.. have been successfully fulfilled?

Yes       No       They are partially fulfilled

3. Please elaborate on your stance.

4. Please give a general mark 1-5 in accordance with your opinion about the strategic goals for combatting trafficking in human beings that have been achieved pursuant to the areas determined in the strategy with 1 being the lowest mark (the goals have not been accomplished) and 5 being the highest mark (the goals have been completely accomplished). Please state a comment to found your stance.

STRATEGIC AREA (NOTE: ADAPT ACCORDING TO THE GENERAL STRATEGIC FRAMEWORK)	MARK	COMMENT
<b>1. ENABLING FRAMEWORK</b>		
1.1. Strengthening the institutional capacities		
1.2. Coordinating structure		
1.3. Legal and regulatory framework		
1.4. International cooperation		
1.5. Information management, monitoring and evaluation		
<b>2. PREVENTION</b>		
2.1. Identifying the causes for the emergence of trafficking in human beings/children and illegal migration		

2.2. Strengthening the capacities for the realization of preventive activities		
2.3. Raising the public awareness and education		
2.4. Vulnerability reduction		
2.5. Demand reduction		
<b>3. IDENTIFICATION AND REFERRAL</b>		
<b>4. DIRECT ASSISTANCE, PROTECTION, INTEGRATION AND VOLUNTARY RETURN OF THE VoT/MIGRANTS</b>		
<b>5. EFFICIENT DETECTION AND PROSECUTION OF THE PERPETRATORS OF CRIMINAL OFFENCE THB/IM</b>		

6. Please state your opinion regarding the advantages and shortcomings of the Strategy for Combatting Trafficking in Human Beings 20..-20..

a. The Strategy is comprehensive and is structured pursuant to the national legislation and international standards.

I completely agree     I partially agree     I do not agree     I do not have a stance regarding this question

Comments and suggestions:

6. The role and competences of the institutions/organizations included in the combatting trafficking in human beings are properly defined and distributed.

I completely agree     I partially agree     I do not agree     I do not have a stance regarding this question

Comments and suggestions:

b. The Coordination Body for Combatting THB has established an appropriate and efficient principle for monitoring the goals of the strategy that have been achieved.

I completely agree     I partially agree     I do not agree     I do not have a stance regarding this question

Comments and suggestions:

7. Do you think that some of the goals that have been set are too ambitious for the foreseen implementation period? Why?

8. Having into consideration your role and competences, what are your recommendations regarding the preparation of the new Strategy for Combatting Trafficking in Human Beings regarding its structure and contents, as well as the monitoring process of the goals that have been achieved?

	RECOMMENDATIONS
Structure of the Strategy (new areas, complementarity with the AP)	
Contents of the Strategy (new objectives adjusted to the current situation)	
Evaluation and monitoring of the Strategy	
General recommendations	

### EVALUATION ON THE FULFILMENT OF THE ACTION PLAN FOR COMBATTING TRAFFICKING IN HUMAN BEINGS AND ILLEGAL MIGRATION 20..-20..

1. State the activities/projects on combatting trafficking in human beings in which you (your institution/ organization) took part (if there are more, state the three that you consider to be the most important):

2. Were these activities foreseen in the Action Plan 20..-20..? How would you evaluate their implementation? If they have not been realized yet, please state why it is the case.

3. Which (choose up to three) activities of the Action Plan do you consider to be the most successful ones and why?

4. Which (choose up to three) activities of the Action Plan do you consider to be the least successful ones and why?

5. Are the qualitative and quantitative indicators stated in the Action Plan clearly set and provide measurability of the planned and achieved results?

6. How do you assess the implementation of the Action Plan for Combatting Trafficking in Human Beings (general impression, implementation degree, level of achieved results, and influence on solving the trafficking in human beings problem)?

7. What would you add or change for the next period?

8. Please fill the table in including your stances. In order to have better perception please follow the activities as enumerated with ordinal numbers in the Action Plan 20...-20...

*\*adapt the table according to the structure of the actual Action Plan*

Number of the activity pursuant to the Action Plan	Result	Your participation in the activity (yes/no)	State the realized activity in which you participated	Mark	Remark
<b>1. ENABLING FRAMEWORK</b>					
<b>1.1 Strengthening the institutional capacities</b>					
<b>1.2. Coordinating structure</b>					
<b>1.3. Legal and regulatory framework</b>					
<b>1.4. International cooperation</b>					
<b>1.5. Information management, monitoring and evaluation</b>					
<b>2. PREVENTION</b>					
<b>2.1. Identification of the causes for the emergence of trafficking in human beings/children and illegal migration</b>					
<b>2.2. Strengthening the capacities for the realization of the prevention activities</b>					
<b>2.3. Raising the public awareness and education</b>					
<b>2.4. Vulnerability reduction</b>					
<b>2.5. Demand reduction</b>					
<b>3. Support and Protection of Victims and Victim-Witnesses</b>					
<b>4. Investigation and Prosecution of Trafficking in Human Beings</b>					

**THANK YOU!**

*Please fill this questionnaire in and send it to **indicate contact person/e-mail address** until **indicate date** the latest.*

## ANNEX 8: EVALUATION REPORT

### Strategy and the Action Plan against Trafficking in Human Beings 20..-20..

The purpose of the evaluation is to assess the results and the impact of the Strategy and Action Plan against Trafficking in Human Beings, to draw the lessons learnt as well as to develop practical recommendations for designing the new Anti - Trafficking Strategy and NAP. The evaluation report should therefore describe the context, gaps and needs of the previous anti-trafficking response, the achievements at various levels, as well as recommendations for future actions in connection to the future strategy. The assessment should be conducted according to the following criteria: **relevance, efficiency, effectiveness, impact and sustainability** of the foreseen results.

The evaluation report should compile the assessment and should be generally structured in a following way:

- **Introduction**, explaining the context of the problem, the background for the evaluation and the applied methodology;
- **Sections analysing the structure and the design/elements** of the Strategy and Action Plan;
- **Sections on evaluation of the achievements in each strategic area**, including information on the planned and implemented activities, assessment of the achievements, conclusions and recommendations for each strategic area;
- General **Conclusions and Recommendations**;
- **Executive Summary** with notes regarding the evaluation criteria (relevance, efficiency, effectiveness, impact and sustainability) describing the **general evaluation** of the anti-trafficking response.

The following structure of the report (adapted as per the context) is recommended:

#### 1. Introduction

1.1 Evaluation Background

1.2 Evaluation Objectives

1.3 Evaluation Methodology

#### 2. Analysis of the structure and design/elements of the Strategy and Action Plan for Combating Trafficking in Human Beings (20..-20..)

2.1. Development and adoption

2.2 Structure of the Anti-Trafficking response

2.3. Description of the structure of the Strategy (20..-20..) (strategic level)

2.4 Description of the structure of the Action Plan (20..-20..) (operational level)

2.5 Analysis of the Structure and the elements of the Strategy and Action Plan

*(This part should contain if the Strategy and AP are comprehensive and structured according to the international standards, if they comprise all the necessary elements, including detailed description of the aim, mission and the strategic areas in provision of the anti-trafficking response, situation analysis, description on the legal and institutional anti-trafficking framework etc. Moreover, it should assess if the expected results are related to the strategic goals and defined according to the SMART rule (specific, measurable, achievable, relevant and time-bound)<sup>171</sup>. Moreover, this part should contain assessment if the roles and the competences of the relevant institutions/organisations active in the anti-trafficking area are properly defined and deployed. If needed, it might contain recommendations for improving the structure of the analysed documents).*

<sup>171</sup> In order to effectively monitor, review or evaluate the progress of strategies, it is essential to define outcomes/expected results according to the SMART standards. (See Section A.5.1)



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### 3. Achievements under the strategic goals and specific objectives in the Strategy and Action Plan (20..-20..)

#### 3.1. Enabling framework

3.1.1 Topic 1

3.1.2. Topic 2

3.1.3 Topic 3

3.1.4 Topic 4

*(comparison and analysis of the planned and achieved should be provided under this part, information on why certain activities have not been implemented, provided response according to the recommendations of the international actors etc.)*

3.1.5 Status quo of the implementation and the recommendations

*(possibly structured in a simple table, containing summary of the achievements under the strategic area and recommendations for the next strategic cycle).*

#### 3.2 Prevention

3.2.1 Topic 1

3.2.2. Topic 2

3.2.3 Topic 3

3.2.4 Topic 4

3.2.5 Status quo of the implementation and the recommendations

#### 3.3 Protection

3.3.1 Topic 1

3.3.2. Topic 2

3.3.3 Topic 3

3.3.4 Topic 4

3.3.5 Status quo of the implementation and the recommendations

#### 3.4 Prosecution

3.4.1 Topic 1

3.4.2. Topic 2

3.4.3 Topic 3

3.4.4 Topic 4

3.4.5 Status quo of the implementation and the recommendations

### 4. General conclusions and recommendations

*(This part should determine the extent to which the current objectives of the Anti-Trafficking Strategy have been met. This should be done by providing assessment based conclusions on the following: if the Anti-trafficking Strategy and AP are comprehensive and structured according to the national legislation and the international standards; if the roles and responsibilities of the anti-trafficking actors have been properly distributed; the extent to which the envisaged activities have been realized; if the qualitative and quantitative indicators allow appropriate comparison of the planned and realised; if the planned activities were too ambitious for the foreseen period of implementation and if the expected results were based on unrealistic expectations; if the foreseen results with the Strategy are sustainable and if they could be replicated in the future. This chapter should also provide recommendations for designing the new anti-trafficking strategy and action plan.)*

#### Executive Summary

*(based on the overall evaluation, this part should provide answers to the following questions: if the Anti-trafficking Strategy and AP is relevant, if the foreseen goals and activities are appropriate to achieve the expected results; if it is **effective**, according to the results that have been achieved; if it is **efficient**, in terms of achieving the results with reasonable costs and use of human/material resources; and finally, if the Strategy and AP has an **impact**, in terms of the extent to which the target group has benefited from the activities and the extent to which the implementation of the strategy has contributed to the objectives of the wider national anti-trafficking policy and programs)*

#### Annexes

Annex 1 List of desk review and web sources

Annex 2 List of stakeholders

Annex 3 Evaluation Questionnaire

