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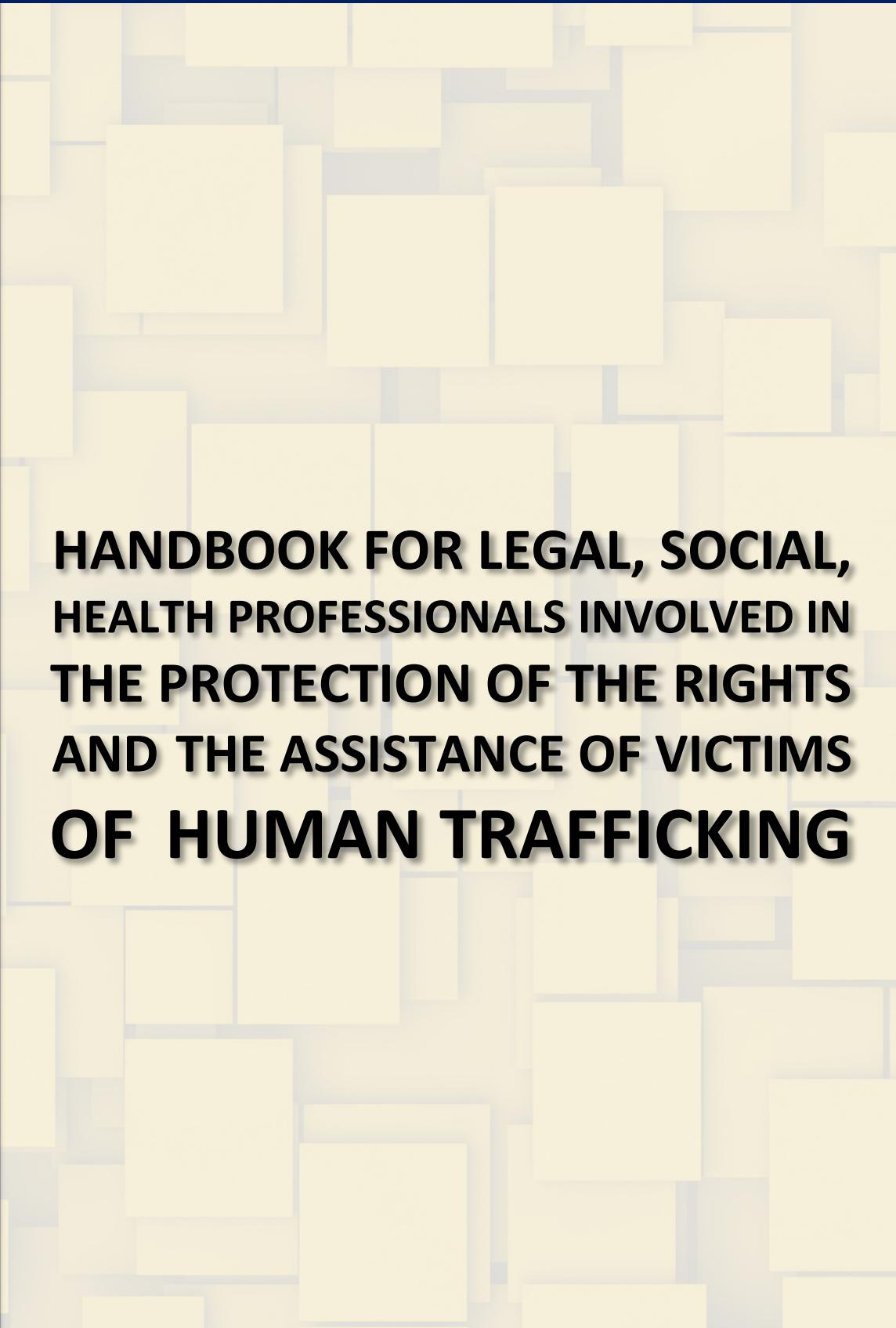
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SCANDINAVIAN  
HUMAN RIGHTS  
LAWYERS



# **HANDBOOK FOR LEGAL, SOCIAL, HEALTH PROFESSIONALS INVOLVED IN THE PROTECTION OF THE RIGHTS AND THE ASSISTANCE OF VICTIMS OF HUMAN TRAFFICKING**

November

2017

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The Handbook was developed as part of the project *Strengthening multidisciplinary cooperation to ensure an effective referral, assistance, rights protection for victims of human trafficking*, financed by the European Commission, Justice Programme. The project is coordinated by Association Pro Refugiu Romania in partnership with Caritas International Belgium, Center for the Study of Democracy Bulgaria, Association Trabe Iniciativas para la Economia Social y Solidaria Spain, Scandinavian Human Rights lawyers Sweden. The *authors* of the handbook are *experts* in the project, for the coordinator and partners organizations.

**This publication has been produced with the financial support of the Justice Programme of the European Union. The contents of this publication are the sole responsibility of the authors and can in no way be taken to reflect the views of the European Commission.**

# CONTENT

<b>1. EU and national legislative framework on victims of human trafficking rights</b>	
1.1. EU Directives 5 .....	4
1.2. National legislation in Romania, Belgium, Bulgaria, Spain, Sweden .....	6
<b>2. The secondary victimization and how it can be avoided during the judicial proceedings</b>	
2.1. Definition of Terms .....	15
2.2. Code of conduct for lawyers, prosecutors, judges, social workers, psychologists when interacting with victims of human trafficking .....	17
2.3. Recommendations on behavioral norms to avoid secondary victimization .....	28
<b>3. The psychologists and social workers support for victims of human trafficking, during the judicial procedures</b>	
3.1. The psychologists and social workers .....	30
3.2. The role of the psychologist within the framework of human trafficking case .....	33
3.3. The relevance of the psychological reports to assess the trauma .....	36
<b>4. The multi-disciplinary team</b>	
4.1. What is a multi-disciplinary team .....	41
4.2. Fostering a supportive environment for the multi-disciplinary team .....	41
4.3. A model of operating procedures in assisting victims of human trafficking, leaded by a multi-disciplinary team .....	44

# **1. EU AND NATIONAL LEGISLATIVE FRAMEWORK ON VICTIMS OF HUMAN TRAFFICKING RIGHTS**

## **1.1. EU DIRECTIVES**

The national laws and policies on victims of human trafficking differ from one EU member state to another. To ensure minimum level of victims' rights in all member states, the EU has adopted several legal instruments setting up common rules aimed at protecting and assisting victims of human trafficking. In the following presentation, we will focus on several main directives and conventions containing provisions on assistance that victims should benefit from.

*Council of Europe Convention on Action against Trafficking in Human Beings (CoE Convention)*<sup>1</sup> follows a primarily victim-oriented approach that is based on the recognition of trafficking in persons as a violation of the human rights. The CoE Convention contains provisions related to assistance, recovery, residence permit, compensation and legal redress. The Convention signatory states have to adopt legislation and other measures to assist the victims in their psychological, physical and social recovery. Such assistance has to include at least standards of living capable of ensuring their subsistence (appropriate & secure accommodation, psychological & material assistance); access to emergency medical treatment, counselling and information about victims' rights in a language they understand; assistance during the criminal proceedings against the offenders; access to education for children. Each state must adopt rules, allowing the victims lawfully residing on their territories to have access to labor market, vocational training and education. *In the Convention is underlined the fact that states should not condition the granting of assistance to the victim's willingness to act as a witness in the judicial proceedings.* Also at least 30 days of recovery and reflection should be granted to a person when there are *reasonable grounds* to believe that the person concerned is a victim of human trafficking. Thus, the interpretation of the term "reasonable grounds" is crucial to access the reflection and recovery period and therefore of central importance in the Convention. The states have the obligation to provide residence permits to victims based on following situations: the victims' stay is necessary based on their personal situation; it is necessary for the purpose of their cooperation with the competent authorities in the investigation or criminal procedures. The Convention specifies that as from the victim's first contact with the competent authorities, she/he should benefit from information on the relevant judicial and administrative proceedings, including the ones concerning compensation from the perpetrators. For such judicial proceedings, the victims of human trafficking must have access to free legal aid, under the conditions provided by each state internal law.

*The Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims.* The Directive lays down minimum common rules for determining offences of trafficking in human beings and punishing offenders. It also contains provisions on measures for better

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<sup>1</sup> Available at <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/197/signatures>

combat this phenomenon and to strengthen the victims' protection. This Directive (comparing with other previous legal acts) has a more integrated, holistic, human rights based approach. In terms of assistance to victims, the Directive explicitly mentions that EU member states have to take necessary measures to ensure assistance before – during – after the conclusion of the criminal procedures. Through the term of “assistance” is understood: legal assistance, safe accommodation, material assistance, medical treatment, psychological assistance, counselling and information, translation and interpretation services. The assistance is related to adult victims, child victims, unaccompanied minors. The Directive contains provisions on compensation, more exactly on the fact that the victims of human trafficking need to have access to existing state schemes of compensation to victims of violent crimes of intent.

***The Council Directive 2004/81/EC on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities.*** It is an important EU legal act in the circumstances in which a significant percentage of the total victims of human trafficking (identified on EU territory) are third-country nationals. The Directive sets out the procedure for issuing and renewing the residence permits, as well as the conditions for non-renewal or withdrawal, the treatment of victims prior and after being granted a residence permit. As well as the EU national victim, also the third-country nationals are entitled to a reflection period (to recover, escape the influence of the perpetrators, so that they can take an informed decision as to whether to cooperate with the competent authorities) that shall be determined according with the national laws. The Directive contains important stipulations on the treatment, assistance for these victims before being issued the residence permit, more exactly for the ones who do not have sufficient resources: accommodation, access to emergency medical treatment, psychological assistance, transnational and interpretation services, free legal aid under the conditions set by the national laws of the member states. Same services will be granted also after the issue of the residence permit, for those with insufficient resources. The Directive mentions that for certain victims with special needs, the states have to provide necessary medical assistance (not limited to emergency one) and other assistance types; it refers to pregnant women, disabled, victims of sexual violence, minors. The access to the labor market, vocation training, education, shall be determined under the legislation of each EU member state.

***The Council Directive 2004/80/EC relating to compensation to crime victims.*** The Directive provisions are applicable also to victims of human trafficking. The EU act stipulates that victims can apply for state compensation and are entitled to receive free legal assistance to do so. The Directive creates also a system of cooperation between national authorities for the transmission of applications for compensation in cross-border situations. The victims are entitled to a fair and appropriate compensation for the injuries suffered regardless of where in the EU the crime was committed.

## **1.2. NATIONAL LEGISLATION IN ROMANIA, BELGIUM, BULGARIA, SPAIN, SWEDEN**

### **ROMANIA LEGISLATION**

Since 2001 until February 2014 the criminalization of human trafficking was enforced through ***Law no. 678/2001 on preventing and combating trafficking in human beings***. The provisions of this law regarding the criminalization were introduced in the Criminal Code in 2009 and entered into force at February 1<sup>st</sup> 2014.

The Law no. 678/2001 establishes a system of victim protection and assistance, including during court proceedings, specifies the measures that will be implemented to prevent trafficking in human beings and establishes the framework for international cooperation in preventing and combating trafficking in human beings.

Article 3 of Law no. 678/2001 regulates that: for an effective fight against trafficking in human beings, public authorities and institutions, non-governmental organizations and other representatives of civil society will carry out separately or, as the case may be, a co-operation, a sustained activity to prevent trafficking in human beings, especially women and children. At the end of Chapter II it is stated that for preventing trafficking with human beings, National Agency against Trafficking in Persons together with non-governmental organizations cooperate with interested ministries and organize information campaigns on the phenomenon of human trafficking and the risks that its victims are subject to. Also an extremely important provision of this law can be found in art 24, stating that the hearings in the cases regarding the human trafficking offense with juveniles, provided by art. 211 of the Criminal Code, and of child pornography, provided by art. 374 of the Criminal Code, are not public. The parties, their representatives, lawyers, representatives of the National Agency against Trafficking in Persons, as well as other persons whose presence is deemed necessary by the court, may assist in the proceedings. Art 26 (paragraph 1) of the same law, stipulates that victims of human trafficking shall be accorded special, physical, legal and social protection and assistance, (paragraph 2) the private life and identity of victims of trafficking are protected and (paragraph 4) minor victims of trafficking are granted special protection and assistance in relation to their age.

In relation to human trafficking, the new ***Criminal Code*** brings naturally some changes compared to the former law. Title I of the special part of the New Criminal Code - ***Law no. 286 / 17.07.2009***, Chapter VII entitled Trafficking and exploitation of vulnerable persons and Chapter VIII entitled Crimes against sexual freedom and integrity, include offenses of trafficking and related offenses and is made of incriminations formerly contained in Law no. 678/2001 on preventing and combating trafficking in persons, as amended and supplemented. The provisions for human trafficking prescribe penalties from three to fifteen years' imprisonment. This chapter's scope is to penalize crimes, particularly against minors, through a modern approach in line with European and international regulation. Examples include trafficking in minors, procurement, exploitation for begging, forcing a minor to beg, benefiting from the services of an exploited person, rape, sexual assault, sexual intercourse with a minor, sexual corruption of minors and the recruitment of minors for sexual purposes.

Also the new ***Criminal Procedural Code -Law no. 135/2010***, contains a few specific provisions related to the protection of victims of human trafficking, like article 111 and article 113, that concentrate on the protection of the injured person/victim and the modalities of organizing the hearing for this category of persons and articles 125-130 that have as a main focus, the protection of vulnerable or threatened witnesses.

The ***Government Decision no. 460/2011*** designated National Agency against Trafficking in Persons (ANITP) to coordinate, evaluate and monitor the implementation of anti-trafficking, victim protection and assistance policies by public institutions at national level, being subordinated to the Minister of Internal Affairs. ANITP runs fifteen Regional Centers to monitor the local implementation of the National Action Plans and to support anti-trafficking activities performed in the ANITP's area of responsibility. ANITP is also responsible for maintaining the Integrated System for Monitoring and Evaluation of Victims of Trafficking (SIMEV) a central database on victims of human trafficking, and plays a key role in the referral mechanism. SIMEV is an important tool for the evaluation of the phenomenon, in order to identify trends and make them available for stakeholders and ensuring the effectiveness of early action to implement the national strategy against trafficking in persons. ANITP ensures the effective referral of victims to the assistance services providers, as well as monitoring the quality of assistance with which the victims are provided.

Regarding the special protective measures for children, we must emphasize the ***Government Decision no. 49/2011 approving the framework methodology on prevention and intervention in a multidisciplinary team***. Combating, preventing, assistance and protection of child victims of human trafficking are specific objectives included in the main framework is Government Decision no. 49/2011 approving the framework methodology on prevention and intervention in a multidisciplinary team, network in cases of violence against children, violence in the family, multidisciplinary, inter-institutional intervention methodology for children exploited at risk of child labor, children victims and migrant children, victims of other forms of violence in other states.

***Law no. 682/2002 on witness protection*** deals with the measures required for the protection of persons who are willing to testify in Court, like the Witness Protection Program. According to art.4, the- (1) Inclusion of one person in the program is possible only if the following conditions are cumulatively met: a) the person is a witness in the sense provided by art.2 letter. a), d) or e); b) the person is in a state of jeopardy in the sense provide by art.2 letter b); c) there is a motivated proposal from the competent bodies.

The National Office for Witness Protection (ONPM) is set up within the Ministry of Interior, under the authority of the General Inspectorate of the Romanian Police.

Lastly, with regards to the financial compensation solicited by the victims of human trafficking, according to Article 19 - 26 of the ***New Criminal Procedural Code (NCPC)***, the civil action is undertaken by victims or by their successors, who become a civil party against the defendant. When a victim lacks legal competence, or has limited legal competence, the civil action is initiated on their behalf by their legal representative or, as applicable, by the prosecutor. Despite these provisions, nothing is specified on the topic of legal assistance for the victims of human trafficking in the NCPC.

According to ***Law no. 211/2004 on instating some measures for ensuring the protection of crime victims***, the granting of compensation for losses does not equate with receiving it. In most cases, the judgement ordering compensation to be paid to a victim requires enforcement by a court enforcement officer, and victims do not usually have the financial resources to undertake the enforcement proceedings, except when they obtain free legal assistance that is also granted under Law no. 211/2004 (but not specifically for financial compensation issues), covering the cost of enforcing the court judgement for compensation. Thus victims of human trafficking have the right to free of charge and mandatory legal assistance (in the situations provided in Chapter IV from Law no. 211/2004).

## BELGIUM LEGISLATION

In the *Belgian Criminal Code*, the basic article 433quinquies §1 provides the definition of human trafficking. It stipulates that human trafficking shall mean the recruitment, transportation, transfer, harboring or receipt of persons, and taking or transferring the control exercised over a person for the purpose of sexual exploitation, the exploitation of begging, the removal of organs, to force that person to commit an offence against their will, and exploitation for the purpose of employment in conditions contrary to human dignity. This offence is punishable with 1 to 5 years of imprisonment, and with a fine of 500 – 50.000 EUR (article 433quinquies §2). The fine shall be multiplied by the number of victims (article 433quinquies §4). The Belgian definition of human trafficking is very extensive. The criminal offence of human trafficking under Belgian law only requires two constituent elements:

- a. The action: the recruitment, transportation, transfer, harboring and receipt of persons and taking or transferring control over them;
- b. The exploitative purpose, namely: sexual exploitation, the exploitation of begging, for the purpose of work or services in circumstances contrary to human dignity, for the removal of organs, or to force that person to commit a crime or an offence against their will.

“*Coercive Means*” are not an essential component of the criminal offence of human trafficking under Belgian law, but rather operate as aggravating circumstances. Indeed, different aggravating circumstances are stipulated in the Criminal Code, such as human trafficking against minors, coercion, organized crime group; when these circumstances are applicable, the offence will be punishable up to 15 to 20 years of imprisonment and a fine of 1.000-150.000 EUR (article 433septies and octies).

### ***The protection program for victims of human trafficking:***

An identified victim of human trafficking in Belgium can enter a multidisciplinary program and will be granted a specific statute of victim of THB. This program aims to (re) integrate the victim and to avoid to be re-trafficked. This statute will be granted by a magistrate (December 23 2016 on the establishment of a multidisciplinary cooperation with regard to victims of trafficking in human beings and / or certain heavier forms of smuggling in human beings). By entering the program the victim agrees to give her full cooperation to the ongoing investigation. Not all identified victims wish to enter the offered program. Belgium has three legally recognized centers where the victims receive full protection and support.

### ***The procedure to obtain a legal residence permit as a victim of human trafficking in Belgium:***

***Temporary residence document (Appendix 15):*** if a victim of human trafficking is being signed in at a specialized center, the center will apply for a temporary residence document, named “Appendix 15”, with the immigration service. This “Appendix 15” is valid for 45 days. This period is intended to allow the victim a certain amount of time to calm down and acclimate to his/her new situation and is commonly known as the “Reflection period”. This easing period is necessary as victims just left a context of extreme physical and psychological stress. During this period the victim is also explained his/her options. They can cooperate with the investigation against their perpetrators or they can be assisted to prepare a safe return to the country of origin. To guaranty the safety of the victims, the “Appendix 15” shows no formal reference to the official procedure for victims of THB. In reality, the full length of the 45 days is rarely used. The vast majority of victims decide after a few days to cooperate.

***A Certificate of Matriculation (AI):*** if the victim is willing to cooperate with the judicial investigation, the official centers will contact the migration services, to apply for a temporary residence permit known as: the Certificate of Matriculation. This certificate is valid for 3 months. Cooperating with the judicial investigation implies the making of an official

statement or filing a complaint against the exploiters. The victim must be able to present a valid proof of identification (passport, national ID card or official equivalent). The migration office obtains confirmation from the prosecutor before the Certificate is granted. This certificate can be prolonged only once, for an extra 3 months. Conditions for prolongation are: the prosecutor's office is still processing the case or there is not yet certainty whether it is a case of human smuggling or human trafficking.

***Electronic A Card of limited duration:*** the victim obtains an electronic Identity card “A card” valid for 6 months after 3 months, if it is clear one is victim of human trafficking and the prosecutor is still investigating the case or after 6 months, if it is not yet clear whether one is a victim of human trafficking, but the prosecutor decides to continue the investigation. This permit can be prolonged every 6 months. This permit is withdrawn in case of contact with the perpetrators, refusal of cooperation with the investigation, the investigation has been stopped by the prosecutor, danger of public order or national security, the complaint or testimony turns out to be false. In that case one will receive the order to leave the national territory. Against this decision an appeal with the Council for Alien Law Litigation is possible. If however the Council rejects the appeal, but one has been in the country legally for at least two years, one can apply for a humanitarian regularization in Belgium with the migration office. The decision for a humanitarian regularization is based upon the degree of cooperation during the investigation and the rapport of the official center.

***Electronic B Card of unlimited duration:*** an electronic B Card is granted if: the complaint or testimony has led to a conviction or the prosecutor is charging the accused with human trafficking and the testimony is deemed to be of reasonable importance within the procedure. In order to obtain the B Card, valid identification papers must be presented or proof of the inability to obtain such papers.

## BULGARIA LEGISLATION

Implementing its international commitments, Bulgaria supports victims of trafficking via its Criminal Procedure Code (*Наказателно-процесуален кодекс*),<sup>2</sup> Law on Countering Human Trafficking (*Закон за борба с трафика на хора*),<sup>3</sup> Law on Support and Financial Compensation of Victims of Crime (*Закон за подпомагане и финансова компенсация на пострадалиите от престъпления*).<sup>4</sup> The co-operation of institutions and NGOs in supporting victims is regulated by the National Mechanism for Referral and Support of Victims of Trafficking (*Национален механизъм за насочване и подпомагане на жертви на трафик*).<sup>5</sup>

***The Criminal Procedure Code*** (CPC) regulates the participation of victims in the criminal proceedings against perpetrators. The victim can be only a witness (Art. 117 and following), with limited procedural rights, or a party, private prosecutor (Art. 76 and following) or civil claimant (Art. 84 and following), in the trial. The victim can complain about the crime against him/her (Art. 209), be a witness with a number of rights (Art. 122) and have distinct rights as a victim in the pre-trial proceedings (Art. 75), including the right to appeal the termination or suspension of proceedings by the prosecutor (Art. 243-244). The recent transposition of the Victims' Rights Directive in the Code introduced the notion of specific protection needs of the victim/witness, which can be subject of an expert opinion (Art. 144,

<sup>2</sup> Available at <http://www.lex.bg/laws/ldoc/2135512224>

<sup>3</sup> Available at <http://www.lex.bg/laws/ldoc/2135467374>

<sup>4</sup> Available at <http://www.lex.bg/laws/ldoc/2135540550>

<sup>5</sup> Available at <https://goo.gl/qYZmCj>

para. 3) and necessitate measures to avoid contact with the defendant (Art. 139, para. 10) and reading the victim's testimony in court without further interviewing him/her (Art. 281, par. 1, item 6).

The victim support and financial compensation law includes victims of trafficking explicitly in its scope for financial compensation and confers to them, as well as to other victims of crime, a fairly broad right to information (Art. 6), as well as right to psychological and practical aid (Art. 8 and following). Indigent victims of trafficking have specific right to state-paid legal aid (Art. 22, para. 1, item 7, Law on Legal Aid<sup>6</sup>).

Children victims have the right to a special representative, attorney, if their interests contradict those of their parents or guardians (Art. 101) and their interviewing is subject to special rules on the presence of parents/guardians/psychologists (Art. 140) and for avoiding contact with the defendant and reading the child's testimony in court (Art. 281, par. 1, item 6). Children have to be interviewed on specially equipped premises – the so called 'blue rooms'.

The **National Referral Mechanism** (NRM) for victims of trafficking, drafted in 2008-2010 and active since then, was officially approved by an act of the Council of Ministers in 2016 and is thus an official and binding framework of co-operation of institutions and NGOs in supporting victims. It provides for standard operative procedures in three stages: identification and referral, including special protection under the anti-trafficking law and risk assessment, protection and support, including crisis intervention and support during the reflection period and social inclusion (reintegration), including long-term psychological support and empowerment. Children victims of trafficking are subject to a specific co-ordination mechanism.

The anti-trafficking law confers to victims a number of entitlements, including a special protection statute (Art. 25). An equivalent of a reflection period of one month is in place and for children it can be prolonged to two months (Art. 26). In case of a child victim, child protection authorities are immediately notified, the child's family is traced and representation is ensured (Art. 21, 24). Children victims of trafficking and children of victims of trafficking are ensured education in state and municipal schools (Art. 23).

A number of institutions and NGOs are engaged in countering human trafficking and supporting victims. The interinstitutional National Commission for Combating Trafficking in Human Beings is coordinating the work of all entities in supporting victims. The Ministry of the Interior and the Prosecutor's Office are involved in investigating and prosecuting trafficking cases, while the Foreign Ministry is part of the identification of victims abroad and the health, social and education ministries take care of the victims' various needs. NGOs are mainly involved as service providers, managing shelters, crisis centers and offering various consultations, but are also supporting the work of the national anti-trafficking commission and its local commissions on expert and policy level.

## SPAIN LEGISLATION

Spain lacks from a comprehensive law on human trafficking. The country however has a disperse legislation on the topic that includes having subscribed international and European instruments on human trafficking, a protocol<sup>7</sup>, and specific police plans to fight against human trafficking at national, regional and local level. According to specialized entities, regulations are focused on security protection and barriers control than in human rights protection. During

<sup>6</sup> Available at <http://www.lex.bg/laws/ldoc/2135511185>

<sup>7</sup> Available at <https://goo.gl/WhkfJq> (Ratificación del protocolo para prevenir, reprimir y sancionar la trata de personas)

2015 several important legal changes took place, both in relation to victim's protection, legal process, - e.g., reducing deadlines on the judicial instruction phase judicial<sup>8</sup> and punitive content. Many of these changes were a result of EU transposition measures:

**Reform of Penal Law.** Article 177 bis<sup>9</sup> from the Penal Code has been modified. This article punishes human trafficking and THB objectives have been widen to include: a) forced labor or services, slavery or practices similar to slavery, servitude or begging, b) sexual exploitation, including pornography, c) exploitation to commit crimes; d) body organ removal; e) force marriage. Sanctions for committing these crimes include three to eight years of imprisonment and could be increased according to the victims' vulnerable situation, and the authority, trust position or influence of the offender over the victim. Human smuggling sanctions<sup>10</sup> go from fines and up to one year imprisonment. Crimes against sexual freedom and indemnity include novelties in article 187<sup>11</sup> – crime on sexual exploitation and forced prostitution- and in article 188, - minors' prostitution-. Prostitution regulation is ambiguous in Spain. It is mainly regulated through local rules.<sup>12</sup> All victims of human trafficking have the right to free legal assistance<sup>13</sup>, to be considered protected witness<sup>14</sup> and receive translation and medical support. In some territories bar associations have specialised lawyers.

**Victim's Legal Regulation<sup>15</sup>** It is due to the transposition of the Directive 2011/36/UE. It provides a wide framework to enable compensation for severe damage and violent offences, including human trafficking. However, this legal advancement did not come together with the allocation of trained and experience staff to put it into practice.

**Spanish Citizen Security Law** approved in 2015<sup>16</sup>, it provides legal grounds for "quick returns" from Ceuta and Melilla. It has an important effect regarding the lack of protection and detection of victims<sup>17</sup>, apart from being a failure to fulfill the international treaties law. The law includes administrative sanctions too for asking for and having sex in public places. Cases of women victims of sexual exploitation sanctioned under this law have been reported.

Foreign survivors of human trafficking can access administrative documentation in case of making a formal complaint, - collaborating with the authorities-, and even without collaborating in case they had been identified by the law enforcement agents in Spain. Participation in a penal proceeding is not compulsory, not even as a witness, to access to the rights addressed to any victim of human trafficking.

**Identification is carried out by specialized units of the law enforcement agencies:** UCO<sup>18</sup> and UCRIF<sup>19</sup>. Specific administrative units are in charge of human trafficking, labor

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<sup>8</sup> Available at [goo.gl/JHjvny](http://goo.gl/JHjvny) (Ley de enjuiciamiento Criminal, modificada el 6/10/2015)

<sup>9</sup> Available at [goo.gl/GeAHwi](http://goo.gl/GeAHwi)

<sup>10</sup> Available at <https://goo.gl/gbazSc> (Artículo 318 CP, anteriormente TSH y tráfico se regulaban conjuntamente)

<sup>11</sup> Available at [goo.gl/rLKrrw](http://goo.gl/rLKrrw)

<sup>12</sup> Cataluña y País Vasco han aprobado medidas concretas contra la explotación laboral y la TSH en este ámbito

<sup>13</sup> La law free legal assistance (Ley de Asistencia jurídica Gratuita y RD 3/2013 de 22 de febrero que desarrolla los derechos recogidos en Ley de enjuiciamiento Criminal), available at <https://goo.gl/2PgHQ8>

<sup>14</sup> Law of protected witnesses (Ley de testigos protegidos 19/94 de 23 de diciembre)

<sup>15</sup> Law 4/27 April 2015 on the legal statute of the victim (Ley 4/2015, de 27 de abril, Estatuto Jurídico de la víctima)

<sup>16</sup> Ley 4/2015, de 30 de marzo, Conocida como "Ley Mordaza", available at [goo.gl/5grTGd](http://goo.gl/5grTGd)

<sup>17</sup> Denunciadas por Amnistía internacional y otras instituciones, incluyendo el Consejo General del Poder Judicial, available at <https://goo.gl/fY5mTs>

<sup>18</sup> Law enforcement unit: Unidad Central Operativa, de la Guardia Civil

<sup>19</sup> Law enforcement unit: Unidad Central Contra Redes de Inmigración y Falsedad, de la Policía Nacional

exploitation<sup>20</sup>. Cooperation of law enforcement bodies and specialized entities is also promoted through a police administrative regulation<sup>21</sup>. Also the new profile of he “**Social Rapporteur**” has been created in 2016, to ease the coordination of police research with entities working on human trafficking and providing assistance to potential victims.

**Immigration Law**<sup>22</sup> Foreign people identified as victim of human trafficking have the right to access legal residence and the right to have any deportation sanction for illegal residence cancelled. They also have the right to access social integration. Legal residence is renovated year after year until acquiring permanent residence. It also comprises a working permit. The reflection and recovery period increased from 30 to 90 days in 2015. In case of denial or revocation, it can be legally appealed. Despite all these legal developments, access to legal residence and work permit to victims of human trafficking for sexual exploitation purpose is very rare and access to international protection is even more difficult.

Access to international protection on the grounds of gender and sexual orientations is included in the Spanish Asylum Law<sup>23</sup> and human trafficking has been recognize as a cause to apply for and obtain international protection. During 2016, 14 international protection applications based on human trafficking grounds were granted.

## SWEDEN LEGISLATION

Crimes against liberty and peace is found in chapter 4, 1 a § of the *Swedish Penal Code* (2010: 371). According to this legal provision, anyone who by unlawful coercion, deception, exploitation of anyone's vulnerable location or with other such improper means: recruiting, transporting, transferring, harboring or receiving a person in order that he or she will be exploited through: sexual exploitation, removal of organs, military service, forced labor or other activities causing distress for the victim, shall be sentenced for human trafficking to imprisonment for no less than two and not more than ten years. According to the same paragraph, whoever commits an act referred to above, against a person under the age of 18, will be convicted of human trafficking even if no such improper means have been used. If the offense is considered severe, a perpetrator can be sentenced to prison terms of up to four years.

The County Board Administrative Board in Stockholm has created a **National Referral Mechanism**-manual for cases regarding victims of human trafficking. The manual is a step in creating a single, unified approach among all relevant authorities in their specific dealings with the unique nature of human trafficking and the victims it creates. In coordinating all efforts, the manual also serves to ensure the protection of the victim's rights. The focus areas are the followings:

*Identification*: informing relevant authorities (police, social services) when suspecting or coming into contact with a victim of human trafficking. According to the *Police Act*

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<sup>20</sup> Labour inspection of the Health Ministry of Spain, available at <https://goo.gl/CE1RoX>

<sup>21</sup> Instrucción 6/2016, de la Secretaría de Estado de seguridad, sobre actuaciones de las Fuerzas y Cuerpos de seguridad del estado en la lucha contra la TSH y la colaboración de las organizaciones y entidades con experiencia acreditada en la asistencia a víctimas, available at <https://goo.gl/y3sYiM>

<sup>22</sup> LO 4/2000, especialmente el artículo 59 Bis: [goo.gl/eem2TS](https://goo.gl/eem2TS), desarrollada por RD 557/11, de 20 de abril, por el que se aprueba el Reglamento de la Ley

<sup>23</sup> Law 2 / 30 October 2009 on asylum and subsidiary protection ( Ley 2/2009 de 30 de octubre, reguladora del Derecho de Asilo y de la protección subsidiaria), available at [goo.gl/5htE5K](https://goo.gl/5htE5K)

(1984:387) the police is required to inform social services of the victim and to coordinate efforts in providing shelter and safety.

*Initial support and protection:* the social services are required to inform the victim of their rights and all the support available to them in the form of housing, financial aid, clothing, legal avenues, residence permits etc.

*Long-term support and social inclusion:* cooperation between all relevant authorities such as the social services and the housing facility in assisting the victim in future plans. The social services will, upon consideration of all input from authorities in contact with the victim, develop an “individual treatment plan” which addresses the needs of the victim. This plan is valid for as long as legal proceedings may last. Furthermore along with organizations and members in the Platform Swedish Civil Society against Human Trafficking, the social services assist victims in adapting to life in Sweden.

*Return:* the return program for victims of human trafficking is tasked under the County Administrative Board in Stockholm. A victim is required to apply for the return program and all applications are sent to the International Organization of Migration (IOM) in Helsinki, which will then take responsibility in the case. Upon acceptance of request, the return program provide assistance in arranging transport and support for the journey back home as well as assisting in their reintegration (support services, housing etc.) in the country of origin. Relevant authorities and/or organizations are contacted to ensure to the well-being of the victim once they return.

Victims of crimes described in Chapter 4 in the ***Swedish Penal Code*** (2010: 371) include victims trafficking will have a counsel appointed once a preliminary investigation has been initiated. The state pays for the appointed counsellor (within legal proceedings), who has the task of supporting and advising the victim concerning legal matters.

According to the ***Social Services Act*** (2001: 453), each municipality has a duty to provide assistance and support to victims of crime within their districts. Municipalities are expected to provide victims with basic needs from shelter, financial aid to any “psychosocial” support they may need.

According to the ***Swedish Aliens Act*** (2005:716), upon application from the person in charge of a preliminary criminal investigation, a temporary residence permit valid for at least six months shall be granted to an alien staying in under certain circumstances, for example that it is necessary to enable a preliminary investigation or a main hearing in a criminal case to be carried out.

The above residence permit is only temporary and are valid for as long as the criminal proceedings may last. Although trafficking in itself is not automatically a sufficient ground to be granted permanent residence, a victim of human trafficking may apply for Swedish residence for example in “exceptionally distressing circumstances” in the asylum procedure.

The police and the prosecutor are obliged to inform the victim of the possibilities of receiving compensation.

Under 13a § and 14§ of the ***Preliminary Investigations Act*** (*Förundersökningskungörelsen* 1947:948), a victim can make a claim for compensation only once the crime has been reported to the police.

Compensation for victims of violent crimes is ensured under the ***Criminal Injury Compensation Act*** (*Brottsskadelag* 2014: 322). Under this act, the Crime Victim

Compensation & Support Authority (Brottsoffermyndigheten) has the task of attending to the needs of victims and furthermore, has the responsibility of overseeing and making decisions regarding victim compensation. According to the act, victims can be compensated if the crime took place within Sweden or if it happened to a Swedish citizen outside the state's borders. Along with the ***Liability Act*** (*Skadeståndslag* 1972:207) a victim of a crime such as human trafficking, is entitled to compensation for physical as well as psychological damages. A claim for this type of compensation should be filed within two years following the conclusion of court proceedings.

## **2. THE SECONDARY VICTIMIZATION AND HOW IT CAN BE AVOIDED DURING THE JUDICIAL PROCEEDINGS**

### **2.1. DEFINITION OF TERMS**

**Trauma**, can be defined as a psychological and emotional damage caused by a profoundly disturbing event.

**Posttraumatic Stress Disorder (PTSD)** is not a sanogenic response to a trauma, but rather a serious mental disorder. PTSD is the failure to integrate the traumatic experience in the existing representation about himself/herself and the world. The persons suffering of PTSD are so marked about all the bad things that happened in the past that it is difficult for them to care about the present. The main characteristics of PTSD are repeated intrusions of painful memories into consciousness alongside with hypersensitivity and active struggle to prevent the recurrence of memories that happened in the past.

**Secondary victimization** is the re-traumatization of a person who has suffered a trauma. This form of trauma occurs in contact with a person /an institution that the victim contacts for assistance, legal and social guidance.

**Defense mechanism** it is a psychological process in which the mind finds solutions for internal conflicts that cannot be resolved. This process is often unconscious and consists in apparent deleting the thoughts, the feelings, the drives that are not consistent with the subject moral norms and cardinal values and are a threat to lower the self-esteem which leads to psychological discomfort and anxiety.

**Empathy** it is the ability to understand other one feeling and experiences from their perspective. To be able to put yourself in their place and feel what they are feeling.

**Trauma** is subjectively perceived, the intensity of the trauma impact is largely due not to what happened to the person, but to what the person thinks and interprets about what happened to her/him, the adaptive capacity of the victim. However, some manifestations are characteristic to all people who have been subjected to traumatic events, situations: anxiety, fear, confusion, reliving traumatic events, intense anger, nervousness, insomnia. This wide and difficult set of manifestations makes it extremely difficult to work with victims of human trafficking. Interaction requires a lot of patience, the first step being to create a relationship of trust between the victim and the people with which he/she comes into contact and who are willing to help him/her. This first step requires a lot of involvement and empathy. Recurrent trauma makes victims unable to trust the persons they come into contact with, can be aggressive, or it looks like they don't experience any kind of emotion (this manifestation can be misinterpreted, namely that they don't care about what happened or don't care of someone's effort to understand and help them).

Victims of human trafficking are often exposed to acute stress that often leads to difficulties in integrating traumatic situations thus evolving *Posttraumatic Stress Disorder (PTSD)*. In the case of victims of human trafficking, long-term exposure to repeated trauma makes the risk of developing Posttraumatic Stress Disorder significantly higher. PTSD features are repeated recurrences of traumatic events, disturbing dreams (nightmares), intense suffering at exposure to memories that caused the trauma, flashbacks, avoidance of traumatic memories (psychogenic amnesia), avoidance of social interactions, apparent detachment /alienation from close friends, inability to experience emotions, sleep disturbances, anger, nervousness, aggression /fury especially in unpredictable, surprising situations, difficulties in concentration.

The behaviors that lead to *re-traumatization* are: the lack or the refusal of reaction from the authorities (we cannot help you, we don't deal with this kind of issues, etc.), blaming the victim ("What business did you have with such people?", "When you left, didn't you know what to expect") questioning the statement of the victim ("Are you sure you were forced?", "Could it be that you wanted it and then changed your mind?"), moral judgments, language lacking empathy and adequacy ("She is a prostitute").

Victims of human trafficking who have been subjected to recurrent traumas often think "Maybe I deserved what happened to me," "I am to blame for what happened to me." "There is something wrong with me." These thoughts not only generate guilt but also shame, and in the course of building a relationship of help and trust a great obstacle is overcoming this feeling. On this background of confusion and guilt, the diminution of the intensity, of the significance of the trauma by the one invested as a trustworthy person with statements such as "Be stronger", "Get over this", "Come on, it's not that big of a deal" doesn't reflect the seriousness of the situation.

The lack of *empathy* can be felt acutely after such a difficult disclosure. The consequence of not confirming the pertinence of emotional echo (as example, if the victim feels an unsurmountable emotion intensity and the one with whom he/she comes in contact will say it's not a big deal) maintains the confusion by strengthening and confirming guilt (the victim feels guilty that he/she cannot overcome this feeling when the one invested with trust tells him/her that it's not that hard and insurmountable.) The most disturbing effect of such a scenario is likely to lead to the alienation of the victim through loss of self-confidence and *feeling of identity* (the victim no longer knows who he/she is, what his/her role is, what his/her value is in society). Denial, relativizing trauma by the specialists responsible for solving the case with whom the victim comes into contact leads to a disturbance of the preservation instinct that transcends the body's survival resulting in an acute *disturbance of the ego*.

## **2.2. THE CODE OF ETHICS FOR LEGAL, SOCIAL, HEALTH PROFESSIONALS**

EU Directives and other EU instruments on victims' assistance orientate the work of professionals together with each profession Code of Ethics. These Codes usually provide general orientations on the obligations and also on the ways of preventing and acting to prevent victims' secondary victimization. Codes of Ethics usually refer to the obligation to confidentiality and keeping professional secret on their duties and to the right of the client/patient to allow to break this obligation. Codes of Ethics also refer to integrity, rights protection and respect of ethical principles, dignity, freedom and equality in professional practice. They also refer to the right to accessing accurate information, to the protection against degrading treatment and to the obligation of reporting bad practices.

### **ROMANIA**

#### ***Lawyers***

In a society based on respect towards justice, the lawyer has a relevant role in enforcing the rules of law and the interests and rights of the client. The Council of Bars and Law Societies of Europe issued a *Code of Conduct for Lawyers* which contains also stipulations related to client's interests, the relations with clients. This Code was originally adopted in October 1988 and subsequently amended during the years (last time in 2006). Many provisions from this Code of Conduct can be found in the EU member states national Laws on the organization and pursuit of the lawyers' profession. In Romania, Law 51/1995 on lawyers' profession (with subsequent amendments) and the Statute of Lawyers.

A lawyer must always act in the best interest of the client and must put those interests before the lawyer's own interests of those of fellow members of the legal profession.

A lawyer shall advice and represent the client promptly, conscientiously and diligently.

A lawyer shall not be entitled to exercise his/her rights to withdraw from a case in such a way or in such circumstances that the client may be unable to find other legal assistance in time to prevent the prejudice being suffered by the client.

A lawyer may not advice, represent or act on behalf of two or more clients in the same legal matter if there is a conflict, or a significant risk of a conflict, between the interests of those clients.

A lawyer must refrain from acting for a new client if there is a risk of breach of a confidence entrusted to the lawyer by a former client or if the knowledge which the lawyer possesses of the affairs of the former client would give an undue advantage to the new client.

Where lawyers are in an association, the rules related to the conflict of interests shall apply to the association and all its members.

A fee charged by a lawyer shall be fully disclosed to the client, shall be fair and reasonable, and shall comply with the law and professional rules to which the lawyer is subject.

A lawyer shall not be entitled to make a *pactum de quota litis* (an agreement between a lawyer and the client entered into prior to final conclusion of a matter to which the client is a party, by virtue of which the client undertakes to pay the lawyer a share of the result regardless of whether this is represented by a sum of money or by any other benefit achieved by the client upon the conclusion of the matter).

As challenging as it can be to identify human trafficking and recognize the victims, also the tasks of providing legal assistance can be very complex issue. The multi-faced and prolonged nature of victimization affects the victims in ways that can impede the efforts of lawyers and other service providers to assist victims and develop strong professional relationships with them. Legal assistance to victims of human trafficking is challenging, even for experienced lawyers who are exercising this profession for many years.

### ***Judges and Prosecutors***

Judges and prosecutors should seek for appellate review to provide oversight, monitor quality, promote consistency, and provide guidance to improve the reasoning of future decisions related to human trafficking. To ensure that the right to a remedy is both practical and effective, and that the rule of law is respected, judges and prosecutors must be able to play a meaningful and effective role during the entire trial, to strive to ensure victims protection and the assistance of a lawyer. The two laws that regulate their activity, Law no. 303 of 28 June 2004, on the status of judges and prosecutors and the Decision no 328 of 24 august 2005- the Deontological code of judges and prosecutors<sup>24</sup> do not contain any provision that touch directly the victims of human trafficking, but only indirect provisions that might also apply to this category of persons.

Thus, according to art 73 of Law no. 303 of 28 June 2004, *the determination of the rights of judges and prosecutors shall be made taking into account the place and role of justice in the rule of law, the responsibility and complexity of the office of judge and prosecutor, the prohibitions and incompatibilities prescribed by law for these functions and shall aim at guaranteeing independence and their impartiality.* The emphasis lays on the impartiality and independence of judges and prosecutors. Judges and prosecutors can be held liable in civil, disciplinary and criminal matters, in accordance with the law (art.94) and it represents a disciplinary misconduct the non-observance of the secrecy of deliberation or confidentiality of works that have such character, such as the secrecy of a hearing of a victim (art 99).

According to the deontological code, Decision no 328 of 24 august 2005, judges and prosecutors have the duty to promote the rule of law, to defend the fundamental rights and freedoms of citizens and are obliged to respect the equality of citizens before the law, ensuring them non-discriminatory legal treatment, respect and defend the dignity, the physical and moral integrity of all the persons who participate, in any capacity, to judicial proceedings, thus we may include here also the victims of human trafficking, although this is not a direct provision relating to them. Furthermore, judges and prosecutors must impose order and solemnity during the settlement of cases and adopt a dignified and civilized attitude towards the parties, lawyers, witnesses, experts, interpreters or other persons, and ask them for appropriate behavior and have “*the obligation not to disclose or use for purposes other than those directly related to the exercise of their profession the information they have obtained in this capacity*” (art. 14, 15, *Deontological Code*).

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<sup>24</sup> Approved by the Decision no. 144 of 26 April 2005 of the Superior Council of Magistracy, published in the Official Gazette of Romania Part I, no. 382 of May 6, 2005

## ***Psychologists***

The exercise of the profession of psychologist with the right of free practice is carried out in compliance with the principles contained in Law no. 213/2004 and Government Decision no. 788/2005, as well as the principles and standards contained in the *Deontological Code* of the profession.

Psychologists carry out their activity, showing respect for the feelings, experiences, knowledge, values, ideas, opinions and options of others.

Psychologists avoid or refuse to participate in activities and practices that do not respect the legal, civil or moral rights of others.

Psychologists will ensure that the informed consent of the client / participant is not given in any form under coercive or pressure conditions.

Psychologists will present in an honest manner the specialized fields in which they are certified, their competencies, affiliations and professional experience, and no distortions, omissions or false presentations are accepted.

Psychologists do not practice, do not allow, do not instigate, do not collaborate and do not consent or facilitate any form of discrimination.

Except in the case of force majeure (disturbances of psychic functioning in terms of imminent danger requiring immediate intervention), the psychologist acts by respecting the client's right to refuse or cease psychological service.

Psychologists must obtain permission from their clients / subjects or their legal representatives before making audio, video or written recordings while providing services.

Psychologists do not publicly engage in harming the image of others and will not display inequality on criteria of culture, nationality, ethnicity, race, religion, sex, sexual orientation, nor engage in remarks or behaviors that damage the dignity of others.

Psychologists will ensure that in the provision of psychological services they do not violate the personal or cultural privacy of the client / subject without clear permission to do so.

## ***Social Workers***

In Romania, the profession of the social workers is regulated by a special Law no. 466/2004. It is established who and in what conditions can work in social work and it creates the professional authority for social workers, the National College of Social Workers (CNASR). Within this law, it becomes mandatory that only people who graduated university with specialization in social work and are registered in the National Register of Social Workers are allowed to work in this field. The registration ensures that the person is prepared from all points of view to work with people and give them the help they need in order to achieve well-being and a higher standard of living. The social worker has to follow a very strict sets of rules, starting with the legislation, the quality standards, good practice guides but also a sets of ethical rules. First of all, they must keep the confidentiality regarding the specific vulnerable situation of the client, they must always plead for the improvement of the social conditions in order to satisfy basic human needs and also promote social justice. A social worker must offer professional services in emergency situations, encourage social and cultural diversity, allow and facilitate access to the most appropriate social service in all situations, in order to ensure that fundamental human rights are respected.

## **BELGIUM**

The code of conduct for lawyers, prosecutors, judges, social workers and psychologists that come in contact with victims of human trafficking is linked to the division of responsibilities, to the role of each partner in the multidisciplinary cooperation. The multidisciplinary cooperation is regulated by the Circular Letter of December 23th 2016 on the establishment of a multidisciplinary cooperation with regard to victims of trafficking in human beings and / or certain heavier forms of smuggling in human beings. The direction of the multidisciplinary cooperation is determined by the National Action Program. The Belgian government already adopted and implemented 2 action programs (2008 – 2012, 2012 – 2014) and is currently implementing the third National Action Program 2015 – 2019.

For Lawyers: Flemish Bars Association has a ‘Codex for the Deontology of Lawyers’, updated on 01.03.2017. Chapter X discusses the Code of Conduct for European Lawyers. Part III of Chapter X discusses The Relationship with the Client. This Chapter is written by Council of the Bars and Law Societies of the European Union, and so is the same for all European Bar Associations.

Belgium has case-law concerning the ethics of judges, predominantly in the context of disciplinary proceedings. Except a general article in the Judicial Code which contains a vague definition of the “duties of the function” and a few brief reference, Belgian codes do not refer to the deontology of magistrates. That is why The High Council of Justice and the Consultative Judicial Council have published on June 26th 2016 a “Guide for Judges: principles, values and qualities”. This guide is based on the values which have been identified at European Level by other “High Councils of Justice”. This guide contains recommendations, statements and key principles on how judges should act, even in very concrete cases.<sup>25</sup>

### ***First line services***

First line services are basically a large number of organizations and individuals that are most likely to be the first to encounter victims. This ranges from Federal Police, Local Police, Social Inspection, to the entire social sector, the asylum sector, diplomatic sector and not to mention the medical sector. All of these must be trained not only to differentiate between a perpetrator and a victim, but to detect a possible victim in the first place and react accordingly. Unfortunately, a technical training based on the different criteria of detection is not sufficient.

The police has its deontological code, but that code does not force the individual police officer to approach a pickpocket, a beggar or a prostitute as a possible victim of trafficking. They are more likely to see them as a nuisance or simply as someone who broke the law and must be treated accordingly. Changing this prejudice requires an entirely different look on the matter, a different mental framework. A deontological code alone will not change that, only repeated awareness training can provide that and increase the detection / identification.

### ***Lawyers***

The Belgian model does not require the intervention of a lawyer as, except in two particular situations. As a victim of THB is only officially identified if there are sufficient elements to initiate an investigation, it is the prosecutor that takes lead in the judiciary proceedings in order to bring the perpetrators to justice. As it is the prosecutor who acknowledges the victim as victim, he/she also acknowledges a crime that must be prosecuted

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<sup>25</sup> Available at <http://www.csj.be/en/content/guide-judges>

by his office. The victim does not need to be represented by his/her own lawyer as his/her victimization is not questioned by the prosecutor. Only in specific gruesome cases or cases with large numbers of victims, the center takes it upon itself to file a civil suit to put extra weight on the proceedings and in particular on the ruling of the judge. In that case the centers need a barrister to represent them in court thus supporting the case against the perpetrators, but not to prove that someone is a victim. That is the prosecutor's responsibility.

On the other hand, if the victim wants to try and receive financial compensation for his/her own person, he/she must hire his/her own lawyer. In Belgium however this rarely happens. Not only must the victim pay the representation her/himself, they must also provide the court with extra proof concerning their particular damages and be willing to accept a counter investigation by the defendant(s). This is in most cases, time and cost wise, too stressful on the victim. The fact that they are safe, have a guaranteed (be it small) government income and the constant support from a center to re-habilitate, integrate and find a job makes the majority decide to try and move on with their lives.

### ***Judges and Prosecutors***

It is important to know, once the prosecutor has granted the official status of victim THB, the victimization is no longer questioned by any participant during the investigative and legal proceedings. Except, obviously, by the defense. Prosecutor and judge are not always in agreement.

## **BULGARIA**

***Judges, prosecutors and investigative magistrates*** in Bulgaria are subject to the Ethics Code of Bulgarian Magistrates (*Кодекс за етично поведение на българските магистрати*).<sup>26</sup> Under the heading of impartiality, a prohibition of discrimination is introduced on grounds like race, nationality, ethnic background, etc. According to the Code, magistrates also have to be respectful and cordial towards citizens and all participants in proceedings. Honesty and cordiality are prescribed in magistrates' work and personal life, as well as respect towards people and upholding their rights and freedoms (rule 4.2).

***Police officers***, including those investigating crimes, are bound by the Ethics Code of State Officials in the Ministry of the Interior (*Етичен кодекс за поведение на държавните служители в Министерството на вътрешните работи*).<sup>27</sup> The Code has special sections on working with victims and with witnesses. Police officers need to provide support, help and information to victims by intervening to their protection, if they are on the scene of the incident; by hearing them as soon as possible and helping them to get medical aid, other referrals and solution to their most urgent problems; by showing them that they are available to them and spend time with them; by calming them down, working conscientiously on their case and informing them about the developments; by protecting their person and property (rule 76). In its relations with victims, police officers put human life first, do not allow privileges or discrimination, do not show personal preference and take into account victims' wish to notify their relatives about the incident they suffered from; treat victims well by not touching upon personal issues not related to the case (rule 77). Police shall treat victims' relatives tactfully and delicately, when informing them about an incident (rule 78). When interviewing a victim, police shall observe confidentiality (rule 79).

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<sup>26</sup> Available at <http://www.lex.bg/laws/ldoc/2135951392>

<sup>27</sup> Available at <https://mvr.bg/>

In their relations with police, witnesses, many of whom are victims, have their specific needs taken into account and police is guided by the rules for their protection and support, especially in cases of danger for them (rule 80). In their relations with witnesses, police officers should be cordial and ensure proper surroundings for interviews; take into account witness' psychological state; keep strict confidentiality; refrain from comments on the witness' background, social status, criminal record or contacts; put down witness' testimony truthfully (rule 81), all that even in cases witnesses fail to appear or are brought in compulsorily (rule 82).

**Lawyers** are subject to the Lawyers' Ethics Code (*Етичен кодекс на адвоката*).<sup>28</sup> Although mainly concerned with the financial and practical aspects of the lawyer-client relationship, it nevertheless prohibits discrimination on any grounds like sex, race, ethnicity, citizenship, origin, religion, education, etc (art. 10).

Deontological norms for social professionals in Bulgaria are found in a variety of documents of different nature. First and foremost, they are bound by the Ethics Code of Social Workers in Bulgaria (*Етичен кодекс на социалните работници*).<sup>29</sup> A number of rules can be inferred from sources like the Regulation on provision of temporary accommodation and the centres for protection and help for victims of trafficking in human beings (*Правилник за приютите за временно настаняване и центровете за закрила и помощ на жертвите на трафика на хора*),<sup>30</sup> the methodologies for providing social services like crisis centres, the NRM for trafficking victims, which defines the leading principles of working with them and the work of some NGOs which have also elaborated and published professional standards on working with victims.

**The social workers'** ethics code stipulates respect towards human dignity, confidentiality and non-discrimination (Art. 5-7). The social worker shall take into account clients' socioeconomic environment, habits and language (Art. 13).

The Regulation on the temporary accommodation of victims of trafficking (shelters), binds workers there to abide by the rules of personal data protection and observe the honor and dignity of those placed (Art. 14).

According to their methodology, developed by the Social Assistance Agency,<sup>31</sup> crisis centers where many victims of trafficking are placed, are based on an individual approach and assessment of the specific needs of the person; support the person and empower him/her to help himself/herself in various situations; support personal development for empowerment and social inclusion, for which skills are restored and improved; render support for preventing the consequences of the trauma. Victims are entitled to immediate and unconditional support, safety and security, partnership with the persons placed, non-judgmental attitude, provision of objective information, taking and upholding decisions together with the user; multidisciplinary approach; share informed consent. Individual approach, secrecy and confidentiality, tolerance towards diversity, upholding the victim's fundamental rights and dignity and promoting his/her best interest of the victim are also among the leading principles of social work put in the Methodology.

<sup>28</sup> Available at <http://www.lex.bg/laws/ldoc/2135507578>

<sup>29</sup> Available at <http://socialaffairsru.weebly.com/104510901080109510771085-108210861076107710821089-10851072-108910861094108010721083108510801103-10881072107310861090108510801082.html>

<sup>30</sup> Available at <http://www.lex.bg/laws/ldoc/2135480536>.

<sup>31</sup> Available at <http://www.asp.govtment.bg/metodiki-i-metodiceski-ukazania>

The NRM (part C) provides for a framework for working with victims by defining a number of principles to guide all professionals, including health and social workers. Among them is the unconditional support for victims of trafficking from the moment they are identified and regardless of their willingness to co-operate with authorities; confidentiality and personal data protection; protection of the rights of the victim with priority over the interest of the carrier; non-discrimination on grounds like racial or ethnic background, sex, sexual orientation, age, religious beliefs and no prejudice because of victims having been exploited; participation of victims in all decisions related to them and informed consent to all measures under the Referral Mechanism; provision of objective information not creating false hopes; individual approach, emotional support; non-judgmental attitude; respect towards suffering.

NGO contributions, for example the Guidelines to service providers for working on cases of human trafficking, developed by La Strada International and the Animus Association Foundation,<sup>32</sup> reiterate the principles of human-rights based framework, including observance of the victims' rights and personality; confidentiality and secrecy, safety and security, opportunities for informed consent and choice, empowerment and non-victimizing attitude.

Special documents have been developed for working with children, like an Ethics Code for Working with Children<sup>33</sup> and Standards of Work of the National Child Helpline 116111.<sup>34</sup> Psychologists are bound by the Ethics Code of Psychologists in Bulgaria (*Етичен кодекс на психологията в България*),<sup>35</sup> which prescribes respect towards the dignity and the rights of the individual (principle 2.1.), with recognition of individual differences due to, among others, sexual and ethnic background, sexual orientation, race, nationality, age, religion, language and social and economic status (principle 3.1.1.). The Code stipulates the principle of informed and voluntary consent (principle 3.1.3.) and maximum independence and freedom of will of the clients (principle 3.1.4.).

**Health professionals** (doctors) are bound by the Professional Ethics Code of Doctors in Bulgaria (*Кодекс за професионална етика на лекарите в България*).<sup>36</sup> Doctors work in the interest of the patient's life, physical and mental health and towards his/her social re-adaptation (Art. 3). Doctors recognize and protect the rights of their patients and respect human dignity (Art. 10). No tests, damaging the psychological well-being, dignity or morality of the patient are allowed (Art. 25) and no procedures without the consent of the patient or his/her relatives, unless there is imminent danger for the life of the patient (Art. 26). Doctors should respect the intimate sphere of the patient (Art. 27) and his/her right to be informed about his/her condition, the nature of his/her illness and the means for treatment (Art. 28). Medical secrecy is regulated in detail (Art. 51 and following).

Other medical professionals are bound by the Professional Ethics Code of nurses, midwives and associated medical specialists (*Кодекс за професионална етика на медицинските сестри, акушерките и асоциираните медицински специалисти*),<sup>37</sup> which also reiterates the respect for the personality and wishes of the person, especially children under 12 years of age (Art. 9), stipulate respect towards the patient's honor and integrity (Art. 11) and confidentiality and protection of personal data (Art. 19).

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<sup>32</sup> See more at <http://animusassociation.org/lobirane-prevencia/la-strada/>.

<sup>33</sup> Available at <http://sacp.government.bg/bg/normativna-baza/kodeksi/>

<sup>34</sup> See more at <http://116111.bg/>.

<sup>35</sup> Available at <https://bgpsychologists.wordpress.com/code-of-ethics/>

<sup>36</sup> Available at <http://www.lex.bg/laws/ldoc/1598070784>

<sup>37</sup> Available at <http://www.nursing-bg.com/etichen%20kodeks.html>

## SPAIN

### *Lawyers, prosecutors, judges*

According to the Spanish lawyers deontological code<sup>38</sup> legal professionals must follow the ethical and deontological principles of this profession, at both at national<sup>39</sup> and at European<sup>40</sup> level: 1) Independence and no interfering, similar to judge's impartiality. 2) Freedom to choose and defend a case. 3) Trust and integrity. 4) To keep professional secret, right to privacy, freedom, family life, not declaring against oneself, all essential to guarantee the right to be defended. Lawyers must keep secret of all facts and news they are aware of and cannot be obliged to testify.<sup>41</sup>

Prosecutors, justice civil servants and judges functions, obligations and incompatibilities are ruled in the LOPJ<sup>42</sup> the EJV. All civil servants participating in criminal proceedings and being in contact with the victim must be able to have specialized training.

Prosecutors have their own professional Statute<sup>43</sup> and their work is organized by topics, gender violence, immigration, minors, labor, territories.<sup>44</sup> They must follow the principles of impartiality and law and they must pursue crime and protect human rights.

Victims of human trafficking and people without an income have the constitutional right<sup>45</sup> to access justice free of charge.<sup>46</sup> Duty lawyers provide these services, systematise good practices and get specialised training. There is a specific human trafficking-specialized duty lawyer's service. This service has developed a protocol that includes information on the identification, specific techniques and modus operandi of THB networks<sup>47</sup>. The protocol clearly sets out that the lawyer must:

Access to a private interview with the victim of human trafficking, with the possibility of assistance by a professional from a specialized entity.

To facilitate contact details

To provide information on Immigration law in case the victim is a foreigner

To assist on the whole criminal process if the victim decides to follow this process: evidence, application for witness protection, recording of testimonies and pre-settle evidence.

To ask law enforcement agents on protection

To ask for an interpreter

To keep the victim and the responsible from the center where he/she is lodged informed.

To apply or the confiscation of the human trafficking network goods to pay or a compensation.

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<sup>38</sup> Available at <https://goo.gl/axPo7o>

<sup>39</sup> Available at <https://goo.gl/cgQWcu>. Spanish Lawyers Statute approved by Royal Decree 658/2001, June 22nd, updated in 2013

<sup>40</sup> <https://goo.gl/Uozun>: European Lawyers Code of Ethics: Código de Deontología de los Abogados europeos ha sido adoptado en la Sesión Plenaria del CCBE de 28 de octubre de 1988, modificado en la última ocasión el 19/05/2006

<sup>41</sup> Artículo 542 of LOPJ, available at <https://goo.gl/ujvaJe>

<sup>42</sup> Available at <https://goo.gl/uerYq3>

<sup>43</sup> Prosecutors Statute: Estatuto Orgánico del Ministerio Fiscal, Law 50/81 of December 30th <https://goo.gl/nzkaXQ>

<sup>44</sup> Prosecutors victims protection: <https://goo.gl/GVS9Zu>

<sup>45</sup> Article 119 of the Spanish Constitution

<sup>46</sup> Available at <https://goo.gl/iyjoPX>, based on Law 42/2015 of October 5th that modifies Law on Civil Trial: <https://goo.gl/ZQchHm>

<sup>47</sup> Available at <https://goo.gl/4fxmd8>

### ***Social Workers Code of Ethics<sup>48</sup>***

Social workers plan, implement, evaluate and modify services and social policies addressed to groups and communities. There is no specific guidance on social work with victims of human trafficking in their Code of Ethics and it is the general principles collected in this document that apply. Thus, articles 7 and 9 refer to human dignity, freedom and equality and to the obligation of developing social work under the respect of human rights of individuals, groups and communities as reflected in the UN Universal Declaration of Human Rights and the respective European and Spanish law and rules on this topic.

### ***Psychologists Code of Ethics<sup>49</sup>***

Following common aspects from other codes, it is important to point out that this code refers to the obligation of psychologists to inform on Human Rights violations, mistreatment or cruelty in confinement, degrading or inhuman situations of patients or people identified in their daily work, Article 8, psychologist must also respect moral and religious beliefs of their patients. Article 9, and must comply with confidentiality and professional secret, that could only be broken under their clients' authorization or under legal obligation. Patients have the right to access their records in case this would not cause any harm to anybody, even if the treatment/records were requested by somebody else. Article 42 the requirement of access to psychological records by any institution will keep the same procedures on confidentiality and dissemination will be

### ***Medicine<sup>50</sup> and nursing<sup>51</sup> Codes of Ethics***

According to this code, doctors should follow the principle of loyalty to his/her patients and their health before and over any other interest. Confidentiality must be kept in any case and medical records should only be revealed in very specific cases: mistreatment, sexual assault, disciplinary testimony and under legal obligation related to:

Injuries report that doctors are obliged to send to judges when assisting a patient that was injured.

When acting as a forensic surgeon/doctor. In this case the professional must testify if required in a criminal proceeding.

There is a specific ruling on the job developed by forensic professionals<sup>52</sup>. They provide evidence on the psychosocial damages of the victim for the criminal proceedings. These rules ask for the need of medical examinations promptly and duly made and informing on the reason to make them and the effects. They also allow to choose female/male doctor, -when there is the chance to do it. Physical and psychological examination of minors must respect their age and development needs.

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<sup>48</sup> Available at [https://www.cgtrabajosocial.es/codigo\\_deontologico](https://www.cgtrabajosocial.es/codigo_deontologico)

<sup>49</sup> Available at <https://www.cop.es/pdf/codigo-deontologico-consejo-adaptacion-ley-omnibus.pdf>

<sup>50</sup> Available at [https://www.cgcom.es/sites/default/files/codigo\\_deontologia\\_medica.pdf](https://www.cgcom.es/sites/default/files/codigo_deontologia_medica.pdf)

<sup>51</sup> Available at (<http://aebioetica.org/revistas/1994/4/20/341.pdf>)

<sup>52</sup> Forensic doctors Protocol, available at <https://goo.gl/Gaziyv>

The nursing Code of Ethics insists on the need of asking patients for their consent and in their right to be duly informed. It also refers to the obligation of providing solutions to prisoners, asylum seekers and refugees health problems, helping them on their social integration.

## **SWEDEN**

### ***Lawyers***

All members of the Swedish Bar Association must observe the Code of Conduct<sup>53</sup>. The Code of Conduct provides a framework for the professional and ethical standards to be observed in lawyers' professional activities. It contains rules on running a law firm, on fees, on secrecy, relations to the opposite party and to the court, and on conflicts of interest. A cornerstone of the Code of Conduct is the lawyer's obligation to loyalty towards the client. With the primary purpose of safeguarding their clients' interests, a number of special rules are in place, most aiming to preserve loyalty, trust and confidentiality between advocate and client.

### ***Prosecutors***

Prosecutors, like other employees at the Public Prosecutor's Office have daily contact with many people who are affected by their work in different ways. It is therefore very important for the prosecution service to maintain the public confidence in the authorities and their employees. The Swedish Prosecution Authority has outlined ethical guidelines for employees within the prosecution service (*Etiska riktlinjer för anställda I åklagarväsendet*)<sup>54</sup>:

The prosecutor shall, in the context of his independence ad his duty of service, ensure that all decisions are correct and that the legal process is conducted in a lawful manner.

The activities of the prosecution service shall in all respects be characterized by objectivity and impartiality. The prosecutor must not take into account undue circumstances or purposes.

In the contacts with parties, counsels, courts and other, the prosecutor should act properly and in such a way that suspicion does not arise regarding if he or she makes undue consideration or that there is a risk of bias or any similar relationship.

### ***Judges***

The Swedish National Courts Administration has made a report concerning best practices, ethics and responsibility for judges<sup>55</sup>. This report also contains information about rules in Swedish law regarding judges such as the judicial oath. In this document, *integrity* is considered a central value. Four additional pillars have been chosen, joining the international

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<sup>53</sup> Available at [https://www.advokatsamfundet.se/globalassets/advokatsamfundet\\_eng/code-of-professional-conduct-with-commentary-2016.pdf](https://www.advokatsamfundet.se/globalassets/advokatsamfundet_eng/code-of-professional-conduct-with-commentary-2016.pdf)

<sup>54</sup> Available at [https://www.aklagare.se/globalassets/dokument/riktlinjer---riksaklagarens-rar/rar\\_201\\_01\\_etiska\\_riktlinjer.pdf](https://www.aklagare.se/globalassets/dokument/riktlinjer---riksaklagarens-rar/rar_201_01_etiska_riktlinjer.pdf)

<sup>55</sup> Available at file:///D:/Project%20SHRL/God\_domarsed\_-\_om\_etik\_och\_ansvarstagande.pdf

so called Bangalore principles of judicial conduct, namely: *independence, impartiality and equal treatment; good behavior and responsiveness; good skills and efficiency*.

### **Social Workers**

The Deontological Code for Social Workers in Sweden (*Etikfrågor i Socialtjänsten*) embodies the code of conduct that social workers are to follow when they get in contact with the clients<sup>56</sup>. The following codes of conduct, recommendations and guidelines regard the intervention with the clients:

- The social worker must respect the client's personal integrity and promote her/his self-autonomy as long as this does not interfere with the same rights for others. *This means that the social worker should be very careful and never overstep the limits that the client is setting.*
- The personal contact with the clients must be based on respect and an endeavor to establish good relations. Efforts shall as far as possible build on cooperation and consensus. *Victims may react or behave in an extreme way, so it is the social worker's responsibility to always maintain serenity and never be carried away by stress or fatigue.*
- The social worker should inform the client of her/his rights, responsibilities and obligations, and search out the best alternatives for each client. *It is the responsibility of the social worker to make sure that the victim understands the meaning of the information he or she is providing.*
- Confidential information and the sensitive data of the client must be handled according to the Privacy Act Statutes, otherwise with great care. *The misuse of sensitive data would place the victim in an even more vulnerable plight.*
- The social worker should not exploit the dependency of the client. *A social worker must always search out the best alternatives for the victim, independently of the work and effort this may entail.*

### **Psychotherapists**

According to the Swedish Ethical Code for Psychotherapist (*Etisk kod för psykoterapeuter*)<sup>57</sup> provided by Union of Academics (*Akademikerförbundet SSR*), the following points constitute the ethical guidelines for psychotherapists:

- The psychotherapist should have an attitude of equality towards other people and treat the patient with respect, empathetic attention, kindness and a non-judging generosity.
- The psychotherapist must ensure that the patient is aware of the conditions of the psychotherapeutic situation and the mutual responsibilities, as well as the use of secrecy and documentation.
- The psychotherapist should respect the patient's autonomy and self-determination, and sometimes contribute to strengthen this autonomy.
- The psychotherapist should respect the patient's personal integrity and take into account the patient's sense of how to protect this integrity.

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<sup>56</sup> Available at: <http://www.semalia.se/att/Yrkesetik.pdf> and [https://www.socialstyrelsen.se/Lists/Artikelkatalog/Attachments/10450/2004-126-1\\_20041261.pdf](https://www.socialstyrelsen.se/Lists/Artikelkatalog/Attachments/10450/2004-126-1_20041261.pdf) and [https://akademssr.se/sites/default/files/files/ethics\\_in\\_social\\_work\\_0.pdf](https://akademssr.se/sites/default/files/files/ethics_in_social_work_0.pdf)

<sup>57</sup> Available at [https://akademssr.se/sites/default/files/files/etik\\_och\\_psykoterapi.pdf](https://akademssr.se/sites/default/files/files/etik_och_psykoterapi.pdf) och <http://www.psychology.su.se/utbildning/alla-utbildningar/psykoterapeutprogrammet/studiehandbok/etik-p%C3%A5-psykoterapeutprogrammet-1.149291>

- In a situation where psychotherapy is conducted within the means of coercion, it requires special attention by the psychotherapist to be able to contribute to develop the patient's self-determination in relation to the psychotherapeutic situation and protect the patient's right to integrity.
- All documentation about patients should be handled in such a way that secrecy is secured.
- The psychotherapist should be restrictive regarding exposing his or her private life on social media and regarding searching information about patients via such media.
- The psychotherapist is never allowed to use the relationship created to the client for his or her own benefit.
- A sexual relationship must never occur between the psychotherapist and the patient.
- The psychotherapist should propose other or supplementary efforts in situations where it is obvious that his or her own work does not contribute enough value to the patient.
- The psychotherapist has to ensure that the patient receives good preconditions to continue the therapy if the psychotherapist has to terminate the psychotherapy.

**A victim centered approach.** In order to help a victim of human trafficking, all health care professionals and social workers must consider certain aspects. The majority of victims of human trafficking is women and children. A female victim of human trafficking is often full of distrust, especially against male professionals. How will the client dare to trust you when you say you want to help? The victim may have trusted a person who promised a job before she was trafficked. She was forced to act against her values, and to forsake her dreams. She is most likely filled with shame and guilty, disrelish and abhorrence about the actions she was forced to perform and about being treated as a thing; humiliated, abused and constantly threatened to death. In addition to all this, she probably feels dirty and stupid for being so naive to be fooled by the traffickers. She may have thought that it was, to some extent, her own fault, for believing the promises she was given. Health care professionals and social workers need to be *genuine*, to show *empathy and respect* and to be filled with sincere willingness to *build trust and confidence*. Trust is a gift, and the professionals must show that they are worthy to receive that gift.

It's not easy to break through barriers of distrust. A basic premise is that the victim dares to take the step of trying to trust the health care professionals. Such a process takes time and must be allowed to do so.

### **2.3. RECOMMENDATIONS ON BEHAVIORAL NORMS TO AVOID SECONDARY VICTIMIZATION**

- Be very clear when you introduce yourselves stating what you do and what your role is in the given situation.
- If you don't know the answer to a question that has been addressed to you, say that you need some time to gather information about this situation or that you will find a suitable person who can answer that question.
- Teamwork is essential. Form stable teams, trained to work together in the stages of the case.
- Make team meetings, moderated by a specialist for ventilating emotions and sharing and normalizing thoughts and behavior.
- Do not underestimate the intensity of emotional discharge and the effort to put into words things that are hard to think about.
- Victims of human trafficking are often nervous and aggressive. Keep in mind that the emotional state is contaminated. Before contacting them, take a few minutes of

relaxation with the help of breathing in order to enter a calm and relaxed state that you can then transmit to the victim.

- Victims of human trafficking who refuse to engage in any kind of activity. Initiate the activity and involving them gradually, with very simple tasks. Encourage and appreciate any success.
- Victims of human trafficking frequently have *recurring memories* of what happened to them. It is important to bring the person in the "here and now" state describing the room you are in, the day and the hour, the season and even the weather outside pointing towards the window.
- Victims of human trafficking do not like unpredictable situations. Be very clear in explaining the situations that will follow and repeat several times what will happen, step by step, and in more detail.
- Building the trust is not an easy task but there are steps that can follow to create a trusting relationship. Explain the victim from beginning that all communications will be kept strictly confidential; emphasize that the victim can speak freely and openly with the lawyer. If the victim has an immigrant background, broach the subject of immigration status with sensitivity.
- If the victim do not speak a language that the legal/social/health professional can very well understand, be sure to communicate using a competent interpreter. Equally important, make sure that the interpreter treats the victim with sensitivity, professionalism, and respect. Try to ask the victim, outside of the interpreter's earshot, whether he or she feels comfortable with the interpreter's level of skill and attitude. Both the victim and the interpreter must understand his or her duty of confidentiality.
- Take appropriate time to explain to the victim the legal procedures, the role of other key stakeholders and legal professionals with who will come into contact throughout the entire legal process. The better prepared the victim is for each stage of the case, the more comfortable he or she will feel, the better he or she will present, and the more confidence he or she will have in the assistance provided.
- Describing traumatic experiences will almost invariably sparks traumatic symptoms. Lawyers, prosecutors, judges cannot avoid inquiries related to the human trafficking experience, because it is relevant for the criminal trial. While there is no easy solution, if the specialists follows a set of guidelines on how to address questions, how to behave, this can help to avoid re-traumatization. The lawyer, prosecutor, judge should ask questions in a supportive, nonjudgmental way and affirm the victim's responses in a manner that demonstrates understanding and compassion. Avoid body language, expressions, or comments that might indicate that professional is considering the victim's experiences shocking or disgusting. If the victim breaks down during the meeting course, during the trial session, it is necessary to take a break and /or consider to end earlier. Try to end the discussion in a positive way, for example, by acknowledging the victim's strength and courage to talk about those negative experiences and to be part in the trial.
- Be sensitive to issues of gender. It is important to ask from beginning if the victim should feel more comfortable to talk with a legal professional women and, if so, try to support the victim on this matter. If the women victim accepts to have, for example a male lawyer that lawyer needs to demonstrate through words and actions that is not being judgmental, acknowledge the strength of the victim to be involved in the criminal trial.

### **3. THE PSYCHOLOGISTS AND SOCIAL WORKERS SUPPORT FOR VICTIMS OF HUMAN TRAFFICKING DURING JUDICIAL PROCEEDINGS**

#### **3.1. THE PSYCHOLOGISTS AND SOCIAL WORKERS**

In Romania the survivors of trafficking in human beings receive **psychological support and assistance**, mainly from the non-governmental organizations (NGO) who work in the field of trafficking in persons; this situation is due to the fact that, until now, psychological services are, mostly, not settled by the state or the programs available are very difficult to access and do not offer long term assistance; as respects to private practice psychologists, a reason why human trafficking survivors can not turn to their services is the fact that the fee per session is far too high in relation to the limited financial income of a trafficking survivor.

The services offered to survivors, by NGO psychologists, are free of charge, for a longer or a shorter period of time, depending on the programs the NGO's implements and the available funds.

The specialists working with the survivors are either psychologists working within an NGO or collaborating psychologists; they are formally trained in different forms of psychotherapy such as Cognitive-Behavioural Therapy (CBT), Trauma Therapy, Experiential Therapy, Integrative Therapy etc.; alongside it, many of them are also trained in a non-formal framework with respect to human trafficking issues, within national and international training sessions.

**The psychosocial worker in Belgium.** Each center has a broad multidisciplinary team, due to the legal framework and the wide range of different kinds of support a victim is entitled to. Although the educational and training backgrounds are different, all receive the same title: Psychosocial worker. As such, every center can provide for the different needs. The educational backgrounds are: Law, Criminology, Psychology, Social work, Cultural work. Every psychosocial worker in the center accompanies several victims on a personal and individual base providing for his/her needs, but at all times they can rely on the specific expertise of their colleagues. The judiciary part of all identified victims is always taken care of by one or several lawyers or criminologists. When the victims after the first phase of support, are allowed to leave the hidden shelter, although still in the care of a center, they require an appropriate private accommodation. This particular support is also taken care of by one internal specialist. But every psychosocial worker can function as a "Confidant". As soon as a victim arrives at one of the centers he/she obtains a confidant. This is by far the most crucial person within the entire rehabilitation process of the victim. At the very beginning a victim always has the choice between a male or female confidant and the option to change if things do not work out. He/she makes sure all the administration is in order for the immigration office and the financial support. The confidant also "prepares" the victim psychologically for every interrogation and is always present during the interrogation. Because of the legal / official context of the center, the police comes to the victim and not the other way round. This, combined with the presence of his/her confidant creates an environment of trust and comfort for the victim. At a later stage, the confidant remains a 'problem solver' for the victim's administration, financial organization

or budget control, language skills and the search for work. They meet initially several times a week. Through time this frequency goes down to once a week or once or twice a month, depending on the individual situation. A confidant works on average 3 to 5 years with one victim, but we have had cases that lasted up to 10 years.

In every social or paramedical organization in Belgium, the professional confidentiality is untouchable. In the context of the official centers for victims of human trafficking a nuance is none the less required. Considering the necessary cooperation with the police, every psychosocial worker needs to be aware of the fact that certain information must be shared with the police. But this, except in critically dangerous situations, should happen with the consent of the victim. As such, it is crucial that the confidant manages to convince the victim of the importance of sharing information with the police. This will take a certain time to get accustomed to by the psychosocial worker, as the confidentiality between the aid worker (in general) and the client (victim) is usually very important to them. On the other hand, psychosocial workers quickly realize that cooperation is a key factor if they want to help their clients. Fortunately, by now every province has a police section specialized and experienced in the interrogation of victims of THB with a solid victim orientated approach, meaning that the safety and wellbeing of the victim is deemed highly important. This has resulted in a good understanding concerning the discrete exchange of information between the centers and the police with the confidant as an essential bridge between victims, investigators and prosecutors. In order to elaborate on the importance of the constant psychosocial support, be it by a psychologist or a social worker, we need to take a closer look at the physical and mental condition of the victim combined with his/her socio-cultural background. In other words, we must add the inevitable traumatization caused by their tremendous suffering as a victim, their cultural background and their social context to the implementation of a multidisciplinary system. This is necessary for two reasons.

The first one being the acknowledgement of a traumatized individual. A difficult obstacle to tackle and impossible without the help of professional and experienced psychosocial workers. It is scientifically well established by now that all victims of human trafficking suffer in one way or another from Post-Traumatic Stress Disorder caused by the extreme long duration of very high levels of stress. This results in a variety of behavioral symptoms that can easily be misunderstood by non-professionals in the field of psychology and / or behavior, thus creating a major disadvantage for the victim if confronted with uniformed officials.

The second one being the necessity of trust between the victims and the official governmental structures trying to help them. Almost all victims come from a social background that has a long historical distrust for all governmental / official institutes or uniformed individuals. On top of that, sometimes for years, they have been indoctrinated by their exploiters to stay away from officials because of the risk of being incarcerated or deported. The combination of these two conditions, psychological and social, is the main reason victims initially firmly refuse to cooperate. The acknowledgement of this situation requiring a certain amount of time to appease and the subsequent inability to give a valuable statement immediately was the main reason for the introduction of the 'reflection period'. In the case of Belgium the reflection period is 45 days. During these 45 days the victim is receiving all the support it is entitled to as an official victim along with an official temporary residence permit but is basically left in peace at a hidden shelter, thus creating an environment to initiate a relationship of trust and confidence between victim and confidant. The element of security and unconditional help is paramount. But this is only one part of the job for the psychosocial worker. This period also enables the psychosocial worker to amply explain to the victim all his/her options and conditions. And if the victim decides to cooperate, the psychosocial worker

becomes essential in preparing the victim on a mental and behavioral level for the first interview / statement. During this time the police will not pressurize any contact with the victim and will wait for a sign from the confidant to come over and interview the victim in the presence of the confidant.

Any model developed to tackle human trafficking that does not take the psychological and the physical condition of the victim in account and the need for constant specialized support of that victim during the investigation and after, can hardly be considered a victim orientated approach, but will also turn out to be far less performant as far as the capture of traffickers is concerned. Victims are valuable witnesses, they just need time and support.

**In Bulgaria, psychologists and social workers** participate in the support of trafficking victims and proceedings against traffickers mostly as part of NGO teams providing social services to victims. They do not have legally regulated right to participation in the criminal trial, but can testify on the health and psychological condition of the victims. According to some NGOs, accompanying victims by organization consultants during the criminal proceedings or before they start is also possible, although not specifically regulated in law. This is mainly done during the first contact with police services but is not unanimously accepted by competent authorities.

In its part, devoted to the participation of the victim in the criminal proceedings, the NRM (measure 3.3., step 4) regulates the emotional support of the trafficking victim by an individual consultant (psychologist, social worker) before, during and after the trial. The consultant prepares the victim for the emotional consequences of participating in the proceedings, helps him/her to better understand and plan his/her legal actions, accompanies him/her to the court room if the court so allows, helps him/her cope with his/her psychological reactions as a result of testifying or appearing in court. The consultant also helps defending or prosecuting lawyers understand the emotional condition of the victim and gives recommendations on successful communication with him/her.

**In Sweden,** the role of the **social worker** is depending on where the professional is employed. Social workers can be employed as social secretaries in the social services of a municipality, and thereby be responsible for making decisions about several issues concerning the clients, for example one social secretary could be responsible for granting housing, and another social secretary could be responsible for make decisions about financial assistance.

The Regional Coordinators against Trafficking work, as well as the social workers, within the municipality Centers for sexual Services. These teams meet with the victims and make interviews, but even though they are educated as social workers, they do not have any authority to make any decisions regarding the clients. Instead they work with coordination of the cases, as well as with giving advice and support to the victims, as well supporting and advising NGOs and authorities that deal with the victims<sup>58</sup>.

**In Spain, social workers and psychologists** are key profiles in multidisciplinary social care with women victims of human trafficking. Specialized services are basic for women's recovery. These services are provided by public institutions and also by NGOs and private associations.

Municipal specialized services are a good example. They offer specific pathways and resources both for emergency situations and for recovery of women victims of human

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<sup>58</sup> Guidelines from Elisabeth Samuelsson, manager of Noomi, a shelter for victims of human trafficking and sexual violence.

trafficking. Recovery services are comprehensive, providing social, legal, psychological, labour and health support to women.

It is necessary that psychologists and social workers - and also any other professional working in an interdisciplinary service- have been trained to work with women victims of human trafficking.

Basic Social Services offices where women could receive a first assistance lack, most of the times, of the necessary knowledge on the specific situation women victims of trafficking go through. These offices provide social work and psychological support to women. Social workers establish a Pathway plan, including economic aid, and psychologists provide support within these PAI, follow up, etc. Social Services offices also refer cases to specialized care services for women victims of human trafficking whenever they are able to identify these types of cases or when women talk openly about it. Unfortunately, both situations are not usual.

### **3.2. THE ROLE OF THE PSYCHOLOGIST WITHIN THE FRAMEWORK OF HUMAN TRAFFICKING CASES**

Among the specialists, it is well known the fact that in order to start a trauma therapy program, the survivor must find him/herself in a secure, stable environment and benefit from a social support network; however, in the case of a trafficked person - who goes through a criminal trial or not - psychological intervention is recommended to be carried out from the first moment of leaving the traffic situation or even during the exploitation stage, if that is possible; in such a situation, when talking about psychological intervention, we do not refer to trauma therapy, in which the survivor re-experiments the traumatic events in a therapeutic setting, but to the alleviation of certain trauma-related conditions such as: panic attacks, insomnia, alcohol, narcotics and drugs addictions, self-destructive behaviors, low self-esteem, feelings of guilt and shame, loss of control of one's own life which do not necessarily involve the exploration and processing of traumatic memories.

#### **First contact**

Human trafficking reflects a unique form of traumatic experiences that involves repeated episodes of violence (that range from repeated physical assaults, to rape, to torture) inflicted to the victim by another human being/s.

When the victim exits the trafficking situation, an essential part is that someone trustworthy be there; this first stage needs to be approached with great care to prevent the survivor from feeling insecure and refuse the assistance services. The intentions of an unknown person offering help may be regarded with disbelief by the survivor because she/he could associate this situation with the one she/he went through when she/he trusted the trafficker who promised her/him “a better life”.

Trust-building takes time, and requires that the specialists assisting the survivor acknowledge the complexity of a decision to escape a trafficking situation. Psychologists play an important role in helping the survivor understand the situation where she/he is at and decide if and how s/he wants to be engaged in a criminal trial, also addressing those causes (shame and mistrust) that can make the survivor reluctant to be involved.

Shame and mistrust are common responses to trafficking. Shame frequently leads to avoidance of engagement in services offered or rendered. Mistrust often originates from the messages the trafficker has communicated (e.g., authorities will arrest you, deport you, not

believe you, harm you), and through learning experiences (e.g., no one has helped me in the past; law enforcement has arrested instead of helped me).

Implementing appropriate standards of care for assisting survivors, in a collaborative efforts across disciplines, from the beginning until the end of the criminal trial can lead to positive results.

A compassionate attitude based on a thorough understanding of human trafficking is a critical component of providing services of any kind to human trafficking survivors. Recognition and validation of the inherent challenges and risks of escaping a trafficking situation are also important.

### **Throughout the trial**

Survivors of human trafficking are, in most cases, people who have suffered serious psychological injuries being exposed to events they could not control and predict. During the status recognition stage and "accomplishment of justice", the survivor goes through events she/he does not understand - to be able to predict (situations, people with whom the survivor will come in contact) and that she/he can not control (criminal proceedings, results of the process, etc.), similar to situations experienced during exploitation; these can lead to a re-traumatization of the survivor (which can lead to wounds stronger than previous ones because they are caused by agents she/he look trustworthy to, as "defenders of justice") or it can create the survivor the feeling that she/he is still there in the traffic situation, thus causing her/him to use all of the harmful strategies developed during the exploitation stage, mechanisms that will encumber the judicial proceedings. The presence of a psychologist in the multidisciplinary team assisting the survivor will have great benefits for all the parties involved and will lead to desirable outcomes in the criminal proceedings.

Throughout the trial, the specialist's intervention will focus on following aspects:

- help the survivor understand and accept the limitations of the actions that the defense lawyer can undertake in her/his behalf - when the trial is running too slowly, or when court hearings take place too often, the survivor can experience a lack of hope, thinking that the lawyer does not care about her/him fate, that s/he does not make any effort to help her/him;
- help the survivor create realistic expectations about how justice is expected to be achieved - the victim may desire a much more severe punishment, than the law provides, for the traffickers who have caused her/him deep wounds and when that is not likely to be obtained the survivor may lose the motivation to continue working with the judicial agencies;
- reducing the risk that the survivor defends the trafficker or considers his/her actions less severe than they were; this condition is caused by a phenomenon known as "trauma-bonding", in which a trafficking victim forms a symbiotic relationship with the trafficker. This can be thought of as a survival response to the perpetual risk of violence experienced during trafficking. In this response phenomenon, protection of the trafficker (e.g., from arrest, from detection) or seeking the favor of the trafficker is a way of protecting oneself from additional physical and/or sexual abuse. While this is most commonly seen in sex trafficking, it may also occur in other forms of trafficking.
- involve the survivor in a psychological training to cope with court hearings and time of encounter with the trafficker (which can lead to a "freeze" condition, trigger panic attacks, the desire to "run away and hide", to quit the trial etc) and prevent re-victimization;

- help the survivor identify those elements that allow her/him to relate to the criminal trial as a personal healing process (the official recognition of the traumas suffered, moral and material repairs, "accomplishment of justice", that would help restore confidence in the world around);
- the presence of the psychologist in the courtroom will create the survivor a sense of security and will strengthen confidence in her/his own inner resources.

### **The benefits of psychological assistance for the trafficking survivor**

Unlike the classical cases of psychological counseling/psychotherapy that - for the most part – are taking place in the specialist's office, survivors of trafficking require a more consistent support that can take place not only in a well-defined space, but also in various other contexts such as: a trial court, the lawyer's office, the shelter where the survivor is accommodated etc.

It is important that in case of human trafficking, psychological support/assistance can be provided to survivor as soon as possible. Some of the benefits are:

- restore a sense of humanity and dignity;
- regain control over one's own life;
- build up confidence in one's own resources;
- increasing / regaining self-confidence;
- developing new ways to cope with the difficulties;
- improving interpersonal relationships;
- restore trust in the world around etc;

### **The benefits of psychological assistance for the judicial proceedings**

- the victim's statement will contain more details about the traffic situation and the thread of the events will be coherent and linear, reducing the risk that the survivor will experience selective amnesia (forgetting certain important stages of the trafficking process), difficulties in creating the connection between the action and the person who did it (attributes the action to someone other than the one who made it) or difficulties in spatio-temporal orientation (places the events at a different time and place compared to those in which they happened, without following a linear temporal structure)
- it will be prevented the aggressive manifestations (screaming, inappropriate seductive gestures, licentious language), strong emotional reactions (crying, fainting) - all these being reactions that the survivor has developed during trafficking as a way to cope (psychologically and physically) with the traumatic events to which she/he was subjected; these defense mechanisms were useful at that time for assuring the survival of the victim, which is why - if not replaced by more appropriate ones - they will still be used.
- reducing the risk that the survivor of trafficking will stop being part of the criminal process or cooperate with criminal law bodies;
- streamlining communication and interaction with all actors involved in the judicial proceedings (lawyer, prosecutor, judge and other relevant agents) and reducing the time of development of the proceedings.

### **3.3. THE RELEVENCE OF THE PSYCHOLOGICAL REPORTS TO ASSESS THE TRAUMA**

The judicial or extrajudicial psychological assessment, sometimes known as psychological or extrajudicial psychological expertise is a relevant investigation in clinical psychology specializing in supporting the judicial process, valuable in issuing conclusions that may be useful to the judge in finding out the truth, and can influence their intimate conviction. The assessment report conducted by a specialist in legal clinical psychology is the document that supports the rest of the effective evidence (medical documents, testimonials, investigations, descriptions, etc.) to highlight how the trafficking phenomenon influenced or not, if it caused clinical disorders to the victim, changes in their personality, life, etc.

Depending on the psycho-individual traits of each person, the traumatic events that precede the traumatic event, each subject can be affected differently even if they pass through the same experience. That is why we believe that it is recommended that each victim of trafficking was evaluated psychologically, and to be considered a compensation and an assessment of the amount of money. We can compare with the way that two individuals perceive and respond differently when they are insulted. One may find it very serious to live in an environment where she/he is not used to being treated like this, while other can be accustomed to an environment where is used a similar language.

Trafficking usually involves a chain of actions that impact on the victim and reduce their vulnerability, raises awareness and are liable to affect in many ways. Every person has several roles and statuses to accomplish in their life. The psychologist investigates the functioning of the individual according to many factors, not just according to the level of violence, the duration of the trafficking action, but she/he compares the way their life has changed or not, provides psychometric data and pertinent explanations on the subjective reality of the individual's personal life.

In this psychological judicial assessment activity one of the most important aspects is the way that the objectives under investigation are evaluated. The case psychologist has the task of responding, formulating expert opinions in order to clarify the required objectives. These objectives may or may not include all those aspects that deserve to be considered in calculating the damage to the victim's life. In this sense, the appointed legal psychologist may draw-up a letter requesting redrafting and make suggestions in this respect. For example, the psychologist cannot answer the question whether the person was or was not abused, but one can respond to the objective "Specify if there are psychological effects that can be connected to the event dated ..."

At the end of the report, following the response to the required objectives, it is important to provide information on the prognosis (what is expected for future evolution) and the recommendations for rehabilitation, following the findings. They are highly relevant along with the answers to the objective / objectives, reflecting the most likely future projected effects and other psychological and financial costs that the victim will incur. For example, if occurs the recommendation of long-term psychotherapy or resting, the person in question will need to have the necessary funds in order to comply with the indications of which may depend the rehabilitation plan and the improvement of functionality.

The personal capacity to overcome traumatic events, born and / or acquired following the personal journey, which involves different life experiences is known in literature under the term of resilience. It directly influences the way a person can pass through a profoundly traumatic life event, such as trafficking in human beings, keeping or not their psychic functions.

We can compare, for example, with immunity. Every person has inborn, inherited and genetically transmitted immunological traits, and depending on exposure to germs, viruses, illnesses they can improve it or, on the contrary. Some lifelong illnesses can lead to a stronger, more resistant body, while others create vulnerability. These aspects can be highlighted, measured and explained by a specialist in a verbal or written report, being highly relevant in the proceedings.

The psychological expertise has applicative value in both the legal and the judicial field. There are legal acts that have come to represent a judicial case and others that could be evidence in the case at some point.

The way in which a judicial psychological assessment is requested and performed can vary from one country to another and even from one judicial body to another. There is no specific format, a set of standard tests, etc. In some countries, it is preferable to submit a written report, in other cases the expert is called at the hearing to be heard following the assessment, or both. As concerns minors, there will be taken into account factors such as age, discernment, responsibility or irresponsibility, level of development, socio-affective maturity, understanding, their legal representative, etc.

If the requested objectives are not properly formulated and the psychologist cannot respond to them, reformulation will be required.

The beneficiary of the psychological assessment report is the petitioner (court, lawyer, prosecutor, policeman or party in the file). If a judiciary body orders the expertise, the consent is not necessary, but if it ordered by a subject in the file, then the written agreement must be obtained. The report should be as concise and clear as possible, formulated in accessible terms, so that it can be understood by any person, not only just by specialists. Regardless the statements or testimonies, the documents obtained will be corroborated with the observation of the behaviours of the subject to be assessed and the results of the tests, so that the statements that are not validated by the whole process (in order to avoid simulation and assessment errors) will not be considered relevant.

The costs of the judicial psychological assessment will be paid either from the state budget, from treasury (if the judicial body is the petitioner, the beneficiary) or by the party in the file interested in obtaining the evidence. The state budget funds allocated for the production of such evidence are limited and for this reason, the client subject to the assessment is often ordered to bear the cost. Due to the fact that the psychologist has a liberal profession, there are no standard costs. Each specialist is entitled to claim the amount she/he considers appropriate, depending on their professional experience, the level of training, the specialization stage, the number of assessment sessions, etc.

In the case of psychological expertise on trafficking in human beings, it is important to determine to what extent the victim's life has been altered by subjecting to such a phenomenon, their mental condition, functionality, etc. These can be useful in the proceedings to assess the trafficking damage, taking into account the subject's psycho-individual peculiarities and understanding the impact of events. To be relevant, a minimum of 3 sessions are recommended.

In order to increase the objectivity of the assessment test, we recommend the use of at least two psychological tools like questionnaire type, and possibly a projective test, which is related to the other information obtained from the subject. Also, as far as possible, we also recommend gathering information from additional sources, family history (from the victim's entourage – family, friends; scholars - teachers, educators; medical staff - documents, references of physicians, etc.).

Descriptions such as "at the time of assessment ..." will be used to describe the present condition, and as concerns statements, there shall be specified in the report "the subject declares that ..." in order to highlight the source of the information.

If the alleged victim subject to the assessment is a child, it is necessary to adapt the tools and language of the assessment, preferably through playful techniques, accessible to the level of understanding and functioning of the child.

## **PSYCHOLOGICAL ASSESSMENT REPORT**

*(a model of report provided by Ms Ana Maria Zamfir Psychologist Romania)*

### **A.B, Psychotherapist / Principal Clinician Psychologist**

- Certificate in Clinical Psychology Specialization .....
- Certificate in Cognitive-behavioural Psychotherapy .....
- Expert in Clinical Psychological Psychology.....

### **The normative framework for the implementation of the psychological assessment report**

A) The provisions of the law ... regarding the exercise of the profession of psychologist with the right of free practice, according to the competencies of the clinician psychologist - the main specialization stage and the specialist in judicial psychology.

B) 1. In order to find out the truth in question, it is also necessary the opinion of an expert... 2. the written application for expertise, indicating the facts and circumstances subject to assessment, and the objectives to be clarified by the expert, 3. finding, clarifying and assessing the facts or circumstances by the expert, 4. in strictly specialized fields if specific methods are necessary for the understanding of evidence.

C) The written request from the Individual Law Office ... ...., represented by Mr/Ms. Lawyer...

### **The objective of the expertise**

- A. Assessing the victim A. psychological state at the time of assessment.
- B. Specify whether, following the reported events, there are negative effects on mental health, which may be related to the events reported by A victim.
- C. Specify whether A. meets the diagnostic criteria for post-traumatic stress syndrome.

### **Methodology:**

#### **The examination procedure**

A. was informed about the convocation of the psychological assessment sessions, procedure, method and have their written consent.

#### **We are provided with:**

A) The subject to be assessed, namely A., rested and in the optimal condition for the psychological assessment. She stated that she hadn't consumed alcohol or other hallucinogenic substances over the last 24 hours.

B) Inquiries, correspondence related to the assessment objectives (e-mails, texts).

C) Copy of the identity card of A.

### **The psychological assessment program:**

The psychological assessment took place in 7 meetings, between ..... and .....(dates)

### **The anamnestic studies**

#### **The results of the psychological assessment; Expert opinions on the assessment objectives:**

#### **The psychological examination**

Her life history is a heavily burdened by instability, abandonment, experiences of violence and loss, poverty, etc., which represents a strong vulnerability framework for A. the victim. When she met E (the trafficker), she did not have the age and life experience required for a realistic risk assessment. The fact that she did not come from a protective family environment and did not have a positive model for a couple relationship, or a close person to protect her and give her affection turned her into a “perfect victim” that could be manipulated easily.

Allegedly she was subjected to a number of situational factors (which develop traumatic effects) such as: threat to body integrity and life, severe body injuries and physical injuries (physical violence, rape), child abandonment and its reliving - due to the fact that, according to her allegations, E. was the main reliable person she depended on - deprivation of liberty and conditioning, the lack of financial independence following the manipulations from E., continuous persecution and emotional stress which opened up all the wounds with a strong subjective impact.

These cumulative factors act in an amplifying way. Thus, in the long run, there are always specific addictions related to acts of violence.

Sexual violence committed by her life partner along with other men brought by him, denigration, feeling of helplessness in front of violent acts, forced isolation, all these have the effect of decreasing her adaptability to life situations, lowering self-esteem, diminishing functionality, feeling miserable.

The events described by A. and documented represent second-type trauma (traumatic circumstances that last longer) that lead to a strong distress. The tests revealed a great need for affection, stability and safety. She manifests suspicion and has a reserved behaviour when asked about episodes of rape, drugs, avoiding, by changing the course of the conversation or by saying "I do not know".

#### **Analysis levels:**

- 1) Affective-emotional level
- 2) Cognitive level:
- 3) Behavioural level
- 4) Psychophysiological level:
- 5) Level of interpersonal relation:

**B. Please specify if, following the reported events, there are negative effects on mental health, which may be related to the facts reported by A.**

We identify a number of negative effects from A.'s life that could be connected to the related events, such as:

- the level of anxiety, depression, somatization found in the test results affected the functioning of A. by lowering her ability to concentrate and maintaining the attention (which disturbs her potential for a job, to cope with pregnancy and with her future role of mother provoked loneliness, retreat from the social life that she perceives dangerous, tiring and therefore, the lack of a supportive entourage);
- the obligation to consume hallucinogenic substances may cause addiction, serious neurological effects, increased risk of suicide;
- persistent and generalized fear;
- sleep disorder (agitated, interrupted, nightmares);
- negative thinking, high consumption of resources;
- avoiding a series of activities for fear of repeating, reminding and reliving the danger and pain;
- loss of her job and independence she has earned;
- lowering self-esteem, self-confidence;
- the evoked memories are presented with difficulty due to the fear to relive overwhelming feelings, the uncontrollable state she felt and the re-traumatization (this phenomenon is present if the traumatic experience was insufficiently developed).

#### **C. Specify if A. meets the diagnostic criteria for post-traumatic stress syndrome.**

Following the interpretation and corroboration of the instruments used, it results that at the time of assessment A. meets the criteria for the post-traumatic stress disorder.

#### **Recommendations:**

- A) To follow a long-term psychotherapy program to reactivate her functionality and to reduce the symptoms;
- B) Consultation with a specialist in psychiatry and follow a medical treatment to the extent if s/he prescribes it.

## **4. THE MULTI-DISCIPLINARY TEAM**

### **4.1. WHAT IS A MULTI-DISCIPLINARY TEAM**

A multi-disciplinary team is a group of specialists of different but complementary professions who work together in order to provide an enhanced service for the person in need. The role of a multi-disciplinary team is to evaluate, to set the intervention plan and implement it, regarding the basic needs that have to be acquired, each specialist using her/his own skills and knowledge.

The following specialists should be part of the multi-disciplinary team: the social assistant (usually is also the case manager), the psychologist, the psychiatrist, the doctor (depending on the particularities of the case), the lawyer, prosecutor.

The case manager is the person who will coordinate the multi-disciplinary team, with the following tasks: permanent monitoring of the case; assuring direct and permanent contact with the victim; ensuring communication between team members, coordinating and documenting the service plan (plan to be carried out in collaboration with the assisted person), evaluate the resources and services that can be offered to the victim, setting specific criteria for evaluating the objectives.

### **4.2. FOSTERING A SUPPORTIVE ENVIRONMENT FOR THE MULTI-DISCIPLINARY TEAM**

#### ***On-going training***

Ongoing training is needed because of the constant evolution of social reality. New challenges arise from social changes in environments in which trafficking of human beings take place. There are transformations on the way that subordination and violence take place as well as how gender is related to other key issues such as race, ethnic group, age, cultural origin, etc.

Bearing in mind this changing and dynamic reality, it is required to design training programs tailored to each period and work phases, so it satisfies the training needs identified by the multidisciplinary team in all areas (social, legal and psychological knowledge)

The idea is, therefore, to develop a Training Plan that includes:

- Internal training. - It is conceived as a way to provide feedback and share knowledge among team members. This part of the training will allow multidisciplinary teams to share specialist knowledge, experiences and information aroused from day to day practice in their own field with other team members (e.g., social workers, psychologists and legal advisors) This exchange is a chance for all team members to be informed and updated, being able to understand distinctive aspects of each role within the team as well as reflect on their own practice, which will reinforce the multidisciplinary approach.

- External training. - This part of the training must fulfil team training needs as a group as well as particular training needs required by each professional.

### ***Professional supervision***

Direct work with victims of human trafficking is difficult and intense, as professionals learn about (and sometimes, witness) hard situations and experiences suffered by victims of human trafficking. To be able to cope with it and avoid burnout, workers need to have access to professional supervision, no matter the professional field - legal, psychological or social professionals.

An external supervisor, nor immersed in the work of the multidisciplinary team, should supervise each professional according to, at least, the following criteria:

1. The team coordinator will be supervised by an expert in team and management.
2. The psychologists will be supervised by external clinical psychologist, following individual therapy.
3. The multidisciplinary team members, altogether, will be supervised by an expert in team and project management.

Supervision should be conceived as a positive and useful time and space for everyone in the team and not as another task to do or a stressing activity. It is very important that every participant feels comfortable and ease, otherwise, it could be counter-productive.

Supervisors should, therefore, be able to deal with each worker particularities, using different techniques and tools to attend their needs.

Other caring activities that promote healthy and strong multidisciplinary teams include leisure activities, physiotherapy, outings, etc.

Some topics usually tackled in *group supervision* are:

- To deal with the most urgent aspects of each case, maintaining the holistic view of it.
- To keep a good balance between urgent and important matters to attend, avoiding working only with urgent needs.
- To reflect on how to create a positive professional bond, preventing dependency in the future.
- To help accepting that intervention time is limited and that it is important to coordinate with other professionals and services, creating a network of support for THB victims.
- To develop a reflective practice and constructive criticism of day to day work
- To encourage creativity and motivation.
- To promote and improve communication and a nice working environment.

### ***Work conditions***

Short term employments, job instability and uncertainty in the continuity of comprehensive care programs are some of the challenges that professional multidisciplinary teams must deal with. It is, therefore, important to highlight how determining appropriate work conditions to guarantee services continuity and stability in the medium- long term.

Moreover, to prevent the burnout syndrome, some basic work conditions must be ensured (health and safety policies, and procedures, decent salaries, work-life balance policies, etc.), in accordance with labour and social legislation both in the EU and each country. If so, it would be easier to maintain stable teams and consolidate projects.

In addition, risks faced by professionals while supporting THB victims through the legal process should also be addressed as job related issues. Exposure to the justice system, - as witness-, and being known by trafficking networks is a fact faced by professionals that should be considered in the health and safety policies.

There are also 2 aspects to be considered in order to get a dynamic, sustainable multi-disciplinary team:

- *Number of professionals required.* - Limited resources allocated to THB services in some countries weaken the possibilities of a good quality intervention. Teams overloaded by work cannot excel in their daily task despite their competences, motivation and experience. A desirable model will take this into account to assure:
  - o the necessary funding and resources are allocated in such a way that they guarantee a certain stability of the services provided
  - o A suitable number of workers carry out the activities.
- *Quality assurance.* - Services addressed to victims of human trafficking can widely differ from one country to another but also from one service to another in the same city. This happens especially in those countries where the local or state administration is not the direct entity working with THB victims, subcontracting these services. A set of standards and quality protocols with a further control and evaluation of them from the competent authorities would be advisable to improve the practice, guarantee a good service delivery and identify both best practices and inefficiencies.

### ***Coordination of cases***

In order to improve communication and coordination, it is helpful to name a Case Manager. This professional would be the contact person within the team in relation to a particular case, being in charge of data collection and file update, sharing relevant information with all other members of the multidisciplinary team and coordination and communication with other services and/ or professionals.

### **4.3. A MODEL OF OPERATING PROCEDURES IN ASSISTING VICTIMS OF HUMAN TRAFFICKING, LEADED BY A MULTI-DISCIPLINARY TEAM**

It is crucial to agree on common criteria for all stages of victims' assistance, so it can be guaranteed that they will have access to services available and will receive good quality assistance, regardless the country where they are and who is assisting them. These common criteria should inspire any local, national or transnational protocol.

A comprehensive psycho-social and legal work addressing THB survivors, built on the *human-rights-based approach*, including the *gender and children perspectives*, so all types of trafficking and victims are covered. Victims will be then placed in the core of all actions and beyond other interests and objectives that other actors involved may have.

Close coordination and collaboration with other professionals also working directly with women victims of THB for sexual exploitation. We refer to law enforcement agents and their local, national and international networks, EUROPOL, to local bars, specialized lawyers.

A holistic approach that provides coordination, cooperation and consistency on the actions taken for the prevention of human trafficking, the assistance and the guidance of human trafficking survivors.

*Prevention*, it includes all actions, strategies, programmes and public policies promoted by national administrations or certain governmental departments to fight against and avoid trafficking of human beings and to promote protection of human rights.

*Assistance*, support services should be accessible, comprehensive, professional and free of charge.

*Counselling and guidance*, victims should be accompanied in their process since the very moment they get in contact with administrations or social institutions. Assistance and support must be provided until victims are recovered and, whenever possible, compensated for their injuries.

Implementation of at least the following three mechanisms that could improve and promote the creation of a "multidisciplinary work network" and enhance coordination and communication:

*Referral and coordination protocols* on national and transnational levels, establishing steps to follow.

*Case manager role* in each involved country, as a person who is updated on all circumstances of a particular case.

*Special Police Rapporteur on THB*, acting as a liaison officer among law enforcement agencies and social entities working on THB.

**Specialized assistance provided to victims of human trafficking in any country should include the following characteristics:**

- To be based on the human rights approach and gender perspective.
- To be comprehensive.
- Include all areas (health, legal, psychological, social, educative, etc.).

- To be coordinated.
- All institutions must work together and share relevant information.
- To be free of charge: all victims should have the right to access assistance services.
- To be confidential: as it is the only way to build trust, guarantee the right to protection and avoid stigmatization.
- To be professional and specialized: professionals must be experienced and trained to provide quality assistance to THB victims.
- To be caring: empathy, sensitivity and respect for human rights and human dignity are the basis of professional practice.
- To be transparent: information must be verified and up to date throughout the whole process.
- To be voluntary: no THB victim is forced to ask for/receive assistance
- To be pertinent/suitable: assistance is provided when THB victims need it, ask for it and agree to be assisted.
- To be clear and easily understandable: information must be passed on in a simple and clear manner, in a language that THB victims understand.
- To be personal: addressing specific needs of each person, where the victim takes an active role on his or her process.

**The standard operating procedures in a case should follow this process:**

*Identification:* Initial screening and referral, access to basic needs and information, early risk assessment, language interpretation and cultural mediation and recovery and reflection period.

*First assistance and protection:* Information on assistance options and conditions, intake and needs assessment and assistance provision and protection.

*Long-term assistance and social inclusion:* Joint development of the individual assistance plan, consent of the victim on the procedures part of the plan and adjustment and social inclusion.

*Return and social inclusion:* Informed decision to return, risk and social inclusion assessment, risk management plan, family tracing, documentation, pre-departure individual assistance plan and safe transport / transfer and assistance upon arrival in the origin country.

Some tips and basis are provided below in relation to **a Model of standard operating procedures** performed by a multidisciplinary team.

## 1: Detection and Identification

### **Measure 1: Initial Referral**

Regardless of the EU country in which a victim of human trafficking is detected, some rights must be assured by their authorities and organizations:

- ✓ The right of the victim to be informed of international protection, in accordance with article 11.6 of EU Directive 2011/36/UE.
- ✓ Compatibility of procedures and claims: international protection, identification and permission to stay.
- ✓ The right of the victim to apply for international protection and be granted the refugee status whenever the victim meets the definition of a refugee. Also,

when it is no safe for victims to return to their country of origin, because of a real threat of suffering torture, inhuman or degrading treatment.

- ✓ Principle of non-refoulement, in accordance to United Nations Convention relating to the status of refugees, Charter of fundamental rights (article 19.2), Palermo Protocol (article 14) and the Warsaw Convention 2005 (articles 14 & 40.4)

It is recommended that countries to implement different ways to detect and officially identify victims or potential victims, so that the chances to reach victims of human trafficking and to provide them with assistance and protection to be broaden. Specialized NGOs should also be able to provide formal identification of victims, based on their expertise. An independent body could also have this role. This independent body could consist of:

- Representatives from all actors working with victims: law enforcement agencies, NGOs, ministries of social affairs, external affairs, interior, etc.
- Specialised and experienced civil-servants.

Local regulations should take into account the need of a good coordination and referral system at all levels: local, regional, national and International. Legislation in each country should establish the necessary rules and mechanisms to:

- Guarantee cooperation among authorities, including those in charge of asylum and refugee laws, so those victims in need of international protection are also identified.
- Ensure a comprehensive assessment of each victim's needs to provide the best possible assistance and protection.

#### ***Measure 2: Access to Basic Needs and Information***

According to the EU Directives, protection measures for victims of human trafficking do not require previous report or cooperation with the police. However, many times national legislation link the access to basic needs with cooperating with the police and the legal system, without the necessary means to assure confidentiality and real security for the victim and her relatives in the origin or the destination country. Multi-disciplinary work and coordination of that team providing assistance is a key element.

#### ***Measure 3: Early Risk Assessment***

Directly linked with the previous measure, the early risk assessment will include recommendations from three main components of a multidisciplinary team: a lawyer, a psychologist and a social worker. Include these three recommendations in an Individual Plan tailored for each victim based on her/his specific situation.

#### ***Measure 4: Language Interpretation and Cultural Mediation***

In case in which the victim is a foreigner, the interpreters and cultural mediators should be specialized to be sensible towards the victim of human trafficking. In this way, a good assistance will be enabled, secondary victimization could be avoided and quality of the service would be assured.

#### ***Measure 5: Recovery and Reflection Period***

Current regulations establish a recovery and reflection period. Both periods should be separated, as experience shows that victims need time to recover first in order to be able to think clearly. Once they are recovered from this traumatic experience, victims should be granted the reflection period, where they can decide whether they wish to be involved in a court case and how they would deal with their participation, always from a human rights approach.

The length and moment of the reflection period legally established in each country does not always meet the emotional needs of the victims. During the legal declaration in front of a police officer or a judge, PTSD can lead to black outs and inconsistency. A desirable model should include the reflection period after the emotional restoration of the victim, not before.

## **2: First Assistance and Protection**

### ***Measure 1: Information on Assistance Options, Legal Options and Conditions***

The case manager should inform the victim on the assistance options and conditions. Information should be understood by the victim, which implies having a good translation and interpretation service (in case of foreigners), sensitized attitude manifested by the professional towards the victim.

### ***Measure 2: Intake, Needs Assessment for Assistance Provision and Protection***

Services provided to victims of human trafficking must be adapted to their specific needs and be suitable for them. It is necessary to carry out a comprehensive and multi-dimensional assessment of the victim's needs for protection and assistance. The elaboration of the assistance plan has to be developed together with the victim.

Some of the specific and specialised services that should be guaranteed by all countries are the following:

- Safe accommodation.
- Social care
- Health care
- Counselling and psychological support
- Legal advice
- Interpretation and translation service

In case of minor victims there are some matters to consider:

- Whenever there is doubt on a victim's age, and when there exist reasons to believe that the person could be a minor, specialised services for children should be provided until an age assessment is conducted.
- Assistance should be provided by specialised professionals in both children and THB work issues.
- If the victim is an unaccompanied minor, a legal representative or tutor should be appointed. The guardian should have the authority to be present in all planning and decision-making processes, including immigration and appeal hearings, care arrangements and all efforts to search for a

- durable solution.<sup>59</sup>
- Court hearings or proceedings must guarantee that the defendant is not present in the courtroom while the minor is testifying.

### **3 Longer-Term Assistance and Social Inclusion: comprehensive care**

#### ***Measure 1: Joint Development of the Individual Assistance Plan***

As well as in a national level, access to appropriate services should be guaranteed at international level (in cross-border cases). The individual intervention/assistance plan should contain: the description of the purpose of the intervention; the description of the objectives of the intervention, the description of the assistance services that can be provided to the victim; the calendar of the activities that have to be performed by the specialists who are members of the multi-disciplinary team (under the coordination of the case-manager).

When a person is identified as a victim of trafficking in human beings and is receiving support in a European country and decides to move to his/ her country or another European country a referral service in that other country should be granted. Not only including a similar services of intervention and assistance but also the benefits of the protection status as a victim of trafficking in human beings.

#### ***Measure 2: Consent Procedures to Implement the Individual Assistance Plan***

The Individual Plan should be built up by the multidisciplinary team together with the victim that must participate and decide on it, providing consent. The development of this plan should be binding for both parts and regular follow up with the victim should take place taking into account the victim's opinion. The victim should benefit from intervention/assistance even if she refuses to cooperate with the legal stakeholders.

#### ***Measure 3: Adjustment and Social Inclusion***

It should be orientated to autonomy, social and working inclusion. Specific measures with VET experts ideally specialized in victims of human trafficking. They should be part of the multi-disciplinary team. This should be the last path of any Individual Plan whenever the situation of the victims allows to evolve to this stage. Social enterprises, entrepreneurship and assistance should be part of this path to enable victims to access the labor market.

#### ***Measure 4: Legal Support and Assistance***

Legal support to victims of human trafficking will last until the very end of any Individual Plan. A close coordination of lawyers with their multidisciplinary team colleagues is key element to tailor the best individual plan according to the legal situation of each victim. The lawyer needs to present necessary information (by using a friendly language, usual/common language, avoiding complex legal terms that might not be understood) in order for the victim to be aware of her/his rights, of the court procedures. Before a hearing takes place, the lawyer should prepare the victim,

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<sup>59</sup> Committee on the Right of the Child, General Comment no.6 on Treatment of unaccompanied and separated children outside their country of origin, 2005.

with the support of the psychologist, explaining about each legal step that will be performed in court, explaining about the roles of different people who are to be involved in that respective trial.

#### **4: Return in the Origin Country**

##### ***Measure 1: Informed Decision to Return and Risk Management Plan***

A proper assessment would also consider the risks for the victims' integrity in case of returning to their country of origin – according to the principle of non-refoulement. The victim should be informed of all the circumstances in case of willing to return and a Risk Management Plan should be put in place by the multidisciplinary team in the destination country, in close coordination with the multidisciplinary team towards who the victim will be referred to in the origin or receiving country. This Risk Management Plan should include the analysis and decision-making necessary on the following subjects, to guarantee an informed and safe return: social inclusion assessment, family tracing, documentation, safe transport transfer, arrival assistance and follow up.

##### ***Measure 2: Implementation of the Risk Management Plan***

Close coordination of transnational multidisciplinary teams should be guaranteed until the victim and her family situation is stable after return. As mentioned before, no return should be provided in case that the risk assessment detects any possible danger to the victims or to their relatives.

The multidisciplinary teams, national and transnational ones, should advocate with other entities, such as law enforcement bodies, to guarantee that the principle of non-refoulement is strictly applied.

#### **5: Judicial Proceedings and Compensation**

The following measures should be followed in case the victim collaborates with the judicial system:

##### ***Measure 1: Evidence Gathering***

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

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

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

##### ***Measure 5: Support for Compensation Claims***

For all these stages collaboration of psychologists, lawyers and social workers, from the multidisciplinary team, should be established. Even if lawyers will have the leading role in relation to the legal proceedings, the approach should include all professionals points of view, so that the support for the victim is assured, since the very beginning of the process. Therefore, the preparation for the trial will not only be legal but also psychological(for example the psychologist should prepare together with the lawyer, the victim, before a hearing takes place at the prosecutor office or in court). Finally, compensation claims will be a task specifically assigned to the lawyers, that will deal with the legal system and court procedures.

Collaboration among transnational multi-disciplinary teams in relation to legal proceedings is also a key element that enables to trace any evidence that can be

identified in the origin, transit or destination countries and that is crucial/useful in the court procedures.

In this sense, it is also important that, as part of the comprehensive work developed by the multidisciplinary team, professionals learn about new strategies used by trafficking networks and implement efficient responses to them.

## **6. Periodic and final monitoring and evaluation**

The progress made in normalizing the victim's situation and the impact that those interventions (assistance) have on the victim should be constantly monitored by the case manager. The final evaluation and closure of the case will be made when all the objectives of the individualized assistance plan will be fully met.

