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International Centre for
Migration Policy Development

Guidelines for the Development and Implementation of a Comprehensive National Anti-Trafficking Response



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Strengthening Women's Rights
Combating Trafficking in Women

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and Development

Guidelines for the Development and Implementation of a Comprehensive National Anti-Trafficking Response

Prepared by the International Centre for Migration Policy Development, Vienna – Austria

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Introduction

The Guidelines for the Development and Implementation of a Comprehensive National Anti-Trafficking Response have been elaborated in the framework of the Programme for the Enhancement of Anti-Trafficking Responses in South Eastern Europe (SEE) implemented by the International Centre for Migration Policy Development (ICMPD) in partnership with the non-governmental organisations (NGOs) Ženska Soba (Croatia), Victimology Society of Serbia (Serbia and Montenegro) and La Strada (Moldova) and in consultation with organisations and actors engaged in anti-trafficking activities in South Eastern Europe.

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The present version was validated by participating countries/territories in the framework of the above mentioned Programme and serves as basis for drafting and revising national anti-trafficking responses (national anti-trafficking strategies and national action plans) in SEE and beyond. It is fully in line with latest international and European standards and policy developments and takes national good practices into consideration.

The Guidelines contain a comprehensive set of measures to be taken by anti-trafficking actors in order to counter human trafficking according to the four main areas where action is needed, namely prevention, support and protection of victims and victim-witnesses, investigation and prosecution of trafficking, and supporting framework.

Furthermore, the Guidelines underline that a sustainable and comprehensive national anti-trafficking response addressing all forms of trafficking needs governmental ownership, a multi-disciplinary approach involving civil society and other actors according to a human rights-based and gender-sensitive approach.

The Guidelines also emphasise the necessity of appropriate co-ordination structures and the importance of continuous monitoring and regular evaluation of the entire national anti-trafficking response and its revision according to the newest developments.

How to use this document

This document is a tool that provides a step by step guidance on what a national anti-trafficking response is, how it should be designed/revised and how and by whom it should be implemented.

The Guidelines 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.







The goals and actions outlined in the Guidelines are based on European and international standards, and clearly have to be adapted to the national context and the specific institutional framework of the respective country.

The Guidelines have the following structure:

- Part A** provides an overview of the two-level **structure of the national anti-trafficking response**, i.e. strategic and operational level.
- Part B** describes the **guiding principles** that should be reflected in designing and implementing a national anti-trafficking response.
- Part C** refers to the **strategic level** and explains how to identify country priorities in the anti-trafficking field and **what** should be achieved (**strategic goals and specific objectives**) in the long term.
- Part D** refers to the **operational level** and describes **how** the strategic goals and objectives identified in the national anti-trafficking strategy can be achieved. This part includes a thorough catalogue of measures (**activities**) that should be implemented in the short term.
- Part E** provides **references** to relevant international documents and legislation that must be taken into consideration when designing and implementing the national anti-trafficking response.
- Part F** provides a **model strategy** that, if used, shall be adapted to the national context.
- Part G** provides a **model template for an national action plan (NAP)** that, if used shall be adapted to the national context.
- Part H** provides a **model template monitoring table** that, if used, shall be adapted to the national context.
- Part I** features a template that outlines the **difference between trafficking and smuggling**.

Icons

Icons have been introduced to help users to:

-  make references to other sections of the Guidelines
-  to relate the content to the strategic level
-  to relate the content to the operational level
-  to relate the content to the actors to be involved
-  to relate the content to a specific target group
-  to stress the importance of the subject

List of Abbreviations

| | |
|--------|--|
| CoE | Council of Europe |
| EC | European Commission |
| EU | European Union |
| ILO | International Labour Organization |
| IO | International Organisation |
| IOM | International Organization for Migration |
| MoU | Memorandum of Understanding |
| NAP | National Action Plan |
| NC | National Anti-trafficking Co-ordinator |
| NGO | Non-governmental Organisation |
| NWG | National Working Group |
| ODIHR | Office for Democratic Institutions and Human Rights |
| OSCE | Organization for Security and Co-operation in Europe |
| SECI | Southeast European Cooperative Initiative |
| SEE | South Eastern Europe |
| SPTF | Stability Pact Task Force on Trafficking in Human Beings |
| ToR | Terms of Reference |
| TWG | Thematic Working Group |
| UN | United Nations |
| UNDP | United Nations Development Programme |
| UNICEF | United Nations International Children's Fund |
| UNODC | United Nations Office on Drugs and Crime |

Glossary of Terms

Trafficking in human beings

According to the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons especially Women and Children, supplementing the UN Convention Against Trans-national Organized Crime (2000) "Trafficking in persons" shall mean 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; Article 3 (a).

The recruitment, transportation, transfer, harbouring or receipt of a **child** for the purpose of exploitation shall be considered "trafficking persons" even if this does not involve any of the means set forth subparagraph (a) of this article; Article 3 (c).

"Child" shall mean any person less than eighteen years of age; Article 3 (d).

Smuggling

According to the UN Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the UN Convention against Trans-national Organized Crime (2000) "Smuggling of migrants" shall mean 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; Article 3 (a).

Victim of crime

According to the UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985) "Victims" means persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal

laws operative within member states, including those laws proscribing criminal abuse of power; Para (1).

A person may be considered a victim, under this Declaration, regardless of whether the perpetrator is identified, apprehended, prosecuted or convicted and regardless of the familial relationship between the perpetrator and the victim. The term "victim" also includes, where appropriate, the immediate family or dependants of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization; Para (2).

Forced labour

According to the ILO Forced Labour Convention No. 29 (1930) the term "forced or compulsory labour" shall mean 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; Article 2.1

Slavery

Slavery According to Article 1 of the UN Slavery Convention (1926), 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, n. 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 (1926).

Debt bondage

According to Article 1a. of the UN Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices similar to Slavery (1956), 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.

Servitude

According to Article 1b. of the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1956) 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.

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. (Caroline Moser, *Gender Planning and Development: Theory, Practice and Training*, 1993).

Note on the use of terminology: for reasons of simplification the term "victim" is used throughout the document regardless of whether the person concerned would have to be called more precisely "presumed victim". The same applies to the term "offender", which is used indiscriminately also for "presumed offender".



A

**Structure
of the National
Anti-trafficking
Response**

A. Structure of the National Anti-trafficking Response

Two-level Structure

It is suggested that a comprehensive national anti-trafficking response, should cover two levels: the **strategic level** (Strategy) and the **operational level** (National Action Plan).



Both the strategy and the national action plan (NAP) should reflect the following **guiding principles** while designing goals and measures in the main areas of supporting framework, prevention, protection, and prosecution.



- Government ownership
- Civil society participation
- Human rights-based approach
- Interdisciplinary and cross-sectoral approach
- Sustainability



The national anti-trafficking response should comprise the following elements:

1. Strategic Level (Strategy): refers to **"WHAT"** shall be achieved.



It should include:

1. Preamble
2. Background/analysis of the trafficking situation in the country and the institutional framework
3. Strategic goals and specific objectives for the four main components:
 - Supporting Framework
 - Prevention
 - Support and Protection of Victims and Victim-Witnesses
 - Investigation and Prosecution of Trafficking
4. Indicators for each strategic goal and specific objective.





D.

2. Operational Level (National Action Plan): refers to "HOW" the strategic goals can be achieved.

The operational level identifies concrete actions to reach the strategic goals and specific objectives for the four components as identified in the national anti-trafficking strategy.

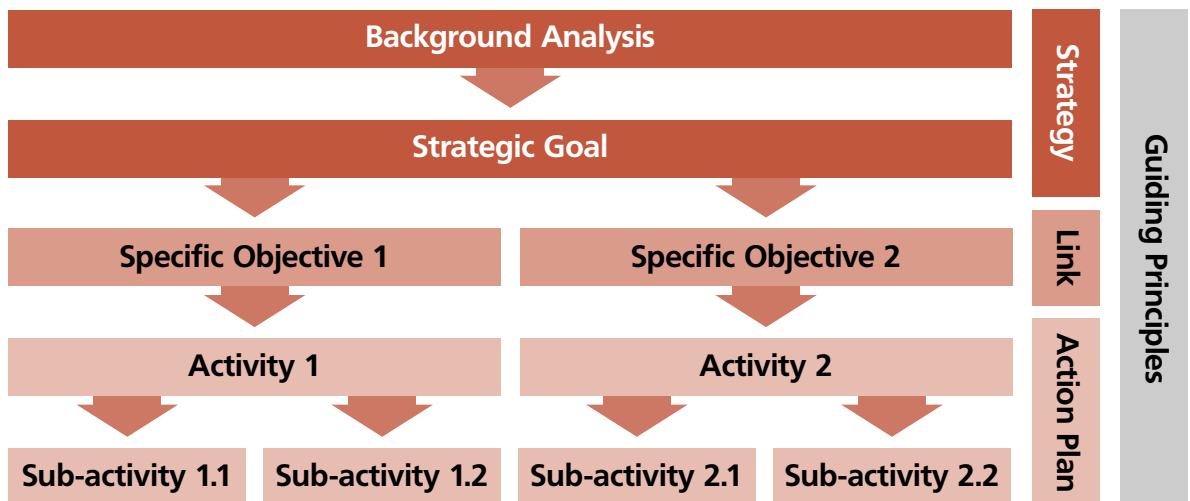
The NAP for each specific objective should contain:

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



F.

The chart below shows the link between the strategic and the operational level:





B

**Guiding
Principles**

B. Guiding Principles

The following principles should form the conceptual framework for the design and the implementation of a comprehensive national anti-trafficking response. Thus, they should be "translated" in all elements at both the strategic and the operational level.

Government ownership

Definition

The term "government ownership" is used to describe the relation the government should have to 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.

Non-state actors and especially civil society/NGOs should be involved in the design and implementation of the national anti-trafficking response.

Relevance

The active involvement of state actors 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 co-operation at the local, regional and national level in order to develop 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.

Proposed procedure of implementation

Government authorities should:

- Bear the overall responsibility for the design and the implementation of the national anti-trafficking response;
- Ensure a co-ordinated approach, therefore they should appoint a National Anti-trafficking Co-ordinator (NC) and appoint a multi-disciplinary National Working Group (NWG) to combat trafficking in human beings;
- Recommend that the NC and the members of the NWG have some previous knowledge of and experience in combating human trafficking and have gender competencies. They should advocate and ensure gender balance among the members of the NWG;

- Actively involve civil society in the design and implementation of the national anti-trafficking strategy and NAP;
- Be consulted on and actively involved in all anti-trafficking programmes and projects implemented by international actors;
- Be consulted by, and seek to guide and co-ordinate, to the largest extent possible, the donors in view of optimal funds and resource allocation; and
- Be accountable for the implementation of the national anti-trafficking response.

Civil society participation

Definition

The principle of "civil society participation"¹ requires that both the development and the implementation of programmes and measures against 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.



Relevance

The involvement of civil society representatives is important because they are able to complement the support provided by the state. 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.

Proposed procedure of implementation

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

- Some members of the NWG and of the Thematic Working Group (TWG) must be NGOs;
- NGO members of the NWG 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 refer-



¹ Since Non-governmental Organisations (NGOs) are the most important civil society actors with regard to trafficking in human beings, the Guidelines often refer to "NGOs", which does not exclude other civil society actors.

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.

Human rights-based approach

Definition

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. 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.

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. By definition, such an approach is incompatible with policies or activities that have the effect of violating rights, and it permits no "trade-offs" between e.g. the prosecution of perpetrators and the rights of the victim.²

The most important violated rights related to trafficking include:

- the right to liberty and security of the person;
- the right not to be held in slavery or servitude;
- the right to be treated with humanity and with respect for the inherent dignity of the person;
- the right to liberty of movement and freedom to choose residence;
- the right not to be tortured, the right to life, the right to health.

In essence, a human rights-based approach asserts that the human rights of victims are at the core of the national anti-trafficking response and take precedence over other considerations. A human rights-based approach has to include a gender-based approach as gender-related discrimination against human beings is recognised as a violation of their fundamental human rights.



Relevance

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 trafficking. At the same time it offers a framework to monitor and evaluate anti-trafficking policies,



² Report of the Experts Group on Trafficking in Human Beings; EC, 22 December 2004.

practices and actions for their real and potential impact on victims of trafficking and other groups concerned.³

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.

Proposed procedure of implementation

To ensure a **human rights-based approach**:

- The rights of those who have been trafficked must be at the centre of all anti-trafficking measures;⁴
- The capacities of duty bearers such as the judiciary, police, social affairs and others, should be improved in a way that the services provided 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;
- Tools to control the human rights impact of anti-trafficking laws and relevant policies should be developed by states;
- 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;
- States must introduce measures to rapidly identify victims of trafficking, particularly amongst detained migrants with irregular status;
- 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.
- Victims of trafficking 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.⁵



³ Report of the Experts Group on Trafficking in Human Beings; EC, 22 December 2004.

⁴ Recommended Principles and Guidelines on Human Rights and Human Trafficking, Report of the UNHCHR to the Economic and Social Council – E/2002/68/Add.1, p. 3.

⁵ Article 3 United Nations Convention on the Rights of the Child, 1989.

To ensure a **gender-sensitive approach**, states should:

- Acknowledge that women and men, girls and boys can become victims of trafficking;
- Recognise the similarities and differences in the trafficking in women, men, girls and boys. Recognise their different particular vulnerability to trafficking, different violations, consequences and policy and programme impacts;
- Acknowledge that these differences are deeply rooted in marginalised social locations, including gender, age, class, ethnicity, race, etc;
- Empower (potential) victims, especially women and children, 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.

Interdisciplinary and cross-sectoral approach

Definition

Trafficking in human beings is a complex phenomenon, which is related to different fields and interests, such as migration, organised crime, corruption, labour, prostitution, human rights, unequal international economic relationships, gender issues, violence against women, feminisation of poverty, etc. Effective counter-strategies must take this complexity into consideration in order to address the different aspects of trafficking simultaneously. To this end, it is necessary to work "interdisciplinary", which means that the knowledge and expertise of different disciplines as well as their respective methods are combined to develop measures to prevent and combat trafficking (e.g. legal instruments, educational methods, social research, economic empowerment, psychological assistance, etc.).

The term "cross-sectoral" expresses that interventions should be designed and implemented in a way that they cover all sectors of society (e.g. judiciary, education, labour market, etc.).

Relevance

An interdisciplinary and cross-sectoral national anti-trafficking response is important because trafficking is a complex and multi-faceted phenomenon. Only a holistic approach allows tackling all aspects of trafficking at the same time.



Proposed procedure of implementation

To ensure an interdisciplinary and cross-sectoral approach, the national anti-trafficking response:

- Must address explicitly different fields and sectors at both the strategic as well as the operational level;
- Must involve all relevant state and non-state actors, such as governmental authorities, law enforcement, migration, labour authorities, judiciary, NGOs, researchers, etc; and
- Must ensure a regular exchange of information between the different actors.

Sustainability

Definition

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.



Relevance

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. 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.

Proposed procedure of implementation

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 programm 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 key 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 - ToT) is pursued.



C

**Strategic Level
(Strategy)**

C. Strategic Level (Strategy)

The national anti-trafficking strategy forms the basis of a national anti-trafficking response and consists of two parts:

The first part should describe:

- why such a response is needed (Preamble) and
- the present trafficking situation in the country, including the main actors involved and the guiding principles upon which the national anti-trafficking strategy is based (Background Analysis)

Building on that, the second part of the national anti-trafficking strategy should formulate the strategic goals and the specific objectives, which are needed in order to achieve the strategic goals in the fields of:

- Supporting Framework
- Prevention
- Support and Protection of Victims and Victim-Witnesses
- Investigation and Prosecution of Trafficking

Preamble

The preamble 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 preamble should outline the guiding principles. It should also include a paragraph on the commitment of the state actors involved in supporting the implementation of the national anti-trafficking response.



Background Analysis

A thorough analysis of the current situation is important for three reasons:

1. It helps to define the problems and consequently the strategic goals;
2. It provides baseline data needed for future assessments of the national anti-trafficking response. A comprehensive background analysis should therefore cover all fields for which strategic goals are being formulated. At a minimum, it should contain an analysis of 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
3. It supports the identification of main actors presently involved in combating trafficking and their respective roles as well as stakeholders for future action.

Such an analysis is of special importance for the design and implementation of a well functioning co-ordination structure.

Among other things, the following issues should be considered:⁶

 C.1.
D.1.

Supporting 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?
- Which laws relevant to trafficking are in place (also concerning the rights of victims) and which international instruments have been ratified/implemented?
- 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?
- Which laws relevant to child protection are in place?
- 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?
- 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?

 C.2.
D.2.

Prevention

- What is the overall socio-economic situation (e.g. unemployment, conditions of employment, informal labour market, level of income, single female-headed households, etc.)? How does the overall socio-economic situation affect population according to gender, ethnicity and age?
- 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 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?
- How is gender based violence countered, such as e.g. domestic violence, rape, sexual assault, molestation, sexual abuse of girls and boys, human trafficking?

⁶ The OSCE/ODIHR Handbook "National Referral Mechanisms: Joining Efforts to protect the Rights of Trafficked Persons. A Practical Handbook" (2004) on the establishment of national co-ordination mechanisms for ensuring the protection of and assistance to trafficked persons, provides useful questionnaires for assessment of Country-Specific conditions and needs, legal framework and a mapping of actors and organisations involved (pp. 31-46).

- Are there safe and legal migration mechanisms in place? How well are regular migration schemes functioning? 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 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?
- Are child protection/prevention 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?
- 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.?
- Is the danger of re-trafficking curtailed? Are victims empowered?

Support and Protection of Victims and Victim-Witnesses



- Number of identified victims of trafficking (at national and regional level); data broken down by gender, nationality and age.
- How does the identification work (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.)?
- Do all victims of trafficking in persons enjoy the necessary assistance? Are there minimum standards for assistance that must be provided to each victim? Does this assistance differ according to gender, age and ethnicity?⁷
- Are there sufficient protection schemes for all victims of human trafficking, and victim/witnesses?
- Which kind of social services are available to the victims?
- Profile of the victims according to e.g. age, sex, ethnicity.
- 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?⁸
- 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 multidisciplinary approach towards protecting victims?

⁷ Article 12-1 Council of Europe Convention on Action against Trafficking in Human Beings, 2005.

⁸ Article 16-2 Council of Europe Convention on Action against Trafficking in Human Beings, 2005.

Investigation and Prosecution of Trafficking

- 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?
- What is the number and type of investigations (e.g. parallel financial investigations) at the national/regional level?
- Number of court cases/suspects/convictions on human trafficking. Number of court cases/suspects/convictions regarding related offences, such as facilitation of illegal immigration.
- 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.
- Impunity of the victim (e.g. as regards 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?
- Existence of a complaint mechanism.
- 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?

C.1. Supporting Framework - Strategic goals and specific objectives

The goals that should be formulated at the strategic level are **medium and long-term objectives**, which should be achieved within the next two to five years.⁹

Each strategic goal should have a clear reference to the background analysis and be formulated in accordance with the guiding principles.

Each strategic goal is further separable in two or more specific objectives.

 C.1. - C.4.

 B

The establishment of an enduring institutional framework allows full implementation, co-ordination and co-operation of the national anti-trafficking response.

According to the EU Communication "Fighting trafficking in human beings – an integrated approach and proposals for an action plan", adopted in October 2005, appropriate co-ordination and co-operation structures are essential elements of anti-trafficking strategies. These can differ from country to country as long as they ensure the achievement of the key objectives of an anti-trafficking policy, e.g. the proper identification and referral of victims of trafficking, the establishment of protection and support mechanisms, and the successful investigation and prosecution of trafficking.

It is essential to identify the main actors from governmental institutions, 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.



C.1.1. Co-ordination structures

WHAT shall be achieved?

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

- National Anti-trafficking Co-ordinator (NC)¹⁰ overall responsible for the design and implementation of the comprehensive national anti-trafficking response (i.e. national anti-trafficking strategy and NAP);

⁹ This is a period of estimation; some objectives such as socio-economic development might be achieved in a longer term

¹⁰ 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 effectively tackle trafficking at the national and regional level.

- National Working Group (NWG)¹¹ counting all the relevant bodies (e.g. governmental, non-governmental, international) responsible for the design, implementation and regular review of the national anti-trafficking strategies and NAPs;
- National Secretariat; and
- Thematic Working Groups (TWG) are subgroups of the NWG, responsible for the design, implementation and regular review of the national anti-trafficking strategies and NAP in their respective thematic areas.



WHO should be involved?

NC, National Secretariat, NWG and TWGs including governmental, non-governmental and international actors/bodies. At various levels, inter service co-operation among the different Ministries involved (such as Ministry of Interior, Ministry of Foreign Affairs, Ministry of Labour, Ministry of Social Welfare, Ministry of Public Health, Ministry of Justice, Ministry for Gender Equality/Ministry for Women, Ministry of Finance, Ministry of Education, Ministry of Youth and other relevant bodies for combating trafficking) as well as other actors such as the Public Prosecutors Office, Police Academy, Judicial Training Institute, labour market officials and institutions, workers and employers organisations, labour inspectors, trade unions, child agencies, national statistics and research institutions, domestic experts and NGOs.

C.1.2. Legal and regulatory framework

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



WHAT shall be achieved?

An appropriate legal and regulatory framework should encompass the criminalisation of trafficking, the provision of assistance, protection, privacy and confidentiality to victims of human trafficking, their protection, legal redress and compensation. Furthermore, the co-operation between State and non-State actors should also be regulated by the legislative framework..



E. National legislation should be harmonised according to international legal instruments.¹² 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.

¹¹ In the present document the term National Working Group is utilised to indicate the inter-ministerial body, which is in charge of co-ordination of the implementation of NAPs. This body is sometimes called differently in the countries e.g. National Committee, National Commission etc.

¹² For a complete list of sources please refer to Part E. of the Guidelines.

Legislative reform 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.

Furthermore, according to the UN Convention on the Rights of the Child, (1987) the registration at birth is of important significance for the effective access to the rights of the child. It is a tool to exercise basic social, economic, and later political rights. Right of education, cultural rights and the rights of minorities are additional basic rights of the child. Properly conducted registration is one of the preventive measures against trafficking of the children per se in particular in the areas where these standards are not yet in place or poorly conducted.¹³



WHO should be involved?

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 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.



C.1.3. 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 problems:

- A lack of common definitions among existing data sources, which in many countries leads to a mix of data related to trafficking, smuggling and irregular migration;
- A lack of data concerning forms of 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.



One step to overcome this lack of data is the harmonisation of 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.



C.1.5.

¹³ UN Convention on the Rights of the Child, Artt. 7-8, 1987



WHAT shall be achieved?

Data collection on 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).

Research should be based on the definition 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 trafficking giving due consideration to gender-related causes;
- Consequences for the individuals involved as well as for the countries concerned;¹⁴ and
- Outcomes of prosecutions of trafficking in persons, 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.

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. Furthermore, possible re-traumatisation through interviews with the victims needs to be considered and adequate services need to be provided.



WHO should be involved?

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.



D.1.4. C.1.4. 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

¹⁴ See Report of the Experts Group on Trafficking in Human Beings; EC, 22 December 2004.

should comprise detailed provisions for technical and financial assistance and indicate the high priority of anti-trafficking measures.

WHAT shall be achieved?



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
- Technical equipment.

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



WHO should be involved?



The NC should bear the overall responsibility for resource and budget mobilisation with the support of the national secretariat. All implementing agencies should inform the National Anti-trafficking Co-ordinator about their funding needs for the implementation of the activities foreseen in the NAP.

C.1.5. Review, monitoring and evaluation

WHAT shall be achieved?



Review, monitoring and evaluation of the national anti-trafficking strategy and the NAP are three important approaches to:

- Determine the success of the national anti-trafficking response; and
- Ensure the adaptation of the national anti-trafficking response to emerging trends.

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. Instead, one has to look at all elements, namely: activities, expected outputs, specific objectives and strategic goals.

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, goals are adjusted to reflect new requirements or changing situations.



C.1.3.

C.1.3.

1. **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.

H.

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.

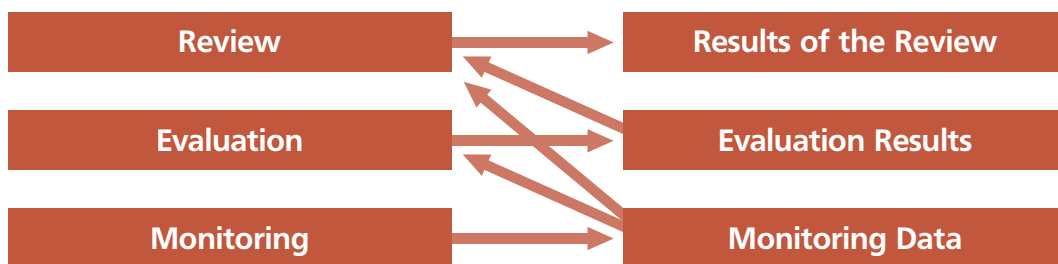
2. **Evaluation** is a systematic **collection and analysis of predefined information to make judgements**, improve programme effectiveness and/or generate knowledge to inform decisions about future programmes.

In the context of the national anti-trafficking response evaluation will mainly take place at the operational level with the aim to improve the implementation of projects and measures and to assess the achievement of the operational aims.

| Level | Element | Monitoring | Evaluation | Review |
|-------------------|---------------------|------------|------------|--------|
| Operational level | Activities | √ | √ | - |
| Operational level | Outputs | √ | √ | - |
| Operational level | Specific objectives | √ | √ | √ |
| Strategic level | 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.

Monitoring, evaluation and review are closely interconnected:



Thus, without monitoring data, an evaluation or a review cannot be conducted;¹⁵ and for a serious review, both evaluation results and monitoring data are needed.

¹⁵ This applies to goal or impact assessments. There are also other forms of evaluation, e.g. so-called formative evaluations, for which qualitative data can be used.



Who should be involved?

The NWG should draft and agree upon a "Plan for Review, Monitoring and Evaluation", including specific ToR for monitoring, evaluation and review that will define which actors should be involved.

Review

- The NC should bear the overall responsibility for the review.
- The NWG should draft the "Plan for Review, Monitoring and Evaluation", including the ToR for the review.
- 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.
- 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 NWG.

Monitoring

Strategic level:

- Monitoring 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.



C.1.3.

Operational level:


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

Evaluation

- If funds are available, evaluation should be conducted by an external evaluator in order to gain an outside perspective.
- If 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.

Both forms of evaluation should use participatory approaches to involve the main stakeholders.

D.2. **C.2. Prevention¹⁶ – Strategic Goals and Specific Objectives**

 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.

Preventive strategies 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-balanced standpoint 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, minorities and children (female and male); and
- in the country of transit and destination with special emphasis on the demand side.

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

Preventive actions should include:

- Awareness raising;
- Education;
- Reduction of vulnerability; and
- Administrative controls.

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.

D.2.1. **C.2.1. Awareness Raising and Education**

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.

WHAT shall be achieved?

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;

¹⁶ Refer to Chapter II – Prevention, co-operation and other measures, Council of Europe Convention on Action against Trafficking in Human Beings, 2005.

- Gender differences in the trafficking process (focusing on combating trafficking for sexual exploitation, forced labour, etc.);
- Elements on how to identify of 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 mentally handicapped people, unemployed, refugees, asylum-seekers and prostitutes). 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 kids;
- 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.



Who should be involved?

NGOs (e.g. grass-root NGOs); governmental organisations (e.g. Ministry of Education, Ministry of Foreign Affairs, Ministry of Interior, Ministry of Health, Ministry of Equal Opportunities, Ministry for Gender Equality, Ministry of Welfare and Ministry of Labour), 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.



C.2.2. Reduction of vulnerability

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.



WHAT shall be achieved?

Strategies for an effective prevention of trafficking include actions which address the root causes and selected problem areas such as:



- **Socio-economic factors.** 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 pro-

grammes should address these push factors, as well as the pull factor of demand, as root causes of trafficking. The knowledge base 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 opportunities for them as well as programmes for reduction of violence against women. Anti-trafficking measures should be integrated into national action plans on gender equality.
- **Legal 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.



Who should be involved?

Governmental structures, NGOs, financial institutions, ILO, IOM, UNDP and labour organisations within the country.



D.2.3. C.2.3. Administrative controls¹⁷

Administrative controls should be part of a comprehensive national anti-trafficking response and regulate and monitor procedures, practices and agencies that may have an influence on the increase of trafficking in persons.

¹⁷ The Brussels Declaration on Preventing and Combating Trafficking in Human Beings, which was adopted following the European conference on "Preventing and Combating Trafficking in Human Beings – Global Challenge for the 21st Century" on 18-20 September 2002, includes a set of recommendations to use specific administrative controls to combat trafficking in human beings

WHAT shall be achieved?



Administrative controls should include wide scale multidisciplinary enforceable measures to be implemented in co-operation with different actors at the in-land, pre-border and border control levels and be in line with human and fundamental rights of persons, including freedom of movement.

Administrative controls should support anti-trafficking measures in all fields of prevention, protection and prosecution. These measures should:

- Increase the ability of detecting potential cases of human trafficking at the pre-border (consular) level;
- Boost the identification of victims and perpetrators at the border level;
- Ensure implementation of inland controls such as the enforcement of existing national labour market standards.

Who should be involved?



State authorities (countries of origin, destination and transit), labour inspectors, NGOs, embassies, consular offices, police, border police, private agencies (e.g. bridal, travel), private employment agencies and trade unions. All state authorities should be gender balanced and gender sensitive.



D.3.

C.3. Support and Protection of Victims and Victim-Witnesses¹⁸ – Strategic Goals and Specific Objectives



At its core, anti-trafficking strategies 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.

Support and Protection measures should comprise:

- Victim identification systems;
- Reflection/recovery period and residence status;
- Social support and protection to all victims of trafficking (concerning both basic and specific needs of the victim) including access to the labour market and to education;
- Access to civil procedure and compensation (either through civil proceedings or through victim compensation funds), witness protection and judicial treatment of victim/witnesses; and
- Return, (re)integration and social inclusion.

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 and victim-centred 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 and social inclusion of the victims in a destination, origin or third country.

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-based 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.

¹⁸ Refer to Chapter III – Measures to protect and promote the rights of victims, guaranteeing gender equality, Council of Europe Convention on Action against Trafficking in Human Beings, 2005.

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.

 C.1.5.
D.1.5.

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

 C.1.

- 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);
- Training and capacity building of all actors involved in the implementation of this victim support and protection system, or referral system; and
- Monitoring, evaluation and review of the system.

The victim support and protection measures outlined above refer to the concept of national referral mechanisms (NRMs) as defined by the OSCE/ODHIR Handbook¹⁹. The NRMs are currently being developed in most of the SEE countries.

C.3.1. Victim identification

 D.3.1.

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.


There should be also a system in place that enables rash identification of traffickers.

The measures should consider that victims of trafficking have problems related to their identification. Therefore sophisticated means for identification, including a non-exhaustive list of 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.²⁰

¹⁹ National referral mechanisms: joining efforts to protect the rights of trafficked persons. A practical handbook; OSCE/ODIHR, 2004.

²⁰ UNICEF, Guidelines for protection of the rights of children victims of trafficking in Southeastern Europe, May 2003, p. 5.

 I. Victims of trafficking should not be treated as criminals or illegal migrants. Particular attention needs to be given to the rights of victims of trafficking as victims of crime.

 **WHAT shall be achieved?**

 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 and other 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;
- 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.

 **Who should be involved?**

Front-line police, border officials, specialised police, prosecutors, social workers, governmental institutions, NC, NWG, 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, the public at large and judges in order to better understand the identification process.

 D.3.2. **C.3.2. Reflection/recovery period and residence status**²¹

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.

 **WHAT shall be achieved?**

During the recovery period, a victim should have 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.).

²¹ Refer to Articles 13 and 14, Council of Europe Convention on Action against Trafficking in Human Beings, 2005.

Victims should be entitled to a reflection period of at least 30 days and up to three months during which they can stabilise and re-orientate themselves.



A reflection period has a twofold aspect:

- To raise the victims' confidence in the state and its ability to protect their interests by offering them the possibility to begin to recover and to take an informed decision about:
 - Whether to assist in criminal proceedings;
 - To pursue legal proceedings for compensation claims;
 - To enter a social protection programme; and
 - To opt for immediate return home.
- To enable the authorities to identify victims of trafficking including determining whether or not the person is in fact a victim of trafficking.

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

If the victim decides to be a witness in the criminal case the temporary residence permit should last until the end of the proceedings. 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.

Who should be involved?



Law- and policy makers, Ministry of Foreign Affairs, Ministry of Interior, other governmental institutions, NGOs, child care services and education training institutions.

C.3.3. Social support and protection of victims²²



Social support, assistance and protection of all victims of trafficking, irrespective of their willingness to co-operate with the authorities in criminal proceedings, are the central pillars of a human rights-based national anti-trafficking strategy. In addition to fulfilling the states' human rights obligations and preventing the re-victimisation of victims of trafficking by the state authorities, the risk of re-trafficking of the victim is also minimised.

WHAT shall be achieved?



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 phys-

²² Article 12, Council of Europe Convention on Action against Trafficking in Human Beings, 2005.

ical 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 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.²³ The victims must be seen as bearers of rights; thus, the support provided to them must aim at their empowerment.

Furthermore, 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.



Who should be involved?

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



D.3.4. C.3.4. Access to civil procedures, witness protection and judicial treatment²⁴

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.



D.3.4. Support and assistance to the victims should be provided before; during and after criminal proceedings 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.
C.3.5.



WHAT shall be achieved?

In line with EU norms, rights of victims include "the right to be treated with respect for their dignity, the right to provide and receive information, the right to understand and be understood, the right to be protected at various stages of the procedure and the right to have allowance made for the disadvantage of living in a different member state from the one in which the crime was committed."²⁵

²³ See Report of the Experts Group on Trafficking in Human Beings; EC, 22 December 2004, p. 93.

²⁴ Refer to Chapter 5, Investigation, prosecution and procedural law, Council of Europe Convention on Action against Trafficking in Human Beings, 2005.

²⁵ EU Council Framework Decision of 15 March 2001 on the Standing of Victims in Criminal Proceedings.

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.



Who should be involved?

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



C.3.5 (Re)-integration, social inclusion, return²⁶



Victims of trafficking run a considerable risk not only to be re-victimised but also to be re-trafficked. Hence, trafficking does not end with 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.

WHAT shall be achieved?



States should establish appropriate and preferably voluntary repatriation procedures as well as reintegration programmes, offering long-term assistance to the victims of trafficking. This should:

- Ensure the safety of the victim of trafficking;
- Establish close partnership with NGOs and IOs to secure a safe return; and
- Make accessible return and reintegration measures independent of the victim's capacity and willingness to cooperate as a witness.

If the return to the country of origin is not possible or feasible, alternative solutions should be sought, either to support the resettlement to a third country or the social inclusion in the country of residence.



States should also promote the reintegration or social inclusion for all victims of trafficking (trafficked at the national and translational level).

Who should be involved?

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



²⁶ Article 16 – Repatriation and return of victims, Council of Europe Convention on Action against Trafficking in Human Beings, 2005.



D.4.

C.4. Investigation and Prosecution of Trafficking²⁷ – Strategic Goals and Specific Objectives

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.

Prosecution measures must be gender responsive and human rights oriented and should cover the following:

- Proactive and reactive investigation;
- International law enforcement and judicial co-operation;
- Prosecution and conviction of offenders;
- Legal redress and compensation for victims;
- Police and judicial treatment of victims and victim-witnesses;
- Witness-victim protection; and
- Anti-corruption measures.



The first step to successful investigations and prosecutions of trafficking cases is the identification of victims of trafficking.



D.4.1.

C.4.1. Balance of proactive and reactive investigation²⁸

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.



WHAT shall be achieved?

- 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.

²⁷ Refer to Chapter 5, Investigation, prosecution and procedural law, Council of Europe Convention on Action against Trafficking in Human Beings, 2005.

²⁸ For a complete analysis of proactive and reactive investigation refer to the training manual "Law Enforcement Manual for Combating Trafficking of Human Beings", ICMPPD and UNDP, 2006.

- 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.

Who should be involved?

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.



C.4.2. International law enforcement and judicial co-operation

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.



D.4.2.

WHAT shall be achieved?

- Co-operation in investigations and prosecutions with the neighbouring countries and international law enforcement agencies such as INTERPOL, EUROPOL, EUROJUST and SECI 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.



Who should be involved?

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



C.4.3. Prosecution and Conviction of Offenders

Very often domestic laws link the admissibility of instruments of law enforcement, in both national and trans-national 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.²⁹



D.4.3.

²⁹ Reference Guide for Anti-Trafficking Legislative Review with Particular Emphasis on South Eastern Europe, OSCE/ODHIR Warsaw 2001.

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



WHAT shall be achieved?

The crime of trafficking in human beings should be clearly and comprehensively defined in a state's criminal 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.

In the absence of specific legislation on trafficking, all existing legal provisions (e.g. slavery, pimping) should be used in order to convict the offenders.

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



Who should be involved?

Legislators, judges and prosecutors, law enforcement and lawyers.



D.4.4. C.4.4. Legal redress and compensation for victims

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.



WHAT shall be achieved?

According to the European Council Framework Decision of 15 of March 2001 on the standing of victims in criminal proceedings, "[v]ictims' needs should be considered and addressed in a comprehensive, coordinated manner, avoiding partial or inconsistent solutions which may give rise to secondary victimisation".

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, in seeking compensation or from punitive damages from traffickers through civil action.

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.

Who should be involved?

Legislators, criminal court judges, prosecutors, civil and labour court judges and lawyers.



C.4.5. Police and judicial treatment of victims/witnesses

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.



D.4.5.

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



WHAT shall be achieved?

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.



C.3.

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.

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.³⁰



³⁰ UN Commission on Crime Prevention and Criminal Justice: Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, May 2005.



Who should be involved?

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



D.4.6. C.4.6. Anti-corruption measures

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.



WHAT shall be achieved?

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.



Who should be involved?

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



D

**Operational Level
(National Action Plan)**

D. Operational Level (National Action Plan)

The National Action Plan (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 in the field of:

- Supporting Framework
- Prevention
- Support and Protection of Victims and Victim-Witnesses
- Investigation and Prosecution of Trafficking

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

D.1. Supporting Framework

C.1.1. D.1.1. Co-ordination structures ³¹

In line with the strategic objectives identified for the coordination structures the following standards should be considered while identifying activities:

HOW should it be implemented?

I. National Anti-trafficking Co-ordinator (NC):

- The government should nominate a NC 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 NC should be drafted;
- According to the ToRs, the NC should have the overall responsibility for the national anti-trafficking response. The NC 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 NC should have limited other responsibilities exceeding the anti-trafficking co-ordination in order to duly fulfil his/her tasks;
- The NC should co-ordinate all activities within the country by assuring local and regional as well as international co-operation, including data collection;
- The NC should have knowledge about the trafficking situation in the respective country;
- The government and/or the NC should furthermore create ToR for the role, responsibilities and functioning of the:
 - a) National Secretariat (see below II)
 - b) National Working Group (NWG) (see below III)
 - c) Thematic Working Groups (TWGs) (see below IV)
- 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 actors involved in the national anti-trafficking response should be formalised and made effective (e.g. through governmental agreements or specific guidelines); and

³¹ In some countries, National Anti-trafficking Co-ordination role is split between the President (a high political person) and the Co-ordinator (a senior official within a Ministry) in charge with of co-ordinating the implementation of the anti-trafficking activities. The term National Working Group is utilised to indicate the inter-ministerial body, which is in charge of co-ordination of the implementation of NAPs. This body is called differently in SEE region e.g. National Committee, National Commission etc. The National Secretariat in this document refers to the office of the NC and his/her staff that provides support to the NC for the co-ordination of all anti-trafficking activities.

- The NC shall:
 - Be responsible for reporting back to the government and the parliament;
 - Liaise with external partners, agencies and donors and organise meetings on a regular basis;
 - Be responsible for 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 NWG and ensure regular meetings of NWG; and
 - Ensure political support from all Ministries and agencies concerned in order to support the focal points of the NWG.

In all these activities the NC shall be supported by the National Secretariat.



II. National Secretariat (Office of the NC):

An office shall be created that serves as the secretariat for the NC Office and provides support to the NC for the co-ordination of all the anti-trafficking activities.

At least one full time employee should work in the secretariat solely on trafficking issues in order to provide administrative and logistical support for the work of the NC and to serve as a focal point. Ideally, more persons, if needed, should also work for the Secretariat as advisors to the NC as well as driving forces for the implementation of the national anti-trafficking response.

Headed by the NC, the Secretariat should:

- Regularly liaise with the members of the NWG 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;
- Preferably 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 NC in all matters, as necessary.

III. National Working Group (NWG):

A NWG 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 NC.

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

at the governmental level: ³²

- Ministry of Interior;
- Ministry of Foreign Affairs;
- Ministry of Labour;
- Ministry of Social Welfare;
- Ministry for Gender Equality/Ministry for Women;
- Ministry of Public Health;
- Ministry of Justice;
- Ministry of Finance;
- Ministry of Youth; and
- Ministry of Education.

Other actors:

- Public prosecutors offices;
- Police institutions; and
- Judicial training institute.

Labour officials and institutions:

- Workers and employers' organisations;
- Labour inspectors;
- National statistics and research institutions; and
- Child agencies.

NGOs/IOs working in the anti-trafficking field (see below):

- Social partners; and
- IOs (see below).



All representatives of the NWG should act as representatives of their respective Ministry/agency and should:

- Have the authority to take decisions and have voting rights during the adoption of NWG decisions;
- Liaise between the NWG and its agencies and ensure information flow;
- Co-ordinate the input of her/his Ministry/agency; and
- Be available with regard to terms of time and capacity.³³

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

The NWG should be involved in the development and implementation of the national anti-trafficking strategy and the NAP and their regular monitoring, evaluation and

³² This list is not exhaustive and has to be adapted to the Governmental structure in each country.

³³ OSCE Mission to Bosnia and Herzegovina, "Overview of six Institutional Anti-Trafficking Frameworks currently existing in selected South Eastern European countries", May 2004.

review. The NWG should have a clear mandate and be accountable according to agreed TOR.

IV. Thematic Working Groups (TWGs):

TWGs should be constituted as subgroups of the NWG 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 "3Ps" division 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 have a gender advisor in charge of gender mainstreaming relating to planned and specific actions and activities.

Furthermore a TWG should be created dealing with trafficking in children. This working group should have the capability to obtain additional funding from the relevant Ministries responsible for child protection and should refer to the UNICEF guidelines on Protection of Child Victims of Trafficking.³⁴

Each TWG should appoint a Chair with the role of co-ordinator.

Representatives of the TWG should:

- Have the authority to make decisions;
- Be flexible to pursue projects without political constraints;
- Be available with regard to terms of time and capacity;
- Act on behalf of the NWG in their respective substance area;
- Have a clear mandate and be accountable according to the TOR; and
- The working group on children should have the authority and capacity to produce a separate NAP on trafficking in children that shall be endorsed by the NC, 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.

Role of the NGOs:

- Civil society participation in the co-ordination structure should be compulsory, taking into consideration the crucial role played by NGOs especially in the areas of prevention and victim assistance;
- NGOs should be represented in the NWG and it should be mandatory to include NGOs representatives in each TWG. In this framework NGOs must

³³ UNICEF guidelines on Protection of Child Victims of Trafficking in Southeastern Europe, May 2003.

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 NWG by signing formal co-operation agreements such as a MoU, which should clearly set out the specific responsibilities of each actor and as well as the distinction of tasks.³⁵

Role of the IOs:

- IOs and inter-governmental organisations active in the country should 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;
- IOs should 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;
- IOs should participate in the NWGs as "observers" in order to advise the NC and the NWG upon request;
- IOs should provide support for NGOs networking and active participation within the co-ordination structure; and
- IOs should also provide support to governmental structures and social partners in order to ensure sustainability of anti-trafficking initiatives.



Creation of a National Referral Mechanism ³⁶

- 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. 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 setting up such a national referral mechanism at the operational level, as well as monitoring, evaluating and regularly reviewing its work with a view to optimising the process.



C.3.

³⁵ For a comprehensive information on co-operation agreements please refer to "National Referral Mechanisms – A Practical Handbook", OSCE Office of Democratic Institutions and Human rights (ODIHR), 2004.

³⁶ The concept of National Referral Mechanism (NRM) was developed by the OSCE Office of Democratic Institutions and Human Rights (ODIHR) and is defined as "a co-operative framework through which state actors fulfil their obligations to protect and promote the human rights of trafficked persons, co-coordinating their efforts in a strategic partnership with civil society. The basic aims of an NRM are to ensure that the human rights of trafficked persons are respected and to provide an effective way to refer victims of trafficking to services. In addition, NRMs can work to help improve national policy and procedures on a broad range of victim-related issues...". National Referral Mechanisms – A Practical Handbook, OSCE Office of Democratic Institutions and Human rights (ODIHR), 2004.

D.1.2. Legal and regulatory framework

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

HOW should it be implemented?



- The country should ratify human rights instruments and incorporate them into national law;
- Trafficking in human beings 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 persons, not only reflected in the definition but also in practice;
- All practices related to trafficking such as debt bondage, forced labour and forced prostitution should also be criminalised; and
- Special provisions for child trafficking should be applied.³⁷

With regard to co-ordination and co-operation:

The anti-trafficking co-ordination structure, including appointment of a NC and a NWG, as well as their tasks including co-operation between state actors and NGOs in the framework of a National Referral Mechanisms, 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;
- Recognition of model employment contracts and their enforcement in destination country courts, even for workers with irregular status;
- Non-discriminatory, gender-sensitive border control measures related to trafficking; and
- 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.

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

- Ensure identification of victims (e.g. in the form of circulars or directives for law enforcement personnel and/or prosecutors, and formal co-operation agreements with NGOs);³⁸

³⁷ 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.

³⁸ For more information please refer to the manual of Antislavery International on identification of trafficked persons in practice: "Protocol for Identification and Assistance to Trafficked in Persons and Training Kit", 2005.

- Measures to ensure access to civil procedures;
- Protection of the privacy of the victims;
- Gender sensitive victim and victim-witness protection programmes;
- Physical, psychological and medical assistance to the victim, including the right to safety; the assistance should be provided by assistants of the same sex as the victim;
- Free legal counselling to the victim including interpretation services and cultural mediation;
- 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.



D.4.3. As far as prosecution is concerned the following should be addressed (cross ref D.4.3.)

- Criminalisation of trafficking in all its forms, for all kinds of exploitation and regarding all types of victims;
- Non-punishment/impunity of victims;³⁹
- Appropriate sanctions to the crime of trafficking;⁴⁰
- Mutual legal assistance;
- Compensation for the victims (provided directly to the victim);
- 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.⁴¹

D.1.3. Information management and research

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

³⁹ Article 26 Council of Europe Convention on Action against Trafficking in Human Beings, 2005.

⁴⁰ The Council Framework Decision of 19 July 2002 on combating trafficking in human beings (2002/629/JHA) suggests in Article. 3 on penalties that states should ensure that trafficking is punishable by effective, proportionate and dissuasive criminal penalties, which may entail extradition with a maximum penalty that is not less than eight years where it has been committed in certain circumstances.

⁴¹ For an exhaustive assessment of the Legal Framework, please refer to "National Referral Mechanisms – A Practical Handbook", OSCE Office of Democratic Institutions and Human rights (ODIHR), 2004, pp 39-42.



C.1.5.
D.1.5.

HOW should it be implemented?

- Management and collection of data should be conducted by a central national institution. Ideally this institution should be independent and should not have an executive, operational or policy-co-ordinating task, like a national rapporteur. In order to guarantee optimal access to all relevant sources of information, the institution should possess an official mandate to collect information. It is advisable that this institution is also responsible for monitoring;⁴²
- 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;
- 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 NC and NWG 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 NC secretariat. 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;
- Information management should be conducted by a central institution (see above). It should ensure regular exchange of non-personalised data between all actors involved in the national anti-trafficking response, by means of dissemination of annual monitoring reports, research results and installation of a website. There should be adequate protection of personal data. The transmission of personal data between state agencies or between state offices and NGOs, should only be cleared when it does not violate any of the affected person's rights to protection, especially where the affected person is prejudiced by its transmission. This is particularly important for the sharing of data with immigration services that are collected by either state agencies or NGOs. Sharing data with immigration authorities may decrease the likelihood of victims interacting with state agencies due to a fear of deportation.
- Apart from general data protection regulations, the following measures should be implemented for the protection of personal data:⁴³
 - **Restricted notices.** The practice of 'restricted notices' protects endangered victims of trafficking. It entails that inside state authorities, the data

⁴² Report of the Experts Group on Trafficking in Human Beings; EC, 22 December 2004. p. 118.

⁴³ See Report of the Experts Group on Trafficking in Human Beings; EC, 22 December 2004.

of the endangered person are used but marked only with an anonymous number, the identity of which is known only to a specialist official who treats it as classified information. Where applications are made by external third parties or other authorities, the specialist officer informs the relevant police or witness protection office. They will then examine the compatibility of the application with the interest of protecting the endangered person.

- **Duty of confidentiality.** There is a duty of confidentiality for people who have access to personal data in the course of their work (e.g. individuals working in state authorities).
- **Regulations concerning the transmission of data between criminal prosecution 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 immigration authorities.

C.1.4. **D.1.4. Resource and budget mobilisation**

In line with the strategic objectives identified for resource and budget mobilisation the following standards should be considered while identifying activities:

HOW should it be organised?

D.1.1.

- **Draft of 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 of a national anti-trafficking resource plan**
Based on these budgets the national secretariat 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.
- **Contact with possible donors and sponsors**
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 NC should bear the overall responsibility for resource and budget mobilisation and should:

- provide an overview of the national anti-trafficking resource plan;
- 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 national secretariat should support the NC 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;
- 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 National Secretariat about their funding requirements; and
- seek donors and/or sponsors for their activities.

D.1.5. Review, monitoring and evaluation

In line with the strategic objectives identified for review, monitoring and evaluation the following should be considered:

HOW should it be implemented?



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 NWG).

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.'

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.



C.1.3.
D.1.3.

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

- Statistical data on the country context, e.g. data on the economical, 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.



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

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 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.

Review of the national anti-trafficking response 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? And
- 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.

D.2. Prevention

C.2.1. D.2.1. Awareness raising and education

In line with the strategic objectives identified for awareness raising and education the following standards should be considered while identifying activities:

HOW should it be implemented?

Activities related to migration processes:

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

Activities related to media:

- Media campaigns for awareness raising for the general public (TV, radio and the press), 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 particularly aimed at risk groups (leaflets, brochures, posters, etc.);
- Information campaigns 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 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 addressing the demand side, regarding both sexual and labour exploitation;
- Specific campaigns 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; and



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 mainstreamed and included into regular school and university curricula.
- Specific campaigns targeting youth and children and students as an essential part of their education.



D.2.2. Reduction of vulnerability



In line with the strategic objectives identified for reduction of vulnerability the following standards should be considered while identifying activities:

HOW should it be implemented?



- Developing and strengthening of economic empowerment and employment programmes by ensuring adequate access to the labour market and providing vocational training;
- 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 geographic 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 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;
- Mainstreaming of anti-trafficking issues in other national policies (e.g. employment strategies); and
- Providing community-based responses.

C.2.3. D.2.3. Administrative controls⁴⁴

In line with the strategic objectives identified for administrative controls the following standards should be considered while identifying activities:

HOW should it be implemented?

1. At the inland control level, the following activities should be foreseen:
 - Licensing and monitoring systems should be in place. 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).⁴⁵ 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. A code of conduct to self-regulate a private employment agency should include:
 - Minimum standards for the professionalisation 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;

⁴⁴ The Brussels Declaration on Preventing and Combating Trafficking in Human Beings, which was adopted following the European conference on "Preventing and Combating Trafficking in Human Beings – Global Challenge for the 21st Century" on 18-20 September 2002, includes a set of recommendations to use specific administrative controls to combat trafficking in human beings.

⁴⁵ Refer to the ILO Private Employment Agencies Convention, C181, 1997.

- Private agents 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;
- Migrant workers should be informed, as far as possible in their native language or in a language with which they are familiar, of the terms and conditions of employment;
- Refraining from bidding down wages of migrant workers;
- Maintaining 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;
- In destination countries, ensuring 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;
- States should monitor and regulate employment relationships in formal and informal economic sectors;
- Enforcement of existing legal standards;
- The private sector should be encouraged to collaborate with the police as well as be encouraged to introduce self-regulating schemes (e.g. development of code of conducts) that should be designed and implemented in conjunction with specialised personnel in state labour inspectorates, work police and the Labour Ministry;
- 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;
- The agencies and actors involved shall share intelligence, 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;
- Multi-agency groups shall identify victims of trafficking and collect intelligence, which can be used for large-scale investigation;
- Multi-agency groups shall collect intelligence and identify crime and collect intelligence on perpetrators;
- 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;

- 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; and
 - Introduction and expansion of transparent labour admission systems and establishment of multi-agency and international enforcement mechanisms by destination countries. Intensified efforts shall be taken to ensure that international labour standards are applied and enforced in countries of origin and destination countries as well as by ensuring access to complaint mechanisms and equality of treatment between migrant workers and nationals.
2. At a pre-border consular level, the following activities should be foreseen:
- Regulation of the visa issuing procedure;
 - States 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;
 - States shall intensify consular co-operation in countries of origin with a view to better detecting potential cases of human trafficking and strengthening the network of liaison officers; and
 - In countries of destination, states shall enhance the ability of consular staff to protect their migrant workers abroad (e.g. through labour attaches, outreach programs and sensitisation campaigns for migrants).
3. At the border, the following activities should be foreseen:
- Improvement of the effectiveness of anti-trafficking measures at borders through border guard and customs officials;
 - Profiling of traffickers;
 - Border guards should dispense leaflets with pan-European hotline numbers to all passengers, including potential victims of trafficking;
 - Special focus on "unaccompanied minors" and children travelling without their family. The obligatory possession of a proper passport/travel document for children of all ages should be required. 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 NWG and TWGs.



D.3. Support and Protection of Victims and Victim-Witnesses⁴⁶

 C.3.1.

D.3.1. Victim identification

In line with the strategic objectives identified for victim identification the following standards should be considered while identifying activities:



HOW should it be implemented?

- Identification and classification of possible actors involved in the identification process;
- Development of a non-exhaustive list of indicators for the identification of victims of trafficking;
- Development of methods for establishing contact with victims of trafficking through:
 - NGOs and trade unions through outreach work; Drop-in centres; and
 - Hotlines for victims and nation-wide advertisements to get 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 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 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 proper 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 cards 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.

 D.2.1.

 D.2.3.

 D.2.1.

 D.2.3.

⁴⁶ Refer to Chapter III – Measures to protect and promote the rights of victims, guaranteeing gender equality, Council of Europe Convention on Action against Trafficking in Human Beings, 2005 and the European Council Directive 2004/81/EC on the residence permit for victims of trafficking.

C.3.2. **D.3.2. Reflection/recovery period and residence status**

In line with the strategic objectives identified for reflection/recovery period and residence status the following standards should be considered while identifying activities:

HOW should it be implemented?

The following measures should be considered:

- 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;
- Granting a reflection period of up to 3 months, which should include the obligation to refer 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.

C.3.3. **D.3.3. Social support and protection of victims**

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

HOW should it be implemented?

The following measures should be undertaken:

- Provide safe and adequate shelters or other forms of accommodation for the victims and establish appropriate code of conduct for the management of these shelters (e.g. via MoUs);
- 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 providing free legal counselling (e.g. establishment of nation wide 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.⁴⁶



D.3.4. Access to civil procedures, witness protection and judicial treatment



C.3.4.
D.4.4.

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

HOW should it be implemented?



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.

⁴⁶ See UNICEF guidelines for the Protection of Child Victims of Trafficking

The co-operation concept should include agreements on and provisions for at least the following aspects of victim-witness treatment: ⁴⁸

- 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.).

C.3.5. D.3.5. (Re)-integration, social inclusion, return

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

HOW should it be implemented?

- 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 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

⁴⁸ 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.

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 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.

For children:



- States are especially obliged to ensure that return of a child is conducted in accordance with international standards regarding passage of unaccompanied minors etc⁴⁹ and not against the child's best interest;
- 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 danger⁵⁰;
- 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 guardian⁵¹; and
- Special policies and programmes for children shall be developed to minimise the danger that children end up again in the hands of the traffickers.

⁴⁹ Refer to the UNICEF guidelines for the Protection of Child Victims of Trafficking, the 1997 EC Resolution concerning UAMs and the UNHCR Guidelines on Policies and Procedures in dealing with Unaccompanied Children Seeking Asylum, February 1997, for further information. UNICEF Guidelines, Supra 34.

⁵⁰ UNICEF Guidelines, Supra 34. for the Protection of Child Victims of Trafficking, the 1997 EC Resolution concerning UAMs.


⁵¹ Idem.

D.4. Investigation and Prosecution of Trafficking⁵²

C.4.1. D.4.1. Balance of proactive and reactive investigation⁵³

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

HOW should it be implemented?

- 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;
 - Offer law enforcement training, which is human rights-based and follows a "victim-first" approach at three main police levels:
 1. At the generalist level, training should be directed to all non-specialised police officers, aimed at raising awareness on trafficking in human beings 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;
 2. At the specialist level, targeting specialised police and investigators who hold specific responsibility for dealing with the crime of trafficking in human beings and focusing on victim-sensitive investigation methods;
 3. Other organised crime teams that might be involved in intelligence gathering related to trafficking in human beings.
 - 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;
-  C.2.3. ● 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;

⁵² In South-Eastern Europe the judicial systems differ, therefore in this chapter the terms judges and prosecutors will be used, acknowledging that in some countries the 'investigative judges' play a very important role in the detection of trafficking cases.

⁵³ For a complete analysis of proactive and reactive investigation please refer to the training manual "Regional Standard for Anti-trafficking Police Training in SEE", for non-specialist police, ICMPD, 2003 and "Best Practice Law Enforcement Manual for Fighting against Trafficking of Human Beings", for specialist officers, UNDP, 2003. Both manuals were endorsed as regional standard for a comprehensive law enforcement training strategy in SEE in December 2003 in Vienna.

- 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.⁵⁴

D.4.2. International law enforcement and judicial co-operation



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

HOW should it be implemented?



- 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 such as SECI, 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
- Sharing of data; 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 directives and/or with consent of the person affected.⁵⁵ 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

⁵⁴ For sample indicators for the identification of trafficking for forced labour/domestic servitude and sexual exploitation and the identification of trafficked children, see Anti-Trafficking Modules for Judges and Prosecutors in EU Member States, Accession and Candidate Countries, Chapter 5.3, ICMPD 2006.

⁵⁵ See. Article 7 EU Data Protection Directive

- Ensure that personal data should only be collected, used and exchanged on a need basis.

C.4.3. D.1.2. **D.4.3. Prosecution and conviction of offenders**

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

HOW should it be implemented?

- 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 trafficking in human beings⁵⁶;
- Criminalise the attempt of trafficking in persons. Consider that the crime of trafficking according to Article 3 of the Trafficking Protocol is completed at a very early stage, even if exploitation did not take place.⁵⁷ Furthermore, trafficking 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;

⁵⁶ The Council Framework Decision of 19 July 2002 on combating trafficking in human beings (2002/629/JHA) suggests in Article 3 on penalties that states should ensure that trafficking is punishable by effective, proportionate and dissuasive criminal penalties, which may entail extradition with a maximum penalty that is not less than eight years where it has been committed in certain circumstances.

⁵⁷ See: UN Legislative Guide for the Implementation of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the UN Convention against Trans-national Organized Crime.

- Torture, cruel, and inhuman or degrading treatment;
- Rape, sexual and other forms of assault, battery, homicide and kidnapping⁵⁸; and
- Withholding the victim's passport or identity documents.
- Establish mechanisms for the collection of judicial data on trafficking cases and trafficking-related offences;
- Apply additional penalties to those who are found guilty of trafficking 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
 - Deliberate negligence by state officials (e.g. the border guard that turns a blind eye to the traffickers passing the border)⁵⁹.
- 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 Trans-national Organised Crime);
- National legislation should consider the link between trafficking in human beings, 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 SECI, 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.

 D.4.4.

 D.4.2.

D.4.4. Legal redress and compensation for victims

 C.5.4.
C.6.4.

In line with the strategic objectives identified for legal redress and compensation for victims the following standards should be considered while identifying activities:

HOW should it be implemented?



- 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

⁵⁸ "Reference Guide for Anti-trafficking Legislative Review", OSCE/ODIHR, 2001, p. 48

⁵⁹ "Reference Guide for Anti-trafficking Legislative Review", OSCE/ODIHR, 2001, p. 46.

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. (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.

C.6.5. D.4.5. Police and judicial treatment of victims/witnesses

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

HOW should it be implemented?

- Provide specific 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 video-conferencing, audio-visual recording or other protected means to avoid direct communication between the defendant and the victim or witness;

- 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 throughout the hearings;
- Grant temporary residence permits to victims and victim-witnesses during legal proceedings;
- Create a 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;
- 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 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;
- 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 Secretariat of the office of the NC.

D.4.6. Anti-corruption measures

In line with the strategic objectives identified for anti-corruption measures the following standards should be considered while identifying activities:

HOW should it be implemented?

- 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;
- 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.



E

References

E. References

This section refers to legally binding international standards, political commitments, policy documents and relevant anti-trafficking literature that can be of assistance to anti-trafficking actors while designing the national anti-trafficking response.

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F

Model Strategy

F. Model Strategy



The sample model strategy presented below corresponds to the four components of the national anti-trafficking response as outlined in section C of the Guidelines, namely:

1. Supporting Framework
- 2.. Prevention
3. Support and Protection of Victims and Victim-Witnesses
4. Investigation and Prosecution of Trafficking

For each component, strategic goals and specific objectives as well as indicators are identified.

1. Supporting Framework

| | Depends on | Goals and Specific objectives | Indicators |
|---|------------|--|--|
| Strategic Goal 1.1. Co-ordination structures | | To improve the co-ordination of all counter-trafficking measures and the effective co-operation between all actors involved in the fight against trafficking in human beings in the country | Perceived effectiveness of co-operation according to all actors involved. Satisfaction with co-ordination of all actors involved. |
| Specific objective (a) | | To ensure a continuous overview of all actors involved in the fight against trafficking in human beings in the country and of the projects/ measures implemented. | Regularly updated roster of NGOs working in the field of anti-trafficking. Regularly updated roster of governmental institutions working in the field of anti-trafficking. Regularly updated roster of IOs working in the field of anti-trafficking in the country. Regularly updated list of projects/ measures implemented in the field of anti-trafficking. MoU between different actors. |

| Depends on | Goals and Specific objectives | Indicators |
|---|---|--|
| <p>Specific objective (b)</p> | <p>To establish a national co-ordination structure consisting of a NC as well as a NWG and TWGs which include representatives of NGOs.</p> | <p>Existence of a NC. Existence of a NWG. Existence of TWGs. Per cent of NGOs in the NWGs and TWGs. Number of meetings of NWG and TWGs.</p> |
| <p>Specific objective (c)</p> | <p>To ensure that the division of tasks, roles and responsibilities are clearly understood and agreed upon by all actors involved.</p> | <p>ToR for the NC. ToR for the NWG. ToR for the TWGs.</p> |
| <p>Specific objective (d)</p> | <p>To establish appropriate, officially binding mechanisms designed to formalise the co-operation between state and non-state actors involved in victim assistance and investigative and crime-prosecution efforts.</p> | <p>MoU between different actors.</p> |
| <p>Strategic Goal 1.2. Legal and regulatory framework</p> | <p>To establish the legislation and regulations necessary to protect victims of trafficking and to counter trafficking in human beings.</p> | <p>All respective laws and/or regulations enacted.</p> |
| <p>Specific objective (a)</p> | <p>To establish national legislation that is in compliance with international instruments against human trafficking and international human rights standards.</p> | <p>Legislation enacted that is in compliance with the Palermo protocol. Legislation enacted that is in compliance with the European Human Rights Convention.</p> |

| Depends on | Goals and Specific objectives | Indicators |
|-------------------------------|--|---|
| Specific objective (b) | To establish a legal basis for the granting of a reflection period of at least three months to all presumed victims of trafficking. | Respective laws and/or regulations enacted. |
| Specific objective (c) | To establish a legal basis for the granting of a temporary residence status following the reflection period to all identified victims of trafficking. | Respective laws and/or regulations enacted. |
| Specific objective (d) | To establish national legislation that criminalises all kinds of trafficking in human beings and allows prosecuting traffickers (natural as well as legal persons) as well as all crimes related to human trafficking. | Respective laws and/or regulations enacted. |
| Specific objective (e) | To establish legal entitlements that ensure the provision of all presumed victims of trafficking with the social, medical, psychological and legal assistance needed. | Respective laws and/or regulations enacted. |
| Specific objective (f) | To establish legal entitlements that ensure that victims of trafficking have access to compensation from traffickers and/or state. | Respective laws and/or regulations enacted. |
| Specific objective (g) | To establish national legislation that ensures the physical safety of victims of trafficking and that allows the implementation of special witness protection schemes for victims of trafficking. | Respective laws and/or regulations enacted. |

| Depends on | Goals and Specific objectives | Indicators |
|-------------------------------|---|---|
| Specific objective (h) | To establish national legislation that allows seizing and confiscating objects used and proceeds derived from trafficking. | Respective laws and/or regulations enacted. |
| Specific objective (i) | To create the legal basis for the application of pro-active investigation techniques so that prosecutions do not rely upon victims' testimonies. | Respective laws and/or regulations enacted. |
| Specific objective (j) | To establish legal instruments for joint investigations with the police and judiciary of other countries, including co-operation with EUROPOL, INTERPOL and SECI. | Respective legal instruments ratified. |
| Specific objective (k) | To create the legal basis for the extradition of offenders and mutual legal assistance regarding the prosecution of trafficking. | Respective laws and/or regulations enacted. |
| Specific objective (l) | To create a legal/regulatory basis for the establishment of a framework for co-ordination and co-operation in the field of anti-trafficking. | Respective laws and/or regulations enacted. |
| Specific objective (m) | To establish anti-discrimination law. | Respective law enacted. |

| Depends on | Goals and Specific objectives | Indicators |
|---|--|---|
| <p>Strategic Goal C.1.3. Information management and research</p> | <p>To ensure that all information and data relevant to counter trafficking in human beings are available, accessible to all actors involved and exchanged regularly at both national and international level.</p> | <p>Per cent of key figures, for which full actual data are available. Availability of regular reports with key data.</p> |
| <p>Specific objective (a)</p> | <p>To establish a common definition of internationally compatible key figures/statistical categories on trafficking to be monitored at national level.</p> | <p>Existence of a list of key figures/statistical categories on trafficking</p> |
| <p>Specific objective (b)</p> | <p>To establish a national central institution for the collection, analysis and distribution of all relevant information and data at national level.</p> | <p>Existence of a central institution responsible for the collection, analysis and distribution of all relevant information and data at national level. Availability of regular reports with key data. Distribution lists.</p> |
| <p>Specific objective (c)</p> | <p>To institutionalise information exchange between all relevant state and non-state actors at both the national level and international level including destination countries as well as the countries of origin of the victims of trafficking.</p> | <p>MoU between different actors Per cent of organisations listed in the roster of NGOs and in the roster of governmental institutions, which have their own website Number of national Internet fora dealing with anti-trafficking issues</p> |
| <p>Specific objective (d)</p> | <p>To increase national research on all areas of the national anti-trafficking response.</p> | <p>Per cent of the national research budget spent yearly on research related to trafficking issues. Total financial volume of research projects on trafficking issues.</p> |

| Depends on | Goals and Specific objectives | Indicators |
|---|---|---|
| <p>Specific objective (e)</p> | <p>To ensure the protection of personal data of victims of trafficking by an adequate data protection system.</p> | <p>Respective law and/or regulations on data protection enacted Per cent of organisations listed in the roster of NGOs and in the roster of governmental institutions, which have guidelines/ standard operating procedures on the exchange of personal data.</p> |
| <p>Strategic Goal 1.4. Resource and budget mobilisation</p> | <p>To secure all resources necessary to implement the national anti-trafficking strategy and NAP.</p> | <p>Yearly per cent of necessary resources for the implementation of the national anti-trafficking response.</p> |
| <p>Specific objective (a)</p> | <p>To have an overview of the total costs (material and financial) for the implementation of the national anti-trafficking strategy and NAP.</p> | <p>Existence of a yearly updated total resource plan for the implementation of the national anti-trafficking strategy and NAP.</p> |
| <p>Specific objective (b)</p> | <p>To increase the resource allocation for the implementation of the NAP within the regular budgets of the various governmental institutions.</p> | <p>Yearly per cent of the regular budget spent on activities undertaken in the framework of the national anti-trafficking response by each governmental institution.</p> |
| <p>Specific objective (c)</p> | <p>To increase the special funding for the implementation of the NAP by various governmental institutions.</p> | <p>Yearly amount of special funding for activities undertaken in the framework of the national anti-trafficking response by each governmental institution.</p> |

| Depends on | Goals and Specific objectives | Indicators |
|--|--|--|
| <p>Specific objective (d)</p> <p>Strategic Goal 1.5. Review, monitoring and evaluation</p> | <p>To increase the funding for the implementation of the NAP by international donors.</p> <p>To continuously improve the national anti-trafficking response at both the strategic as well as the operational level and to adjust it to new requirements or changing situations.</p> | <p>Yearly amount of funding for activities undertaken in the framework of the anti-trafficking response by international donors.</p> <p>Availability of an updated version of the national anti-trafficking strategy and NAP every two years.</p> |
| <p>Specific objective (a)</p> | <p>To ensure a systematic and continuous collection and analysis of all relevant information and data at operational and strategic level.</p> | <p>Existence of ToR for Monitoring. Monitoring foreseen in the NAP. Per cent of activities undertaken within the context of the NAP for which a written monitoring report is available.</p> |
| <p>Specific objective (b)</p> | <p>To ensure a regular evaluation of all activities undertaken within the context of the NAP.</p> | <p>Existence of ToR for Evaluation. Evaluation foreseen in the NAP. Per cent of activities undertaken within the context of the NAP for which a written evaluation report is available.</p> |
| <p>Specific objective (c)</p> | <p>To ensure the review of the national anti-trafficking response at regular intervals.</p> | <p>Existence of ToR for the Review. Review foreseen in the NAP. Written review of the national anti-trafficking response at least every two years.</p> |

2. Prevention

| Depends on | Goals and Specific objectives | Indicators |
|---|---|---|
| <p>Strategic Goal 2.1. Awareness raising and education</p> | <p>To raise the population's awareness towards migration realities and the risks associated with trafficking in human beings.</p> | <p>Per cent of the population who can name the main purposes for which people are trafficked, and the main ways in which people are recruited. Per cent of the population who can name at least three legal migration possibilities.</p> |
| <p>Specific objective (a)</p> | <p>To raise the awareness of the general public towards human trafficking.</p> | <p>Per cent of the population who can define trafficking.</p> |
| <p>Specific objective (b)</p> | <p>To raise the awareness of "at-risk" groups towards the dangers associated with trafficking.</p> | <p>Per cent of the "at-risk" groups who can name the main purposes for which people are trafficked, and the main ways in which people are recruited.</p> |
| <p>Specific objective (c)</p> | <p>To raise the awareness of clients and potential exploiters about human trafficking.</p> | <p>Per cent of clients and potential exploiters, who can describe different forms of exploitation associated with trafficking.</p> |
| <p>Specific objective (d)</p> | <p>To raise the awareness of state and non-state actors working with "at-risk groups" about human trafficking.</p> | <p>Per cent of the people working with "at-risk groups" who can name the main purposes for which people are trafficked and the main ways in which people are recruited.</p> |

| Depends on | Goals and Specific objectives | Indicators |
|--|--|---|
| <p>Strategic Goal 2.2. Reduction of vulnerability</p> | <p>To reduce the vulnerability to trafficking and re-trafficking.</p> | <p>Number of victims of trafficking.</p> |
| <p>Specific objective (a)</p> | <p>To reduce poverty and unemployment.</p> | <p>Average net income per person. Average net income per household. Average unemployment rate.</p> |
| <p>Specific objective (b)</p> | <p>To decrease the discrimination of women (= to promote gender equality), minorities, children, migrants and other vulnerable groups.</p> | <p>Labour market participation of men and women. Average income differences between men and women. Average educational attainments of men and women. Number of lawsuits based upon the Anti-discrimination law.</p> |
| <p>Specific objective (c)</p> | <p>To increase the knowledge of "at-risk" groups on precautions that they can take to lower their risk of being trafficked.</p> | <p>Per cent of those "at risk" who know how to verify the legitimacy of job offers and other ways of protecting themselves before departing. Number of users of centres or hotlines providing safe migration information.</p> |
| <p>Specific objective (d)</p> | <p>To increase legal migration possibilities.</p> | <p>Number of newly arrived legal migrants in the destination countries. Number of participants in legal migration schemes.</p> |

| Depends on | Goals and Specific objectives | Indicators |
|---|---|---|
| <p>Strategic Goal 2.3. Administrative controls</p> | <p>To deter potential trafficking in human beings and to terminate actual exploitative trafficking situations through administrative measures.</p> | <p>Number of trafficking cases/trafficking related crimes found through administrative controls.</p> |
| <p>Specific objective (a)</p> | <p>To ensure the regulation and monitoring of all sectors of society that can be affected by trafficking.</p> | <p>Existence of licensing systems for bridal, employment, tourist, escort, au pair and adoption agencies and construction firms. Existence of codes of conduct for bridal, employment, tourist, escort, au pair and adoption agencies and construction firms.</p> |
| <p>Specific objective (b)</p> | <p>To ensure the enforcement of existing national labour market standards.</p> | <p>Yearly per cent of enterprises that are controlled by the labour market service.</p> |
| <p>Specific objective (c)</p> | <p>To increase the ability of detecting potential cases of human trafficking at the pre-border (consular) level.</p> | <p>Number of visa refused because of the suspicion of trafficking. Number of false documents detected.</p> |
| <p>Specific objective (d)</p> | <p>To increase the identification of victims and perpetrators at the border level.</p> | <p>Number of victims of trafficking identified at the border. Number of traffickers arrested at the border.</p> |

3. Support and Protection of Victims and Victim-Witnesses

| Depends on | Goals and Specific objectives | Indicators |
|---|---|--|
| <p>Strategic Goal 3.1. Victim identification</p> | <p>To ensure the early identification of all victims of trafficking in the country.</p> | <p>Number of victims of trafficking identified. Average duration of stay in the country of victims of trafficking before their identification. Number of self-identifications.</p> |
| <p>Specific objective (a)</p> | <p>To improve the ability of law enforcement and other state and non-state actors to identify victims of all forms of trafficking.</p> | <p>Number of victims of trafficking identified by different actors.</p> |
| <p>Specific objective (b)</p> | <p>To facilitate the self-identification of victims of trafficking.</p> | <p>Number of self-identifications.</p> |
| <p>Specific objective (c)</p> | <p>To establish tailor-made modes of identification that allow the easy identification of various groups of victims of trafficking.</p> | <p>Existence of standard operating procedures for the identification of different groups of victims of trafficking.</p> |

| Strategic Goal | Depends on | Goals and Specific objectives | Indicators |
|---|------------------|--|---|
| <p>3.2. Reflection/stabilisation period and residence status</p> | | <p>To ensure the legal stay of all (presumed) victims of trafficking in the country, irrespective of their willingness to co-operate with the authorities in criminal proceedings.</p> | <p>Number of victims of trafficking who are granted a reflection period of at least three months in relation to the number of assisted victims of trafficking.</p> <p>Number of victims of trafficking who are granted a temporary residence permit in relation to the number of assisted victims of trafficking.</p> |
| <p>Specific objective (a)</p> | <p>C.1.2.(b)</p> | <p>To ensure the implementation of the respective laws/ regulations for the granting of a reflection period of at least three months to all presumed victims of trafficking.</p> | <p>Number of presumed victims of trafficking who are granted a reflection period of at least three months.</p> |
| <p>Specific objective (b)</p> | | <p>To ensure the implementation of the respective laws/ regulations for the granting of a temporary residence status following the reflection period to all identified victims of trafficking.</p> | <p>Number of identified victims of trafficking who are granted a temporary residence status following the reflection period.</p> |
| <p>Specific objective (c)</p> | | <p>To ensure the access of all presumed victims of trafficking to basic necessities, such as food and safe accommodation.</p> | <p>Number of presumed victims of trafficking who are provided with food and safe accommodation.</p> <p>Average utilisation of safe accommodation such as shelters.</p> |

| Depends on | Goals and Specific objectives | Indicators |
|--|--|--|
| <p>Strategic Goal 3.3. Social support and protection of victims</p> | <p>To ensure the social support, assistance and protection of all victims of trafficking, irrespective of their willingness to co-operate with the authorities in criminal proceedings.</p> | <p>Number of victims of trafficking not willing to testify who are receiving social support and assistance. Number of victims of trafficking willing to testify who are receiving social support and assistance.</p> |
| <p>Specific objective (a)</p> | <p>To ensure the implementation of the respective legal entitlements for the provision of all presumed victims of trafficking with the social, medical, psychological and legal assistance needed.</p> | <p>Number of presumed victims of trafficking being assisted. Content of case records.</p> |
| <p>Specific objective (b)</p> | <p>To ensure the physical safety of all victims of trafficking.</p> | <p>Number of reported incidents against victims of trafficking. Existence of an individual safety plan for each identified victims of trafficking.</p> |
| <p>Specific objective (c)</p> | <p>To ensure that all victims of traffickings are informed about their rights.</p> | <p>Number of victims of trafficking who receive legal counselling. Existence of information material for victims of trafficking.</p> |

| Depends on | Goals and Specific objectives | Indicators |
|--|---|---|
| <p>Strategic Goal 3.4. Access to civil procedures, witness protection and judicial treatment for victims of trafficking</p> | <p>To ensure the special protection of victims who want to appear as witnesses.</p> | <p>Per cent of victims-witnesses who are taken care of by means of a special witness protection scheme for victims of trafficking.</p> |
| <p>Specific objective (a)</p> | <p>To implement a special witness protection system for victims of trafficking who decide to appear as witnesses, for the time before, during and after the criminal proceedings.</p> | <p>Existence of a special witness protection system for victims of trafficking. Number of victims of trafficking who fall under the witness protection system.</p> |
| <p>Strategic Goal 3.5. (Re)-integration, social inclusion, return</p> | <p>To reduce the risk of victims of trafficking to be re-victimised and/or re-trafficked.</p> | <p>Per cent of victims of trafficking who have been trafficked for more than one time.</p> |
| <p>Specific objective (a)</p> | <p>To establish appropriate, preferably voluntary, resettlement procedures for victims of trafficking.</p> | <p>Existence of an individual risk assessment for each victim of trafficking.</p> |
| <p>Specific objective (b)</p> | <p>To facilitate the (re)integration and social inclusion of victims of trafficking.</p> | <p>Per cent of victims of trafficking who have a job one year after their (re)integration. Per cent of victims of trafficking who have a functioning social network one year after their (re)integration.</p> |

4. Investigation and Prosecution of Trafficking

| Depends on | Goals and Specific objectives | Indicators |
|--|--|---|
| <p>Strategic Goal 4.1. Proactive and reactive investigation</p> | <p>To increase the application of proactive (intelligence led) reactive investigation techniques.</p> | <p>Number of cases based upon evidence solely gathered by pro-active investigation techniques (without the testimony of a victim of trafficking).</p> |
| <p>Specific objective (a) C.1.3.(b)</p> | <p>To increase the knowledge and skills of law enforcement officers about intelligence-led investigation techniques and their importance for the investigation of trafficking cases.</p> | <p>Per cent of law enforcement officers with special training on the application of intelligence-led investigation techniques.</p> |
| <p>Specific objective (b) C.1.2.(i)</p> | <p>To ensure the implementation of the respective laws/ regulations for the application of pro-active investigation techniques.</p> | <p>Number of cases in which pro-active investigation techniques are used to gather evidence.</p> |
| <p>Specific objective (c)</p> | <p>To strengthen the co-operation between police, prosecutors, customs, tax authorities and other relevant institutions.</p> | <p>MoU regarding the operational information exchange.</p> |
| <p>Specific objective (d)</p> | <p>To ensure that proactive investigation measures include financial and labour market investigations (with due consideration to data protection regulations).</p> | <p>Number of cases.</p> |

| Depends on | Goals and Specific objectives | Indicators |
|---|---|---|
| <p>Strategic Goal 4.2. International law enforcement and judicial co-operation</p> | <p>To increase the co-operation with other states and IOs in the field of law enforcement and judiciary.</p> | <p>Number of traffickers extradited. Number of extradition requests granted/ refused. Number of joint investigations with law enforcement bodies of other countries.</p> |
| <p>Specific objective (a)</p> | <p>To ensure the implementation of the respective legal instruments for joint investigations with police and judiciary co-operation of other countries, including co-operation with EUROPOL, INTERPOL and SECI.</p> | <p>Number of joint investigations with law enforcement bodies of other countries. Existence of joint investigation teams.</p> |
| <p>Specific objective (b)</p> | <p>To increase the ability of law enforcement and judiciary to co-operate with the respective authorities in other countries.</p> | <p>Per cent of law enforcement personnel with a good working knowledge of another language.</p> |
| <p>Specific objective (c)</p> | <p>To improve data sharing with other countries.</p> | <p>Existence of a common database.</p> |
| <p>Specific objective (d)</p> | <p>To enhance the extradition of offenders and mutual legal assistance regarding the prosecution of trafficking.</p> | <p>Number of traffickers extradited.</p> |

| Depends on | Goals and Specific objectives | Indicators |
|---|---|--|
| <p>Strategic Goal 4.3. Prosecution and conviction of offenders</p> | <p>To increase the prosecution and conviction of people involved in trafficking in human beings.</p> | <p>Number of arrests on grounds of trafficking or trafficking related crimes. Number of prosecutions on grounds of trafficking or trafficking related crimes. Number of convictions on grounds of trafficking or trafficking related crimes. Average sentences on grounds of trafficking or trafficking related crimes. Per cent of arrests that lead to a conviction.</p> |
| <p>Specific objective (a)</p> | <p>To increase the knowledge of law enforcement and judiciary on all aspects of trafficking in human beings.</p> | <p>Per cent of the people working for law enforcement and judiciary who have received a special anti-trafficking training.</p> |
| <p>Specific objective (b)</p> | <p>To ensure the implementation of the respective laws/ regulations to criminalise all kinds of trafficking in human beings.</p> | <p>Number of prosecutions on grounds of trafficking or trafficking related crimes.</p> |
| <p>Specific objective (c)</p> | <p>To establish effective, proportionate and dissuasive criminal penalties for trafficking and crimes related to trafficking.</p> | <p>Average sentences on grounds of trafficking or trafficking related crimes.</p> |

| Depends on | Goals and Specific objectives | Indicators |
|--|--|---|
| <p>Strategic Goal 4.4. Legal redress and compensation for victims</p> | <p>To ensure the compensation of victims of trafficking.</p> | <p>Existence of victim's compensation funds. Per cent of victims of trafficking who have received compensation. Per cent of victims of trafficking who have received information material about the possibilities of compensation.</p> |
| <p>Specific objective (a)</p> | <p>To ensure the implementation of the respective laws/ regulations to provide victims of trafficking with access to compensation from traffickers and/or state.</p> | <p>Number of victims of trafficking who have received compensation.</p> |
| <p>Specific objective (b)</p> | <p>To raise the knowledge of the victims about the possibilities of compensation.</p> | <p>Existence of information material. Number of victims of trafficking who have received information material.</p> |
| <p>Strategic Goal 4.5. Police and judicial treatment of victims/witnesses</p> | <p>To ensure the adequate and non-discriminatory treatment of victims by law enforcement and judiciary.</p> | <p>Number of victims of trafficking who report a discriminatory treatment.</p> |
| <p>Specific objective (a)</p> | <p>To ensure an anti-discriminatory and human rights led approach of all actors dealing with victims of trafficking.</p> | <p>Per cent of people dealing with victims of trafficking who can describe the characteristics of a human rights led approach.</p> |
| <p>Specific objective (b)</p> | <p>To ensure that victims of trafficking are aware of their rights.</p> | <p>Existence of information material. Per cent of victims of trafficking who have received</p> |

| Depends on | Goals and Specific objectives | Indicators |
|--|---|---|
| <p>Strategic Goal 4.6. Anti-corruption measures</p> | <p>To reduce the involvement of law enforcement and judicial authorities in trafficking in human beings.</p> | <p>information material. Number of victims of trafficking who have received legal counselling.</p> <p>Number of dismissals in the law enforcement and judicial authorities because of the involvement in trafficking or trafficking related crimes.</p> <p>Number of disciplinary/administrative sanctions in the law enforcement and judicial authorities because of the involvement in trafficking or trafficking related crimes.</p> |
| <p>Specific objective (a)</p> | <p>To ensure the investigation of corruption at all state levels.</p> | <p>Number of prosecutions in the law enforcement and judicial authorities because of the involvement in trafficking or trafficking related crimes.</p> <p>Number of convictions in the law enforcement and judicial authorities because of the involvement in trafficking or trafficking related crimes.</p> |
| <p>Specific objective (b)</p> | <p>To increase the transparency of the work of state actors.</p> | <p>Number of corruption cases at different state levels. Existence of a special investigative unit on anti-corruption.</p> <p>Officially published organisation schemes with clearly defined competencies.</p> |



G

Model Template for Action Plan

G. Model Template for Action Plan



According to the elements of the NAP identified in the section D of the Guidelines the NAP can be designed either in a narrative form or using a table. The following sections should be part of the NAP:

- Specific Objectives
- Activities /Sub-activities
- Assigned responsibilities and time lines
- Financial and Human Resources
- Indicators
- Timeline


| Strategic Goal | Specific Objectives | Activities / Sub-activities | Assigned Responsibilities | Timeline | Financial and Human Resources | Indicators |
|--------------------------------|--|-----------------------------|---------------------------|----------|-------------------------------|------------|
| 1. SUPPORTING FRAMEWORK | | | | | | |
| | | | | | | |
| | 1.1. Co-ordination structures | | | | | |
| | | | | | | |
| | 1.2. Legal and regulatory framework | | | | | |
| | | | | | | |
| | 1.3. Information management and research | | | | | |
| | | | | | | |

| Strategic Goal | Specific Objectives | Activities / Sub-activities | Assigned Responsibilities | Timeline | Financial and Human Resources | Indicators |
|--|---------------------|-----------------------------|---------------------------|----------|-------------------------------|------------|
| 1.4. Resource and budget mobilisation | | | | | | |
| 1.5. Review, monitoring and evaluation | | | | | | |
| 2. PREVENTION | | | | | | |
| 2.1. Awareness raising and education | | | | | | |
| 2.2. Reduction of vulnerability | | | | | | |
| 2.3. Administrative controls | | | | | | |

| Strategic Goal | Specific Objectives | Activities / Sub-activities | Assigned Responsibilities | Timeline | Financial and Human Resources | Indicators |
|--|--|-----------------------------|---------------------------|----------|-------------------------------|------------|
| 3. SUPPORT AND PROTECTION OF VICTIMS AND VICTIM-WITNESSES | | | | | | |
| | 3.1. Victim identification | | | | | |
| | 3.2. Reflection/recovery period and residence status | | | | | |
| | 3.3. Social support and protection of victims | | | | | |
| | 3.4. Access to civil procedures, witness protection and judicial treatment of trafficked persons | | | | | |

| Strategic Goal | Specific Objectives | Activities / Sub-activities | Assigned Responsibilities | Timeline | Financial and Human Resources | Indicators |
|--|---------------------|-----------------------------|---------------------------|----------|-------------------------------|------------|
| 3.5. (Re)-integration, social inclusion, return | | | | | | |
| 4. INVESTIGATION AND PROSECUTION OF TRAFFICKING | | | | | | |
| 4.1. Balance of proactive and reactive investigation | | | | | | |
| 4.2. International law enforcement and judicial co-operation | | | | | | |
| 4.3. Prosecution and conviction of offenders | | | | | | |

| Strategic Goal | Specific Objectives | Activities / Sub-activities | Assigned Responsibilities | Timeline | Financial and Human Resources | Indicators |
|---|---------------------|-----------------------------|---------------------------|----------|-------------------------------|------------|
| 4.4. Legal redress and compensation for victims | | | | | | |
| 4.5. Police and judicial treatment of victims/witnesses | | | | | | |
| 4.6. Anti-corruption measures | | | | | | |



H

Model Template for Monitoring

H. Model Template for Monitoring

The progress made in the implementation of the NAP should be regularly monitored by the authority in charge (e.g. NC). To this end, data related to the implementation of the activities foreseen in the NAP should be collected and analysed. The proposed template for monitoring below should be adapted to the needs and structures in the respective country.

| | |
|-------------------------|--|
| Institution | |
| Contact person | |
| Field | Supporting Framework |
| | Prevention |
| | Support and Protection of Victims and Victim-Witnesses |
| | Investigation and Prosecution of Trafficking |
| Activity | |
| Planned results | |
| Achieved results | |
| Budget | |
| Donor | |
| Human resources | |
| Time frame | |
| Indicators | |
| Comments | |



Difference between Smuggling and Trafficking



I. Difference between Smuggling and Trafficking

| Element | Smuggling | Trafficking |
|--|---|---|
| Type of crime | Crime against state – no victim by the crime of smuggling as such (Violation of immigration laws/public order. The crime of smuggling by definition does not require violations of the rights of the smuggled migrants) | Crime against person – victim. Violation of the rights of the victim of trafficking by definition (Violation of person’s human rights; victim of coercion and exploitation that give rise to duties by the state to treat the individual as a victim of a crime and human rights violation) |
| Why do we fight it? | To protect the sovereignty of the state | To protect a person against human rights violations. Obligation of the state to provide adequate protection to its citizens ⁶⁰ |
| Nature of crime and duration of customer relationship’ | Commercial; relationship between smuggler and migrant ends after illegal border crossing achieved and fee paid | Exploitative; relationship between trafficker and victim continues in order to maximise economic and/or other gains from exploitation |
| Rationale | Organised movement of persons for profit | Organised recruitment/movement and (continuous) exploitation of the victim for profit |
| Border crossing | Illegal border crossing is a defining element | Purpose of exploitation is the defining element, border crossing is not an element of the crime |
| Consent | Migrant’s consent to illegal border crossing | Either no consent, or initial consent made irrelevant because of use of force, coercion, at any stage of the process |

⁶⁰ About the positive obligation of the state see the Case of the European Court of Human Rights *Siliadin v. France*, application n°. 73316/01, 26/07/2005 "The Court considered that Article 4 [No one shall be held in slavery or servitude] of the Convention enshrined one of the fundamental values of the democratic societies which make up the Council of Europe. It was one of those Convention provisions with regard to which the fact that a state had refrained from infringing the guaranteed rights did not suffice to conclude that it had complied with its obligations; it gave rise to positive obligations on states, consisting in the adoption and effective implementation of criminal-law provisions making the practices set out in Article 4 a punishable offence."



Guidelines for the Development and Implementation of a Comprehensive National Anti-Trafficking Response

A sustainable and comprehensive national anti-trafficking response addressing all forms of trafficking requires governmental ownership, a multi-disciplinary approach involving civil society as well as other relevant actors according to a human rights-based and gender-sensitive approach. Furthermore, appropriate co-ordination structures and continuous monitoring, evaluation and review of the entire national anti-trafficking response are indispensable.

Based on these principles, the Guidelines for the Development and Implementation of a Comprehensive National Anti-Trafficking Response contain a comprehensive set of measures to be taken by anti-trafficking actors in order to counter human trafficking in the four main areas where action is needed, namely prevention, support and protection of victims and witnesses, investigation and prosecution of trafficking, and supporting framework.