

GOVERNMENT OF THE REPUBLIC OF ARMENIA
ORDER

28 November 2008, N 1385-A

ON APPROVING THE NATIONAL REFERRAL PROCEDURE OF TRAFFICKED PERSONS

In view of more efficient coordination of the fight against human exploitation (trafficking) in the Republic of Armenia and taking into account the Decree of the Government of the Republic of Armenia N1598-N “On Approving the National Program on Organizing the Fight against Human Exploitation (Trafficking) in the Republic of Armenia within 2007 and 2009 and the Timetable of the Program Implementation”, dated December 6, 2007, the Government of the Republic of Armenia **decrees:**

1. To approve the procedure for national referral of the trafficked persons in compliance with the Appendix.
2. To define that government entities authorized to refer trafficking victims in the Republic of Armenia are Ministry of Labor and Social Issues, Ministry of Foreign Affairs, Ministry of Health, Ministry of Territorial Administration, National Security Service under the Government of Armenia and Police under the Government of Armenia.

T. Sargsyan
Prime Minister of Armenia

02 December 2008
Yerevan

REGULATION FOR THE NATIONAL REFERRAL OF THE TRAFFICKED PERSONS

I. GENERAL PROVISIONS

1. The present Regulation shall be the system of cooperation through which the public administration and local self-government authorities carry out their duties aimed at the protection and development of the rights of trafficked persons, and throughout their activities they shall develop a strategic cooperation with the civil society. The main purpose of this Regulation is to determine an efficient tool in providing services to the victims of trafficking in persons, including a housing, professional medical and psychological assistance, counselling, educational and training opportunities.

2. Main concepts used in this Regulation are as follows:

1) ***trafficking*** – the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, abduction, fraud, deception, exploitation 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. Furthermore:

- a. The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph 2 (1) of this Regulation shall not matter where any of the means set forth in subparagraph 2 (1) have been used;
- b. The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered 'trafficking in persons' even if this does not involve any of the means set forth in this subparagraph;

2) ***victim of trafficking in persons*** – any physical entity subjected to trafficking (hereinafter victim);

3) ***cooperating non-governmental organizations*** (hereinafter cooperating NGOs) – non-governmental organizations, which, evolve activities in the sphere of fight against trafficking and

their cooperation with authorized government entities is stipulated by a Memorandum of Understanding;

II. PRINCIPLES OF COOPERATION AND TRANSFER OF INFORMATION

3. The authorized government bodies shall hold respective structural or separated units (hereinafter referred to as units) to coordinate the information exchange between them as obtained from their sources.

4. Respective units shall actively cooperate and utilize each other's tools and opportunities in uncovering, identifying and providing rehabilitation assistance to the victims of trafficking in persons, as well as in safeguarding, preventing, disclosing the cases of the crime.

5. The responsible state bodies:

1) The Police of the Republic of Armenia may obtain information on trafficking from responsible bodies, independently, as well as through other units of the Police (including National Central Bureau of Interpol), from mass media, individuals (from the aggrieved and other applicants), other organizations, through operative sources and on personal investigation.

2) The Ministry of Foreign Affairs of the Republic of Armenia may apart from responsible bodies, obtain information on trafficking independently, as well as from other MFA divisions and sub-structures (including diplomatic and consular representations), from Armenian communities of other countries, churches, from diplomatic representations of other states, international organizations.

3) The National Security Service of the Republic of Armenia apart from the responsible bodies, may obtain information on trafficking independently, as well as from NSS units (including the border-guard forces), individuals (from the aggrieved and other applicants), other organizations, through operative sources and on personal investigation.

4) The Ministry of Labor and Social Issues of the Republic of Armenia apart from responsible bodies, may also obtain information on trafficking independently, as well as from the MLSI units, individuals.

5) The Ministry of Territorial Administration of the Republic of Armenia may obtain information on trafficking independently, as well as from sub-structures of the MTA, individuals applying through hot-line, in the result of profiling activities in the service-point for immigrants, and from local self-government bodies.

6) The Ministry of Health of the Republic of Armenia apart from responsible bodies, may obtain information on trafficking independently, as well as from the MLSI units, individuals.

6. Authorized government bodies cooperate only with cooperating NGOs.

7. All other organizations and bodies, which may encounter with cases of trafficking within their activities, shall serve as source of information for the responsible bodies.

8. The responsible bodies, in line with the principles of protection of human rights, shall be obliged to strictly preserve the confidentiality of the personal information they obtain in a procedure set forth by the law.

9. The information obtained shall on the basis of its nature be distinguished into information on the detected victim and information on the crime.

10. MLSI is the responsible body for Victim Assistance and Coordination thereof represented by a specialized unit. To solve its tasks, it shall actively cooperate with other state bodies and cooperating NGOs providing help and/or assistance.

11. In the Republic of Armenia the principal responsible body for fight against the crime of trafficking shall be the Police. All other responsible bodies shall immediately transfer the information on this crime received from their sources of information to the police in compliance with the flowchart.

12. The responsible state bodies shall immediately report the information on detected victim to the Police.

13. The cooperating NGOs shall transfer the information on the victim they detected to the MLSI or the Police within the possible shortest time, but no later than within 3 days' time. The MLSI shall in its turn use all opportunities and means of the Police for victim identification and protection purposes.

14. At the stage of identifying the victims, sources of information by involved structures are the following:

1) In the NSS Border-Guard Forces:

- a. examination of documents;
- b. profiling in the border points;
- c. data collected during operative-investigation activities.

2) In the respective division of the Police:

- a. applicants (the aggrieved, citizens, organizations etc);
- b. different means of mass media;
- c. Interpol and other international, regional organizations, foreign law enforcement bodies;
- d. data collected during operative-investigation activities;
- e. personal investigation,
- f. non-governmental organizations.

3) In the MFA:

- a. Embassies and Consulates of the Republic of Armenia;
- b. diplomatic representations of other countries;
- c. international organizations;
- d. Armenian communities (community organizations) and church.

4) In case of respective division of the MLSI:

- a. labour inspectorate;
- b. State Employment Service Agency,
- c. Divisions for Protection of Children's Rights within Marzpetarans/Governor's Offices;
- d. social partners of the International Labor Organization.

5) In the Ministry of Territorial Administration:

- a. regional and local self-government bodies;
- b. migrants service point in the Migration Agency, telephone hot-line.

6) For cooperating non-governmental organizations there may be:

- a. hot-line;
- b. tracing activities addressed to the detection;
- c. information on potential victims through the cooperation with MLSI as well as with other NGOs.

III. VICTIM REFERRAL

15. Victim referral shall be carried out only upon the agreement of the victim at the moment of detection. The responsible government body which detected the victim or cooperating NGO shall use all possible encouraging and explanatory means to exhort the victim to cooperate with responsible state bodies.

16. In case, when the victim did not give his/her agreement but there are obvious reasons for need to referral in relation to the protection of public safety, apparent danger to the life and health of other victims connected to the same victim or his/her case, or when the victim has made a law infringement and there is a need to disclose the circumstance of the infringement, then the responsible government bodies and cooperating NGOs, in compliance with the RA legislation, shall refer the victim detected by them to the Police.

17. The victims detected by the cooperating NGOs, may, upon the victims agreement, be referred to the MLSI for the purpose of assistance.

18. The procedure for implementing victim referral and transfer of information on the detected victim shall be the following based on specific situation:

1) the person subjected to or in the danger of being trafficked at the moment of detection is in the Republic of Armenia. In that event:

a. The referral of the victims detected by the Police shall be carried out through the MLSI, where necessary, making use of the cooperating NGO services;

b. The NSS refers the detected victim of trafficking in persons to the Police, which arranges the further referral of the victim to the MLSI;

c. The MLSI refers the detected victim to other responsible bodies and cooperating NGOs to get respective assistance, or to the Police with the purpose of taking measures addressed to the disclosure of the crime;

d. The MTA, MFA and the cooperating NGOs refer the victim they detected to the MLSI for further referral;

2) The victim, who is a citizen of the Republic of Armenia is abroad. In this event:

a. The MFA refers the victim to the Police or, upon the agreement of the victim, as well as where considered appropriate, to Police of the foreign country, or through the help of cooperating NGOs – to a foreign non-governmental organization;

b. The MLSI, MTA and NSS shall transfer the information on the victim to the Police, and the detected victim, upon his/her agreements, shall be referred to the MFA diplomatic or consular services, and the further referral is carried out by them;

c. The Police shall, where necessary, transfer the information on the victim it detected to the MFA, and the detected victim shall be referred to the MFA diplomatic or consular services, or where considered appropriate to the foreign law enforcement bodies;

d. The cooperating NGOs shall transfer the information they obtained on the victim to the MLSI, and the detected victim, upon his/her agreement, refer to the MFA diplomatic or consular services, or foreign non-governmental organizations.

3) Foreign citizens, subjected to trafficking or in the danger of being trafficked, are in the Republic of Armenia at the moment of detection. In that specific situation:

a. The MFA shall transfer the information obtained on the victim to the Police and to the MFA of the given country, and the victim, if s/he chooses so, is referred to the Police or MLSI for further referral;

b. The NSS shall transfer the information it obtained on the victim to the Police, and refer the detected victim to the Police, which through MLSI conducts further referral , including the provision of immediate assistance;.

c. The Police shall transfer the information on the victim to the MFA, and the victim, upon his/her agreement, to the MLSI;

d. The cooperating NGOs shall transfer the information they obtained on the victim of trafficking in persons to the MLSI, and refer the detected victim, upon his agreement, to the MLSI or Police.

IV. IDENTIFICATION OF THE VICTIM

19. Identification of the victim is an on-going and in the meanwhile an integrated process, which envisages different scopes of assistance. For equitable and targeted provision of the scope of assistance, three basic phases of victim identification are distinguished:

- 1) preliminary identification;
- 2) intermediate identification; and
- 3) final identification.

20. The detection of the victim is considered to be preliminary identification, which is carried out by the responsible bodies independently, or in the result of applying direct and indirect criteria to the "assumed victim" detected by another source.

21. Intermediate identification of the victim shall be carried out by the investigation body making a decision to recognize the preliminary identified victim as the aggrieved under the criminal cases filed on the basis of respective Articles of the RoA Criminal Code.

22. Final identification of the victim shall be carried out by the court. In the event, where the case does not get to the court in compliance with the Criminal Procedure Code, the decision made by the criminal persecution body on recognizing the person as the aggrieved shall serve as a ground for final identification.

23. Identification implementing bodies are as the following:

- 1) The cooperating NGOs – for need assessment and provision of assistance;
- 2) The Police - for assisting the victim;
- 3) The MLSI - for assisting the victim; and
- 4) the courts.

24. In the case of cooperating NGO, the identification process can run in several phases, and the identification criteria shall be determined by the descriptions included in the international and national definitions of trafficking.

V. ASSISTANCE RENDERED TO THE VICTIM

25. The assistance rendered to the victim involves three stages – preliminary, intermediate and final assistance.

26. When the victim subjected to or in the danger of trafficking is in the Republic of Armenia at the moment of detection, preliminary assistance to the detected and initially identified victim shall be rendered by the mediation of the MLSI through special units for protection of children's rights that act within the respective bodies and structures, including Marzpetarans (Yerevan Municipality) of the Republic of Armenia. If need be, the MLSI can cooperate with the cooperating NGOs.

27. In the case specified under the paragraph 26 of this Order, preliminary assistance shall include:

- 1) primary medical aid;
- 2) immediate in-kind assistance (food, clothing, sanitation etc);
- 3) legal consultancy;
- 4) if necessary, provision of short-term, maximum 30 days' housing.
- 5) psychological assistance

28. When the victim is abroad, the decision on rendering assistance shall be made by the diplomatic and consular services led by the paragraph 27 of this Regulation and based on the acting system of assistance in the given country.

29. Intermediate assistance shall be rendered in the intermediate identification phase and include the following:

- 1) provision of temporary housing for up to 60 days;
- 2) medical examination and aid in accordance with the Decree N318-N "On Free Medical Aid and Servicing Guaranteed by the State" adopted by the Government of the Republic of Armenia on March 4, 2004;
- 3) legal assistance;
- 4) psychological assistance;
- 5) measures addressed to the re-integration into the society, including, inter-alia, assistance in professional training; and
- 6) where necessary, emergency monetary assistance in the defined.

30. Final assistance shall be rendered by virtue of the final identification based on the needs assessment of the given person, and envisages full package of assistance as stipulated by the Law "On Social Assistance" of the Republic of Armenia, as well as further measures addressed to the re-integration.

D. Sargsyan,
Head of Staff of the
Government of Armenia

FLOWCHART
ON INFORMATION EXCHANGE AND VICTIM REFERRAL

Referral of the victim having his/her consent _____
Transfer of information _____

