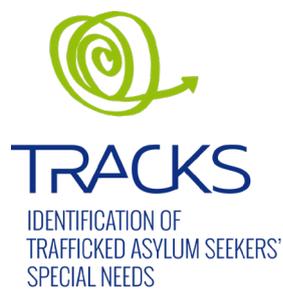


# EUROPEAN TOOLBOX



## TRACKS IDENTIFICATION OF TRAFFICKED ASYLUM SEEKERS' SPECIAL NEEDS



Coordinated by



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Implemented by



In association with





## Disclaimer

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The content of this tool can't be attributed to the associate partners.

## Partnership

The project TRACKS – identification of TRafficked Asylum seeKers' Special Needs is a two years project implemented by Forum réfugiés-Cosi, the project coordinator, and its European partners: British Red Cross (BRC), Churches Commission for Migrants in Europe (CCME), Spanish Commission for Refugees (CEAR), Immigrant Council of Ireland (ICI), Italian Red Cross (ItRC) and Action for Equality, Support, Antiracism (KISA), in association with the Swiss Refugee Council (OSAR) – that is also implementing the project in Switzerland.

UNHCR Europe office, the French Office for the Protection of Refugees and Stateless persons (OFPRA), Amicale du Nid Rhône, UK Institute for Migration Research and the Human Trafficking Foundation are associated partners to this project.



## USER GUIDE

Dear users,

You are about to enter the European Toolbox for practitioners who provide legal and psycho-social support and other services to asylum seekers who may be victims of trafficking. The toolbox aims to facilitate the detection of such victims, their needs and guide practitioners on supporting them appropriately and following up their cases

The European Toolbox was created under TRACKS project, a project on identification of the special needs of the victims of trafficking, in 2017. You can find more information on the project here:

<http://www.forumrefugies.org/missions/missions-aupres-des-demandeurs-d-asile/asile-et-traite-des-etres-humains/asylum-and-thb>.

Before you start, you can find below some advice and instructions on how to better understand this tool.

### ADVICE FOR NATIONAL FOCUS

*For the users who are trainers, you will find some recommendations to optimize the use of this toolbox adapting it at a national level*



## 1. WHY THIS TOOL-BOX?

The tool box is a result of the TRACKS project. The project focuses on the nexus between trafficking in human beings (THB) and international protection through a victim-centered and needs-based approach. During the work of the project, it became apparent that a large proportion of frontline asylum practitioners are not familiar with the concept and the practical consequences of trafficking in human beings, and the special needs that victims may have.

This tool therefore tries to clarify some of the concepts and practical aspects of trafficking in human beings within the wider asylum context and offers a number of references which can be used to develop one's understanding of trafficking in human beings and the needs of victims.

## 2. TO WHOM IS IT ADDRESSED?

Any kind of asylum professional may use this tool in their everyday work. We think that it might be in particular important for frontline officers, such as those responsible for intake interviews in civil society organizations and service providers. It can however also be used by other professionals in the asylum field.

## 3. WHAT DOES IT AIM FOR?

The tool-box aims at:

- Advising asylum practitioners on how to detect victims of trafficking in the asylum procedure, how to react on when such suspicions arise, and to offer suggestions for referring victims.
- Providing a harmonized approach on the issue of identification of special needs of victims of trafficking seeking asylum as well as on how to meet these needs.
- Facilitating improved cooperation between relevant stakeholders providing support to victims of trafficking in the asylum process.

## 4. IN WHICH SITUATIONS SHOULD IT BE USED?

The following toolkit will be of assistance in situations where:

- You want to improve your capacity to identify victims of trafficking
- You have identified a victim of trafficking or the victim has self-identified as such and you want to know what the person might need in order to ask appropriate and relevant questions to identify their needs
- The victim has expressed very clear needs or you have been able to clearly identify such needs and you want to know what you could do to support him/her and take into account such needs.

### ADVICE FOR NATIONAL FOCUS

*Point out relevant national actors who could use it*



## ADVICE FOR NATIONAL FOCUS

*You may develop special points on the situation on minors regarding national legislation.*

## ADVICE FOR NATIONAL FOCUS

*Describe the process in your State.*

## ADVICE FOR NATIONAL FOCUS

*You may ask to the users for feedback on the usefulness of the tool, e.g. missing or updated information, providing an email address*

- The toolkit covers mainly the special needs of adult victims of trafficking seeking asylum, of any gender, and who have experienced any kind exploitation as defined in the Trafficking Directive. Although it is not specifically addressing the needs of children, there are suitable added considerations on their specific situation.

## 5. WHAT DOES “VICTIM IDENTIFICATION” MEAN?

A major difficulty in many anti-trafficking measures is that trafficked persons are not identified and/or recognized as such. There appears to be some confusion about the meaning of the term. Broadly speaking, there are two kinds of identification, formal and informal identification.

Formal identification occurs when a competent state body/authority officially recognizes that a person is a suspected victim of trafficking crime by establishing reasonable grounds for this (in some countries, it is considered sufficient to accessing the relevant support services).

Informal identification or detection occurs when any practitioner or independent expert or the victim himself/ herself form an opinion that trafficking in human beings has occurred, but this has not been yet corroborated by the relevant competent authorities for recognizing victims of trafficking in the Member State.

The importance of this process is that the confirmation of the identification as a victim (formal identification) may lead to certain rights for the victim, which may not be accessible otherwise because different rights are attached to different status (asylum seeker and victim of trafficking).

## 6. KEY GUIDANCE AND REMARKS TO MAKE THE BEST OUT OF IT:

- This tool is not the answer to all questions you might have on trafficking. It is meant to be an easy-to-use tool for practitioners and it is therefore in many parts introductory. You may ask to the users for feedback on the usefulness of the tool, e.g. missing or updated information, providing an email address.
- This tool can never replace first hand training and exchange with persons specifically trained in addressing trafficking in human beings. While it will help you to detect signs of trafficking in a person, you are well-advised to consult with anti-trafficking professionals in your everyday work, particularly if the issue of trafficking is new to you.
- Each section of the tool-box can be used separately – you may also read them one section after the others so as to create a learning process – this is all depending on you and your needs as the user.



## 7. GLOSSARY<sup>1</sup>

***Applicant with special reception needs<sup>2</sup>***: A vulnerable person (see definition below) who is in need of special guarantees in order to benefit from the rights and comply with the obligations provided for in the Directive 2013/33/EU (Recast Reception Conditions Directive).

***Asylum seeker***: In the EU context, a person who has made an application for protection under the Geneva Convention in respect of which a final decision has not yet been taken. It generally refers to everybody who applies for international protection on an individual basis, irrespective of whether they lodge their application on arrival at an airport or land border, or from inside the country and irrespective of whether they entered the territory with an entry permit or not.

***Detection of a victim of trafficking in human beings, also referred as informal identification***: The process of identifying a possible situation, victim, of trafficking in human beings. It can be seen as separate from the more formal process of formally identifying a victim. It can involve frontline professionals, including NGOs or other professionals, depending on the country.

***Exploitation***: The act of taking advantage of something or someone, in particular the act of taking unjust advantage of another for one's own benefit. According to Article 3(a) of the UN Palermo Protocol exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs. The Directive also recognizes additional forms of exploitation such as forced marriage and illegal adoption, in so far as they fulfill the constitutive elements of trafficking in human beings (Recital 11, Anti-Trafficking Directive).

***Formal identification of a victim of trafficking in human beings***: it refers to the official identification of a victim of trafficking in human beings by the authorized/competent authority in Member States (police, NGOs, social services, prosecutors or other national authority) based on a 'reasonable grounds' standards, as required by of Article 10 of the Council of Europe Convention on Action against Trafficking in Human Beings.

***National Rapporteurs or Equivalent Mechanisms***: They are responsible for inter alia monitoring the implementation of anti-trafficking laws, policies, and practices at the national level, and they play a key role in data collection on trafficking in human beings at national and EU level.

<sup>1</sup> Except when otherwise stated, the below definitions have been drawn from the European Migration Network Glossary and Thesaurus 3.0, October 2014.

<sup>2</sup> See Article 2(k) Directive 2013/33/EU – Recast Reception Conditions Directive.



**National Referral Mechanism:** The mechanism aimed at identifying, protecting and assisting victims of trafficking in human beings, through referral, and involving relevant public authorities and civil society organizations. The compatibility of this mechanism with asylum process has been assessed by several international committees protecting human rights (Committee against Torture, CAT, Committee on the Elimination of Discrimination against Women, CEDAW and the Committee on the Rights of the Child, CDN) and the Council of Europe (GRETA).

**Presumed victim of trafficking in human beings :** A person for whom there exists reasonable grounds that she/he has been trafficked, but who has not been formally identified by the relevant authorities (e.g. police) as a trafficking victim or has declined to be formally identified as a trafficking victim.

**Procedures at first instance<sup>3</sup>:** Examination procedure of an application for international protection conducted by the determining asylum authority. It starts at the lodging of the asylum claim and ends when a first instance decision is issued by the determining asylum authority.

**Procedural guarantees:** In the EU asylum context, special guarantees addressing the legal rights of applicants for international protection as outlined in Chapter II of Directive 2013/32/EC (Recast Asylum Procedures Directive) and Article 13 of the European Convention of Human Rights<sup>4</sup> . Applicant in need of special procedural guarantees<sup>5</sup> : An applicant whose ability to benefit from the rights and comply with the obligations provided for in the Directive 2013/32/EC (Recast Asylum Procedures Directive) is limited due to individual circumstances.

**Prohibition of expulsion or return (“refoulement”):** No contracting State of the Geneva Convention related to the Status of refugees shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his/her life or freedom can be threatened on account of his/her race, religion, nationality, membership of a particular social group or political opinion (article 33 of the Convention).

**Reception conditions:** The full set of measures that Member States grant to applicants for international protection according to article 2(f) of the Recast Reception Directive; i.e education for minors; employment; vocational training; and material reception conditions (housing; health support; allowance etc.)

<sup>3</sup> This definition is derived from the definition of first instance decision and examination of an application for international protection.

<sup>4</sup> Right to an effective remedy: Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.

<sup>5</sup> See Article 2(d) Directive 2013/32/EU - Recast Asylum Procedures Directive.



**Self-identification<sup>6</sup>:** The recognition by victims themselves that they have been subject to the crime of trafficking in human beings specifically.

**Self reporting<sup>7</sup>:** When a victim of trafficking in human beings reports the exploitation/ abuse they have experienced/ they experience without being aware that it constitutes a form of trafficking in human beings.

**Special needs of victims of trafficking:** Specific needs of victims of THB. According to Article 11 (7) of the Anti-Trafficking Directive the special needs of victims can derive from a victim's pregnancy, health, a mental or psychological disorder they have, or the seriousness of the psychological, physical or sexual violence they have suffered. Member States are required to attend to the special needs of victims.

**Trafficking in human beings:** The recruitment, transportation, transfer, harbouring or reception of persons, including the exchange or transfer of control over those persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation (exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs).

**Trafficked persons:** The term "trafficked person" is used, when possible, instead of the simple "victim of trafficking" in order to indicate the resilience and the active role of the person who decides to leave the situation of exploitation and to take part to a program of support.

**Victim:** In this document it refers to a person who has been exposed to the crime of trafficking in human beings, and can benefit from assistance and protection measures. Others publications might use the term of "survivor" to indicate the resilience of the trafficked person.

**Victims of trafficking seeking asylum:** It refers to victims of trafficking in need of international protection independently of whether they have officially applied for asylum or not.

**Vulnerable person (as defined by the Reception directive):** Minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, victims of trafficking in human beings, persons with serious illnesses, persons with mental disorders and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, such as victims of female genital mutilation.

<sup>6</sup> See European Migration Network Study, *Identification of victims of trafficking in human beings in international protection and forced return procedures*, March 2014, p. 38-39.

<sup>7</sup> *Idem*.



# Lets' go into details!



**CLICK ON ONE BOX : IT OPENS UP A PDF FILE**

## FILE 1

**IDENTIFICATION  
OF VICTIMS OF  
TRAFFICKING IN  
HUMAN BEINGS  
IN THE ASYLUM  
PROCESS**



## FILE 2

**IDENTIFICATION  
OF SPECIAL NEEDS  
OF VICTIMS OF  
TRAFFICKING IN  
RELATION TO THE  
ASYLUM PROCESS**



## FILE 3

**FOLLOW-UP  
GUIDANCE**



**CLICK ON  TO GO BACK TO THE PAGE YOU WERE READING**



# **IDENTIFICATION OF VICTIMS OF TRAFFICKING IN HUMAN BEINGS IN THE ASYLUM PROCESS**



## IDENTIFICATION OF VICTIMS OF TRAFFICKING IN HUMAN BEINGS IN THE ASYLUM PROCESS

**TICK THE ANSWER YOU FEEL IS THE MOST APPROPRIATE TO YOUR SITUATION. IF YOU TICK NO, CLICK ON THE ARROW TO BE REFERRED TO THE RELEVANT SECTION BELOW OR TO THE RELEVANT ASSOCIATED FILE 2 OR 3**

### CHECK-LIST

- |   |     |    |   |
|---|-----|----|---|
| 1. Do you know what trafficking in human beings is?   | YES | NO | → |
| 2. Are you aware of the different forms of exploitation victims of trafficking might be subjected to?                     | YES | NO | → |
| 3. Do you feel you have enough training to identify victims of trafficking or enough information to approach the issue?   | YES | NO | → |
| 4. Do you know the indicators of trafficking?   | YES | NO | → |
| 5. Are you aware of the procedure for formally identifying victims of trafficking?  | YES | NO | → |
| 6. Do you know what rights victims of trafficking have with regards to the asylum procedures?                             | YES | NO | → |
| 7. Do you know what rights victims of trafficking have with regards to reception conditions?                              | YES | NO | → |
| 8. Do you feel equipped to advise asylum seekers who might be victim of trafficking on their rights in Dublin procedures? | YES | NO | → |
| 9. Do you feel equipped enough to identify special needs of victims of trafficking?                                       | YES | NO | → |
| 10. Do you feel adequately equipped to provide guidance to victims of trafficking to meet their special needs?            | YES | NO | → |

**ADVICE FOR  
NATIONAL FOCUS**

*Add national definition  
regarding national  
legislation.*

**1.1. TRAFFICKING IN HUMAN BEINGS**

Trafficking in human beings is a crime and a human rights violation. It is defined in the international “Palermo protocol<sup>8</sup>” and the Council of Europe Convention on Action against Trafficking in Human Beings.

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

**1.2. FORMS OF EXPLOITATION**

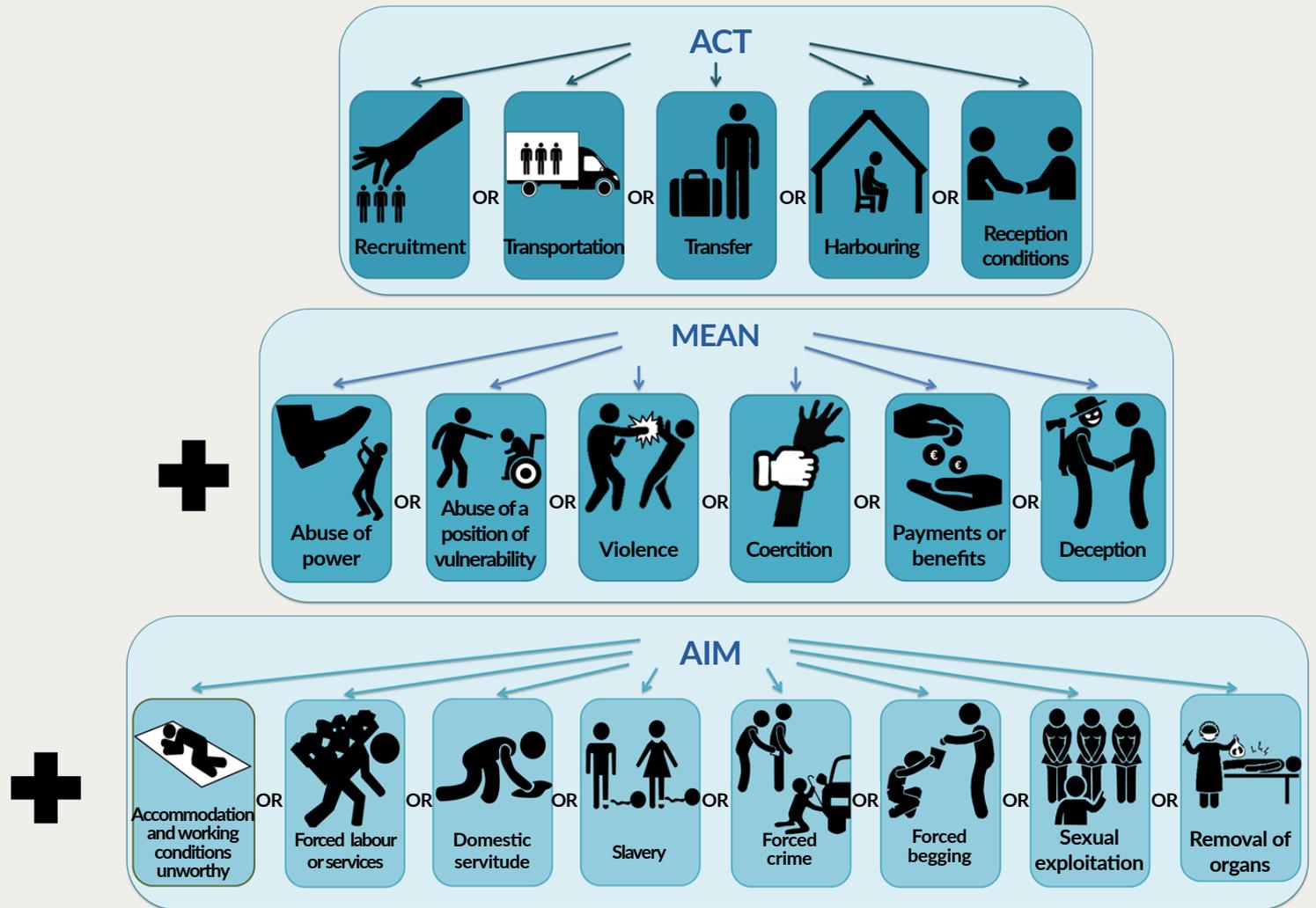
As describe above one of the main element of trafficking in persons is the exploitation. The different forms of exploitation which victims of trafficking might be subjected to are sexual exploitation, labor exploitation. Additional forms of exploitation are described in the Anti-Trafficking Directive and include forced begging, exploitation of criminal activities (including inter alia pick-pocketing, shop-lifting, and drug trafficking), removal of organs, illegal adoption, and forced marriage.

<sup>8</sup> In full: “Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime” of 2000



**WHAT IS THB ? SUMMARY DIAGRAM**

**TRAFFICKING IN HUMAN BEINGS =**



**ADVICE FOR NATIONAL FOCUS**

*Add national reference to criminal law*



## ADVICE FOR NATIONAL FOCUS

*Add national references  
to specific trainings on  
the topic*

### 1.3. TRAINING

Regular **training** on contemporary trends in trafficking is central to detecting and responding to victims of human trafficking in the asylum procedure. Ideally, this should happen within a context of multidisciplinary cooperation.

A number of helpful tools are being provided:

- UNODC, [Human Trafficking Knowledge Portal](#) (database, case law)
- UNHCR, [Principles and Guidelines on Human Rights and Human Trafficking](#)
- EASO, [EASO training](#)
- The [National Human Trafficking Hotline](#)
- The European Commission  
[Guidelines for the Identification of Victims of Trafficking in Human Beings](#)

### 1.4. INDICATORS OF HUMAN TRAFFICKING

To assist in the **identification** of potential **cases** of human trafficking, a number of tools and **indicators** have been developed by various international and regional expert bodies. The presence of such indicators suggests that the person in question might be a trafficked person.

The UN Office on Drugs and Crime, **UNODC**, has published a helpful [list](#) of trafficking indicators. Some of them are general ones, others are related to different **forms of exploitation**. It also includes specific indicators regarding **children**.

Another helpful tool with indicators is the [online platform](#) on persons with special needs in the asylum procedure, which the European Asylum Support Office **EASO** has developed; looking among others at the special needs of trafficked persons.



## ADVICE FOR NATIONAL FOCUS

*Add national indicators or  
others tools available*

The **Italian Red Cross** has drawn up, within the MMPAT Project: Mediterranean Migration Protection and Anti-trafficking, the “signs of trafficking of human beings” at the disembarkation units and in the shelters, as established by the three focus groups set up at the Penelope Shelter in Rome and the Fenoglio Shelter in Settimo Torinese.

### **Signs to watch during the disembarkation operations**

- Nationality (currently Western Africa)
- Current pregnancy
- Presence of an older woman within a group of very young girls
- Request to telephone a European number on disembarking
- Declaring to be of an older age even if the person is clearly underage
- Presence of tattoos (e.g. little stars) on the neck or other parts of the may have been done by a trafficker to denote “ownership” over them
- The person has not paid for the trip
- The person does not know which countries he/she has passed through during the trip and may not know which country he/she is in now
- The person believes he/she has a job in the destination country

### **Signs to watch within the shelters**

- Signs of physical violence (e.g. cuts, scars, burns on the scalp)
- The constant presence of a “female friend” who speaks Italian and speaks instead of the person
- Possession of several valuable objects a few days after arriving in the country
- Unusual evening-time return to the shelter unusual
- The presence of a potential exploiter in the shelter
- Possession of mobile phone without GPS, which allows the exploiter not to be located but to keep control over the victim
- Possible pregnancy
- Signs of psychological vulnerability such as isolation, worry, shame, aggressiveness, fear, etc.
- The person does not know which countries he/she has passed through during the trip
- The person has not paid for the trip



## ADVICE FOR NATIONAL FOCUS

*Describe national  
procedure*

### 1.5. FORMAL IDENTIFICATION OF VICTIMS OF TRAFFICKING

As outlined above, there are formal, government-led **procedures of formally identifying** a person as trafficked. According to Article 10.1 of the [Council of Europe Convention on Action against Trafficking in Human Beings](#) "each Party shall provide its competent authorities with persons who are trained and qualified in preventing and combating trafficking in human beings, in identifying and helping victims, including children, and shall ensure that the different authorities collaborate with each other as well as with relevant support organizations, so that victims can be identified in a procedure duly taking into account the special situation of women and child victims and, in appropriate cases, issued with residence permits under the conditions provided for in Article 14 of the present Convention".

### 1.6. PROCEDURAL SAFEGUARDS

Rights of trafficked persons can be derived from EU asylum law, notably [the Asylum Procedures Directive](#) (2013/32/EU) and the [Reception Conditions Directive](#) (2013/33/EU). The Asylum Procedure Directive does not make special reference to trafficked persons but obliges Member States to see if an asylum applicant may be in need of special procedural guarantees (Article 24.1).

These **procedural safeguards** which may be required for an asylum seeker victim of trafficking are:

- Possibility to exempt the applicant from accelerated procedures (Article 31.8),
- Possibility to exempt the applicant from border procedures (Article 43)
- Prioritizing the examination of the application (Article 31.7(b)).
- Exemption from the interview because the applicant is unfit or unable to be interviewed (Article 14.2.(b)).
- Possibility to ask for the interviewer to be of the same gender as the applicant (Recital 32 and Article 15.3).
- Possibility to ask for the interpreter to be of the same gender as the applicant (Recital 32 and Article 15.3).
- Possibility to ask for the presence of third parties during the determination interview (Article 15.4)

## ADVICE FOR NATIONAL FOCUS

*Describe national  
procedure*



## 1.7. DUBLIN REGULATION

The **Dublin Regulation** foresees specific provisions for victims of trafficking only with regard to minors. Article 6§3(c) stipulates that “in assessing the best interests of the child, Member States shall closely cooperate with each other and shall, in particular, take due account of the following factors: safety and security considerations, in particular where there is a risk of the minor being a victim of human trafficking”.

The dependency clause of Article 16 and the discretionary clause (Article 17(1)) may, however, be applied in cases of victims of trafficking. According to the discretionary clause each Member State may decide to examine an application for international protection lodged with it by a third-country national or a stateless person, even if such examination is not its responsibility under the criteria laid down in the Regulation, including on the basis of practical, political or humanitarian grounds.

## 1.8. RECEPTION CONDITIONS

Similar to the [Asylum Procedures Directive](#), the [Reception Conditions Directive](#) makes reference to special provisions that may benefit trafficked persons. The Directive speaks of vulnerable persons in general and in article 21 explicitly mentions trafficked persons among those considered vulnerable. The Directive establishes that their possible detention should be monitored and that they should receive support (article 11) and that their specific reception needs shall be considered and met.

However, the Reception Conditions Directive does not precisely define what special needs of victims of trafficking are with regards to **reception conditions** that are provided within the asylum system. Article 11(5) of the [Directive on Preventing and Combating Trafficking in Human Beings and Protecting its Victims](#) lists the following elements as the minimum assistance and support measures that Member States have to provide to victims of trafficking: *“standards of living capable of ensuring victims’ subsistence through measures such as provision of appropriate and safe accommodation and material assistance, as well as necessary medical treatment including psychological assistance, counselling and information, and translation and interpretation services where appropriate”*.

The [Palermo Protocol](#) also refers to employment, educational and training opportunities as measures that shall be considered by State Parties in order to provide for the physical, psychological and social recovery of victims of trafficking.



While the recast Reception Conditions Directive includes schooling and education for minors (article 14), employment (article 15), vocational training (article 16), material reception conditions – which includes amongst others housing and a daily expenses allowance (article 18) and health care – including mental health care (article 19) amongst reception conditions it governs, only articles relating to the provision of material reception conditions and health care explicitly refers to the fact that the situation of applicants with special needs shall be taken into consideration.

Article 12 of the [Council of Europe Convention on Action against Trafficking in Human Beings](#) states that each Party shall adopt such legislative or other measures as may be necessary to assist victims in their physical, psychological and social recovery. Such assistance shall include at least: a) standards of living capable of ensuring their subsistence, through such measures as: appropriate and secure accommodation, psychological and material assistance; b) access to emergency medical treatment; c) translation and interpretation services, when appropriate; d) counselling and information, in particular as regards their legal rights and the services available to them, in a language that they can understand; e) assistance to enable their rights and interests to be presented and considered at appropriate stages of criminal proceedings against offenders; f) access to education for children. They shall also take into account victim's safety and protection needs. In addition they should provide necessary medical or other assistance to victims lawfully resident within its territory who do not have adequate resources and need such help. The victims shall also be authorised to have access to the labour market, to vocational training an education.

On that basis, appropriate and safe accommodation as well as health support, including mental health care, are to be considered as the minimum reception conditions to be tailored to special needs of victims of trafficking seeking asylum.

For more information on the national context in France, United Kingdom, Ireland, Spain, Italy, Cyprus, or to have access to the national toolbox for those countries you may contact

France	Forum Réfugiés Cosi	<a href="http://www.forumrefugies.org">www.forumrefugies.org</a> <a href="mailto:ncamp@forumrefugies.org">ncamp@forumrefugies.org</a>
United Kingdom	British Red Cross (BRC)	<a href="http://www.redcross.org.uk/antitrafficking">www.redcross.org.uk/ antitrafficking@redcross.org.uk</a>
Ireland	Irish Immigrant Council of Ireland (ICI)	<a href="http://www.immigrantcouncil.ie">www.immigrantcouncil.ie</a> <a href="mailto:admin@immigrantcouncil.ie">admin@immigrantcouncil.ie</a>
Spain	Spanish Commission for Refugees (CEAR)	<a href="http://www.cear.es">www.cear.es</a> <a href="mailto:Paloma.favieres@cear.es">Paloma.favieres@cear.es</a>
Italy	Italian Red Cross (ItRC)	<a href="http://www.cri.it">www.cri.it</a> <a href="mailto:operations@cri.it">operations@cri.it</a>
Cyprus	Action for Equality, Support and Antiracism (KISA)	<a href="https://kisa.org.cy/">https://kisa.org.cy/</a> <a href="mailto:info@kisa.org.cy">info@kisa.org.cy</a>

## ADVICE FOR NATIONAL FOCUS

*Describe national practice*



**IDENTIFICATION OF  
SPECIAL NEEDS OF  
VICTIMS OF TRAFFICKING  
IN RELATION TO THE  
ASYLUM PROCESS**



## IDENTIFICATION OF SPECIAL NEEDS OF VICTIMS OF TRAFFICKING IN RELATION TO THE ASYLUM PROCESS

### ADVICE FOR NATIONAL FOCUS

*Describe national  
practice*

Victims of trafficking have been defined as a category of asylum applicants with special needs by Article 21 and Article 2(k) of the **Recast Reception Conditions Directive** of July 2013. Article 22 of the Recast Reception Condition Directive requires that Member States first assess whether or not asylum seekers are applicants with special needs and also indicate the nature of such needs.

Those needs have to be taken into account when Member States provide the applicant with reception conditions. Unlike the specific needs of minors, unaccompanied minors and victims of torture and violence, the specific needs of victims of trafficking are not addressed in a separate article within chapter IV of the Recast Reception Conditions Directive.

At the same time, the **Recast Procedures Directive** requires that Member States put in place special procedural guarantees for applicants with special needs. In particular, the conditions for the personal interview and the length of the procedure – whether the examination of the claim is prioritised or not, whether the claim is examined under an accelerated procedure or not – are key aspects of the asylum procedure that can be adapted to the applicant's needs. In none of the above mentioned directives are the specific needs of victims of trafficking clearly defined. This tool-box is designed to help guide practitioners on what is recognized as good practice, and what trafficked people themselves have told the partnership they need.

Professionals providing legal and psycho-social support and services to asylum seekers using this tool-box might encounter victims of trafficking at different stages of the asylum process. In any case, the format of such encounter will often be an interview whether formal or informal, i.e being part of the asylum process as such or not.

You may conduct the interview with asylum seekers who have been/are being detected, identified or formally identified as victims of trafficking, or having self-identified as such or self-reported indicators of trafficking. In other contexts you might be interviewing a person for whom there is no previous indication that s/he might have been trafficked.

*If you feel you need more information on identification of victims of trafficking, including indicators of trafficking, possible training and existing procedures for formal identification of victims of trafficking, please refer to file 1 of the toolbox.*



According to European Law, victims of trafficking are considered as a category of asylum applicants with special needs. Consequently, such needs have to be identified and taken into consideration by the relevant authorities, both with regards to asylum procedures and reception conditions.

*If you feel you need more information on the rights of victims of trafficking with regards to asylum procedures and reception conditions, please refer to file 1 of the toolbox.*

Once special needs have been identified, follow-up guidance tailored to those identified special needs should be provided *(refer to file 3 of the tool-box)*

This file provides **general guidance for identifying such special needs** (1) as well as (2) a **non-exhaustive list of special needs already identified** in particular in the context of the TRACKS project.

**CLICK ON THE CIRCLE YOU WANT TO EXPLORE AND IT WILL BRING YOU TO THE BELOW RELEVANT SECTION**

**2.1**

**GENERAL METHODOLOGY AND GUIDANCE FOR IDENTIFYING SPECIAL NEEDS OF VICTIMS OF TRAFFICKING**

**2.2**

**EXAMPLES OF SPECIAL NEEDS OF VICTIMS OF TRAFFICKING IN RELATION TO THE ASYLUM PROCESS**



## 2.1

# **GENERAL METHODOLOGY AND GUIDANCE FOR IDENTIFYING SPECIAL NEEDS OF VICTIMS OF TRAFFICKING**



## ADVICE FOR NATIONAL FOCUS

List national or other eu/ international supporting tools and guidance

### 2.1.1. GENERAL METHODOLOGY AND GUIDANCE FOR IDENTIFYING SPECIAL NEEDS OF VICTIMS OF TRAFFICKING

#### Relevant supporting tools and guidance

- EASO IPSN [online tool](#), 2016
- [WHO ethical and safety recommendations](#) for interviewing trafficked women, 2003
- [Interview methodology](#) for victims of human trafficking designed in the framework of TRACKS project? 2016-2017.

### 2.1.2. OVERARCHING PRINCIPLES WHEN CONDUCTING INTERVIEWS WITH PRESUMED VICTIMS OF TRAFFICKING

#### Protecting privacy and ensuring safety

- Make sure the interview is conducted in a **private space**. In case the interview is conducted in an open space, confidentiality constitutes a real challenge and professionals conducting the interview should ensure that others are not able to overhear the conversations.
- As a general rule, the interview should happen on a one-on-one basis. The presence of a **third person** during the interview should be avoided. If a third-person is present, the role and the relationship of that person with the presumed victim have to be clearly established. It is crucial for the practitioner to verify that this presence is acceptable and desired by the victim her/himself. The involvement of an interpreter has to be carefully considered and organized with the consent of the victims, while any prior familiarity with the victim has to be avoided. The interpreter shouldn't interfere during the interview.

The gender and the accreditation of the interpreter are of considerable importance. The victim should be always asked of their preferences regarding the gender of the interpreter. Any objections of the victim regarding an interpreter should always be respected. The interpreter has to be committed to a confidentiality agreement.

- Any sensitive information given by the applicant presumed victim of trafficking during the interview has to be **carefully stored** in the applicant file and shared only with relevant stakeholders with the aim to ensure the care and safety of the applicant, and as a general rule with the consent of the person.

- Inform the person on protective measures

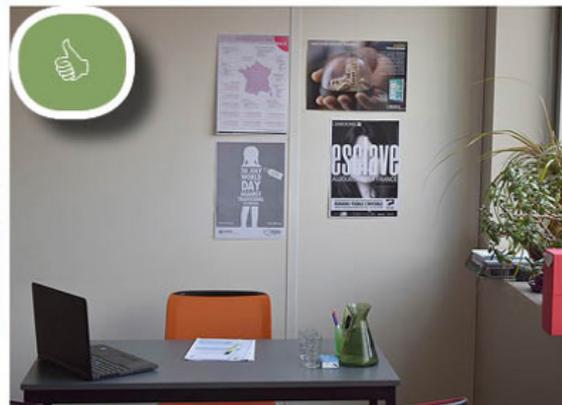
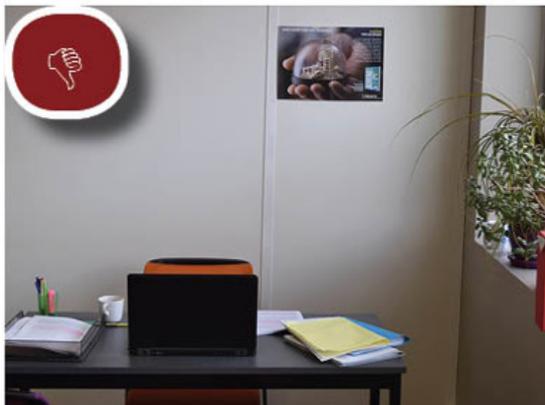
## ADVICE FOR NATIONAL FOCUS

Describe national legislation and practice regarding consent



### Taking care of emotional and psychological well-being

Apart from the privacy of the place where the interview takes place, the **setting of the room has to be appropriate**: tissues and water should be available and within reach of the applicant victim of trafficking without them having to ask for them. There should be no additional people other than the ones agreed on with the applicant. If possible, the applicant victim of trafficking should be able to face the exit; the room should have a window; chairs should be placed in a circle whereby the people in the room are sitting in a triangular manner, and in any case without a computer screen in the middle.



Messy desk  
 Dirty coffee cups  
 Computer in the middle, creating distance  
 No water, no tissues  
 No awareness materials

Tidy desk, with space  
 Clean desk  
 Computer on the side, easier dialogue  
 Water and tissues at disposal  
 Awareness materials on the wall



- To be able to handle the interview as best as possible and cater the possible needs of the interviewee, try to surround yourself with colleagues possessing **complementary skills** to yours, for instance a psychologist or a social worker if you are a lawyer or a legal adviser (and vice-versa). The involvement of other persons in the interview should be agreed with the applicant advance. If their presence in the interview is not possible or if the (presumed) victim does not consent to it, then try to make sure that such colleagues are in the surrounding offices or nearby, so that they can join the interview if such a needs arises and the interviewee consents.
- Ask the applicant presumed victim of trafficking about their **preferences with regards to the gender of the interviewer, the interpreter**, or yours. For instance, the applicant has to feel comfortable expressing specific needs that might affect their intimacy or they might simply feel more at ease to open up to someone of a specific gender ;
- At the beginning of the interview, **make sure that the interviewee and the interpreter understands one another**. If not, the interview should be stopped, the reason why they don't understand each other assessed and consideration made about postponing the interview. In order to check whether the applicant victim of trafficking feels comfortable with the interpreter, you need to try and **discusses this away from the interpreter if possible**- so the applicant is able to express his or her needs and preferences, including with regards to gender;
- You should offer to the applicant the possibility to have a **rest break** during the interview when you notice that the situation is distressing. Inform him/her from the beginning that they can ask for a break or to stop the interview at any point and respect it if they do so.
- **A word or a movement signal** can be agreed for the applicants' victim of trafficking to indicate when they do not feel comfortable anymore, and wants the interview to stop.
- You should be ready to **stop the interview at any point**;
- Keep in mind that **the applicant may not be aware that he/she is victim of trafficking**. It might therefore be ineffective or counterproductive to begin by addressing his/her situation by talking about "human trafficking" or using the word victim.
- Unless necessary, you should avoid asking direct questions about the violence suffered (recounting the violence might lead to reliving past trauma and therefore inhibit communication. Starting with the needs is advisable.
- It is beneficial to **end the interview on a positive and lighter note** to achieve some level of comfort;
- Ensure appropriate orientation, referrals and follow-up (**please refer to file 3**).



### Ensuring equal participation and empowering the victim

Ethical participation of trafficked persons includes treating them with due respect and empathy with regards to their ordeals on the one hand, but also, acknowledging their choices and agency on the other. To achieve active participation, the professional conducting the interview must seek a way to empower the applicant victim of trafficking, by allowing them to actively engage with the interview.

- Make sure at the beginning of any interview to **clearly explain the objective of the interview**, the reason why the applicant is doing such interview, and what you want to achieve. It is very important to explain them the procedure you intent to follow during the interview, ask for their consent, respond to any questions/ concerns they may have. Make sure they agree with it, and remind them of the confidentiality of the interview. Make sure that the person understand who you are (you are not the police nor any criminal authority judging a criminal offence, neither a lawyer defending a case).
- **Don't make promises you can't keep.** Do not commit to things outside your remit or for which you don't have the means to achieve, even if based on your good intentions: a victim of trafficking has often experienced multiple instances of lies, false promises, deception, abuse of trust etc. Behaving like this, even if unintentional, might be prohibitive and impede or even sever any relationship of trust.
- Even though resources are not always available, such an interview should only take place if proper communication can be guaranteed, i.e if the interview can be **conducted in a language that the victim understands correctly**, or if interpretation is available. Cultural mediation, if available and desirable by the victim, may also benefit the interviewee.
- **Avoid repetition of traumatic accounts** at all costs. The interview should be guided in a way that prevents the unnecessary repetition of accounts of trauma and violence as this could lead to re-victimization and has to be avoided. On the other hand take into account the resilience and the active role of the person to leave the situation of exploitation, as well as the decision take part in a program of support, if such decisions are applicable.
- **Always ask the victim if they have understood** what has been said or the information shared. Do not hesitate to repeat and always ask them if they have questions or comments or any concerns.
- At the end of the interview **summarize what has been agreed** and inform her/him on what will happen next, and who does what. Explain all the options and plan together any further steps.
- **Inform the interviewee of their rights** and of any procedures that apply to them.

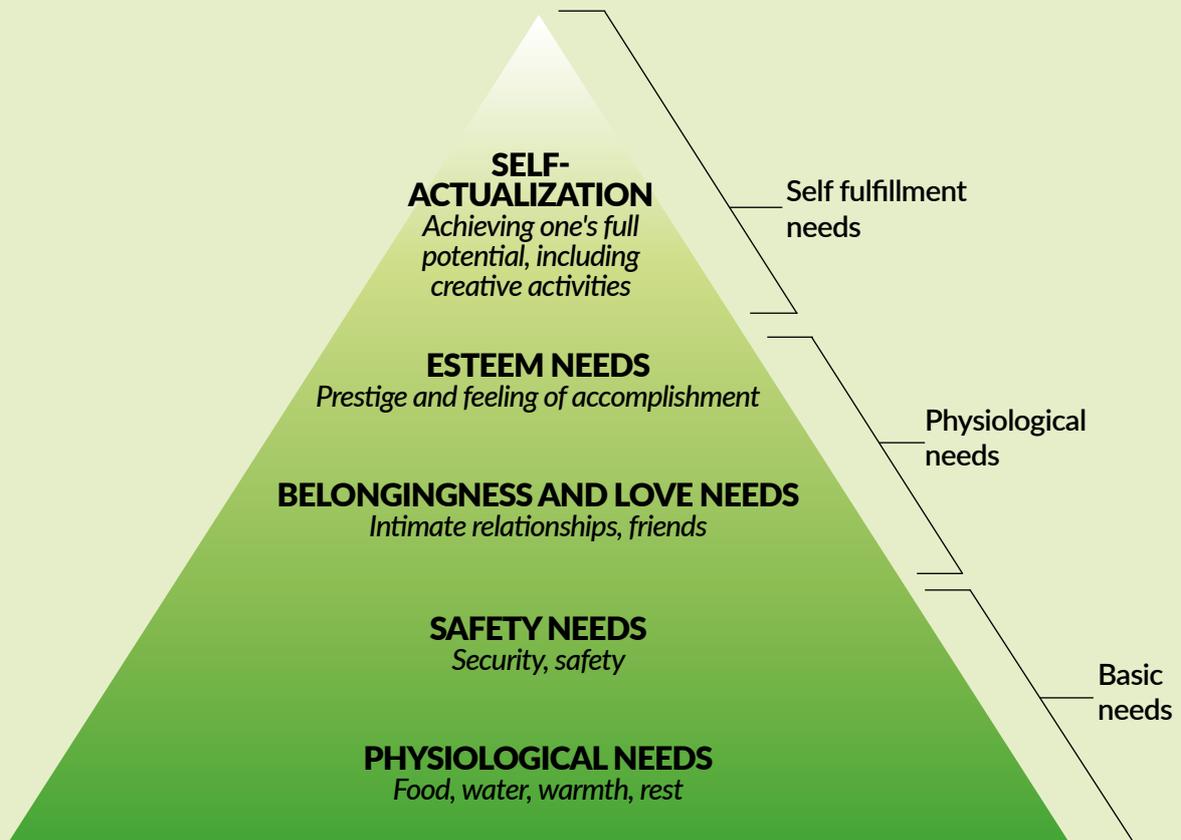


### 2.1.3. GENERAL GUIDANCE TO HELP APPLICANTS PRESUMED VICTIM OF TRAFFICKING EXPRESSING THEIR NEEDS

- Applicants presumed victim of trafficking may be reluctant to express their needs for many different reasons. For instance, they might not trust their interlocutor, understand how they could benefit from the interview, or be aware of their entitlements, and therefore not express any special needs. In addition, if they are already accommodated within a reception facility that is not meeting their needs they might fear they will not receive the service any longer if they criticize it. These reasons are not exhaustive of course. The general idea is to keep in mind that for a multitude of reasons victims may be **reluctant to express their needs**. You therefore have to **facilitate the expression of special needs** by the applicant victim of trafficking.
- Due to the very specific characteristics of trafficking, in particular the coercion and influence that traffickers exert on the victims, as well as the isolation usually victims of trafficking experience, **building trust is fundamental** to give them the opportunity to self-identify as victims of trafficking and/or tell their personal story during the asylum process. Many victims report their lack of trust in state officials, especially the police, as well as to the people of the host society. Third country nationals and compatriots sharing the same language are often perceived as more trust-worthy (although sometimes he/she feels the opposite because migrants from his/her country of origin is the trafficker or affiliated to him/her). Victims also report they often feel they are not believed, which sometimes puts them in real distress and discourages them in advance from revealing the full extent of their victimhood.
- Depending on the stage of the asylum process, the objective of the interview might not be to discuss the trafficking situation in itself, or why and how the person has left his or her country and what happened to him or her afterwards but rather to focus specifically on the needs. Keeping the trafficking situation in a separate box can, however, be difficult. **Elements linked to the trafficking situation will necessarily be evoked even though not referred to directly**. As mentioned above, starting with the **needs in order of priority** may help the communication.

You can use Maslow's pyramid of needs below to identify immediate needs that the person wants to address as a priority. Maslow's pyramid defines five categories of needs which should be met in increasing order of priority.

### Maslow's pyramid



Assess physiological and safety needs as a priority:

#### Physiological needs

Have your immediate needs been met?

Are you hungry? Thirsty? Need to go to the toilet?

Do you need clothing (dry/warm/clean)? Are you cold?

Do you know where you'll sleep tonight? Do you need rest?

Do you need treatment? Are you in any pain?

#### Safety

Are you concerned for your safety? What can I do here and now to help you feel safe?



### 2.1.4. CROSS-CUTTING CATEGORIES OF APPLICANTS WITH SPECIAL NEEDS AMONGST VICTIMS OF TRAFFICKING

When considering special needs of victims of trafficking it is important to acknowledge the following:

- You should take into consideration that there are **important intersections between victims of trafficking and persons who have been subjected to rape, other forms of violence**, persons with gender-related special needs, accompanied and unaccompanied minors, pregnant persons, lesbian/gays, bisexual/transsexual/intersex persons, disabled persons. This is not an exhaustive list and other special needs categories might be relevant (like mental issues because of the traumatic experience of human trafficking or due to previous facts occurred in the country of origin).
- **Depending on their age, sex, gender identity, physical and/or psychological state, form of exploitation they have suffered**, victims of trafficking might have different special needs that will affect their pathway in the asylum process differently.
- It is important to note that most of the **research work conducted** so far with regards to special needs of asylum applicants' victim of trafficking is based **mainly on experiences from women and girls victim of trafficking for sexual exploitation**. Men and victims of trafficking for labour exploitation are categories of victims of trafficking whose needs have not been explored so much so far. This should be taken into consideration when indicators of trafficking are being detected for those categories of applicants.
- According to EU law, victims of trafficking have the **right to be formally identified and recognized as such although they are already involved in the asylum process**. This right should be guaranteed even in cases where the victim refuses to cooperate with the authorities in the criminal proceedings. Being formally recognized as a victim of trafficking is for many victims part of the rehabilitation process and can encourage them to reveal the true nature of their story. At the same time, applicants for international protection who are detected as potential victims of trafficking must be encouraged to self-report indicators of trafficking or to self-identify as victims. In this regard, they should be informed of their right to be identified and protected as victims of trafficking, even where they have not yet revealed their victimhood.



## 2.2

# **EXAMPLES OF SPECIAL NEEDS OF VICTIMS OF TRAFFICKING IN RELATION TO THE ASYLUM PROCESS**



### 2.2.1. NON-EXHAUSTIVE LIST OF IDENTIFIED SPECIAL NEEDS OF VICTIMS OF TRAFFICKING IN RELATION TO THE ASYLUM PROCESS 4

The table below presents a classification of the needs the asylum seekers victims of trafficking may have and that were identified during the research work. You are given examples of questions to ask to help you with data collection to identify and address those needs.

#### Categories of needs

#### Special needs

*Asylum seekers who are victims of trafficking have the following particular needs ...*

#### Questions to ask

#### 1. Empowerment and escaping coercive control

Creating/feeling that they are in a relationship of **trust** with their contacts (social workers, lawyers, health professionals, authorities they meet with etc.)

Are you already in contact with other country organisations?  
If yes, which organization? When did you contact them? On which occasion(s)/ in which circumstances(s) (hospital/place of work/holding centre, court, prefecture etc.)? What was the result of this contact? If not, why?

Have you already been in contact with the police? If yes, why/when/in which circumstance(s)?

If the person is accompanied: Is the person accompanying you a friend? A member of your family?

What would you like to focus on during the interview?

Being **informed** about the asylum procedure, their rights, the reality of the country they find themselves in and their situation (whether their stay is legal or not and implications etc.)

Do you know why we are meeting? What do you understand asylum mean? What does it involve?

Have you already been to a registration service (name the one in your country).

Do you know which city you are in now? Where it's situated in the country?

Do you know what your rights are in in the country?



## Categories of needs

### Special needs

*Asylum seekers who are victims of trafficking have the following particular needs ...*

### Questions to ask

Being **independent**, notably from a financial perspective and knowing the language of the country they are in

How are you supporting yourself?

What do you do in the day?

Do you work? (legally or having an undeclared work)?

Do you have an employment contract? Since when? Do you have payslips? How do you get payed (cash, bank transfer)?

Have you received your benefits? No problems in payment?

Are the benefits sufficient to feed and clothe you (particularly if the person has children)?

Do you send money to your family? Do you manage to put money aside?

If the question of trafficking is explicit: Do you have a debt to repay? How much? Do you know what the debt is for? Who do you have to repay it to? How much have you already paid?

Did you speak language of the country before arriving?

How did you learn it (with who? Organization?) Are you learning French/with who, which organisation? Would you like to learn French? (based on the situation)

How did you get here? How did you know about our organisation? Were you accompanied? Did you use transport? Do you have a travel card?

Do you have a mobile telephone? Subscription or pay-as-you-go?

If the person has children: Do you need childcare? When you go out on your appointments, does someone look after them? If yes, who?

Envisaging short- and medium-term **future** prospects (education, employment, training etc.)

Have you been to school? What level of education have you reached? What is your profession?

What would you like to do/learn?

Where do you see your life going?

What would you like to do?

Would you like to study? Learn a profession?



## Categories of needs

### Special needs

*Asylum seekers who are victims of trafficking have the following particular needs ...*

### Questions to ask

#### 2. Asylum procedure

Obtaining specific guarantees during the interview **to** determine the need for protection:

- Preference often expressed to be **accompanied to** the interview by a third party;
- Preference sometimes expressed for the protection officer and interpreter to be the same gender **as the** person.

How are you feeling about the interview with the asylum determination authority (name the one of your country)?

Do you feel able to tell your story/what happened to you?

If enable by the national legislation: Is there information you didn't include in your initial account and which you want to share with the asylum determination authority (name the one of your country)?

Would you like to be accompanied by someone from the organisation? (to be adapted accordingly)/ Would that reassure you?

Could you speak openly about what has happened to you with/in the presence of a man/woman? Would you feel more at ease with a man/woman?

Being accompanied and **receiving** legal **advice**, not just as asylum seekers but also as potential victims of trafficking

What does being an asylum seeker mean for you? Do you know what it involves in terms of rights?

Do you have any questions about the asylum procedure?

What does "being protected" mean to you? Would you like us to help you to apply for this protection? If the interviewee has revealed facts of trafficking experience: Do you know that anyone who has hurt you can be punished for this?

Do you understand the term "victim" and what that implies? Would you be prepared to file a complaint/report to the police to explain what has happened to you? Doing so it is not compulsory and you won't be prosecuted for an offence if you do it.

Benefitting from "**adapted**" time-frames: some people need their asylum application to be prioritised. Conversely, others want the application to be processed within a longer than normal timeframe

How are you finding the speed of the asylum procedure? Do you think it's too fast, or too slow?

Do you need some time to reflect/rest before continuing the procedure?



## Categories of needs

### Special needs

*Asylum seekers who are victims of trafficking have the following particular needs ...*

### Questions to ask

Benefitting from the application of the **discretionary clause** set out in the **Dublin III regulation**

How was it in/at country the person would have to be returned to? Did you have any problems? What kind of problems?

Where did you sleep there?

Could you get treatment there?

Did you work in that country? If yes, what did you do?

Did you meet with organizations there? Were you accompanied?

Are you scared of going there? Did someone hurt you there?

Do you know people who are still in that country? What is their relationship to you?

## 3. Reception conditions (material conditions and wellbeing)

Benefitting from **secure accommodation**, sometimes somewhere geographically distant from the place they were exploited

Where are you staying? Who are you staying with?

Who do you live with?

What neighbourhood do you live in?

Do you feel safe there? How do you feel where you sleep/stay?

Do you go out in the day?

Do you have a key to the house/apartment?

Do you like the city/region where you are?

If you could be offered accommodation in another city, would this be of interest / would you prefer it?

Do you know anyone in country? Do you have any family you wish to join?



## Categories of needs

### Special needs

*Asylum seekers who are victims of trafficking have the following particular needs ...*

### Questions to ask

Benefitting from **calm and independent accommodation**, where their privacy and family life (for people with children) is ensured

Do you share your bedroom? If yes, with who?  
How is it?

Are there many men/women where you live?  
Do you feel at ease there? Are you comfortable being around women/men?

Are there many members of your community? Would you prefer to be with your compatriots, or not?

Can you come and go as you please?  
Can you have friends round?

Are there people working in the same place you live in?  
How are the meals? Do you cook for yourself/several people?

If not, how is the food? Do you normally eat?

Are there several toilets/bathrooms? Who do you share these facilities with? Are they mixed? If yes, how do you feel about it?

How is the atmosphere in your accommodation (peaceful/noisy; warm or not etc.)?

Benefitting from **adequate medical care (health)**

How are you feeling?

Do you have any health problems?

Are you in any pain? now? regularly?

Have you seen a doctor since arriving? If applicable:

Have you seen a gynaecologist since arriving?

Are you prescribed any medication? Do you take any medication? If yes, what kind of? If you are prescribed medication but you do not take it, why?

Have you eaten today? In the last few days?



### Categories of needs

### Special needs

*Asylum seekers who are victims of trafficking have the following particular needs ...*

### Questions to ask

Being offered and benefitting from **psychological** or even psychiatric care (**mental health**)

- How do you feel? What are your feelings right now?
- Do you sleep well?
- Do you have nightmares?
- Are you anxious? Worried?
- Would you like to talk about these issues with someone?

Benefitting from comprehensive and ongoing **social care**

- Have you already met a social worker?
- Are you being supported by an organisation?
- How are you feeling here/in country? How are you finding your way round the city?
- Would like to participate in social, group activities? What kind of?

Generally speaking, the professionals interviewed as part of the project indicated that

**Health**

**accommodation**

**and safety**

were subjects which were relatively successful in engaging discussion with victims about their situation and their special needs. These are effective entry points for talking to them without addressing the issue of trafficking and exploitation head-on.

All these questions will allow for the identification of needs, while they may also lead to indicators of trafficking in human beings.



# **FOLLOW-UP GUIDANCE**



## FOLLOW-UP GUIDANCE

You have identified several special needs of a victim of trafficking and you would like to provide him or her with follow-up guidance and/or you would like to inform the relevant authorities and/or support organizations of the situation of that person but you are not sure how to proceed?

Here is some (not exhaustive) follow-up guidance to help you!

- Create partnerships with organization specialised on trafficking
- Always associate an identified need with a referral option toward a service that could provide him/her support
- Inform the victim of the possibility to be referred to a psychologist and/or a doctor and/ or other professional.
- Avoid giving too much written information if it can be a danger for him/her to have it, and make sure he/she knows how to find more information if needed.

### ADVICE FOR NATIONAL FOCUS

*Add a second part on national guidelines for referring the applicant/ victim to the appropriate service according to each need pointed in file 2. You may draw a mapping with the services available, its capacity, and contact details for each need. Make sure specific follow-up guidance suggested remains up-to-date.*

*It could be helpful to involve people who have already done such exercise.*