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REPUBLIC OF AUSTRIA
FEDERAL MINISTRY OF THE INTERIOR



IOM International Organization for Migration

**GUIDELINES
FOR THE COLLECTION
OF DATA ON TRAFFICKING
IN HUMAN BEINGS,
INCLUDING COMPARABLE
INDICATORS**

GUIDELINES



Prevention of and Fight Against Crime 2007
With financial support from the Prevention of and Fight Against Crime Programme
European Commission – Directorate-General Justice, Freedom and Security

GUIDELINES FOR THE COLLECTION OF DATA ON TRAFFICKING IN HUMAN BEINGS, INCLUDING COMPARABLE INDICATORS

February 2009



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IOM is committed to the principle that humane and orderly migration benefits migrants and society. As intergovernmental body, IOM acts with its partners in the international community to assist in meeting the operational challenges of migration; advance understanding of migration issues; encourage social and economic development through migration; and uphold the human dignity and well-being of migrants.

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Publishers: International Organization for Migration
Nibelungengasse 13/4
1010 Vienna
Austria
Tel: +43 (0)1 585 33 22
Fax: +43 (0)1 585 33 22 30
Email: iom-vienna@iom.int
Internet: <http://www.iomvienna.at>, <http://www.iom.int>

Federal Ministry of the Interior of Austria
Minoritenplatz 9
1014 Vienna
Austria
Tel: +43 (0)1 53126 3520
Fax: +43 (0)1 53126 3884
Email: BMI-I-4-c@bmi.gv.at
Internet: <http://www.bmi.gv.at>

Lead Author: Alexis. A. Aronowitz

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FOREWORD BY THE FEDERAL MINISTRY OF THE INTERIOR OF AUSTRIA

Preventing and combating trafficking in human beings remains a priority of the Austrian Federal Ministry of the Interior which fully supports the European Union (EU) in its goals to fight this severe human rights violation. In 2004, an inter-ministerial National Task Force to Combat Human Trafficking was set up in Austria, which included representatives from civil society and research institutes. The purpose of the Task Force is to coordinate activities and jointly work on responses to prevent and fight trafficking in human beings and assist victims. Austria has carried out a number of initiatives, including activities before, during and after the Austrian EU Presidency in the first half of 2006 and is determined to continue this engagement. In March 2007, the Austrian Council of Ministers adopted a National Action Plan to Combat Human Trafficking. Discussions are currently underway on a follow-up Action Plan. In 2008, Austria was proud to host the Vienna Forum under the United Nations Global Initiative to Fight Human Trafficking which convened more than 1,600 delegates from all over the world to raise awareness, foster partnerships and facilitate cooperation in the fight against trafficking. In addition, the Federal Ministry of the Interior has carried out a number of projects such as the elaboration of a *Resource Book for Law Enforcement Officers on Good Practices in Combating Child Trafficking* in 2005, which was jointly implemented with IOM Vienna with financial support from the European Commission.

During this and other activities that included capacity building, organization of trainings and exchange of information to prevent and combat trafficking at the national and European level, participating experts strongly expressed the need to address the lack of reliable data on trafficking in human beings across the European Union. The call was made for a harmonized approach to collecting data in order to strengthen the counter-trafficking responses and work more effectively towards preventing and combating this crime. The lack of comparable data is also reflected in the EU Plan on best practices, standards and procedures for combating and preventing trafficking in human beings (2005/C 311/01) as well as in other relevant documents of the European Union. In strategic response to this request, the Federal Ministry of the Interior in cooperation with IOM Vienna initiated the project *Development of Guidelines for the Collection of Data on Trafficking in Human Beings, Including Comparable Indicators*, the result of which comprise the Guidelines you now hold in your hands. It is the wish of the Federal Ministry of the Interior to contribute to the EU's efforts in this field, and to lay the foundation for improved data collection. The Federal Ministry of the Interior also seeks to establish a data sharing and comparison mechanism that will be uniformly applicable across the European Union which increases the capacity of all actors involved in the prevention of and fight against human trafficking. The Federal Ministry of the Interior would like to thank the European Commission, Directorate-General Justice, Freedom and Security, for the generous financial contribution to this project. Furthermore, the Ministry greatly appreciates and acknowledges the continued cooperation, participation and outstanding expertise of the project partners, as well as of all experts and institutions involved in this undertaking.

The Ministry is determined to follow up on the implementation of the Guidelines developed within the framework of this project and counts on the full support of the European Union and its Member States in this endeavour. The EU, its Member States and other stakeholders actively involved in counter-trafficking are invited to use and disseminate the Guidelines. By defining joint goals and by establishing a common methodology to reach them we are advancing in our efforts to seek an evidence-based response to ultimately eradicate this radical human rights violation.



Kurt Hager, Brigadier General
Federal Ministry of the Interior
Republic of Austria

FOREWORD BY THE INTERNATIONAL ORGANIZATION FOR MIGRATION

In recent years, trafficking in human beings has been increasingly addressed at the level of the European Union. Anti-trafficking strategies and policies have been developed and much has been achieved in terms of preventing and combating this crime and assisting trafficked persons while protecting their human rights. However, trafficking in human beings remains a huge challenge for policy makers across the European Union with the true extent of the phenomenon being difficult to estimate. The lack of accurate, comparable and timely figures not only hinders the production of reliable statistics but makes it impossible to recognize trends. As a result, policy makers and practitioners are unable to take adequate and effective actions. To talk of evidence-based policy making remains a target for now, which has not yet been achieved.

Few EU Member States and organizations, such as the International Organization for Migration (IOM), regularly collect information on trafficking in persons and when doing so, often use different variables, methodologies and analytical tools according to their institutions' mandates. Such individual methodologies render it impossible to compare the information collected by different parties. IOM, for example, manages the largest database of primary data on registered victims of trafficking who have been assisted by the organization. The database not only facilitates the management of the IOM assistance programs, but also provides extensive statistics and allows research activities to be based on the information collected. However, this database only reveals a limited picture of human trafficking victims and practices.

In order to develop a unified mechanism on data collection that is beneficial to everyone it is necessary to bring together the different actors responsible for the collection of data and discuss their needs and expectations. This goal has been achieved within the framework of the project *Development of Guidelines for the Collection of Data on Trafficking in Human Beings, Including Comparable Indicators* by convening experts from governments, law enforcement agencies, NGOs and other victim service providers, international organizations, research institutes and other stakeholders. All have contributed to this report being offered to you by the Federal Ministry of the Interior of Austria and the International Organization for Migration.

We would like to thank the Federal Ministry of the Interior of Austria for initiating this project, and the dedicated experts for providing immense support and sharing their rich experiences and profound knowledge. Our special thanks also go to all the persons who have taken the time to read through the draft Guidelines and who have provided us with substantial advice and comments.

As a next step, the European Union Member States and other stakeholders need to be convinced of the urgency of implementing the Guidelines. The benefits of a harmonized approach towards data collection on trafficking in persons for each country and the European Union as a whole are clearly outlined. These benefits include improved knowledge on the trafficking situation and more information on the response within and between countries based on regular national, regional and European reports on this crime. Data collection on trafficking in human beings – as trafficking in human beings – is a complex phenomenon that requires a strong, comprehensive and harmonized response. Essentially, harmonized data collection will be the first step to shed light on this severe violation of human dignity that has so far called attention to itself only because of its brutality but still completely lacks evidence-based information on the actual scope and trends.



Pier Rossi-Longhi, Officer in Charge
IOM - International Organization for Migration in Austria
Special Liaison Mission to the OSCE, UN and International Organizations

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Special thanks go to the project partners who, from the very beginning, have supported and dispatched their most knowledgeable and experienced experts to this initiative: the Belgian Federal Police, the Ministry of Justice and Law Enforcement of Hungary, the Ministry of the Interior of Italy, the Police of Luxembourg, the Ministry of the Interior of the Slovak Republic, the Ministry of Justice of Sweden, Europol and the International Centre for Migration Policy Development.

The Federal Ministry of the Interior of Austria and IOM Vienna would like to thank the Members of the multidisciplinary Expert Team¹ whose engaged participation and deep commitment throughout the project contributed to the successful elaboration of the Guidelines. In particular, the excellent written contributions to the Guidelines from the following Expert Team Members are gratefully acknowledged:² Wim Bontinck (Belgian Federal Police), Kerstin Buchinger and Julia Planitzer (Ludwig Boltzmann Institute of Human Rights), Sarah Craggs (IOM), Giampiero D'Amico, Sandro de Angelis and Emanuele Giordani (Central Directorate of Criminal Police/Ministry of the Interior of Italy), Michaëlle de Cock/Roger Plant (ILO), Anelise Gomes de Araujo (OSCE), Angelika Molnar (EUROPOL), Isabella Orfano (Osservatorio Tratta/Associazione On the Road), Flavia Pesce (Osservatorio Tratta/Institute for Social Research), Enrico Ragaglia (ICMPD), Fabrizio Sarrica (UNODC), Patricia Sörensen (NGO Payoke), Duco van Heel (FRONTEX), Viktória Végh (Ministry of Justice and Law Enforcement of Hungary) and Jelena von Helldorff (Institute for International Assistance and Solidarity). In addition, the project has immensely profited from the rich experience and profound expertise of Erika Gamsjäger (Federal Ministry of the Interior of Austria/Criminal Intelligence Service), Jozef Hlinka (Ministry of the Interior of the Slovak Republic), Hana Kováčová (Permanent Mission of the Slovak Republic to the International Organizations in Vienna), Michel Krank and Pierre Miccolis (Police of Luxembourg), Mariana Martins (ICMPD), Anders Oljelund (Adviser to the Ministry of Justice of Sweden), Henrik Sjölander (Ministry of Justice of Sweden), Rebecca Surtees (Nexus Institute to Combat Human Trafficking) and Bärbel Uhl (President of the EC Experts Group on Trafficking in Human Beings).

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¹ The Members of the Expert Team are also listed on pages 135-136.

² An overview of the written contributions can be found on pages 137-138.

³ Further information on this conference can be found on IOM Vienna's website: www.iomvienna.at.

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The project management team was composed of representatives from the Federal Ministry of the Interior of Austria and IOM Vienna. In addition, a number of colleagues from IOM Headquarters, in particular from the Counter-Trafficking Division, the Legal as well as Migration and Health Departments, and field missions assisted in facilitating the implementation of this project and significantly contributed to the discussions as well as the elaboration of the Guidelines. We would like to express our great appreciation to IOM Vienna colleagues: Barbara Albrecht, Mira Brady, Sinéad Costelloe, Eurídice Márquez Sánchez, Roxane Milot, Emilie Parent, David Reizenzein, Peter von Bethlenfalvy and Pier Rossi-Longhi and to the partners from the Federal Ministry of the Interior of Austria: Kurt Hager and Günther Sablattnig.

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LIST OF ABBREVIATIONS

ANITP	National Agency against Trafficking in Persons (Romania)
AWF	Analysis Work Files
BIM	Ludwig Boltzmann Institute of Human Rights
CoE	Council of Europe
CRIN	Child Rights Information Network
CTM	Counter Trafficking Module
CDCJ	European Committee on Legal Co-operation
DOB	Date of birth
EC	European Commission
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
EGI	Expert Group Initiative
EIS	Europol Information System
ENYÜBS	Unified Statistical System of Law Enforcement (Hungary)
EP	European Parliament
Etc.	Et cetera
EU	European Union
Fig	Figure
FMI	Federal Ministry of the Interior of the Republic of Austria
FRA	European Union Fundamental Rights Agency
FYROM	Former Yugoslav Republic of Macedonia
GAO	United States Government Accountability Office
HQ	Headquarters
ICMPD	International Centre for Migration Policy Development
i.e.	Id est/that is
IFIAS	Institute for International Assistance and Solidarity
ILO	International Labour Organization
IOM	International Organization for Migration
IO	International Organization
IRS	Istituto per la Ricerca Sociale (Institute for Social Research)
ISI	International Statistical Institute
ISO	International Organization for Standardization
IT	Information Technology
JHA	Justice and Home Affairs
LEA	Law Enforcement Authorities
MARRI	Migration, Asylum, Refugees Regional Initiative
MDG	Millennium Development Goals
MoI	Ministry of Interior

MoU	Memorandum of Understanding
MS	Member States
NA	Not Available
NAP	National Action Plan
NCP	National Criminal Police
NGO	Non-Governmental Organization
NK	Not Known
No.	Number
NOVA	National Consortium For Social Innovation
NR	National Rapporteur
OSCE	Organization for Security and Cooperation in Europe
PC	Personal Computer
PETs	Privacy Enhancing Technologies
PTSD	Post-traumatic Stress Disorder
SAP-FL	Special Action Program to Combat Forced Labor
SECI	Southeast European Cooperation Initiative
SEE	South Eastern Europe
THB	Trafficking in Human Beings
TiP	Trafficking in Persons
UN.GIFT	United Nations Global Initiative to Fight Human Trafficking
UNIAP	United Nations Inter-Agency Project on Human Trafficking
UNODC	United Nations Office on Drugs and Crime
USD	United States Dollar
Vol.	Volume
VoT	Victim of Trafficking

EXECUTIVE SUMMARY

OVERVIEW OF THE PROJECT

This publication contains the findings of the project *Development of Guidelines for the Collection of Data on Trafficking in Human Beings, Including Comparable Indicators* implemented by the Federal Ministry of the Interior of Austria in cooperation with the International Organization for Migration in Vienna. The project was carried out with generous financial support from the European Commission, Directorate-General Justice, Freedom and Security (Prevention of and Fight against Crime Programme 2007).

At the starting date of this project, no standardized guidelines for data collection on the level of the European Union existed. The need for reliable data on trafficking in human beings in the European Union has been pointed out in several documents such as in the Report of the EU Experts Group on Trafficking in Human Beings⁴ and more recently the EU Annual Report on Human Rights 2008.⁵

This project intended to support the efforts of the European Union⁶ to define “common” EU guidelines and to provide Member States of the European Union with a minimum set of data and comparable indicators to measure trafficking in human beings.

The EU Plan on Best Practices, Standards and Procedures for Combating and Preventing Trafficking in Human Beings (2005/C 311/01),⁷ as well as the Follow-up to the EU Action Plan on Trafficking in Human Beings,⁸ envisaged “to develop common guidelines for the collection of data including comparable indicators.” Also, the EC COM(2006) 437 final on “Developing a comprehensive and coherent EU strategy to measure crime and criminal justice: An EU Action Plan 2006-2010”⁹ called for improving the measurement of trafficking in human beings by “developing guidelines in accordance with the EU plan on trafficking in human beings and the roadmap on gender equality.”

The French, Czech and Swedish Presidencies,¹⁰ in the “18 Months EU Council Working Programme for the three EU Presidencies”, reiterated that “priority will be given to the development of common EU standards to collect and analyse data on trafficking.”¹¹

A multidisciplinary Expert Team¹² consisting of representatives from European Union Member States, law enforcement agencies, research institutes, civil society and international organizations, was asked to contribute to the elaboration of the guidelines presented in this publication. The Team met four times to identify the topics of relevance to this project and to discuss and review the ongoing elaboration of the guidelines. Various stakeholders active in the field of trafficking in human beings provided comments on earlier versions of this publication. Additionally, the conference “*European Approaches towards Data Collection on Trafficking in Human Beings*” was held at the European Parliament in Brussels on 18 and 19 September 2008. During the conference,

⁴ European Commission (2004): *Report of the Experts Group on Trafficking in Human Beings*, Brussels, 22 December, p. 76.

⁵ “The lack of reliable and comparable data is one of the greatest challenges in combating trafficking in human beings in different countries concerned by this phenomenon.” Council of the European Union (2008): *EU Annual Report on Human Rights 2008*, 29 October, Council Document N° 14146/1/08 REV 1, p.74.

⁶ See also European Commission (2008): *Commission Working Document - Evaluation and monitoring of the implementation of the EU plan on best practices, standards and procedures for combating and preventing trafficking in human beings*, COM(2008) 657 final, 17 October 2008, p.6.

⁷ Council of the European Union (2005): *EU Plan on Best Practices, Standards and Procedures for Combating and Preventing Trafficking in Human Beings*, Official Journal C 311 of 9 December 2005, Annex 2.1.a.

⁸ Council of the European Union (2006): *Follow-up to the Action Plan on trafficking in human beings*, Annex.

⁹ European Commission (2006): *Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee – Developing a comprehensive and coherent EU strategy to measure crime and criminal justice: An EU Action Plan 2006-2010*, COM (2006) 437 final, 7 August 2006, Table of Actions.

¹⁰ France: July-December 2008, Czech Republic: January-June 2009, Sweden: July-December 2009.

¹¹ Council of the European Union (2008): *18 Months EU Council Working Programme for the three EU Presidencies*, Council Doc N° 10093/08 of 9 June 2008, p. 70.

¹² The Members of the Expert Team are listed on pages 135-136.

participants provided comments and suggestions on presentations and an earlier draft report. Their suggestions have been incorporated into this final document which was presented at a ministerial conference in Vienna from 23rd to 24th February 2009.

OBJECTIVES

Without statistics, it is not only impossible to measure the magnitude of human trafficking, it is also difficult to foresee the appropriate policies, operational and legislative responses and efficient implementation of initiatives. Insufficient data and a lack of comparable analyses that are reliable and up-to-date hamper the efforts of almost every agency dealing with trafficking, its victims and perpetrators. Such a challenge contravenes the efforts of policy-makers and other practitioners to respond effectively in assisting and protecting victims, preventing and combating trafficking and monitoring and verifying the implementation of national laws, international protocols and conventions. A serious effort in fighting human trafficking at the European Union level requires a clear understanding of current trends with regards to victims, traffickers, their *modus operandi*, travel routes and different forms of human trafficking (i.e. commercial sexual exploitation, labour exploitation, organ trafficking, child trafficking, trafficking for forced marriage and internal trafficking).

Improving data collection on trafficking in human beings is imperative in order to accomplish a number of objectives:

- to improve knowledge on the scale and nature of trafficking in human beings;
- to assess the extent of trafficking;
- to identify and understand new trends;
- to recommend actions to overcome gaps;
- to develop targeted projects and programmes for prevention and victim assistance, and develop targeted law enforcement and prosecution measures;
- to enhance the relevance of training programs for different stakeholders;
- to contribute to reducing the risk factors and formulate adequate policies and targeted responses;
- to monitor and assess national counter-trafficking policies and increase their responsiveness;
- to establish a common data system at the EU level to allow comparison;
- to enhance the capacity of national and EU institutions and EU Member States to produce credible information.

In line with these objectives, this publication offers a comprehensive set of guidelines for the collection, exchange, analysis and protection of data on trafficking in human beings. It aims to standardize such data collection and promote its exchange between the European Union Member States.

STRUCTURE OF THE REPORT

The outcome of this project – the present publication presents EU Member States with seventeen guidelines for the effective collection of data on human trafficking. The report is divided into seven parts with one or more Guidelines presented following each relevant section. Part 1 introduces the objectives of and challenges to data collection, the definition of human trafficking and the stakeholders responsible for data collection at various levels within EU Member States and at the EU level. Part 2 provides information on the minimum set of data that should be collected by EU Member States in respects of the victim,¹³ the trafficker, the trafficking process and the criminal justice response to trafficking. Part 3 provides more detailed templates for the collection of additional data. Part 4 discusses procedural considerations - who should analyze the data and will have access to the data and how the data should be gathered, evaluated and disseminated. Part 5 introduces the

¹³ The term victim, trafficked victim, victim of trafficking and trafficked person will be used interchangeably in this document.

concept of signals to aid stakeholders in assessing situations and identifying high risk areas and possible trafficked victims, while also pointing out alternative sources of data which might provide information on trafficked persons. Part 6 introduces the protection mechanisms and ethical considerations in collecting, storing and using personal data of victims. The final Part provides a number of scenarios for the implementation of the guidelines. Throughout the project a number of practices and initiatives in the field of data collection as well as the development of indicators to identify trafficked persons have been collected and are presented in Annex I of this publication. Annex II provides two examples of templates on data collection, a victim-centred template used by the International Organization for Migration as well as a trafficker-centred template developed by the International Centre for Migration Policy Development. Further to the principles of data protection listed in Part VI, Annex III provides an overview and a description of legal data protection instruments in Europe.

THE GUIDELINES

The Guidelines¹⁴ are to be seen as a set of recommendations that lead Member States through the necessary steps for implementing a coordinated data collection and monitoring system at the national level. While the guidelines take on the form of recommendations, they provide concrete strategies to help Member States identify counter-trafficking stakeholders, encourage and regulate their cooperation and exchange of information through formalized channels, to create a national focal point which would accumulate and analyze information on human trafficking and provide these data to a European Coordination Mechanism. These Guidelines provide Member States with a minimum set of data which should be collected, as well as templates for the collection of more detailed and extensive data. The use of these templates will harmonize the data collected, allowing for comparison at the EU or international levels. The Guidelines also provide Member States with information pertaining to the protection of personal data, outlining who should have access to the data, the rights of the victims to provide, withdraw or change data, and how this data is to be shared and secured.

PRELIMINARY CONSIDERATIONS TO ENSURE EFFECTIVE DATA COLLECTION

The publication identifies a number of challenges to collecting adequate, timely and comprehensive data collection. Throughout the report, guidelines provide concrete measures on how to overcome these challenges. In order to obtain a comprehensive and accurate picture of human trafficking in a country, it is essential to identify and engage all stakeholders involved in data collection efforts and assess the level of access and use of the current data. These stakeholders can be representatives from governmental agencies, victim service providers, NGOs or international organizations and include representatives from law enforcement, immigration, border control, the prosecution department, labour inspectors, health care and social service providers, trade unions and labour-related agencies. Stakeholders at the local level are encouraged to work together in multi-agency joint assessment teams to regularly exchange necessary information and data. They should jointly develop and implement formalized procedures for cooperation, for instance, through protocols of agreement (Memoranda of Understanding).¹⁵ The latter are effective tools that must clearly specify the distinct roles of all actors involved and define the operational procedures of their cooperation. To ensure continued cooperation of all members, and the accuracy of information and data registered, regular feedback should be given.

¹⁴ The Guidelines are listed on pages 25-27.

¹⁵ IOM Vienna is currently implementing an Expert Group Initiative (EGI) on cooperation between law enforcement institutions and stakeholders to effectively combat trafficking in human beings, in the framework of the United Nations Global Initiative to Fight Human Trafficking (UN.GIFT), of which the IOM is one of the Steering Committee Members. The outcome of the EGI will be “*Practical Guidelines on Memoranda of Understanding between Law Enforcement Agencies and Key Stakeholders in the Field of Trafficking in Human Beings*” which will be presented and distributed at a Final Conference in March 2009 in Vienna, Austria. From April 2009, the Practical Guidelines will be available at the UN.GIFT’s website: www.ungift.org and the IOM’s Vienna website: www.iomvienna.at.

At the national level, a number of Ministries should be involved with the collection of data. These include the Ministry of Interior (through the police offices); the Ministry of Justice (through the Public Prosecutors and the judges' offices); the National Anti-Trafficking Agency or a similar mechanism (if in place); the Ministry of Health; the Ministry of Foreign Affairs; the Ministry of Social Welfare; and the Ministry of Labour. All data collected by different agencies should be then consigned to a single institution that will be the only national body responsible for storing, processing, and analyzing the collected data on trafficking in human beings and the anti-trafficking measures that are in place.

The collection of data, the identification of those agencies that should collect this data and the degree of access and use, as well as data protection mechanisms, should be identified in a National Action Plan on Trafficking in Human Beings or a similar instrument. The latter could identify the national focal point and require that an annual report on human trafficking be published which is timely, comprehensive and reliable. Information on trafficking within Member States will be submitted to a European Coordination Mechanism which in turn would produce timely situation reports on human trafficking within the European Union. Exchange of information at the EU and international levels will enhance strategic intelligence and cooperation and improve the understanding on the nature and scale of human trafficking in the European Union and its Member States.

A data flow and management model¹⁶ describes how data and information flows from the local to the national and EU levels. A minimum set of data or information should flow from the local level to the national platform or focal point, which is responsible for the management, editing, analysis and reporting of human trafficking within the Member State. The national platform produces a report and provides feedback to agencies and institutions at the local and national levels. This feedback is used to guide policy concerning investigations, prosecutions and programs to assist victims.

To facilitate the collection, management, storage, exchange and protection of data related to trafficking in human beings, a number of relevant concepts are defined, including monitoring system, units of analysis and observation and personal and aggregate data. Individual or personal data is necessary for NGOs and other victim service providers to provide assistance to victims and to enforcement agencies to conduct investigations and prosecutions. Personal data, unlike non-personal, aggregated data, are subject to data protection regulations. The data used for strategic and policy purposes in prevention, repression of trafficking-related activities and assistance are, in general, non-case specific, anonymous and non-personal.

Indicators refer to signals which can be used to aid in the identification of trafficked victims and to variables which guide the collection of data.

TRAFFICKING DATA: WHAT DATA SHOULD BE COLLECTED

Standardized, comparable data should be collected on the victims, the traffickers, the trafficking process and the criminal justice response to trafficking.

Not all agencies within a country or agencies between countries agree on the definition of trafficking, nor do they formally recognize all victims of trafficking. The term "victim of trafficking" is a broad concept ranging from trafficked persons and presumed victims who are brought to the attention of authorities but refuse assistance, to those who accept assistance but refuse to cooperate with law enforcement officials and are thereafter repatriated, to those who cooperate with police investigations and testify in court. They may be repatriated or allowed to remain in the destination country. It is therefore necessary to register data – respecting the victim's human rights and data protection laws – on all persons who are presumed victims of trafficking regardless of whether they accept assistance, cooperate with law enforcement investigations or testify against their traffickers at trial.

At a minimum, the following data on victims¹⁷ should be collected:¹⁸

¹⁶ See Part I.D.(4). - *A Data Management Model*.

¹⁷ Victims are also capable of providing important information on the trafficking process and traffickers.

¹⁸ EU Member States and other organizations are encouraged to collect further data: see the data collection templates in Part III as well as the IOM Template for the collection of victim-centred data in Annex II.A. of this report. Additionally, countries may chose to collect data on existing systems of support to victims. This would include translation services, secure housing,

DATA ON VICTIMS

⇒ Data on individual victims:

- ✓ Gender
- ✓ Age at time when exploitation began
- ✓ Nationality
- ✓ Country of birth
- ✓ Country of origin
- ✓ Country of recruitment
- ✓ (Legal) Status in country of exploitation
- ✓ Type of exploitation (sex, labour, combination of sex and labour, organ trafficking, trafficking for forced marriage, other)
- ✓ Re-trafficked victim

⇒ Total number of victims per country per year:

(disaggregated by gender, age, nationality, country of birth and type of exploitation)

- ✓ Number of victims identified
- ✓ Number of victims refused assistance
- ✓ Number of victims declining assistance
- ✓ Number of victims accepting assistance
- ✓ Number of victims receiving temporary or permanent residence permits
- ✓ Number of victims repatriated (from-to and to-from)

It is important to collect demographic information on the traffickers as well as on the trafficking network. Trafficking networks can be divided into networks of amateur or low level traffickers, small groups or medium level traffickers and international or high level traffickers.

At a minimum, the following data on traffickers¹⁹ should be collected:²⁰

DATA ON TRAFFICKERS

⇒ Data on individual traffickers:

- ✓ Gender
- ✓ Nationality
- ✓ Country of Birth
- ✓ Age at time of committing crime
- ✓ Prior status as victim
- ✓ (Legal) Status in country at time of committing crime
- ✓ Member of network or organized crime group

⇒ Total number of traffickers per country per year:

(disaggregated by gender, age, nationality, country of birth and type of exploitation)

shelters, food, clothing, medical care, psycho-social assistance and counselling, legal counselling, support during criminal justice proceedings and immigration processes, long-term recovery and reintegration service, witness protection, medical and health education, and others.

¹⁹ Traffickers are also capable of providing important information on the trafficking process and victims.

²⁰ EU Member States and other organizations are encouraged to collect further data: see the data collection templates in Part III as well as the ICMPD Template for the collection of trafficker- data in Annex II.B. of this report.

Data on the trafficking process describing the criminals' *modus operandi* can be obtained from either victims or traffickers. This information is essential in mapping out new responses to combating this crime.

At a minimum, the following data on the trafficking process²¹ should be collected:

DATA ON THE TRAFFICKING PROCESS

- ⇒ **Data on the trafficking process:**
 - ✓ Type of recruitment
 - ✓ National borders crossed (travel routes)
 - ✓ Forms of border crossing
 - ✓ Use of fraudulent documents
 - ✓ Type of exploitation
 - ✓ Means of control over victim
 - ✓ Country(ies) of exploitation

Collecting data on criminal justice (police and prosecution) responses to trafficking will determine how successful government efforts are at eradicating this crime. This approach will aid government agencies in determining the success of arrest, prosecution, compensation to victims and confiscation of assets.

At a minimum, the following data on criminal justice responses should be collected:

DATA ON CRIMINAL JUSTICE RESPONSES

- ⇒ **Total number of traffickers per country per year:**
 - ✓ Number of persons arrested
 - ✓ Number of persons charged (under which charges)
 - ✓ Number of persons prosecuted (under which charges)
 - ✓ Number of persons convicted (under which charges)
 - ✓ Number of persons acquitted (of which charges)
 - ✓ Number of persons involved in claim for asset confiscation (number of claims honoured/number of claims denied)
 - ✓ Sentences
- ⇒ **Total number of cases per country per year:**
 - ✓ Number of investigations started
 - ✓ Number of investigations successfully completed
- ⇒ **Total number of victims per country per year:**
 - ✓ Number of victims cooperating with the law enforcement
 - ✓ Number of victims testifying in court
- ⇒ **Reactions of the Criminal Justice System with respect to victims:**
 - ✓ Number of victims filing claim for compensation (number of claims honoured/denied)

²¹ Some of this information will be collected during interviews with victims and traffickers.

TEMPLATES FOR MORE COMPREHENSIVE DATA COLLECTION

Templates for the collection of more extensive data are provided for data collection on victims, traffickers, trafficker' organizations, the trafficking process and the criminal justice response to trafficking. The templates were created and discussed by Members of the Expert Team during the Expert Meetings held in the frame of this project. Stakeholders interested in more extensive data collection are also encouraged to consult the IOM Template for the collection of victim-centred data and the ICMPD Template for the collection of trafficker-centred data in Annexes II.A and II.B of this publication.

PROCEDURAL CONSIDERATIONS

A number of procedural considerations are put forth in this chapter. These include who should analyze the data, who will have access to the data and how the data should be gathered, evaluated and disseminated.

Data gathering and analysis at the national level should be conducted by a National Rapporteur or equivalent mechanism. This body would gather and analyze information provided by stakeholders, including governmental agencies, NGOs and other victim service providers at the local and national levels and would report annually on the situation of human trafficking within the country. The National Rapporteur or equivalent mechanism would report on the various facets of this human rights violation and would help devise specific recommendations for action. In general, the annual report serves as a key instrument to identify both gaps and bottlenecks, and the progress made at the national level. Annual national reports produced by the National Rapporteur or an equivalent mechanism would also contribute toward policy and program evaluation, including the provision of a better overview of human resources and capital allocation within the national efforts to combat human trafficking.

Concerning access to data, it is essential to ensure the safety of the victim and guarantee the protection of the victim's human rights; therefore all personal data collected on the victim must be protected. To guarantee this, a system of "restricted notes" and unique identification numbers on files (or any alternative system in use that protects the identity of individuals) concerning personal information about (presumed) trafficked persons should be employed by all agencies (i.e. law enforcement agencies, the immigration and border control service, social service providers, outreach and health care workers, and any relevant intergovernmental organization or NGOs) that record data related to (presumed) trafficked persons. The use of "restricted notes" or unique identification numbers also allows the possibility to "follow" the trafficked person along his/her path of protection and support. This is possible as the same identification number will refer to the same person and will be used by all agencies that contact him or her. Such a procedure will allow all actors that contact a specific person to have a full picture of the case they are managing.

Also of importance is the need to ensure the quality of the data being analyzed, or the accuracy, reliability, usability, comparability, and relevance of a dataset. During all steps in the process - ranging from data collection, registration, retrieval, usage and data disclosure - all actors have a responsibility to ensure that data is collected with the consent of the trafficked persons and is adequate, relevant, current, accurate and not excessive in relation to the purpose(s) of collection and processing.

The quality of data within a dataset may also vary significantly due to the manner in which the data is collected: a lack of mechanisms by which to share data between governmental and non-governmental institutions and organizations; high levels of non-response; or resource limitations hindering data entry. Therefore it is also necessary to verify the quality of the data on a regular basis.

TOWARDS IDENTIFYING POTENTIAL CASES OF TRAFFICKING

The identification of victims of trafficking could be facilitated under circumstances whereby law enforcement agencies, NGOs and other victim service providers, labour inspectors, outreach and health care workers, customs officials and others were provided with a list of indicators or signals of trafficking. Indicators may contribute to the assessment of the situation and help identify risk areas.

The signals or indicators may differ depending upon whether an individual has been trafficked internally (and is a citizen of the EU Member State), or internationally, whether the presumed victim has only been recruited, is in transit or exploited in the destination country, is exploited in the commercial sex sector, in other labour sectors, is a victim of organ trafficking or whether the presumed victim is a child or an adult. Industries and markets where persons may be trafficked are identified, as are numerous signals indicating that a person (a presumed victim of trafficking) is being exploited, may be in a position of vulnerability and may have been deceived, coerced and isolated. Furthermore, signals to identify child victims of trafficking are provided. These indicators need to be combined and put into operation.

Statistics generated by numerous agencies that monitor activities which may be related to trafficking may be alternative sources for identifying possible cases of human trafficking. Statistics on irregular migrants or persons applying for asylum, the number of persons found to be working in exploitative labour conditions or assessments of the prevalence of crimes regularly related to human trafficking may provide additional information on trafficking within a country. Additionally, other agencies can be instrumental in identifying persons at risk, potential victims, or presumed victims. During the course of inspections, persons from the immigration or border control service, health care service, labour inspectorates, trade unions, housing authorities, outreach workers or other relevant sectors of civil society may encounter individuals who they suspect are trafficked persons. Reports of suspected cases of trafficking to NGOs and other victim service providers or to the police by these agencies, could result in the rescue of and the provision of assistance and protection measures to trafficked persons as well as the provision of valuable data on trafficking and trafficked persons for registration.

In an attempt to quantify the dimensions of human trafficking, agencies may produce estimates of trafficking within a country or region, however producing accurate estimates on the number of trafficked persons in a country remains a challenge to governments and civil society alike. Discrepancies between estimated numbers of victims and those actually identified are huge. The International Labour Organization has attempted to empirically produce estimates of forced labour based on “double sampling” of reported cases of forced labour.²²

PROTECTION MECHANISMS AND ETHICS

Although it is generally acknowledged that the collection and storage of data serves as a means to quantify trafficking in human beings, any processing of personal data must abide by fundamental principles of data protection. Personal data have to be processed fairly and lawfully and the collection, use and disclosure of personal data should be done only for specified, pre-defined and legitimate purposes (principle of purpose limitation). Consent for the use of data has to be given freely, upon satisfactory information and it can be withdrawn at any time, without giving any further reason for withdrawal. In the case of minors, the minor’s legal guardian must consent. Other protection mechanisms related to the collection, storage and exchange of personal data cover the time period of data storage and the specific purposes for data processing. Data have to be accurate and kept up-to-date and personal data should be deleted as soon as they are no longer needed for the specific purpose.

Ethical and protection standards with relation to data collection require avoidance of undue intrusion, the obtaining of informed consent, as well as the maintenance of confidentiality of records. A complete list of “do’s” and “don’ts” with respect to data protection standards in collecting, storing, using and exchanging personal data can be found on page 89 of this publication which should be read in conjunction with the description of legal data protection instruments in Europe provided in Annex III of this report.

OPTIONS FOR IMPLEMENTATION

It is the interest of the Federal Ministry of the Interior of Austria that the Guidelines should be implemented by Member States of the European Union. There are a number of alternative strategies

²² Source: *A Global Alliance Against Forced Labour*, International Labour Office, Geneva, 2005, p. 11, in: P. Belser; M. de Cock; F. Mehran (2005): *ILO minimum estimation of forced labour in the world*, International Labour Office, Geneva.

for the implementation of the Guidelines. The Guidelines can be presented in the EU Council Working Party. This would give EU Member States the opportunity to voluntarily implement the guidelines and would require no further development of the Guidelines at the EU level. Implementation by the Member States will be on a voluntary basis. A second alternative would be to present the Guidelines in a Council Working Party and additionally establish a pioneer group outside the EU for the coordinated implementation of the Guidelines, exchange (annual) national reports and good practices in the combating and prevention of trafficking in human beings. This alternative, too, would be non-binding for EU Member States. A third alternative, also non-binding for EU Member States, would involve the preparation of a draft manual on the guidelines and recommendation for its use. The Council would take note of the manual and adopt the recommendations. The last alternative is the implementation of the Guidelines as a legal instrument of the EU (i.e. framework decisions).

The Federal Ministry of the Interior of Austria, the International Organization for Migration and Members of the Expert Team would like to impress upon Member States of the European Union that any effective national and EU system of data collection and exchange on trafficking in human beings must meet the following standards:

- Should optimize the identification of victims of trafficking using comparable, standardized and proven indicators
- Must protect the needs, safety and human rights of the victims
- Must comply fully with rules on protection of personal data
- Minimal but relevant data are collected, processed and reported in a timely and regular fashion
- Must be simple, robust, user-friendly and cost-effective
- Reporting must be timely, comprehensive and reliable
- Should be compatible with existing national reporting systems (EU system defines minimum standards for data collection)
- Should strive to complement and be compatible with other international reporting systems
- Raw data should be collected and transformed into strategic information on the level of Member States
- It must remain independent from political and other external interference

The Guidelines presented in this report should assist Member States in contributing to an EU system of data collection on human trafficking that will support endeavours to increase and improve assistance to and protection of victims while ensuring a successful response of the criminal justice system to combating and preventing human trafficking at the national and European Union levels.

GUIDELINES

Guidelines, or policy statements, serve as recommendations by a body of experts. The guidelines put forth in this document are intended to aid governments and relevant stakeholders in Member States of the European Union in collecting, registering and reporting on data related to human trafficking. Following each relevant section in the report, guidelines will be presented which will assist stakeholders in their efforts to identify victims, register and protect data, coordinate data exchange between stakeholders, and report to the appropriate national and European Union body. These guidelines will help EU Member States in the proper collection, registration and exchange of comparable data, contributing to an accurate picture of trafficked victims, traffickers and trends – necessary for the formulation of legal instruments, policy and procedures.

In order to improve the understanding of trafficking in human beings at national and EU levels, Members of the Expert Team, with input from participants at the conference “*European Approaches towards Data Collection on Trafficking in Human Beings*”,²³ recommend seventeen guidelines.

In order to facilitate their implementation, the Guidelines are presented in order of importance and chronological order regarding the steps to be taken to produce reliable, timely, comprehensive and comparable statistics. The page number next to the Guideline directs the reader to the relevant page and background section in the report.

Short term action:

GUIDELINE 1 (page 51)

In all stages of investigation, victim assistance and data collection, the human rights of the victim must always be safeguarded.

GUIDELINE 2 (page 39)

Member States of the European Union should implement minimum standards (legal definitions on trafficking, national identification mechanisms, standardized and comparable indicators) to facilitate the collection and comparison of data at the national and European Union levels.

GUIDELINE 3 (page 83)

Member States of the European Union should identify common signals in the form of indicators and investigate both direct and indirect sources of data. Indicators may contribute to the assessment of the situation and identify risk areas. This activity is necessary in order to identify and assess both potential and actual trafficking cases and trends, and help design targeted prevention, assistance, enforcement and protection measures.

GUIDELINE 4 (page 33)

Member States of the European Union should ensure a systematic collection of data on trafficking, including a mapping of the existing data on human trafficking and information collection mechanisms to store the type and source of data available, responsible bodies, level of access and use of data.

²³ The conference took place at the European Parliament in Brussels on 18 and 19 September 2008. Conference minutes as well as speakers’ presentations can be downloaded from IOM Vienna’s website: www.iomvienna.at.

GUIDELINE 5 (page 37)

Member States of the European Union should facilitate and ensure a bottom-up participation of all those that can contribute to the provision of data, including NGOs and other victim service providers, law enforcement, immigration, labour inspectorates, health care providers, prosecution services and others involved in the identification and registration of (presumed) victims of trafficking, and where it falls within their jurisdiction, traffickers, the trafficking process, criminal networks, services to victims and prosecution of traffickers.

GUIDELINE 6 (page 57)

Member States of the European Union should require the collection of a minimum set of data on the trafficked victim, the trafficker, the trafficking process and the criminal justice responses to trafficking, allowing for comparison at the EU level. Data should be collected with a view towards establishing a more structured and clear differentiation between different forms of human trafficking including forced labour, organ trafficking, internal trafficking and child trafficking.

GUIDELINE 7 (page 72)

All counter-trafficking partners providing data on trafficking in human beings must ensure that data has been collected with the consent of the trafficked person, and that the data is accurate and usable.

GUIDELINE 8 (page 88)

Member States of the European Union should collect, process and exchange the minimum set of data in line with the proposals of this project in strict compliance with the national legislation on data protection including all relevant European regulations and international standards, which are equally applicable to paper data and electronic data.

GUIDELINE 9 (page 90)

Personal data must only be used for predefined limited purposes with the consent of the trafficked person and/or his guardian on a case-by-case and strictly need-to-know basis. It must be depersonalized for further use, and disclosure and comparison must be regulated according to national legislation and the EU data protection laws. Institutionalized mechanisms must be developed to allow victims access to their personal data; victims should be allowed to modify, update or withdraw their data at any time.

Medium-term action:

GUIDELINE 10 (page 55)

Member States of the European Union should ensure that data related to cases of human trafficking are collected, including where such data exists and is or can be made accessible in connection with data in other areas of criminality (i.e. facilitating of illegal immigration, prostitution-related crimes, violation of personal freedom, corruption, money laundering, etc.).

GUIDELINE 11 (page 39)

Member States of the European Union should implement a National Action Plan on Trafficking in Human Beings (or similar instrument) which should require data collection and include data protection mechanisms, identify which agencies should collect this data and the degree of access and use of the data.

GUIDELINE 12 (page 68)

Member States of the European Union should implement the recommendation from the 1997 Hague Ministerial Declaration, Council of Europe Parliamentary Assembly, the European Council, the EU Action Plan and OSCE Action Plan to establish a national monitoring and

reporting mechanism through the function of the National Rapporteur or equivalent mechanism. This mechanism should be established with a view to improve data gathering, analysis and understanding of the problem, as well as improving the reporting and evaluation of national anti-trafficking efforts, including the effectiveness of legislation and national strategies and the use of resources.

GUIDELINE 13 (page 37)

Multi-agency joint assessment teams at the local level should meet regularly to ensure an exchange of necessary information and data. Regular feedback should be given to all data providers – NGOs and other victim service providers and government agencies (law enforcement, immigration, border control, prosecution department, health care and social service providers, and labour inspectorates).

GUIDELINE 14 (page 70)

A minimum set of data shared at a national level should be included in a national information system to which each actor dealing with trafficked persons can gain access through a reserved area by inserting a personal password which should be regulated by national data protection law. Data should be exchanged on a need-to-know basis and sensitive data pertaining to the identity and safety of the victim should be safeguarded. The exchange of personal data should be safeguarded by meeting legal requirements, appropriate guidelines/standard operating procedures and strict data protection protocols.

GUIDELINE 15 (page 42)

Member States of the European Union should ensure that all input into a system of data collection results in output that is valid, reliable and timely. Member States should ensure that there is real progress in investigation, prosecution, victim assistance and in relevant law and policy frameworks to address and prevent trafficking in human beings at the national and European levels.

Long-term action:

GUIDELINE 16 (page 39)

Member States of the European Union should produce annual reports on trafficking in human beings which should be timely, comprehensive and reliable.

GUIDELINE 17 (page 40)

Member States of the European Union should ensure the exchange of information at the European and international levels to enhance strategic intelligence and cooperation and improve the understanding of the nature and scale of human trafficking in the European Union.

Further Recommendation:

The European Union should provide a coherent legislative framework and more effective legal instruments to monitor and combat trafficking in human beings as well as protect the victims through the analysis of comparable EU Member States' data, ideally in the form of annual EU regional reports.

PART I PRELIMINARY CONSIDERATIONS TO ENSURE EFFECTIVE DATA COLLECTION

Over the years, governments, international organizations, non-governmental organizations and civil society have placed greater emphasis on the need for reliable data and analysis of information on trafficking in human beings at the national, European and international levels. This need has been pointed out in a number of national, European Union and international forums as the challenge that continues to hinder significant progress in addressing this crime, in particular: the need for information concerning changing patterns of trafficking; the structure of criminal gangs; the complex relationship between trafficker and victim; child trafficking; and the discrepancies between estimated and reported numbers of victims and the numbers of victims assisted. The importance of research is specifically highlighted in Article 9 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention against Transnational Organized Crime,²⁴ which states that parties “*shall endeavour to undertake measures such as research initiatives [...] to prevent and combat trafficking in persons.*” Article 10, in addition, states “*law enforcement, immigration or other relevant authorities of State Parties shall, as appropriate, cooperate with one another by exchanging information, in accordance with their domestic law [...].*” Indeed, it is the process of data collection, evaluation and analysis that enables observations to be drawn from the data collected, further revealing findings that can feed into anti-trafficking policy and programme development.

This current and substantial knowledge gap is part of the continuing debate on the need for more reliable data in order to tackle the complex problem of human trafficking. Invariably, the lack of reliable, comprehensive and timely data at the national and European Union levels hinders the ability of governments to implement effective anti-trafficking policy and programmes and monitor any concrete results and progress achieved thus far.

A. Objectives of Data Collection

In general, there is little evidence on which to base conclusions on the real extent of trafficking from the identified number of cases. Without statistics, it is not only impossible to measure the magnitude of human trafficking, it is also difficult to foresee the appropriate policies, operational and legislative responses and efficient implementation of initiatives. Insufficient data and a lack of comparable analysis that are reliable and up-to-date hamper the efforts of almost every agency dealing with trafficking, its victims and perpetrators.

Improving data collection on trafficking in human beings is imperative in order to accomplish a number of objectives. The list of objectives and the examples given below are not exhaustive.²⁵

²⁴ Hereafter referred to as the UN Trafficking Protocol. United Nations (2000b): *Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention against Transnational Organized Crime*, (General Assembly resolution 55/25, Annex II).

²⁵ This non-exhaustive list is based on the conclusions of the First Expert Meeting organized in the framework of this project in Altengbach, Austria on 19 and 21 February 2008.

- **to improve knowledge on the scale and nature of trafficking in human beings²⁶**
Knowledge forms the basis for all counter-trafficking responses ranging from the identification of victims and prevention and victim assistance projects, to planning enforcement and prosecution strategies.
- **to assess the extent of trafficking**
An accurate measure of trafficking may determine the kinds of services offered to victims by NGOs and other victim service providers, the number of investigators assigned to anti-trafficking task forces or the number of prosecutors with expertise in prosecuting trafficking cases.
- **to identify and understand new trends**
There are indications that traditional methods of control over trafficked victims may be changing. There appears to be a decreased use of physical abuse and overt violence, whereas psychological abuse and manipulation is increasing.²⁷ Exploitation is becoming more subtle and control over victims is more relaxed. Victims are being given small payments and are even being moved into their own apartments in an attempt on the part of traffickers to buy the victim's silence and ensure that victims do not denounce the traffickers.²⁸ Although there appears to be a shift from the use of violence as a mechanism to control victims of trafficking towards more subtle means of coercion such as psychological and financial pressure, the physical abuse of victims still remains a serious problem. Knowledge of this changing trend will influence the recognition of a victim of trafficking and it is important that competent services be aware of a wide range of modus operandi.
- **to recommend actions to overcome gaps**
A move to include investigations in trafficking for labour exploitation in other industries (in addition to trafficking in the commercial sex industry) may require training of special investigative services and a shift in priorities of various agencies. Reliable data on trafficking can indicate the success, failure or gaps in certain legislative measures and assistance services.
- **to develop targeted projects and programmes for prevention and victim assistance, and develop targeted law enforcement and prosecution measures**
Data on the trafficking process will provide valuable information on methods of recruitment, transport and exploitation. This information will aid NGOs in source countries in developing prevention and assistance projects for people at risk as well as for repatriated victims, and strengthen law enforcement, labour inspectorate and prosecution responses to traffickers.
- **to enhance the relevance of training programs for different stakeholders**
The more that staff of relevant agencies learn holistically about trafficking in human beings, the greater will be their ability to assist victims and combat trafficking in human beings.
- **to aid in reducing risk factors and to formulate adequate policies and targeted responses**
Data on trafficked persons and their reasons for falling victim to trafficking will aid in the identification of high risk populations. This knowledge can provide stakeholders in source, transit and destination countries with information leading to targeted programs aimed at reducing specific risk factors.

²⁶ European Commission (2008): Evaluation and monitoring of the implementation of the EU Plan on best practices, standards and procedures for combating and preventing trafficking in human beings, COM(2008) 657 final, p. 6.

²⁷ Surtees, Rebecca (2007): *Trafficking victims in SEE – what we know, what we need to know*, Conference Presentation, Mensenhandel: achtergrond en aanpak, Amsterdam, Free University of Amsterdam (Vrije Universiteit Amsterdam), October.

²⁸ International Organization for Migration (2004b): *Changing Patterns and Trends of Trafficking in Persons in the Balkan Region*, Geneva.

- **to monitor and assess national counter-trafficking policies and increase their responsiveness**
In some countries Temporary Residence Permits may be granted to victims who cooperate with law enforcement and testify in court against their trafficker.²⁹ Many victims refuse to make use of this option and the number of permits issued by countries remains limited. Data collection may determine why this mechanism has failed to achieve its goal. Other examples may be the monitoring of the success and failure of data exchange between stakeholders, specialized task forces or immigration policy.
- **to establish a common data system at the EU level to allow comparison**
Without comparable data, EU-wide comparison of human trafficking is rendered impossible. Without accurate data, it is impossible to establish trends and to strengthen an EU wide response to victim protection and counter trafficking.
- **to enhance the capacity of national and EU institutions as well as EU Member States to produce credible information**
Credible and reliable information on human trafficking will enable Member States to support and strengthen their policy and decision-making procedures.

As stated in the EU Experts Group Report on Trafficking in Human Beings of December 2004, “[...] a present problem is the lack of relevant data and/or the fragmented character of available data, i.e. the lack of exchange of information, at the national as well as at the European and international levels.”³⁰ Therefore, the first step is to systematically collect relevant data based on common guidelines and to begin at the national level. Only when data gathering is adequately organized at the national level, does it become useful to collect and compare data at the European level.

A further aim is the improvement of the speed of data processing and the production of results, thus providing added value to the information exchange between EU Member States through quick analytical feedback. This should be applied in tandem with the streamlined methodology of data collection, ensuring that the clarity and coherence of presented results provide policy makers with guidance for further development of legal policy proposals aimed at counteracting trafficking in human beings.

B. Challenges to Adequate Data Collection³¹

Trafficking in human beings is attracting worldwide attention from governments and policy makers. Over the course of more than ten years, EU policy on trafficking in human beings has undergone much change, re-evaluation and development. Since the Vienna Conference on Trafficking in Women convened by the European Commission and the Austrian Government in June 1996, and the *Tampere EU Council* in October 1999,³² the European Union has been actively engaged in combating trafficking in human beings. The EU engages in this activity through the development of comprehensive and multi-disciplinary approaches towards prevention, prosecution of perpetrators and protection of victims of human trafficking. Thus far, a number of EU decisions have called for improved quality and comparability of data on human trafficking from Member States. This information would facilitate analysis and evaluation by national and EU policy makers which would

²⁹ With respect to other EU Member States and IOM’s own perspective, testifying in court is not linked to assistance rendered.

³⁰ European Commission (2004): *Report of the Experts Group on Trafficking in Human Beings*, Brussels, 22 December, p. 11.

³¹ This section was drafted by Jelena von Helldorff, Institute for International Assistance and Solidarity.

³² A special meeting of the European Council held at Tampere, Finland, in October 1999, was dedicated to the establishment of an Area of Freedom, Security and Justice and to the elaboration of the political guidelines for the next years, including the field of immigration. Relevant conclusions on trafficking in human beings are: 22, 23, 26, 48. Website of the Directorate-General for Justice, Freedom and Security of the European Commission: http://ec.europa.eu/dgs/justice_home/index_en.htm.

help monitor progress and identify gaps in the policy and programmes/action against human trafficking.

➤ **Lack of implementation in national laws of a definition of trafficking**

The lack of implementation in national laws of a definition of trafficking, such as that provided in the UN Trafficking Protocol or the Council of Europe Convention on Action against Trafficking in Human Beings,³³ and a lack of awareness regarding the distinction between trafficking and smuggling, as well as the difficulty in separating victims of trafficking from irregular and other exploited migrants, have not only impeded national and international efforts to tackle trafficking in human beings adequately, but have made it increasingly difficult to collect, analyze and exchange data at the national, European and international levels.

➤ **Information on human trafficking is not easy to obtain, nor is it always available**

Due to its clandestine nature, it is often difficult to obtain accurate data on human trafficking. This is in part due to the fact that victims are often reluctant to cooperate with investigative officials. Another difficulty in obtaining reliable information results from an inability to identify victims of trafficking for labour exploitation and other forms such as organ trafficking or trafficking for forced marriage.

➤ **Lack of comparable or consistent data**

There is often parallel and/or contradicting data: official data (from governments and governmental agencies) and unofficial data (from NGOs and other victim service providers, experts, academic research, etc.). In this regard, the data presented to the public offers a certain picture according to what data is presented. It is therefore important to identify the source and origin of the data, the method of collection and the questions or definitions applied.

➤ **Official estimates on the numbers of victims are not based on a systematic methodology**

Compounding the issue of comparable data collection on human trafficking is the fact that official estimates on the numbers of victims are not based on a systematic methodology. Quite often the methodology for calculating the estimates is not included in the reports. Basing policy upon faulty estimates can explain, to an extent, failure by state authorities to take appropriate actions, and the lack of better regional and international cooperation – which are crucial elements to the successful fight against trafficking.

➤ **Systematic information on trafficking in human beings is often scattered or incomplete**

A recent study on the monitoring systems³⁴ currently in place in some EU Member States proves that information is often collected in an informal way based on no specific design and with hardly any links to other relevant data. As a matter of fact, the data collection processes are often highly incoherent and fragmented. This impedes knowledge and understanding of trafficking and results in a restricted ability to act against it. The result is that after more than a decade of efforts by governments, international organizations, NGOs and other victim service providers and academia, trafficking remains a poorly documented phenomenon. This is particularly true for forms of exploitation other than sexual, such as for labour exploitation, organ removal, or the trafficking of men.

³³ For example, a state may have ratified the UN Trafficking Protocol and/or the Council of Europe Convention on Action against Trafficking in Human Beings CETS N°197, 16 May 2005, which give a clear and common definition, but in the national legislation, the definition of trafficking in human beings is inconsistent or absent.

³⁴ Machado, P., Penedo, R., Pesce, F. (2007): *From data collection to monitoring systems: Analysis and proposals*, AA.VV., Headway, Improving Social Intervention Systems for Victims of Trafficking, Noktus, Warsaw, pp. 181-215.

➤ **Absence of coordination between different state authorities and with other partner organizations**

Another significant problem in data collection and data exchange is the absence of coordination between different state authorities (law enforcement, border control, customs and immigration) and a lack of cooperation with other partner organizations (health care and outreach workers, international organizations, NGOs and other victim service providers) in the fight against trafficking in human beings and assisting victims. Victim service providers often use different standards for identifying and tabulating victims of trafficking. These victims (recognized by NGOs and other victim service providers) may or may not be the same individuals who are officially recognized as such and represented as victims (or witnesses) in criminal proceedings. Insufficient data and a lack of comparable analyses that are reliable and up-to-date also hamper the efforts of policy makers and other practitioners dealing with trafficking. In addition, the absence of reliable, comparative and current data hinders the ability to monitor and verify the implementation of national laws, international protocols and conventions, rendering futile any serious effort to establish an internationally compatible and comparable database.

GUIDELINE 4

Member States of the European Union should ensure a systematic collection of data on trafficking, including a mapping of the existing data on human trafficking and information collection mechanisms to store the type and source of data available, responsible bodies, level of access and use of data.

C. Defining Trafficking in Human Beings³⁵

One of the major steps towards improving data collection that would pave the way for setting guidelines and comparable indicators on trafficking in human beings at the EU level is to reach consensus on a common definition of the phenomenon. Even where Member States share a common definition of human trafficking, application of the law may differ. To this end, it is necessary to take into account the differences between types of trafficking and categories of victims, including child and re-trafficked victims. This will be the basis for harmonized data collection in the future.

(1) Common Definitions

While trafficking might be difficult to identify because of its complexity, its essential components are not in dispute.

United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children

The 2000 United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children which supplements the UN Convention against Transnational Organized Crime, provides the broadest and most widely accepted definition of human trafficking, including child trafficking, and represents a decisive step in international cooperation in this field.

³⁵ This section was drafted by Jelena von Helldorff, Institute for International Assistance and Solidarity.

The UN Trafficking Protocol defines trafficking in persons as:

“The recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.”³⁶

The consent of a trafficked person to the intended exploitation is irrelevant where threat, force, forms of coercion, abduction, fraud, deception or the abuse of power are applied. Regarding children³⁷, the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered trafficking in persons even if the means as mentioned above are not involved. Furthermore, the act of directly or indirectly making use of fraudulent operations, violence, threats or any form of coercion, taking advantage of the particularly vulnerable situation of a person as a result of their illegal or precarious administrative status or the person’s disability, physical or mental handicap, constitutes an aggravating factor.

The European Union and the Council of Europe

In the legislation of the European Union, the definition of trafficking is stated in the Framework Decision on Combating Trafficking in Human Beings³⁸ and defines trafficking in much the same way as the UN Trafficking Protocol. However, the Framework Decision definition differs from the definition put forth in the Council of Europe Convention on Action against Trafficking in Human Beings in that it does not specifically identify the removal of human organs.

According to the European Parliament³⁹ and the European Union Plan on Best Practices, Standards and Procedures for Combating and Preventing Trafficking in Human Beings (2005/C 311/01), EU Member States should improve data analysis by implementing uniform methods for collecting comparable data, particularly in relation to the routes of trafficking and victims profiles, in accordance with existing protocols and community legislation on data protection. The Council of Europe Convention on Action against Trafficking in Human Beings⁴⁰ provides a definition of human trafficking almost identical to that of the UN Trafficking Protocol; however it possesses some

³⁶ United Nations (2000b): Art 3, paragraph (a).

³⁷ Meaning any person less than 18 years of age.

³⁸ *Each Member State shall take the necessary measures to ensure that the following acts are punishable: the recruitment, transportation, transfer, harbouring, subsequent reception of a person, including exchange or transfer of control over that person, where:*

(a) Use is made of coercion, force or threat, including abduction, or

(b) Use is made of deceit or fraud, or

(c) There is an abuse of authority or of a position of vulnerability, which is such that the person has no real and acceptable alternative but to submit to the abuse involved, or

(d) Payments or benefits are given or received to achieve the consent of a person having control over another person for the purpose of exploitation of that person’s labour or services, including at least forced or compulsory labour or services, slavery or practices similar to slavery or servitude or for the purpose of the exploitation of the prostitution of others or other forms of sexual exploitation, including in pornography. Council of the European Union (2002): Council Framework Decision of 19 July 2002 on Combating Trafficking in Human Beings (2002/629/JHA), Article 1.1.

³⁹ European Parliament (2004): *European Parliament resolution on strategies to prevent the trafficking of women and children who are vulnerable to sexual exploitation* (2004/2216(INI)), paragraph 25.

⁴⁰ *“Trafficking in human beings” 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.” Council of Europe (2005): Council of Europe Convention on Action against Trafficking in Human Beings and its Explanatory Report, CETS No.: 197, 16 May 2005, Art 4, paragraph a.*

additional values that are worth mentioning. Firstly, the Council of Europe definition affirms that trafficking in human beings constitutes a violation of human rights in relation to human dignity and integrity, and calls for greater protection for all its victims. Secondly, the scope of the Convention addresses all forms of trafficking (national, transnational, linked or not to organized crime), in particular with a view to protecting victims and enhancing international cooperation. The Council of Europe Convention urges that an indicator be given of the precise limits of the expression “exploitation” in the context of trafficking in human beings.⁴¹ Also, this Convention takes the novel step of introducing a monitoring mechanism (*Group of Experts on Action against Trafficking in Human Beings* - GRETA⁴²), in order to monitor the implementation of the Convention by the ratifying states. This is a unique instrument for an international document in the field of trafficking in human beings. Finally, the Convention maintains gender equality in all of its provisions.

As defined by European Union law, trafficking in human beings is not only a crime involving the sexual or labour exploitation of persons (particularly women and children), it is also a fundamental violation of human rights. According to Article 5 (3) of the Charter of Fundamental Rights of the European Union, "*Trafficking in human beings is prohibited.*"⁴³

(2) Problems Concerning the Definition of Trafficking in Human Beings

A number of specific forms of trafficking are not addressed in the definition of human trafficking. Neither the UN Trafficking Protocol definition nor the 2002 European Union Framework Decision definition discuss trafficking for the purpose of adoption or forced marriage, both of which are forms of trafficking in human beings that warrant further international examination and recognition.⁴⁴ Furthermore, the definition of human trafficking put forth in the UN Trafficking Protocol is open to broad interpretation. The language used in national legislation is often inconsistent across countries, laws and practices that address this crime. In some countries, only cross-border human trafficking is recognized, whereas others focus (and collect data) on internal trafficking as well. The comprehensiveness of various national legal definitions that apply to human trafficking and the extent to which the many different forms of exploitation are recognized can significantly affect the information that is reported. As many human trafficking cases that have been officially identified and registered imply countries of origin, transit and destination, and therefore have, by definition, a transnational nature, it is extremely important to accept a common agreement on the definition of trafficking among these states.

D. Data Collection at Different Levels⁴⁵

It is clear that greater attention should be paid to the design and implementation of mechanisms in order to collect data in a more systematic manner. Shared and common criteria, indicators and systems of data collection need to be established. Furthermore, data on trafficking should be collected at different levels – the local, national and European Union levels. This section discusses data collection by various stakeholders at different levels before presenting a model for the flow and management of data at the local, national and European Union levels.

(1) Data Collection at the Local Level

Currently, many public and private service providers and some law enforcement and judicial

⁴¹ *Ibid.*

⁴² Thirteen independent experts have been elected for a term of four years to the GRETA and will convene for the first time in February 2009.

⁴³ European Parliament (2000): *Charter of Fundamental Rights of the European Union*, Official Journal C 303 of 14 December 2007, Chapter 1: Dignity, Article 5: Prohibition of Slavery and Forced Labour, paragraph 3.

⁴⁴ The Child Rights Information Network (CRIN) has conducted research on the role of adoption agencies in poor countries as facilitators of child trafficking and sale. Shlapkohl Laura (2006): *Human Trafficking and the Common European Asylum System: Victim Protection and Assistance in the European Union*, The Fletcher School, April 2006, p. 20.

⁴⁵ This section was drafted by Flavia Pesce, Osservatorio Tratta/Institute for Social Research, and Isabella Orfano, Osservatorio Tratta/Associazione On the Road.

agencies collect (or are in a position to collect) substantial information on trafficking that is often neither processed and broadly distributed nor harmonized with or matched to data collected by others. In addition, agencies may collect only enough data to satisfy administrative requirements rather than to contribute to a better understanding of trafficking dynamics and developments. In fact, in many countries, different agencies (i.e. NGOs, local authorities and international organizations) involved in the implementation of projects and programmes aimed at supporting victims of trafficking are obliged by their donors to collect data and issue regular reports on their activities and the persons assisted. This is certainly a positive element, but it also restricts the scope of information at the disposal of a country if all collected data are not processed and analyzed at a national level.

It is crucial that a wide range of agencies (i.e. law enforcement agencies, the judiciary, the immigration service, social services, health care providers, local social welfare organizations, NGOs and other victim service providers, trade unions, labour inspectorates and other labour related agencies) jointly develop and implement formalized procedures of identification, through protocols of agreement (Memoranda of Understanding) for example.⁴⁶ The latter are effective tools that must clearly specify the distinct roles of all actors involved and define the operational procedures of their cooperation. A proper identification procedure can lead to the collection of important information and data not only on individual trafficking cases, but also on the phenomenon of trafficking in general.

There are many subjects that handle data and information on trafficking in human beings in a given country with individuals and agencies operating at various levels. Agencies may be organized at the local level, such as local law enforcement or labour inspectorates, but may also be representatives from national enforcement agencies. The agencies that (could or should) collect and provide reliable data on trafficking in human beings at the local level are usually public, accredited, private service providers that identify, assist and protect victims of trafficking as part of their daily work. These include:

- Social authorities;
- NGOs;
- Associations;
- Local offices of international organizations;
- Law enforcement agencies, prosecution services and the judiciary;
- Labour inspectorates;
- Immigration services;
- Social services;
- Health care providers.

To facilitate the exchange of data between local partners, data should be provided by multi-agency joint assessment teams at the local level that are comprised of NGO and other victim service providers staff, law enforcement, inspection services (labour, social service, health care providers), select civil servants (fake/forced marriages, adoptions), and immigration services.

The output of the data and information collection and analysis should provide a clear added value as compared to the input provided. All counter-trafficking actors, at least within the country, should be able to make clear requests for specific data concerning particular cases, including identified victims (registered and/or former), known offenders, routes, and others governed by adequate data protection safeguards.

Clear access privileges and access controls for all counter-trafficking partners need to be in place. The exchange of data between partners should be regulated by national data protection law, including all relevant European laws and regulations, regional and international instruments and

⁴⁶ IOM Vienna is currently implementing an Expert Group Initiative (EGI) on cooperation between law enforcement institutions and stakeholders to effectively combat trafficking in human beings, in the framework of the UN.GIFT, of which the IOM is one of the Steering Committee Members. The outcome of the EGI will be *“Practical Guidelines on Memoranda of Understanding between Law Enforcement Agencies and Key Stakeholders in the Field of Trafficking in Human Beings”* which will be presented and distributed at a Final Conference in March 2009 in Vienna, Austria. From April 2009, the Practical Guidelines will be available at the UN.GIFT’s website: www.ungift.org and the IOM’s Vienna website: www.iomvienna.at.

international standards, in a Memorandum of Understanding signed and supported by participating agencies. Data should be exchanged on a need to know basis and sensitive data pertaining to the identity and safety of the victim should be safeguarded.

GUIDELINE 5

Member States of the European Union should facilitate and ensure a bottom-up participation of all those that can contribute to the provision of data, including NGOs and other victim service providers, law enforcement, immigration, labour inspectorates, health care providers, prosecution services and others involved in the identification and registration of (presumed) victims of trafficking, and where it falls within their jurisdiction, traffickers, the trafficking process, criminal networks, services to victims and prosecution of traffickers.

GUIDELINE 13

Multi-agency joint assessment teams at the local level should meet regularly to ensure an exchange of necessary information and data. Regular feedback should be given to all data providers – NGOs and other victim service providers and government agencies (law enforcement, immigration, border control, prosecution department, health care and social service providers, and labour inspectorates).

(2) Data Collection at the National Level

While a number of organizations and agencies are dealing with human trafficking and are procuring valuable data on victims, traffickers and the trafficking process, in many countries there is no single agency which acts as a focal point for the collection, collation, harmonization and analysis of data on trafficking at the national level.⁴⁷ The information collected varies from organization to organization. Each agency and organization gathers data according to its own needs, which may result in the same individual appearing in data from more than one organization. For this reason, the OSCE Action Plan recommends that participating states of the OSCE “[...] consider appointing National Rapporteurs or other mechanisms for monitoring the anti-trafficking activities of state institutions and the implementation of national legislation requirements.”⁴⁸ The Rapporteur⁴⁹ or equivalent mechanism focuses on the gathering and dissemination of information and would consolidate the assessments from the local level while maintaining a map of trafficking patterns.⁵⁰ This function should be kept separate from operational tasks.⁵¹ Instituting such a mechanism would ensure better coordination, and a steady and sustainable approach to the problem. This system would also ensure the right to confidentiality, whereby states protect data collected on trafficked victims and victims control the use of their personal information.⁵²

⁴⁷ This is clearly the case at the regional and international levels.

⁴⁸ OSCE (2003a): *Action Plan to Combat Trafficking in Human Beings*, PC. DEC/557, 462nd Plenary Meeting, 24 July 2003.

⁴⁹ *Ibid.* See Part IV.A. - *Who should analyze Data – National Rapporteur or Equivalent Mechanism?*

⁵⁰ The national focal point can then also make an analysis and assessment on the national level, which can be shared internationally.

⁵¹ In some countries, however, the National Rapporteur does not have a separate bureau for conducting large-scale surveys or collecting data of criminal proceedings. In that case there is still a need for a definition and basis for data gathering.

⁵² See Part VI - *Protection Mechanisms and Ethics*.

At the national level various Ministries should be involved in the collection of data. These include:

- Ministry of Interior (through the police offices);
- Ministry of Justice (through the Public Prosecutors' and the judges' offices);
- Ministry of Foreign Affairs;
- National Anti-Trafficking Agency or a similar mechanism (if in place);
- Ministry of Health;
- Ministry of Social Welfare;
- Ministry of Labour.

One approach could be the implementation of a single national data pool. All data collected by different agencies should then be consigned to a single institution that will be the only national one responsible for storing, processing, and analyzing the collected data on trafficking in human beings and on the anti-trafficking measures in place. This approach would then allow for the creation of a **single central point** for all data collected by different agencies and actors operating in different fields and at various levels. This process would occur through the establishment of a central system where information on trafficking cases and anti-trafficking measures from different sources (governmental and non-governmental) are brought together and systematically analyzed. This system could be embodied by a National Rapporteur⁵³ or a comparable, independent mechanism with a similar mandate and expertise.

Such a centralized system should:

- a) gather disaggregated data on trafficking in the widest possible sense;
- b) identify gaps and shortcomings in the anti-trafficking measures;
- c) suggest to the Government and Parliament how to overcome the identified gaps/shortcomings;
- d) report publicly on its findings and recommendations.

If all these aims are achieved, the mechanism in place will be in the position to also monitor the effects of the implementation of the national action plan or national policy (if any) on trafficking in human beings, and assess and monitor the implementation of international standards more broadly.

The National Rapporteur or equivalent mechanism should be given an independent status,⁵⁴ a clear mandate and easy access to all data sources.⁵⁵

The strengthening of networks between different agencies from the governmental and non-governmental sectors:

Paramount to avoiding data fragmentation and dispersion is ensuring effective coordination at the national level between the different government agencies involved in anti-trafficking activities, between the governmental agencies and the NGOs, and between agencies of different EU Member States.

It is therefore necessary to set up a national coordination structure to ensure that governmental and non-governmental agencies work effectively together. Coordination at the national level will require policies and strategies that identify and connect all actors who can play a useful role in the response to trafficking in human beings. It is highly recommended that an inter-ministerial body is established; one that guarantees appropriate coordination of the policies, strategies and initiatives to fight trafficking and protect victims.

⁵³ This was suggested by *The Hague Ministerial Declaration on European Guidelines for Effective Measures to Prevent and Combat Trafficking in Women for the Purpose of Sexual Exploitation*, adopted by a Ministerial Conference on 26 April 1997.

⁵⁴ Being independent means that the National Rapporteur acts impartially and is accountable directly to Parliament or the National Assembly, rather than to a specific ministry or agency.

⁵⁵ European Commission (2004): *Report of the Experts Group on Trafficking in Human Beings*, Brussels, 22 December, p. 77.

GUIDELINE 2

Member States of the European Union should implement minimum standards (legal definitions on trafficking, national identification mechanisms, standardized and comparable indicators) to facilitate the collection and comparison of data at the national and European Union levels.

GUIDELINE 11

Member States of the European Union should implement a National Action Plan on Trafficking in Human Beings (or similar instrument) which should require data collection and include data protection mechanisms, identify which agencies should collect this data and the degree of access and use of the data.

GUIDELINE 16

Member States of the European Union should produce annual reports on trafficking in human beings which should be timely, comprehensive and reliable.

(3) Data Collection at the European Union and International Levels⁵⁶

Due to the often trans-border nature of human trafficking, only a coordinated approach to combating the phenomenon – beginning with the collection of comparable data that can be exchanged with partners at the European and international level – can contribute to ending human trafficking. The ability to generate an accurate picture of trafficking within a country, based upon reliable statistics, estimates and patterns will aide governments, NGOs and other victim service providers in taking appropriate actions and implementing effective policies to fight trafficking in human beings. An exchange of data will ensure better regional and international cooperation.

There are a number of organizations active in the procurement of information and data on human trafficking at the European and international levels. While these agencies gather data to satisfy the needs of their organization, they could also serve as a repository for data collection and comparison on human trafficking at the European and/or international level.

Once a national data collection mechanism is established in all Member States, using standardized indicators and methodology, it will be possible to have an EU wide exchange of information via a European Coordination Mechanism as recommended by the 2006 Expert Conference under the Austrian EU Presidency.⁵⁷ This coordination mechanism could bring together all data gathered at the different national levels in order to identify gaps and bottlenecks and could issue recommendations to improve the national policies that protect victims and fight and prevent

⁵⁶ Parts of this section were drafted by Flavia Pesce, Osservatorio Tratta/Institute for Social Research, and Isabella Orfano, Osservatorio Tratta/Associazione On the Road.

⁵⁷ The *Expert Conference on the Implementation of the EU Plan on Trafficking in Human Beings* was held in Brussels on 28 and 29 June 2006.

annual basis to provide basic statistics on the number of trafficking cases and criminal justice responses to trafficking in EU Member States. A recommendation was made regarding Eurostat, which could be involved as a European data collection mechanism in the form of a “clearing house” that would involve elements of data cleaning, weighting and other issues.⁵⁸

GUIDELINE 17

Member States of the European Union should ensure the exchange of information at the European and international levels to enhance strategic intelligence and cooperation and improve the understanding of the nature and scale of human trafficking in the European Union.

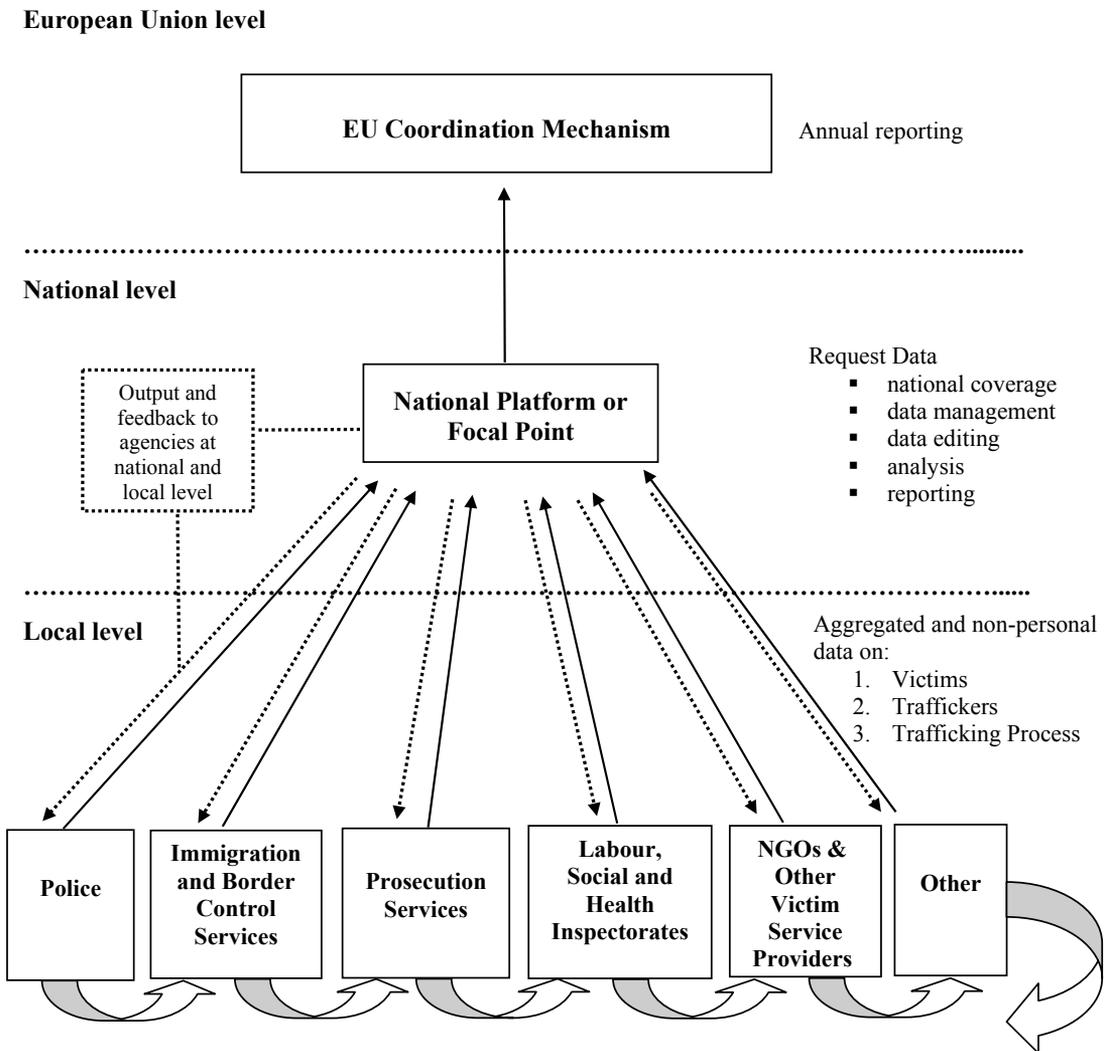
(4) A Data Management Model

Information collected by various agencies at the local level may be shared. Personal data for the purpose of investigation or prosecution will be shared between partner organizations (NGOs and other victim service providers, immigration officials, labour inspectorates, social service and health care workers, law enforcement and the prosecution service) only with the consent of the trafficked person and/or his or her guardian and on a need-to-know basis and in accordance with national legislation. Operational information may also be passed on to the particular agencies at the national level (national law enforcement) only with the consent of the trafficked person. Data on victims, traffickers and the trafficking process that flows upward from the local level to the national focal point or coordinator level should be aggregated and non-personal. The national focal point, which has the authority to request data from all organizations generating data on human trafficking, is responsible for the analysis, editing and management of the data as well as for issuing an annual report. The annual report serves as output which should be provided – with feedback – to participating agencies at the national and local levels. The national coordination mechanism should report annually to the EU Coordination Mechanism. A possible model to explain data flow on human trafficking between different agencies and at different levels is portrayed in the EU Information Management Model in Diagram 1 below.

⁵⁸ Recommendation made at the Conference “*European Approaches towards Data Collection on Trafficking in Human Beings*”, organized in the framework of this project at the European Parliament, Brussels on 18 and 19 September 2008, Panel 3: *Implementation of Data Collection Guidelines: Strategies and Challenges at the European, National and Local levels*.

Diagram 1

Recommended data flow and management at the local, national and European Union levels



A solid line indicates the flow of data from a lower to a higher level (bottom-up); a broken line indicates the flow of data from a higher to a lower level (top-down).
 Data at the local level may be exchanged between all stakeholders.

Source: Elaborated in the framework of this project.

GUIDELINE 15

Member States of the European Union should ensure that all input into a system of data collection results in output that is valid, reliable and timely. Member States should ensure that there is real progress in investigation, prosecution, victim assistance and in relevant law and policy frameworks to address and prevent trafficking in human beings at the national and European levels.

E. Defining Concepts⁵⁹

This section introduces a number of concepts necessary to understand data collection and monitoring, examining single case/ individual versus aggregated (trafficking) data, indicators and guidelines.

(1) Monitoring System

Data collection is a crucial component of any anti-trafficking activity. It is needed to understand who is or could be trafficked and under what circumstances; identify the root causes that fuel the phenomenon; track the changes that occur in the exploitation sectors; and measure the impact of assistance and anti-trafficking activities. Furthermore, data collection is useful for intelligence and prosecution purposes. All this information is highly relevant and related to the concept of monitoring system that should be understood as a very important tool, on the one hand, to gain comprehensive knowledge of the phenomenon of trafficking in human beings, and, on the other, to improve the system of policies and interventions in place, under the three pillars of prevention, protection, prosecution.

Monitoring

Monitoring can be defined as any kind of acquisition or collection of data on a certain state, activity or process by means of a technical device, an observation system or any other surveying method to assess the current status of the chosen parameters and changes over time. According to this definition, monitoring not only relates to the pure collection of technical data, but it also refers to reporting and observation activities.⁶⁰

The monitoring is an on-going system specifically designed to provide feedback on whether a programme/project/policy is fulfilling its functions, addressing the targeted population, and/or producing the expected results. In other words, a monitoring system is a procedure of regular collection and analysis of information, requiring a considerable amount of conceptual work, field experience and reflection.⁶¹ When defining a monitoring system, a number of elements are to be

⁵⁹ This section was drafted by Flavia Pesce, Osservatorio Tratta/Institute for Social Research, and Isabella Orfano, Osservatorio Tratta/Associazione On the Road.

⁶⁰ It is important to distinguish between an “information system” and a “monitoring system”. The first requires arrangements to store information on phenomena, interventions and policies, their context and progress; the second is a process of data analysis that requires the design of different sets of indicators, and is the starting tool for assessing interventions and policies and informing policy networks on their dynamics.

⁶¹ Furthermore, without a strong *analytical framework* (a series of questions and/or themes to guide analysis), the *control of external factors* (i.e. influences from the wider social, cultural, economic, political or physical environment) and a *strategy of evaluation* (an assessment of the design, implementation and results of an ongoing or completed project), the monitoring system could lead to a faulty reading of the situation, producing results that cannot be trusted because they have been influenced by uncontrolled factors (i.e. biased results).

considered including the unit of analysis and the unit of observation. The distinction between these two terms is necessary in any context, but especially in the context of trafficking in human beings, given its multidimensional complexity.

Unit of analysis and unit of observation

The unit of analysis is the major entity that is being analyzed. It is the 'what' or 'whom' that is being studied. In social science research, the most typical units of analysis are individual people. Other units of analysis can be groups, social organizations and social artefacts. This is not to be confused with the unit of observation that is the unit on which data is collected. For example, a study may have a unit of observation at the individual level but may have the unit of analysis at the neighbourhood level, drawing conclusions on neighbourhood characteristics from data collected from individuals.

When collecting data on trafficking in human beings, the units of analysis mostly taken into account are: trafficked persons; traffickers/exploiters/criminal organizations; offence/crime typologies; agencies that deliver provisions and services to trafficked persons; programmes and projects supporting trafficked persons; activities performed by law enforcement agencies and the judiciary. In many cases, victims are the most important source of information and, thus, the main unit of observation. The data collected on victims generally concern personal features (i.e. age, gender, family composition, education, work experience), reasons for migration (push and pull factors), the relationship between the victim and the trafficker(s), the trafficking and the exploitation processes, etc. Victims can be the unit of observation also when collecting data on traffickers/exploiters/criminal organizations or on offences and crimes typologies (i.e. offences/crimes that the victims have suffered from or have been charged with). Also a criminal organization can be considered as a unit of observation. In this case, the data to collect will concern the members of the organization, its structure and activities, the methods of recruitment, trafficking and exploitation, the criminal justice prosecution, and so on.

(2) Trafficking Data

To provide a comprehensive picture of the nature of trafficking, it is necessary to collect data on three elements: the victim, the trafficker and the trafficking process. Furthermore, effective policy responses demand that data is also collected on the outcome of trafficking interventions.⁶² This would require that data are collected on assistance and support provided to trafficked persons as well as the outcome of law enforcement investigations and prosecutions of traffickers. The exact data that should be collected at each stage of the trafficking process, and by which organizations, will be discussed in more depth in Part II and III of this report.

A distinction must be made between single case/individual or personal data, which agencies would collect to identify specific persons for the purpose of investigation and prosecution (of traffickers) and assistance (victims) and aggregate data for the purpose of establishing patterns and trends and aiding in the formulation of policy. Case-acquired or case-related data can be either personal, or non-personal. In general, the data used for strategic and policy purposes in prevention, repression of trafficking-related activities and assistance are non-case specific, anonymous and non-personal. Personal data, unlike non-personal, aggregated data, are subject to data protection regulations (discussed in more detail in Part VI – Protection Mechanisms and Ethics).

⁶² See Dottridge, Mike (2007): *Measuring Responses to Trafficking in Human Beings in the European Union: an Assessment Manual, Draft Text (21 September 2007) for The Meeting On The EU Anti-Trafficking Day*, Brussels, 18 October 2007, Directorate-General Justice, Freedom and Security, European Commission.

Individual data vs. aggregate data

Individual or personal data is information which would allow for the identification of a particular individual. This data would include, among others, the name, date of birth, known address, telephone number and number of identity documents. This information may be collected by NGOs and other victim service providers providing services to trafficked persons or by police and prosecution services collecting data on traffickers for the purpose of investigation and prosecution. Aggregate data, on the other hand, represents the total numbers of individuals or cases of a certain category. Examples of this would be the number of trafficked victims in a country, the number of adult and child victims, the markets into which victims are trafficked or countries of origin of trafficked victims and traffickers. If the number of aggregated cases is large enough, it should be impossible to identify individual victims. Data protection laws are not applicable to aggregated data.⁶³

Finally, it must be clarified that *direct trafficking data* are all those data directly concerning trafficking cases with a high percentage of reliability. Such data are based on information on trafficked persons who accessed the social protection system and on criminal individuals identified and arrested by the law enforcement agencies and prosecuted in court.

(3) Indicators⁶⁴

Indicators as signals of trafficking

The purpose of indicators is twofold. Indicators can serve as signals to identify cases of trafficking and/or presumed cases of trafficking, or as variables which guide the collection of data. In the first instance, indicators may serve as signals or indications of trafficking – that is the action(s), mean(s),⁶⁵ process(es) - so that persons who may come into contact with victims of trafficking are able to begin to identify them as such. The identification of potential or presumed trafficked persons is a first step in ensuring they receive comprehensive assistance and would allow for more accurate estimates of trafficking, while the identification of actual victims allows for the collection of data for the purpose of victim assistance, law enforcement investigation and prosecution. This in turn may influence investigative or policy decisions on where to look for potential trafficked persons.

Both direct and indirect indicators – or signals – of the crime should be used in identifying trafficked victims. Indirect indicators are alternative signals, which, while they do not concretely point towards cases of human trafficking, could possibly be used to provide estimates of human trafficking in a country. These include measures such as statistics of departure, figures on illegal border crossings, the number of visas issued at foreign consulates for main destination countries, and the number of unaccompanied minors entering a country and applying for international protection, among others. Each of these measures/variables does not in itself reveal trafficking in human beings, but could do so when coupled with other indications.

⁶³ Folden, Claus; Manke, Marina and Mortensen, Thomas (2007): *Sharing Data: Where to Start*, International Organization for Migration, Vienna, pp. 26-27. Also see the *EC Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data* or the glossary for a definition of the term “personal data”.

⁶⁴ This section was drafted by Jelena von Helldorff, Institute for International Assistance and Solidarity and Alexis A. Aronowitz, University College Utrecht, with a contribution by Sarah Craggs, IOM.

⁶⁵ According to the UN Trafficking Protocol Article 3, paragraph (c) regarding children, the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation is considered trafficking in persons even if the means (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) are not involved.

The EU Experts Group on Trafficking in Human Beings recommends a checklist of indicators.⁶⁶ Such checklists and/or indicators should include as a minimum: retention of identity documents, threats or physical harm, restriction of movement, abusive or exploitative working or living conditions, withholding of wages, debt bondage, threats of denunciation to the authorities where the status of the person is that of an irregular immigrant, or threats to harm families in the country of origin. These are direct indicators which provide a strong indication that a person has been trafficked, is being exploited and is subject to coercion or threats of harm.

In an effort to identify trafficking indicators, the International Labour Organization, under the auspices of the Expert Sub-group on "Trafficking in Human Beings" and with the help of experts from international organizations, governments, academics and researchers, NGOs, police, trade unions, labour inspectorates, and the judiciary, identified 67 indicators of trafficking which are connected to one of six dimensions. These dimensions are:

- 1) Deceptive recruitment (10 indicators);
- 2) Coercive recruitment (10 indicators);
- 3) Recruitment by abuse of vulnerability (16 main indicators);
- 4) Exploitative conditions of work (9 main indicators);
- 5) Forms of coercion at destination (15 main indicators);
- 6) Abuse of vulnerability at destination (7 main indicators).⁶⁷

While a number of organizations have provided lists of general indicators of human trafficking,⁶⁸ additional indicators should be identified for different forms of exploitation such as labour exploitation, domestic servitude, sexual exploitation, begging and illicit activities.⁶⁹ Specific indicators need to be developed for cases of child trafficking. Furthermore, indicators should be developed to assist in the identification of victims of internal trafficking. Part V of this report provides information on both direct signals and alternative sources for identifying trafficked victims.

Indicators as variables to guide the collection of data

The International Organization for Migration has identified eighteen core indicators or a minimum proposed set of data.⁷⁰ Focusing on the action(s), mean(s) and process, this set of core variables/data, when read together, provides a very minimum base to assist in the screening process that determines whether a person has been trafficked.⁷¹ For the purposes of data collection, this core set of data will also guide the collection of data regarding the profile of the victim and some factors increasing the risk of trafficking. It will further give insights into patterns of entry into the trafficking process, movement, the profile of traffickers and their means to control the victim. In addition, it will enhance understanding regarding the different types of exploitation, referral mechanisms, assistance given and the response of the police and justice system.

⁶⁶ European Commission (2007): Conference on the occasion of the EU Anti-Trafficking Day "Trafficking in Human Beings: Time for Action", Panel 2: *Recommended Indicators to monitor and evaluate national anti-trafficking policies* (initiative of the EU Expert Group on Trafficking in Human Beings), 18 October 2007.

⁶⁷ Based on a presentation made by Roger Plant, Head of Special Action Programme to Combat Forced Labour, ILO: *Measuring Forced Labour and Trafficking: The ILO Experience* at the Conference "European Approaches towards Data Collection on Trafficking in Human Beings", organized in the framework of this project at the European Parliament, Brussels on 18 and 19 September 2008. More information on the research using the Delphi Method can be found in Annex I.E. of this report.

⁶⁸ For more information, see UNODC "Human Trafficking Indicators", (http://www.unodc.org/documents/human-trafficking/HT_indicators_E_LOWRES.pdf) and POLARIS PROJECT "Red Flags and Potential Indicators of Human Trafficking", (<http://actioncenter.polarisproject.org/learn-more/recognizing-trafficking>).

⁶⁹ European Commission (2007): *op.cit.*

⁷⁰ These indicators are taken from the IOM's Screening and Assistance Forms. Please see Annex II.A. for further information on the core indicators.

⁷¹ In all cases, the IOM recommends that a more detailed case assessment is undertaken (refer to the IOM's Screening and Assistance Forms).

IOM Trafficking Indicators

The indicators have been broken down into four sections:

- **the profile of the victim of trafficking** (8 indicators)
 1. Sex
 2. Age
 3. Citizenship
 4. Ethnicity
 5. Marital status
 6. Children
 7. Education
 8. Socio-economic status
- **the trafficking process** (4 indicators)
 9. Entry into migration/trafficking process
 10. Profile and functions of traffickers
 11. Means of control
 12. Movement process
- **exploitation** (3 indicators)
 13. Type of exploitation
 14. Length of exploitation
 15. Means of control
- **the response to the victim** (3 indicators)
 16. Referral mechanism
 17. Types of assistance
 18. Law enforcement action

The core variables developed by the IOM are based on the screening of victims accepting assistance from the organization, but will not provide information on trafficked victims who are not identified or decline assistance.⁷²

⁷² During a screening process, data is in fact collected by the IOM on victims of trafficking who later decline the IOM assistance (as well as why an individual declines assistance).

PART II TRAFFICKING DATA: WHAT DATA SHOULD BE COLLECTED⁷³



There are multiple challenges linked to the collection of data. These include, but are not limited to, what data should be collected, which agencies should collect the data and what should be done with the data once it is collected.

In order to make national data comparable, common guidelines for their collection should be developed, with regard to the type of data to be collected.⁷⁴ This means, first of all, ensuring that all agencies of a country share the same definition of trafficking in human beings and that they collect the same data on cases of trafficking. It is thus necessary to standardize and share, at the national level, the definitions of terms related to trafficking and the criteria used to identify trafficked persons. This method will allow the use of a common system for collecting and recording data on trafficking by governmental agencies and non-governmental organizations.

As a result, the identification of a minimum set of data and indicators supports a comparable analysis at the national level that simultaneously allows each of the agencies or organizations involved to collect much more information that can be useful for their specific internal purposes. Standardized data at the national level across Member States will allow for comparison at the EU level.

The following sections discuss some of the problems linked to the collection of specific data and provides a list of the minimum data that should be collected, with an emphasis on victims of trafficking, the traffickers, the trafficking process and criminal justice system responses.

A. Data on Victims

Problems involved in the identification of trafficked persons

Reliable, comprehensive and timely data that is accurate should serve as the basis of policy-making decisions. Accurate data depends upon the identification of victims of trafficking. When addressing the issue of victims, it is necessary to point out that in many cases victims of trafficking are not identified as such. A fundamental problem in all anti-trafficking strategies is the identification of trafficked persons. Those caught up in human trafficking often refuse to cooperate and do not want to reveal their status or experiences to state authorities. This is due to a number of reasons: they may harbour deep feelings of mistrust towards government officials which may stem from experiences in their country of origin and the country of destination; trafficked persons often fear violent retaliation by traffickers against themselves and/or children and family members at home; they are also concerned about arrest and deportation by the authorities because of their irregular status. Because victims often refuse to cooperate with government authorities and may thus not be recognized as victims, trafficking in human beings is often an invisible phenomenon. Trafficked persons are rarely able to extricate themselves independently from their situation. Should they come to the attention of authorities at all, it is usually as a result of checks or investigations by the police, border officials or other State authorities or through contacts with NGOs and other victim service providers.⁷⁵

The proper identification of victims is also hindered by the fact that authorities which come into contact with victims of trafficking are unaware of the signs that a person may be a victim of

⁷³ This section was drafted by Jelena von Helldorff, Institute for International Assistance and Solidarity and Alexis A. Aronowitz, University College Utrecht.

⁷⁴ European Commission (2004): *Report of the Experts Group on Trafficking in Human Beings*, 22 December, p. 76.

⁷⁵ *Ibid.* p 102.

trafficking. This may be particularly true in source countries (before exploitation has occurred) but also at transit points and at border checkpoints. This trend is indicated by the low number of victims identified at this location, where they are often treated as irregular migrants at risk of deportation.

Presumed trafficked persons can be identified at any stage within the trafficking process (recruitment, transportation, exploitation, etc.) in a country of origin, transit or destination. This implies that attention should also be paid to identifying victims of internal trafficking – a growing problem in many EU Member States. The difficulty in identifying victims is not exclusively linked to trafficking by transnational organized crime groups.

What constitutes a victim of trafficking?

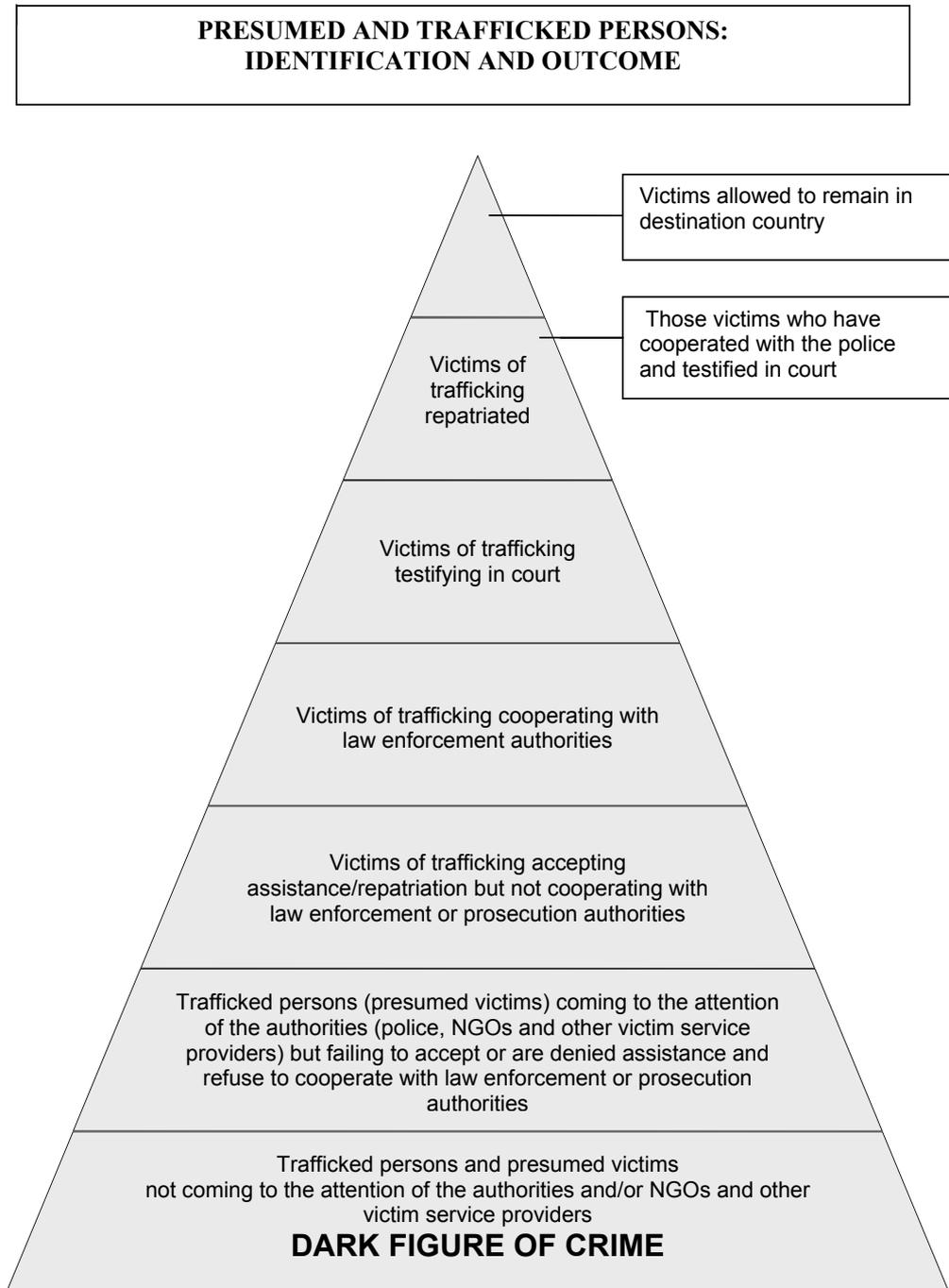
There is a large dark figure of victims in human trafficking. Furthermore there is disagreement over who is a victim of trafficking and at what stage a victim should be recognized as such. Victims who are not identified will never appear in statistics on trafficked victims. Those who are suspected of being victims but who do not identify themselves as such and decline assistance may also fail to appear in data on trafficked victims. In the field of trafficking, one can talk of persons at risk, potential victims and presumed victims.⁷⁶

In some countries victims may be identified only as those who have cooperated with authorities in the investigation and prosecution of the trafficker(s), while in others, a person who accepts the support of a NGO or an international organization (such as IOM) or other victim service providers is identified as a victim of trafficking. During the course of their regular work or investigations, law enforcement officials, labour inspectors, health care officials, immigration and border control officials as well as NGOs and other victim service providers may come into contact with presumed victims of trafficking. The trafficking “victim” can appear at any place on a victim “continuum” or pyramid. The largest group, if estimates of trafficking can be believed, comprises persons who are trafficked victims but who have not yet been identified by NGOs or other victim service providers and stakeholders. Meanwhile the smallest number reflects those who have not only cooperated with the authorities and testified in court against their trafficker, but have also been granted permission to remain in the destination country. The different categories of victims are portrayed in diagram 2 below.⁷⁷

⁷⁶ Persons at risk may include members of any vulnerable group. Potential victims are those who stem from a vulnerable group and run a high risk of falling victim of trafficking. Presumed victims are those where a number of indicators point to the probability that a person is a victim of trafficking.

⁷⁷ Diagram 2 is a model which represents the situation in many, but not all, EU Member States. In other Member States, the possibility to remain in the country is not linked to cooperation with the competent authorities.

Diagram 2



Source: Elaborated in the framework of this project.

In spite of the difficulty in identifying victims of trafficking, it is essential to identify and register data on various categories of victims in order to assess current trends. Minimal data collected on victims should reflect: gender, age, nationality, and country of birth, origin (source of recruitment) and destination. Also, differentiation is important between different types of trafficking cases such as labour exploitation, sexual exploitation, organ removal and child trafficking.

It is also important to identify victims of trafficking in order for them to receive the necessary assistance and be able to benefit from laws that grant protection, such as the Temporary Residence Permit. The importance of victim identification has been emphasized by the OSCE which proposes that the collection of separate data related to women, men and child victims of trafficking would allow for the development of effective and well-targeted prevention measures. The OSCE also suggests the improvement of research and analysis of subjects such as the character and scale of human trafficking, and the trafficking and exploitation mechanisms deployed by organized criminal groups.⁷⁸

The data recommended here (and in the following sections) are to be seen as the minimum set of data⁷⁹ that should be collected during the reporting period⁸⁰ and shared at the national as well as at the EU level.

⁷⁸ OSCE (2003a): *op.cit.*

⁷⁹ Trafficking occurs within a particular context. In order to fully understand the human trafficking from and to particular countries, it is important to understand the motivation of the principal actors. In most cases economic factors, such as poverty and unemployment are relevant, but trafficking can also result from broader social and economic forces. Analysis of the context, including the socio-economic situation in a country of origin, the respect for human rights, the prospect for education and access to the labour market, gender disparities, as well as the extent of restriction of labour migration laws in the country of destination can provide valuable information and point to trends in human trafficking. Conflict and post-conflict situations usually exacerbate the breakdown of political, legal and social structures, giving traffickers significant freedom to operate. The volatile security and economic situation, combined with rampant corruption (often the mark of conflict and post-conflict societies), high unemployment and the presence of international and military forces, renders conflict-ridden countries more susceptible to trafficking. Therefore, in addition to direct (traditional) primary data, of further relevance to the discussion of data collection would be the value of secondary, indirect (non-traditional) data which would offer a broader perspective, helping to shape the context of the issue of trafficking.

⁸⁰ Reporting should occur annually.

At a minimum, the following data on victims⁸¹ should be collected:⁸²

DATA ON VICTIMS

⇒ **Data on individual victims:**

- ✓ Gender
- ✓ Age at time when exploitation began
- ✓ Nationality
- ✓ Country of birth
- ✓ Country of origin
- ✓ Country of recruitment
- ✓ (Legal) Status in country of exploitation
- ✓ Type of exploitation (sex, labour, combination of sex and labour, organ trafficking, trafficking for forced marriage, other)
- ✓ Re-trafficked victim

⇒ **Total number of victims per country per year:**

(disaggregated by gender, age, nationality, country of birth and type of exploitation)

- ✓ Number of victims identified
- ✓ Number of victims refused assistance
- ✓ Number of victims declining assistance
- ✓ Number of victims accepting assistance
- ✓ Number of victims receiving temporary or permanent residence permits
- ✓ Number of victims repatriated (from-to and to-from)

GUIDELINE 1

In all stages of investigation, victim assistance and data collection, the human rights of the victim must always be safeguarded.

B. Data on Traffickers⁸³

Law enforcement responses to human trafficking has forced perpetrators to develop new and improved techniques and improve their ability to quickly change routes and methods in order to escape detection, arrest and prosecution. The clandestine nature of their activities and the use of illegal channels have been increasingly prevalent features in recent trends of the phenomenon. Data on human trafficking, where it exists, indicates that cross-border trafficking often occurs with legal travel

⁸¹ Victims are also capable of providing important information on the trafficking process and traffickers. Information on the trafficking process will be collected during interviews with the victim.

⁸² EU Member States and other organizations are encouraged to collect further data: see the data collection templates in Part III as well as the IOM template for the collection of victim-centered data in Annex II.A. of this report. Additionally, countries may choose to collect data on existing systems of support to victims. This would include translation services, secure housing, shelters, food, clothing, medical care, psycho-social assistance and counselling, legal counselling, support during criminal justice proceedings and immigration processes, long-term recovery and reintegration service, witness protection, medical and health education, and others.

⁸³ This section was drafted by Jelena von Helldorff, Institute for International Assistance and Solidarity.

documentation and legal border crossings. The situation is further complicated by the fact that the victims coming from the Central and Eastern EU countries that have joined the EU in the period from 2004 to 2007 may be eligible for legal residency in the EU.⁸⁴ However, it is important to note that these dynamics refer to the identified cases of trafficking.

It is essential to collect information on traffickers and their networks or organizations in order to guide the formulation of prevention projects and to aid law enforcement in trafficking investigations. Data such as age, gender, nationality and country of birth and relationship between the trafficker and the victim are important in establishing patterns and trends, which in turn may challenge the way trafficking is viewed. The traditional image of male traffickers and female victims is being challenged by data provided by a number of EU Member States.⁸⁵

Traffickers are resilient and often change their *modus operandi* in response to law enforcement measures. To counteract these developments in trafficking, the collection of data and the consolidation of information on traffickers and their networks are crucial.

At a minimum, the following data on traffickers⁸⁶ should be collected:⁸⁷

DATA ON TRAFFICKERS

⇒ **Data on individual traffickers:**

- ✓ Gender
- ✓ Nationality
- ✓ Country of Birth
- ✓ Age at time of committing crime
- ✓ Prior status as victim
- ✓ (Legal) Status in country at time of committing crime
- ✓ Member of network or organized crime group

⇒ **Total number of traffickers per country per year:**

(disaggregated by gender, age, nationality, country of birth and type of exploitation)

As for the traffickers, it is worth mentioning that transnational crime cartels have become prominent facilitators of irregular immigration in Europe through international ties between origin and destination countries, kinship migration and family networks. These organized crime networks are heavily involved in trafficking as well as in migrant smuggling.⁸⁸ As a result of this involvement, the trafficking process is becoming more efficient and flexible, better structured, increasingly coercive and less amendable to traditional law enforcement responses. Trafficking organizations may be directly involved in human trafficking or work through "front" companies such as travel agencies, employment agencies, student exchange programs, bars or discos, hotels, dance companies, taxi companies and schools (to facilitate the acquisition of student visas), which may be established as legal enterprises in the EU Member States.

⁸⁴ Statistics of the German Federal Criminal Office "Bundeskriminalamt" (2007): *Human Trafficking National Situation Report 2007*, p. 12, http://www.bka.de/lageberichte/mh/2007/mh2007_en.pdf.

⁸⁵ The German Federal Criminal Police "Bundeskriminalamt" reports that approximately 78% of traffickers arrested were men, *Bundeskriminalamt* (2007): *op. cit.* p. 7. Data provided by the Dutch National Rapporteur on Trafficking in Human Beings reported that between 81% and 87% of the arrested suspects (between 2004 and 2007) were men but that among certain nationalities, more women were arrested for trafficking. Dutch National Rapporteur on Trafficking in Human Beings (2007): *Trafficking in Human Beings - Fifth Report of the Dutch National Rapporteur*, The Hague, Bureau NRM, p. 139, <http://english.bnrm.nl/reports/fifth/>.

⁸⁶ Traffickers are also capable of providing important information on the trafficking process and victims.

⁸⁷ EU Member States and other organizations are encouraged to collect further data: see the data collection templates in Part III as well as the ICMPD Template for the collection of trafficker-centered data in Annex II.B. of this report.

⁸⁸ United Nations Economic and Social Council (2000): *Report for the Regional Preparatory meeting of the 2000 Review of Implementation of the Beijing Platform for Action*, January 2000, p. 7.

Trafficking Networks⁸⁹

Whereas the phrase "trafficking network" has no legal definition, the following are two examples of how organized crime has been defined and offer some insight into the key points to establish during an investigation.

Organized criminal group

*"[...] shall mean a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit."*⁹⁰

*"At least 6 of the following characteristics have to apply, four of which must be those numbered 1, 3, 5 and 11, for any crime or criminal group to be classified as organized crime"*⁹¹

1. A collaboration of more than two people
2. Each with own appointed tasks
3. Exists for a prolonged or indefinite period of time (a reference to stability and potential durability of the group)
4. Uses some form of discipline and control
5. Suspected by the Commission of serious criminal offences
6. Operates at international level
7. Uses violence or other means suitable for intimidation
8. Has a commercial or business-like structure
9. Is engaged in money laundering
10. Exerts influence on politics, media, public administration, judicial authorities or the economy
11. Is determined by pursuit of profit and/or power

"Trafficking network" is often used to describe the persons who work for and support the actual traffickers; they could, for example, be involved solely in the identification of a potential victim(s), the recruitment of that person(s), transportation, supply of documents, corrupting officials, provision of accommodation, etc.

In many EU Member States the criminal groups and networks involved in trafficking in human beings meet most of the EU criteria for defining them as organized crime. Some show a hierarchical structure, others do not and operate more through personal contact with individuals or small groups being paid for a particular service.

Whatever the "set up", the roles are familiar:

- those that recruit and procure;
- those responsible for smuggling and transport;
- those providing false or counterfeit identity and travel documents;
- those seeking to corrupt law enforcement officers or others holding public office;
- those involved in the provision, management and control of safe houses, bars and nightclubs, as well as brothel owners and pimps;

⁸⁹ This section on criminal networks was drafted by EUROPOL.

⁹⁰ United Nations (2000a): *Convention against Transnational Organized Crime* (General Assembly Resolution 55/25).

⁹¹ 6204/2/97 ENFOPOL 35 REV 2- a mechanism designed to assist EU Member States in describing organized crime. It is this definition that is used in Europol's Organized Crime Threat Assessment.

- those involved in the collection, delivery and distribution of the profits of trafficking;
- those knowingly involved in money laundering and the management of assets and proceeds of crime.

It is generally accepted that the “mafia style” trafficking network is not something that is seen on a regular basis. This does not preclude the fact that hierarchical organizations are involved in trafficking human beings, but underlines the fact that more and more trafficking groups are being identified where the persons involved are more likely to have close family ties or a previous criminal relationship. With respect to their level of organization, the following categories have been identified:

Amateur or low level traffickers are locally based individuals who provide a single service or act as occasional traffickers. They may act on behalf of or work for larger networks. Most are likely to be involved in the recruitment and trafficking of their own nationals and will be based in their country of origin.

Small groups or medium level traffickers are more permanent and operate across borders with established links to similar groups or criminals involved in other crime areas. They will be involved in all stages of the trafficking process including the exploitation phase and the re-trafficking of victims.

International or high level networks are able to conduct the whole process from recruitment to forced prostitution including transport, provision of documents, high level corruption and money laundering. These networks will have the capacity to deal with large numbers of trafficked victims and will have bases and connections in source, transit and destination countries.

In Part III, a template for the collection of data on trafficking networks is provided.

C. Data on the Trafficking Process

Data on the trafficking process – often collected during an interview with a trafficking victim or with a trafficker – will contribute valuable information to NGOs and other victim service providers and law enforcement agencies on the nature of the trafficking. Focus should be on such things as the recruitment process (relationship between trafficker and trafficked person, the promises made to the trafficked person), methods of transportation, transit countries, nature of the exploitation including coercion or force used to gain the victim’s compliance and the markets in which the trafficked persons were exploited. The IOM global database⁹² provides valuable information on recruitment patterns (i.e. promises made to victims to obtain their consent), the relationship between the trafficker and victim (recruitment often occurs through networking, personal contacts, friends and family members) as well as the markets in which victims are exploited. New patterns are emerging to show that human trafficking affects not only women but men, and in particular boys, who are also victims of sexual and labour exploitation. New recruitment patterns are also emerging as a result of the increased use of the internet.⁹³ The availability of reliable data on the trafficking process will highlight changing patterns and trends which in turn will assist law enforcement investigation efforts.

⁹² In 2000, the IOM developed and implemented a standardized CT (counter-trafficking) data-management tool, the Counter-Trafficking Module (CTM), which is the largest global database with primary data on victims of trafficking. The CTM facilitates the management of the whole IOM direct assistance, movement and reintegration process through a centrally managed system as well as mapping the victim's trafficking experience. In return, it strengthens the research capacity and understanding of the causes, processes, trends and consequences of trafficking. It serves as a knowledge bank from which statistics and detailed reports can be drawn, informing research, programme development and policy making on counter trafficking. Please contact CTS-db@iom.int for more detailed information or see Annex I.F.

⁹³ Aronowitz, Alexis A. (2009): *Human Trafficking, Human Misery*, Praeger Publishers, Westport CT.

At a minimum, the following data on the trafficking process⁹⁴ should be collected:

DATA ON THE TRAFFICKING PROCESS

- ⇒ **Data on the trafficking process:**
- ✓ Type of recruitment
 - ✓ National borders crossed (travel routes)
 - ✓ Forms of border crossing
 - ✓ Use of fraudulent documents
 - ✓ Type of exploitation
 - ✓ Means of control over victim
 - ✓ Country(ies) of exploitation

GUIDELINE 10

Member States of the European Union should ensure that data related to cases of human trafficking are collected, including where such data exists and is or can be made accessible in connection with data in other areas of criminality (i.e. facilitating of illegal immigration, prostitution-related crimes, violation of personal freedom, corruption, money laundering, etc.).

D. Data on Criminal Justice Responses: Law Enforcement and Judicial Data⁹⁵

Lack of criminal justice data may be attributed to the low priority of fighting trafficking in human beings on the part of politicians, government officials and law enforcement officers. Law enforcement officials and prosecutors face two major disincentives: the legislation for prosecution and victim protection is sometimes lacking, inadequate or is not implemented, rendering the conviction of traffickers very difficult; and, trafficking convictions are often, though not always, based on victim/witness testimony which may not materialize because the victim has been deported or intimidated by the offenders, or does not want to testify or cooperate with law enforcement authorities for other reasons.⁹⁶ To overcome some of these problems, the OSCE Action Plan recommends that participating States should establish special anti-trafficking units comprising both women and men, with advanced training in investigating offences of sexual assault or involving children, in order to promote competence, professionalism and integrity.⁹⁷ Additionally, governments should ensure that law enforcement authorities are provided with adequate investigative powers and techniques that facilitate effective investigation and prosecution.

Operational actions require specific, personalized data on perpetrators, victims and identified related persons. The exchange of personal and case-related data remains essential, not only at the local and national levels, but at the international level as well.⁹⁸ This pertains to law enforcement authorities in the broadest sense (police, judicial authorities, customs, immigration services, labour, health and

⁹⁴ Some of this information will be collected during interviews with victims and traffickers.

⁹⁵ This section was drafted by Jelena von Helldorff, Institute for International Assistance and Solidarity

⁹⁶ Laczko, Frank (2002): *Human Trafficking: The need for Better Data*, MPI Migration Information Source, November.

⁹⁷ OSCE (2003a): *Action Plan to Combat Trafficking in Human Beings*, Annex, PC.DEC/557, 462nd Plenary Meeting, 24 July 2003.

⁹⁸ Personal and case-related data should however only be exchanged under the guarantee of adequate data protection safeguards.

social inspection services and others). Crucial to improved operational investigations as well as data collection, is the increased awareness of law enforcement, prosecutors, border and judicial authorities to the problem of trafficking. Furthermore, the provision of specialized training in identifying trafficking cases with a view to better protection of the rights of victims and encouraging cooperation with NGOs and other victim service providers must be ensured. Successful identification of trafficking cases is closely related to the ability and skills of law enforcement and other related officials to recognize indicators of the crime by documenting control procedures at borders (border guards) at the scene of the crime, as well as other locations (medical workers, airport personnel), and on all criminal process levels (including prosecutors and judiciary awareness). The OSCE Action Plan recommends that participating States provide resources and training for intelligence-led policing in order to manage and analyze crime. The Action Plan also recommends that criminal information be implemented in tandem with other advanced skills and equipment necessary for law enforcement bodies to carry out their anti-trafficking tasks.⁹⁹ This approach would help solidify a consistent judicial practice related to trafficking in human beings and act as a response to the relatively small number of human trafficking cases that are brought before the courts which actually result in a final decision or conviction.

As for victims acting as witnesses, some countries have developed legal and administrative frameworks that encourage prosecutions of traffickers by the extension of victim protection mechanisms, such as a Temporary Residence Permit. Such measures should make it easier for the prosecution department to secure victims' testimony and their willingness to cooperate with law enforcement authorities. Though it is possible in many countries for victims to obtain a Temporary Residence Permit,¹⁰⁰ the number of permits issued in many countries remains very limited. Exploring alternative investigation strategies that preclude the need for victims to testify in court is strongly encouraged, as is the collection of information based on intelligence and not on the victim's testimony.

Convictions are often the result of human trafficking as an additional charge to what are perceived as more severe criminal offenses. Human trafficking may involve a range of other offences, such as irregular migration, violence, coercion, forgery, corruption and money laundering, all of which provide additional opportunities to gather intelligence, to initiate investigations and to corroborate testimonies in order to prosecute traffickers. Profits gained by criminal organizations through trafficking in human beings often lead to money laundering activities which may involve the creation of front companies involved in licit activities. These aspects should be taken into account when gathering and analyzing data.

At a minimum, the following data on the criminal justice response should be collected:

DATA ON CRIMINAL JUSTICE RESPONSES

⇒ **Total number of traffickers per country per year:**

- ✓ Number of persons arrested
- ✓ Number of persons charged (under which charges)
- ✓ Number of persons prosecuted (under which charges)
- ✓ Number of persons convicted (under which charges)
- ✓ Number of persons acquitted (of which charges)
- ✓ Number of persons involved in claim for asset confiscation (number of claims honoured/number of claims denied)
- ✓ Sentences

⁹⁹ OSCE (2003a): *op.cit.*

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

- ⇒ **Total number of cases per country per year:**
 - ✓ Number of investigations started
 - ✓ Number of investigations successfully completed

- ⇒ **Total number of victims per country per year:**
 - ✓ Number of victims cooperating with the law enforcement
 - ✓ Number of victims testifying in court

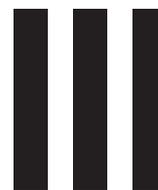
- ⇒ **Reactions of the Criminal Justice System with respect to victims:**
 - ✓ Number of victims filing claim for compensation (number of claims honoured/denied)

Basic analysis should be carried out with the data above. Data should be disaggregated by gender, age, nationality, country of birth and type of trafficking.

GUIDELINE 6

Member States of the European Union should require the collection of a minimum set of data on the trafficked victim, the trafficker, the trafficking process and the criminal justice responses to trafficking, allowing for comparison at the EU level. Data should be collected with a view towards establishing a more structured and clear differentiation between different forms of human trafficking including forced labour, organ trafficking, internal trafficking and child trafficking.

Part III TEMPLATES FOR MORE COMPREHENSIVE DATA COLLECTION¹⁰¹



The previous part briefly outlined some of the problems inherent in the collection of data, and the necessity of collecting data, while providing a minimum set of indicators which should be collected and exchanged by agencies both within and between EU Member States. The templates provided in this chapter serve as models which would allow organizations to collect extensive and comparable data on the victims and traffickers, the trafficking process and the criminal justice response to trafficking.¹⁰²

A. Templates for more Comprehensive Data Collection on Victims¹⁰³

NGOs and other victim service providers as well as government agencies (law enforcement, immigration and customs officials, border guards, labour inspectorates, social welfare investigators, outreach and health care workers) should collect demographic data on the number of trafficked persons, as well as specifics of the trafficking situation including recruitment, transportation and nature of the exploitation. Data related to all potential, presumed or confirmed victims¹⁰⁴ who were officially identified and registered should be collected and governed by appropriate data protection safeguards.

➤ Information should be collected on the number of persons who were officially identified and registered

- ✓ *identified*¹⁰⁵ by an authority or authorized NGOs or other victim service providers (noting how the victim was identified – through immigration or law enforcement authorities, labour inspectors, outreach, health care workers, NGOs or other victim service providers)
- ✓ *assisted*¹⁰⁶
- ✓ *were refused assistance*
- ✓ *decline assistance*
- ✓ *who disappear*

Information (indicators) to be collected	Answers
Gender	<i>Male/Female/Transgender/Not known</i>
Nationality	<i>Country</i> ¹⁰⁷

¹⁰¹ This chapter was discussed and compiled by the Members of the Expert Team during the Second Expert Meeting held on 20 and 21 May in Vienna, Austria. Much of the information in these templates relies on the IOM Template for the collection of victim-centred data and the ICMPD Template for the collection of trafficker-centred data.

¹⁰² It is possible that much of this information is unavailable in law enforcement or prosecution department databases.

¹⁰³ See also the IOM Template for the collection of victim-centred data in Annex II.A.

¹⁰⁴ See footnote 76.

¹⁰⁵ Identification by source.

¹⁰⁶ By source of first contact. Assistance may include medical assistance, psychological assistance, legal assistance, shelter, travel assistance, reception assistance, reintegration assistance, integration assistance in destination country, resettlement assistance and other.

¹⁰⁷ For a list of countries, please refer to the International Organization for Standardization (2008): *List of English country names and codes elements*.

Nationality	<i>Country</i> ¹⁰⁷
Country of Birth	<i>Country</i>
Age of first contact with the recruiter	<i>In months and years</i>
Country of recruitment	<i>Country</i>
Type of recruitment	<i>Kidnapping/Sold by member of family/Sold by non-family member/Adoption/Educational opportunity offered or expected/Family visit offered or expected/Friend visit offered or expected/Labour opportunity offered or expected /Marriage offered or expected/Tourism/Other/Not available/Not Known</i>
Relationship to recruiter	<i>Family/Relative/Acquaintance/Friend/ Stranger/Not available/Not known</i>
National borders crossed	<i>No national borders crossed/National borders crossed/Not available/Not known</i>
Forms of border crossing	<i>With legal documents/With false documents/With the assistance of a third person/Illegally/Not available/Not Known</i>
Country(ies) of exploitation	<i>Country</i>
Age when exploitation started	<i>In months and years</i>
Legal status in place of exploitation	<i>Regular/Irregular/Not available/Not known</i>
Type of exploitation	<i>Sexual exploitation/Forced labour (Agricultural work/Begging/Child care/Construction/Domestic work/Factory work/Fishing/Mining/Restaurants and hotel work/Small street commerce/Trade/Other)/Low level criminal activities/Forced military service/Forced marriage/Organ removal/Other/Not available/Not Known</i>
Type of assistance given to the victim ¹⁰⁸	<i>Medical assistance/Psychological assistance/ Legal assistance/Shelter/Travel assistance/Reception assistance/Reintegration assistance/Resettlement assistance/Integration assistance in destination country/Psychosocial assistance/Other/Not available/Not Known</i> ¹⁰⁹
Cooperation of victim with law enforcement	<i>Yes/No/Not available/Not known</i>
Cooperation of victim with judicial officials	<i>Yes/No/Not available/Not known</i>
Re-trafficked victim	<i>Yes/No/Not available/Not known</i>

¹⁰⁷ For a list of countries, please refer to the International Organization for Standardization (2008): *List of English country names and codes elements*.

¹⁰⁸ For further information see International Organization for Migration (2007): *The IOM Handbook on Direct Assistance for Victims of Trafficking*, Geneva.

¹⁰⁹ For information on the health consequences of trafficking in persons, including specific actions for health providers, see IOM, London School for Hygiene and Tropical Medicine and UN.GIFT (2009): *Caring for Trafficked Persons: Guidance for Health Providers*.

➤ **NUMBER OF PERSONS WHO WERE RETURNED UNDER ASSISTANCE**
(Conducted by international organizations, NGOs or other victim service providers in country to which the victim has been repatriated)

In addition to the indicators above, the following should also be collected:

Information (indicators) to be collected	Answers
Country of return (from-to)	<i>Country</i>
Reintegration assistance	<i>Received/Not received/Not available/Not known</i>

➤ **NUMBER OF VICTIMS WHO ARE GRANTED RIGHT TO RESIDENCE**
(To be collected by NGOs, other victim service providers or official government bodies)

In addition to the indicators above, the following should also be collected:

Information (indicators) to be collected	Answers
Length of stay	<i>In months</i>
Legal status	<i>Staying permit/Residence permit/Other/Not available/Not known</i>

B. Templates for more Comprehensive Data Collection on Traffickers¹¹⁰

This information is to be collected by law enforcement or other investigative services; NGOs and other victim service providers may also collect data information related to traffickers.

➤ **NUMBER OF PERSONS INVESTIGATED AS TRAFFICKERS**

Information (indicators) to be collected	Answers
Gender	<i>Male/Female/Transgender/Not known</i>
Nationality	<i>Country</i>
Country of residence	<i>Country</i>
Country of Birth	<i>Country</i>
Minor at time of committing the crime	<i>Yes/No/Not available/Not known</i>
Year(s) when crime was committed	<i>Year(s)</i>
Past criminal record	<i>Yes/No/Not available/Not known</i>

¹¹⁰ See also the ICMPD Template for the collection of trafficker-centred data in Annex II.B.

➤ **TOTAL NUMBER OF HUMAN TRAFFICKING CASES AND RELATED OFFENCES¹¹¹**

Information (indicators) to be collected	Answers
Type of exploitation	<i>Sexual exploitation/Forced labour (Agricultural work/Begging/Child care/Construction/Domestic work/Factory work/Fishing/Mining/Restaurants and hotel work/Small street commerce/Trade/Other)/Low level criminal activities/Forced military service/Forced marriage/Organ removal/Other/Not available/Not known</i>
Involvement of child victims	<i>Yes/No/Not available/Not known</i>

Information would be provided on each trafficking network group identified within the course of a police investigation.

➤ **DATA ON CRIMINAL NETWORKS AND THE INVOLVEMENT OF ORGANIZED CRIME**

Information (indicators) to be collected	Answers
Number of members in trafficking group	Number: 0, 1...
Gender distribution (number and percent) of traffickers	Number: 0,1,...male Number: 0,1,... female Number: 0,1,...transgender Percent: % male Percent: % female Percent: % transgender
Nationality of traffickers	<i>Country</i>
Country of birth of traffickers (if different from nationality)	<i>Country</i>
Number of victims trafficked by this group	Number: 0, 1...
Gender of trafficked victims	Male/Female/Transgender/Not known
Age distribution of trafficked victims	Number: 0, 1...
Type of exploitation - commercial sexual exploitation, labour exploitation, organ trafficking, combination of labour and commercial sexual exploitation, other forms (explain).	<i>Sexual exploitation/Forced labour (Agricultural work/Begging/Child care/Construction/Domestic work/Factory work/Fishing/Mining/Restaurants and hotel work/Small street commerce/Trade/Other)/Low level criminal activities/Forced military service/Forced marriage/Organ removal/Other/Not available/Not known</i>

¹¹¹ According to official statistics provided by law enforcement and other investigative agencies.

Information (indicators) to be collected	Questions/Answers		
Trafficking network/organized crime group based on the definition put forth by Europol¹¹²			
1. Involvement in organized crime	<p>1. <i>Is there any information on participation in Organized Crime Group?</i></p> <p>2. <i>If yes, give a short description of the case.</i></p> <p>2/a. <i>Give the name of the contact person of the case.</i></p>		
Characteristics of criminal networks	Yes	No	Additional information
1. A collaboration of more than two people (how many persons?)			
2. Each with own appointed tasks (describe the tasks involved)			
3. Exists for a prolonged or indefinite period of time (a reference to stability and potential durability of the group), time that the group has operated			
4. Use of some form of discipline and control (financial, psychological, physical), explain			
5. Suspected of the commission of serious criminal offences (were other offences – drugs, arms trafficking, etc. involved?)			
6. Operates at international level (identify source, transit and destination countries)			
7. Uses violence or other means suitable for intimidation (elaborate)			
8. Has a commercial or business-like structure (describe structure of the organization)			
9. Is engaged in money laundering			
10. Exerts influence on politics, media, public administration, judicial authorities or the economy (describe practices and the organizations at which the corruption was aimed)			
11. Is determined by pursuit of profit and/or power (explain)			

Depending if it relates to the trafficker or a case

¹¹² These indicators will assist enforcement agencies in determining if a criminal network meets the definition of organized crime group based upon the definition put forth by Europol (6204/2/97 ENFOPOL 35 REV 2) and used in Europol's Organized Crime Threat Assessment.

Additional indicators	Answers		
	Yes	No	Additional Information
Use of safe-houses (which countries)			
Use of false or counterfeit identity and travel documents			
Other crimes linked to trafficking in human beings committed (migrant smuggling, drug smuggling, forced prostitution, pimping, money laundering, extortion, other)			

C. Templates for more Comprehensive Data Collection on the Trafficking Process

This information is to be collected by NGOs and other victim service providers, law enforcement or other government bodies. Much of the data on the trafficking process will be collected during interviews with victims or with traffickers and will provide valuable information on the nature of the trafficking.

➤ INFORMATION PROVIDED PER VICTIM

Information (indicators) to be collected	Answers
Type of recruitment	<i>Kidnapping/Sold by member of family/Sold by non-family member/Adoption/Educational opportunity offered or expected/Family visit offered or expected /Friend visit offered or expected /Labour opportunity offered or expected /Marriage offered or expected/Tourism/Other/Not available/Not known</i>
Relationship between victim and recruiter	<i>Family/Relative/Acquaintance/Friend/Stranger/Not available/Not known</i>
National borders crossed	<i>No national borders crossed/National borders crossed/Not available/Not known</i>
Forms of border crossing	<i>With legal documents/With false documents/With the assistance of a third person/Illegally/Not available/Not known</i>
Type of exploitation	<i>Sexual exploitation/Forced labour (Agricultural work/Begging/Child care/Construction/Domestic work/Factory work/Fishing/Mining/Restaurants and hotel work/Small street commerce/Trade/Other)/Low level criminal activities/Forced military service/Forced marriage/Organ removal/Other/Not available/Not known</i>

D. Templates for more Comprehensive Data Collection on Criminal Justice Responses to Trafficking

This information is to be collected by the Prosecution Service/Courts and NGOs or other victim service providers which may be assisting victims throughout the investigation and trial.

➤ NUMBER OF VICTIMS WHO TESTIFIED IN COURT PROCEEDINGS

Information (indicators) to be collected	Answers
Gender	<i>Male/Female/Transgender/Not known</i>
Nationality	<i>Country</i>
Country of Birth	<i>Country</i>
Age of first contact with the recruiter/trafficker	<i>In months and years</i>
Place of recruitment	<i>Country</i>
Type of recruitment	<i>Kidnapping/Sold by member of family/Sold by non-family member/Adoption/Educational opportunity offered or expected/Family visit offered or expected /Friend visit offered or expected /Labour opportunity offered or expected/Marriage offered or expected/Tourism/Other/Not available/Not known</i>
National borders crossed	<i>No national borders crossed/National borders crossed/Not available/Not known</i>
Forms of border crossing	<i>With legal documents/With false documents/With the assistance of a third person/Illegally/Not available/Not known</i>
Place of exploitation	<i>Country</i>
Age when exploitation started	<i>In months and years</i>
Legal status in place of exploitation	<i>Regular/Irregular/Not available/Not known</i>
Type of exploitation	<i>Sexual exploitation/Forced labour (Agricultural work/Begging/Child care/Construction/Domestic work/Factory work/Fishing/Mining/Restaurants and hotel work/Small street commerce/Trade/Other)/Low level criminal activities/Forced military service/Forced marriage/Organ removal/Other/Not available/Not known</i>
Type of assistance given to the victim	<i>Medical assistance/Psychological assistance/Legal assistance/Shelter/Travel assistance/Reception assistance/Reintegration assistance/Resettlement assistance/Integration assistance in destination country/Other/Not available/Not known</i>
Cooperation of victim with law enforcement	<i>Yes/No/Not available/Not known</i>
Cooperation of victim with judicial officials	<i>Yes/No/Not available/Not known</i>

Re-trafficked victim	<i>Yes/No/Not available/Not known</i>
Compensation and remuneration	<i>Compensation received/Remuneration received/Compensation and remuneration received/Compensation received but nor remuneration/No compensation no remuneration received/Not available/Not known</i>
If compensation received, what type of compensation	<i>Monetary (Amount)/Other/Not available/Not known</i>

➤ **NUMBER OF PERSONS PROSECUTED**

Information (indicators) to be collected	Answers
Gender	<i>Male/Female/Transgender/Not known</i>
Nationality	<i>Country</i>
Country of Birth	<i>Country</i>
Country of residence	<i>Country</i>
Minor at time of committing the crime	<i>Yes/No/Not available/Not known</i>
Year(s) when crime was committed	<i>Year(s)</i>
Past criminal record	<i>Yes/No/Not available/Not known</i>

➤ **NUMBER OF PERSONS CONVICTED UNDER NATIONAL TRAFFICKING LAW**

Information (indicators) to be collected	Answers
Gender	<i>Male/Female/Transgender/Not known</i>
Nationality	<i>Country</i>
Country of Birth	<i>Country</i>
Country of residence	<i>Country</i>
Minor at time of committing the crime	<i>Yes/No/Not available/Not known</i>
Year(s) when crime was committed	<i>Years</i>
Past criminal record	<i>Yes/No/Not available/Not known</i>
Penalty per type of trafficking case	<i>Sentence to prison/Fine/Probationary/Other/Not available/Not known</i>
Confiscation of criminal assets	<i>Yes/No/Not available/Not known</i>

PART IV PROCEDURAL CONSIDERATIONS

IV

The previous two chapters dealt with what data should be collected. This chapter will now focus on procedural considerations including who should analyze the data, who will have access to the data, and how it should be evaluated and analyzed.

A. Who Should Analyze Data – National Rapporteur or Equivalent Mechanism?¹¹³

The Hague Ministerial Declaration of 1997 was the first international document to recommend that EU Member States establish a new national reporting mechanism, giving rise to the concept of a “National Rapporteur”. Similar recommendations followed in 2002 from the Council of Europe Parliamentary Assembly, the European Council, and then in 2003 from the OSCE Action Plan.¹¹⁴ It is important to highlight that, in general, the recommendations aimed at: (1) identifying the scale of the problem; (2) encouraging the exchange of information between counterparts at the international level; (3) the compilation of annual reports for government discussion at national level, with a view to developing appropriate policies (i.e. Parliamentary debate); and (4) encouraging research in order to better understand and counter this phenomenon.¹¹⁵ The importance of empirical evidence was also underscored in the EU Plan on Best Practices, Standards and Procedures for Combating and Preventing Trafficking in Human Beings (2005/C 311/01).

When analyzing the existing practices of National Rapporteurs, or equivalent mechanisms,¹¹⁶ of a number of OSCE participating states, including members of the European Union, the advantages of such a function are apparent. Such advantages include the better representation of trends, efforts and responses at state level in relation to trafficking in human beings, including the significant impact on the development of national policy and legislation. As illustrated by the examples of the Czech, Dutch and Swedish National Rapporteurs, the primary aspect of this function constitutes the accumulation and analysis of information, despite the difficulty of gathering accurate data due to the hidden nature of this crime. Target-oriented research by a number of stakeholders can assist governments, civil society and the international community in understanding some facets of the problem and help devise specific recommendations for action. Yet such reports cannot substitute for on-going national efforts on a yearly basis in the gathering and analysis of information. Furthermore, as demonstrated by the example from the Netherlands, one of the main tasks of this function is to inform the government on all aspects of trafficking in human beings, including information on the nature and the scale of the problem, perpetrators, *modus operandi*, and victims. Governments also require more information on general themes such as prevention, legislation, government policy and important developments in these fields at the national and international levels. In general, the report serves as a key instrument in terms of identifying both gaps and the progress made at the national

¹¹³ This section was drafted by Anelise Gomes de Araujo, OSCE.

¹¹⁴ The OSCE Action Plan recommends that participating states: “[...] consider appointing National Rapporteurs or other mechanisms for monitoring the anti-trafficking activities of state institutions and the implementation of national legislation requirements.” In 2006, the Brussels Ministerial Decision No. 14 further underscored the importance of a national self-reporting mechanism and recommended, again, that states “[...] consider appointing National Rapporteurs or similar independent monitoring mechanisms.”

¹¹⁵ Based on Mattar, Mohamed (2006): *Comparative Modes of National Reporting Mechanisms on the Status of Trafficking in Human Beings*, unpublished background paper.

¹¹⁶ Results from OSCE 6th Alliance Conference on *National Monitoring and Report Mechanism to Address Trafficking in Human Beings: The Role of National Rapporteurs*, Vienna, 21 May 2007.

level. Annual national reports produced by the National Rapporteur or an equivalent mechanism can also contribute towards policy and program evaluation, including the provision of a better overview of human resources and capital allocation within the national efforts to combat human trafficking.

It is important to stress that the collection and use of information produced by NGOs and other victim service providers is of particular value at the reporting stage, especially when analysing the relevance of policies and services for trafficked persons, including specific target groups such as children. Good examples of national reporting reveal qualitative and quantitative information on a number of issues ranging from criminal investigation and prosecution to prevention, victim support and assistance, and recommendations. Another important element in terms of having National Rapporteurs or an equivalent mechanism fulfilling this function is national ownership and the use of this mechanism towards self-monitoring efforts made by the government vis-à-vis its counter-trafficking policy. Moreover, if a national report is made public, it would serve as a foundation for policy debate based on empirical findings as opposed to perceptions and anecdotal information. The validity of a centralized focal point for gathering and analyzing information is another important benefit of this function as a number of States receive on-going queries concerning trafficking in human beings. As a result, this entity can facilitate the delivery of adequate, comprehensive responses to questionnaires and country assessments. The National Rapporteur or an equivalent mechanism can facilitate the exchange of information between countries and from countries to institutions, and provide a central mechanism for back-up assistance regarding concrete activities and programmes, including inputs to threat assessment.

In 2007, the OSCE 6th High-level Alliance Conference focusing on National Rapporteurs gathered a number of examples from the most advanced and well-developed monitoring and reporting mechanisms in the region. This event led to interesting conclusions and recommendations concerning the overall role of this national mechanism, including the confirmation that such a function within the OSCE region can contribute towards better statistical knowledge and understanding of trafficking in human beings based on concrete evidence. Moreover, such national mechanisms can also play a role in better regional and international cooperation between counterparts as the information would create a better basis for policy and action on all levels – from national and regional, to international (i.e. agreement on common/standardized indicators for data comparison across borders).

Overall, reports produced by the National Rapporteurs should be based on Article 3 of the UN Trafficking Protocol so as to include all forms of trafficking and ensure a comprehensive coverage of the problem. In addition, National Rapporteurs should be responsible for the collection and analysis of data (qualitative and quantitative information and disaggregated data) on the broader issues related to trafficking in persons in the context of the ‘three Ps’ (prevention, protection and prosecution), including measures taken to protect victims. Furthermore, a national report should not lose sight of the importance of identification and treatment of, and assistance to victims of trafficking, data protection and the concerns of trafficked persons should be reflected in the report as part of a victim-centred approach. Finally, recommendations for areas of improvement or amendment are an integral part of the national report and the work of the National Rapporteur or equivalent mechanism.

GUIDELINE 12

Member States of the European Union should implement the recommendation from the 1997 Hague Ministerial Declaration, Council of Europe Parliamentary Assembly, the European Council, the EU Action Plan and OSCE Action Plan to establish a national monitoring and reporting mechanism through the function of the National Rapporteur or equivalent mechanism. This mechanism should be established with a view to improve data gathering, analysis and understanding of the problem, as well as improving the reporting and evaluation of national anti-trafficking efforts, including the effectiveness of legislation and national strategies and the use of resources.

B. Who will have Access to which Data?¹¹⁷

All locally gathered data concerning identified trafficked persons which is then stored at the national level must be protected by adequate data protection safeguards in accordance with national data protection law, including all relevant European laws and regulations and international standards.¹¹⁸ Regulations should be in place to ensure the confidentiality of the client-counsellor relationship and the personal data revealed and to protect counsellors from any obligation to pass on information to third parties without the consent of the victim of trafficking.

Non-personal, anonymous data can be made public immediately, whereas personal data must be subjected to legal data protection measures. EU Member States have a legal obligation to maintain personal data confidentiality, in accordance with Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995, on the protection of individuals with regard to the processing of personal data and on the free movement of such data.¹¹⁹

Data protection is then an extremely sensitive issue especially since increased cooperation and data exchange have led to greater risks of misuse of data. As a matter of fact, any failure to protect personal data may pose a direct and serious threat to the life, health and safety of trafficked persons. This means that the exchange of personal data has to be based on appropriate guidelines/standard operating procedures and strict data protection protocols and regimes that stipulate how information should flow between different agencies while meeting the pertinent legal requirements. In other words, when personal data related to trafficked persons are shared with other agencies or individuals, personal information concerning victims of trafficking can only be divulged (i.e. shared between different agencies) if it is legally possible and/or with the informed consent of the individual concerned (or, in the case of a child, with the consent of the child's guardian or other person with formal responsibility for the child's best interests). This information concerning the release of personal data may be available from the national data protection authority.

To guarantee the protection of personal data, strict access controls and data security mechanisms should be in place, such as a system of "restricted notes" and unique identification numbers on files (or any alternative system in use that protects the identity of individuals) concerning personal information about presumed trafficked persons should be employed by all agencies (i.e. law enforcement agencies, the immigration service, social services, outreach and health care workers, and any relevant intergovernmental organizations or NGOs) that record data related to presumed trafficked persons.

The use of "restricted notes" or unique identification numbers also allows the possibility to "follow" the trafficked person along his/her path of protection and support. This is possible as the same identification number will refer to the same person and will be used by all agencies that contact him or her. Such a procedure will allow all actors that contact a specific person to have a full picture of the case they are managing.

The operative system that should be put in place is the following:

- Each actor that, for any reason, is in contact with a trafficked person and collects data on her/him should create an informative system able to store all data and information that is able to identify this victim through a unique identification number;
- All data (or at least a minimum set shared at a national level) should be included in a national information system to which each authorized actor dealing with trafficked persons can access through a reserved area by inserting a personal password. In this way each actor can obtain statistics on specific data and information;
- Actors dealing with trafficked persons can only see and use the proper data and information;
- The national informative system should provide national statistics using data and information coming from different subjects and sources, providing an overall picture of the phenomenon of human trafficking in the country.

¹¹⁷ This section was drafted by Flavia Pesce, Osservatorio Tratta/Institute for Social Research, and Isabella Orfano, Osservatorio Tratta/Associazione On the Road.

¹¹⁸ Also see Part VI - *Protection Mechanisms and Ethics*.

¹¹⁹ See Annex III.C. for further information on the Directive.

GUIDELINE 14

A minimum set of data shared at a national level should be included in a national information system to which each actor dealing with trafficked persons can gain access through a reserved area by inserting a personal password which should be regulated by national data protection law. Data should be exchanged on a need-to-know basis and sensitive data pertaining to the identity and safety of the victim should be safeguarded. The exchange of personal data should be safeguarded by meeting legal requirements, appropriate guidelines/standard operating procedures and strict data protection protocols.

C. Evaluation of Collected/Gathered Data¹²⁰

Anti-trafficking actors involved in the collection of trafficking-related data – be it victim-centred data or trafficker-centred data- have a responsibility to ensure that data collected is adequate, relevant and not excessive in relation to the purpose(s) of collection and processing, and to take reasonable steps to ensure that data is up to date and accurate. In previous chapters and sections, guidance has been provided on the nature of data that should be collected; the means by which to do so and, the ethical practices and mechanisms that must be put in place and upheld to facilitate the collection of such human trafficking related data. Equally important in this process is a discussion surrounding precisely what to do with the collected data: the data evaluation process. As Surtees states,¹²¹ “collecting data about trafficking in and of itself is not sufficient”; or put another way, data that remains unprocessed reveals very little. For any such collected data to be meaningful and beneficial to anti-trafficking stakeholders, practitioners and policy-makers, one first needs to evaluate the quality, importance and value of the data. That is, data needs to be compiled, analyzed and evaluated.

This section will provide some basic steps on how to evaluate data on human trafficking gathered by EU Member States. The guidance herein provided is by no means exhaustive and Member States should ensure that the issue of data evaluation is fully integrated into respective trafficking data collection projects. EU Member States and all concerned actors should equally ensure that this section is read in conjunction with Part VI *Protection Mechanisms and Ethics*; and namely that best practice data protection principles are further fully integrated into respective trafficking data collection and analysis projects. It is also important to refer to Part IV A. *Who Should Analyze Data - National Rapporteur or Equivalent Mechanism?* As recommended earlier, a central system for data gathering (of both qualitative and quantitative data) should be established and tasked specifically with this role of data evaluation, as illustrated in the Czech Republic, The Netherlands and Sweden. Having a central point through which all data is gathered and analyzed would also, as previously indicated, add validity to the data evaluation process.

(1) Data Evaluation and Consent

The issue of informed consent is fundamental to the collection of data on human trafficking. From the outset, one must ensure that all data to be evaluated and analyzed has been collected with the consent of the data subject and/or his or her guardian. In return, one must also ensure that the purpose(s) for which the data are collected and processed are specified and legitimate, and are known to the data subject at the time of collection. Thus, the purpose of the data evaluation must be in line with

¹²⁰ This section was drafted by Sarah Craggs, IOM.

¹²¹ Surtees (2008b) *Handbook on Anti-Trafficking Data Collection in South Eastern Europe: Developing Regional Criteria*, ICMPD, Vienna.

the original data collection purpose. For example, data collection tools such as interview forms should include a specific clause stating that non-personal data will be used for research purposes.¹²² All data subjects should be informed of their right to decline consent to this clause.

(2) Data Quality and Accuracy: The Process of Data Verification and Data Cleaning

As highlighted in Part VI, an additional key principle of data protection, which should be applied equally to the process of data evaluation, is that of ensuring data quality. Data quality refers to the accuracy, reliability, usability, comparability, and relevance of a dataset. During all steps in the process - ranging from data collection, registration, retrieval, usage and data disclosure - all actors have a responsibility to ensure that data collected are adequate, relevant and not excessive in relation to the purpose(s) of collection and processing.¹²³ In addition, all relevant actors need to ensure throughout the life cycle of the process that data are up to date and accurate.

Due to the data gathering process, different stakeholders may undertake data updating and accuracy checks. For example, it should be advised that the original data collection body (governmental or non-governmental) undertakes such checks prior to sending the data to the central reporting body with the role of national data gathering and data analysis.

Example:

Information relating to the age in years of a trafficked person at the time of interview should be coherent with the registered date of birth (DOB) and the interview date. The accuracy of this information can be tested by cross-checking the interview date with the DOB. The recorded age in years should match the age of a person born in the respective year on the date of interview. If the information is found to be inaccurate, it should be updated accordingly. Furthermore, there may also be a need to take necessary action with regard to the manner in which data is being managed and processed to identify the reason for double-counting and to prevent it from happening in future.

The quality of data within a dataset may also vary significantly due to the manner in which the data is collected: a lack of mechanisms by which to share data between governmental and non-governmental institutions and organizations; high levels of non-response; or resource limitations hindering data entry. It is therefore also necessary to regularly verify the quality of the data.

It should again be advised that the original data collection body (governmental or non-governmental) runs regular data quality tests – for example, frequency and cross-tabulation tests - every month where feasible,¹²⁴ and at a minimum every three months. Data controllers based within the designated national reporting body, such as the office of the National Rapporteur or an equivalent mechanism should endeavour to run regular data quality tests as means to verify and validate the data that are being gathered.

While measures to verify the accuracy of the data do not necessarily have to include regular checks with the data subject, data controllers should afford data subjects – in particular, victims of trafficking – the opportunity to submit any significant changes within a defined period.¹²⁵ All changes made should be clearly documented. Wherein data verification and validation checks are specifically undertaken by the national reporting body, there may often be the need to contact the original data collection body from which the data was gathered (i.e. NGOs or other victim service providers, police,

¹²² As an example, please refer to the IOM's VoT Screening Interview Form and/or contact CTS-db@iom.int for more detailed information.

¹²³ Specifically, please refer to Article 5 of the *Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data at the Council of Europe level, Council of Europe Convention CETS No. 108, 28.01.1981*; and *Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the Protection of Individuals with regard to the Processing of Personal Data and on the Free Movement of such Data*.

¹²⁴ On the proviso that new data has been collected or that data has been updated.

¹²⁵ EU Member States should refer to national data protection instruments and legislation.

health practitioners, social service department, immigration office or others) to obtain further information and facilitate any necessary changes.

As a basic list, it is recommended that regular data cleaning be conducted to check for:

- Duplicate cases within the dataset;
- Range checks and ambiguous outliers. For example, the number of days worked per week should always be equal to or less than seven (7), the number of hours worked per day equal to or less than twenty-four (24);
- Irregular/unlikely patterns;
- High levels of non-response;
- That all cases are correctly encoded as internal or international trafficking;
- That the ages are correctly encoded;
- That the data reflects the true gender breakdown.

Example: Duplicate cases

Data analysis undertaken on trafficking data and the consequential credibility of any such respective research findings can be severely undermined by duplicate cases. Where duplicate cases are included in the analysis, the outcome will be the double counting of individual cases. As the key objective for collecting data is to better understand the phenomenon of human trafficking, along with a view to devising better national and/or regional estimates on human trafficking, to ultimately inform policy and programme development, it is essential that all datasets are checked for duplicate entries. To assess whether a case has been entered twice within a victim-centred dataset, data controllers can, for example, cross-check against the spelling of the name, the date of interview, the gender and age of the victim of trafficking, the recorded nationality and the recorded type of trafficking. If a case has all the same case data but the name has a slightly different spelling, there is a good chance that it could indeed be a duplicate/twice entered case that needs deleting. Cases confirmed to be genuine duplicate entries, should be deleted from the dataset accordingly.

GUIDELINE 7

All counter-trafficking partners providing data on trafficking in human beings must ensure that data has been collected with the consent of the trafficked person, and that the data is accurate and usable.

(3) Data Analysis: Towards the Dissemination of Research Findings

Issues of data quality and data accuracy, and the subsequent process of data verification and data cleaning, are essential components of the data evaluation process; leading up to and facilitating the eventual undertaking of data analysis and the end dissemination of research findings. As mentioned earlier in this section, for data to prove meaningful and beneficial to anti-trafficking stakeholders, practitioners and policy-makers, data analysis needs to be undertaken and the research findings disseminated.

While it is not in the remit of this report to provide detailed guidance on how to undertake data analysis,¹²⁶ it is important to highlight some special considerations:

a) All data should be de-personalized:

EU Member States may request that single case and/or aggregate human trafficking data is to be shared with the central system tasked with data gathering and analysis, such as the office of the National Rapporteur or equivalent mechanism. However, all quantitative and qualitative data related to cases of human trafficking is to be regarded as highly sensitive, and all data that could be used to identify or harm an individual should be classified as confidential. Therefore, any research report produced should only include de-personalized data; data included should be completely anonymous so that it in no way reveals the true identity of the individual. The real names and identities of data subjects can be protected through the assignment of pseudonyms to case file data. Similarly, when information pertaining to the victim might reveal the victim's identity or jeopardize his or her safety, the trafficking case should be included in the registration, but particular information (such as the name or date of birth of the victim) should be recorded as "not available". As an additional safeguard, EU Members States may also wish to decide as to whether only aggregate data should be used for evaluation and research purposes, particularly when the findings are to be disseminated externally.

b) Sensitive data categories:¹²⁷

For the purpose of the above guidance, confidential personal victim data shall be defined at the minimum as:¹²⁸

- Family name, given name;
- Addresses or telephone numbers, either current or previous;
- Date of birth;
- Place of birth;
- Racial or ethnic origin;
- Personal documents such as: passport, identity card, social security card, birth certificate, marriage certificate, visa, etc. that may lead to the identification of the individual;
- Physical or environmental descriptive detail that could lead to the disclosure of identity of the individual including detailed information relating to trafficking routes used;¹²⁹
- Details about the conditions of exploitation that could lead to identification;
- Medical history, current and past;
- Any details as referred to above in respect of the individual's family members or other persons close to the individual;
- Political opinions, religious or philosophical beliefs, trade-union membership, health or sex life.¹³⁰

¹²⁶ EU Member States should ensure that staff tasked with the responsibility of gathering and analyzing data are fully trained. They should be competent to undertake analysis of both quantitative and qualitative human trafficking data and to implement adequate data protection safeguards. This implies that selected staff should be knowledgeable of both methodological and conceptual issues to be able to adequately evaluate human trafficking data.

¹²⁷ Also see Part VI - *Protection Mechanisms and Ethics*.

¹²⁸ Adapted from International Organization for Migration (2007): *op. cit.* The above list is by no means exhaustive: Please also refer to Part VI - *Protection Mechanisms and Ethics* for a more detailed discussion.

¹²⁹ Such data should be analyzed on a case-by-case basis. It is advisable to only include general information relating to trafficking routes.

¹³⁰ Please refer to *Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the Protection of Individuals with regard to the Processing of Personal Data and on the Free Movement of such Data*.

c) **Contextualization of data:**

The quality of the data analyzed and the findings that are subsequently drawn can only be as good as the data that is gathered. In this regard, it is important to fully contextualize the data. That is, the sample of data analyzed and included should be fully explained with regard to the broader context. For example, if data gathered and analyzed relates only to assisted trafficked persons, then it should be highlighted that the data cannot necessarily be viewed as representative of trafficking in the country as not all trafficked persons receive assistance. Furthermore, not all trafficking cases are formally identified. In the same respect, it is also important to highlight the potential limitations with the dataset.

Key principles of data evaluation¹³¹

1. Always respect confidentiality
2. Always uphold issues of consent with respect to the data analyzed
3. Always uphold data quality and data accuracy
4. Always implement appropriate data security mechanisms

¹³¹ In all instances the guiding principles should be read against a national backdrop, taking into account the national legislation and policy for the collection, storage, evaluation, and dissemination of data on human trafficking.

PART V TOWARDS IDENTIFYING POTENTIAL CASES OF TRAFFICKING¹³²



Victims of trafficking are often recruited through fraud or deception, and controlled in transit or in the destination place/country through a means of threat or use of force or other forms of coercion. This coercion can vary from threatening to report a trafficked person who is at the same time an irregular migrant to the police, to the threat or actual harm against the trafficked person or his or her family. Victims may be made dependent upon the trafficker, and exploitation combined with multiple dependencies – for housing and subsistence, employment, transportation and medical care – are perhaps the strongest indication that a person has been trafficked.

NGOs and other victim service providers, law enforcement, social services, labour inspectors, outreach and health care workers, border guards, customs officials and others who may come into contact with persons who may be victims of trafficking should be provided with a list of indicators or signals which would allow them to identify a presumed victim of trafficking. The signals or indicators may differ depending upon whether an individual has been trafficked internally (and is a national of the Member State), or internationally, whether the presumed victim has only been recruited, is in transit or exploited in the destination country, is exploited in the commercial sex sector, in other labour sectors, is a victim of organ trafficking or whether the presumed victim is a child or an adult.

This section provides a list of indicators that agencies should use in the course of their work. The list should be adapted to the particular situation within a EU Member State – which may be determined by the type of persons being recruited and the markets in which they are being exploited. A general list of indicators is provided, followed by additional indicators that may assist in the identification of child victims of trafficking. Alternative sources for the referral of presumed cases of trafficking are then discussed, followed by a discussion on the reliability of trafficking estimates.

A. Industries/Markets where Persons may be Trafficked

Industries in which trafficked victims can be found vary. Victims of sex trafficking may be found involved in:¹³³

- Street prostitution
- Window prostitution in Red Light Districts
- Private flats
- Brothels
- Strip clubs/bars
- Pornography production companies
- Escort services
- Massage parlours
- Modelling agencies
- Hotels
- Private clubs
- Restaurants and cafés

¹³² This section was drafted by Alexis A. Aronowitz, University College Utrecht.

¹³³ U.S. Department of State (2004): “*How Can I Recognize Trafficking Victims?*” Fact Sheet, Office to Monitor and Combat Trafficking in Persons, Washington DC, 28 July, <http://www.state.gov/g/tip/rls/fs/34563.htm>. Other industries have been identified by Members of the Expert Team and have been added to this list.

This list is not exhaustive and must be constantly updated based upon information provided by police investigators, NGOs and other victim service providers, labour inspectors and others coming into contact with trafficked victims.

Victims of labour trafficking may be found working in those industries or markets most prevalent in a particular country, and may include:¹³⁴

- Domestic Service (nannies and maids)¹³⁵
- Restaurant and custodial or cleaning work
- Factories (exposure to abusive labour standards)/Sweatshops
- Commercial agricultural industry
- Plants (meat and fish processing, canneries)
- Construction sites
- In-house factories (outsider sewing)
- Mines
- Fishing Vessel
- Logging industry
- Horse riding schools

B. Trafficking Signals

NGOs and other victim service providers, law enforcement, labour inspectors, immigration and customs officials, outreach and health care workers, and others may detect via a number of signals or indicators that a person is being exploited and is not free to quit his/or her job and/or escape from exploitation and/or return home. The signals may indicate that a person has been coerced or deceived, isolated or exposed to poor living and working conditions and denied medical care. The remainder of this section divides general trafficking signals¹³⁶ into the following categories: Deception, Coercion, Illegal Residency, Vulnerability, Exploitative Living/Working Conditions, Isolation, Health Issues and Other. A separate list has been drawn up with signals to aid law enforcement and other inspection services in identifying child victims of trafficking.

It should be explained that these conditions may occur at either the recruitment phase, during transportation or at the destination/during the exploitation phase. While deception is commonly linked to recruitment and coercion is commonly linked to situations at the destination, it is not inconceivable that a victim of trafficking could be subjected to deception, coercion, isolation or other means of control during various phases of the trafficking process. The indicators may, however, differ for persons found in source, transit and destination countries.

Exploitation *and* multiple dependencies is a powerful indicator of human trafficking.¹³⁷

- An individual is exploited and controlled by another person *and* dependent upon that person for work, housing, food, transportation, medical care, etc.

¹³⁴ U.S. Department of State (2004): *op. cit.*

¹³⁵ Sexual exploitation can also take place within trafficking for domestic servitude and other forms of forced labour.

¹³⁶ A single list of general trafficking indicators was provided in *Human Trafficking Indicators* produced by the United Nations Office on Drugs and Crime (UNODC) and distributed at the UN.GIFT Vienna Forum on 13 and 15 February 2008, http://www.unodc.org/documents/human-trafficking/HT_indicators_E_LOWRES.pdf. The list provided below combines indicators provided by the UNODC and by Patsy Sörensen, Director of the NGO Payoke, Antwerp, Belgium.

¹³⁷ These indicators combined with the elements of trafficking – the acts, means and purpose set forth in the definition of trafficking – are indicators of human trafficking. The term “dependency” implies that the trafficker controls various aspects of the victim’s life including access to health care, housing, food, transportation, work and salary.

(1) General Trafficking Signals

None of these signals alone indicates trafficking. When a number of signals are combined, particularly when signs of deception, coercion, exploitive working and living conditions and isolation occur and involve a vulnerable person, there is a greater likelihood that the individual is a victim of trafficking.

Deception

- Have acted on the basis of false promises (marriage, education or job-related promises)

Coercion¹³⁸

- Believe that they must work against their will
- Be unable to leave their work environment
- Show signs that their movements are being controlled
- Feel that they cannot leave their situation
- Show fear or anxiety
- Be subjected to violence or threats of violence against themselves
- Be subjected to violence or threats of violence against their family members or loved ones
- Not be in possession of their passport or other travel or identifying documents, as those documents are held by someone else
- Not be aware that they are in a foreign country and need documents
- Allow others to speak for them when addressed directly
- Act as if they were instructed by someone else
- Be forced to work under certain conditions
- Be disciplined through punishment
- Work excessively long hours over long periods
- Not have any days off
- Be unable to communicate freely with others
- Be tattooed with the name or sign of a trafficker or trafficking group
- Be under the perception that they are bonded by debt
- Have had the fees for their transport to the country of destination paid for by facilitators, whom they must pay back by working or providing services in the destination country
- Coerced through fear of voodoo or animism
- Be forced to take drugs to do certain types of work (prostitution) or work excessively long hours

Illegal Residency

- Be threatened with being handed over to the authorities
- Be afraid of revealing their immigration status
- Be unaware of their irregular status
- Have false identity or travel documents
- Be unaware of having falsified or fraudulent documents
- Not be aware that they are in a foreign country and need documents

Vulnerability

- Be unfamiliar with the local language/cultural issues
- Not know their home or work address
- Be unable to negotiate working conditions
- Be in a situation of dependence
- Has signed a contract in a language that the worker does not understand

¹³⁸ This section contains indicators that traffickers use to control their victims as well as signals that victims of trafficking may exhibit as a result of their victimization.

- Not know the name of their exploiter (the trafficker may use a false name or nickname)
- Be afflicted with a mental or physical handicap
- Be distrustful of the authorities

Exploitative Living/Working Conditions

- Receive little or no earnings
- Have no access to their earnings
- Live in poor or substandard accommodations
- Live at their place of employment
- Pay exorbitant rent for housing
- Have no access to medical care
- Rotated (frequently) between work environments, cities or countries

Isolation

- Have limited or no social interaction
- Have limited contact with their families or with people outside of their immediate environment
- Workers are hidden from others

Other

- Be found in or connected to a type of location likely to be used for exploiting people¹³⁹
- Come from a place documented by government authorities or other stakeholders to be a source of human trafficking
- Be distrustful of the authorities
- Victims tell identical stories or give stereotypical answers concerning transportation, work, etc.
- Significant difference in the price paid upfront for the voyage and the actual cost of the trip

Trafficking and exploitation often bring health risks to victims.

Summary of the **health risks and potential consequences** of being trafficked:¹⁴⁰

HEALTH RISKS	POTENTIAL CONSEQUENCES
Physical abuse, deprivation	Physical health problems, including death, contusions, cuts, burns, broken bones
Threats, intimidation, abuse	Mental health problems including suicidal ideation and attempts, depression, anxiety, hostility, flashbacks and re-experiencing symptoms
Sexual abuse	Sexually transmitted infections (including HIV), pelvic inflammatory disease, infertility, vaginal fistula, unwanted pregnancy, unsafe abortion, poor reproductive health

¹³⁹ The industries in which individuals are trafficked and exploited will vary between countries but may include the agricultural industry, clothing factories, and domestic service.

¹⁴⁰ IOM, London School of Hygiene and Tropical Medicine and UN.GIFT (2009): *op. cit.* This chart is based on the conceptual models and study findings developed in Zimmerman, C. et al. (2003): *The Health Risks and Consequences of Trafficking in Women and Adolescents: Findings from a European study*, London School of Hygiene and Tropical Medicine, London.

Substance misuse Drugs (legal & illegal), alcohol	Overdose, drug or alcohol addiction
Social restrictions & manipulation & emotional abuse	Psychological distress, inability to access care
Economic exploitation Debt bondage, deceptive accounting	Insufficient food or liquid, climate control, poor hygiene, risk-taking to repay debts, insufficient funds to pay for care
Legal insecurity Forced illegal activities, confiscation of documents	Restriction from or hesitancy to access services resulting in deterioration of health and exacerbation of conditions
Occupational hazards Dangerous working conditions, poor training or equipment, exposure to chemical, bacterial or physical dangers	Dehydration, physical injury, bacterial infections, heat or cold overexposure, cut or amputated limbs
Marginalization Structural and social barriers, including isolation, discrimination, linguistic and cultural barriers, difficult logistics, i.e. transport systems, administrative procedures	Unattended injuries or infections, debilitating conditions, psycho-social health problems

(2) Signals to Identify Child Victims of Trafficking¹⁴¹

Children are at particular risk of being trafficked. The following set of signals may assist NGOs and other victim service providers, law enforcement, labour inspectors, immigration and customs officials, outreach, health care and social service officials, and others in identifying trafficked children exploited in various sectors.¹⁴²

General signals

- Limitation of freedom of movement: no permission to leave, permanent surveillance, absence of medical care, no telephone communications, threat and use of (financial) sanctions, etc;
- Identity documents: only a copy, forged or falsified document, no documents at all;
- A facilitator arranges the daily trips or trips on demand to the labour site;
- Signs of physical violence, threat to the family and loved ones.

Signals of sexual exploitation¹⁴³

- Clothes, make-up, age-inappropriate attitude of the child;
- Place where the child was found (locked inside a flat, in the streets, at stops known for potential situations of danger, etc.), the general circumstances (time of day);
- Persons in company of the child;
- Obligation to obtain set amount of money per day, no control on earnings;
- No control on working conditions (might have to have sexual intercourse without condoms and no choice about sexual services).

¹⁴¹ IOM Vienna (2006): *Resource Book for Law Enforcement Officers on Good Practices in Combating Child Trafficking*, Vienna, pp. 90-91.

¹⁴² *Human Trafficking Indicators* produced by the United Nations Office on Drugs and Crime (UNODC), http://www.unodc.org/documents/human-trafficking/HT_indicators_E_LOWRES.pdf.

¹⁴³ A child might be victim of various forms of exploitation such as forced/organized begging during the day and sexual exploitation in the evening.

Signals of labour exploitation

- The working circumstances do not meet standards: safety of the work place, lack of safety equipment, insufficient working infrastructure (humidity, illumination, ventilation, etc.);
- No control over earnings, percentages of earnings are to be paid to middlemen;
- A single bank account number or telephone number (cellular phone) for a number of employees;
- Obligation to work in all circumstances, excessive long hours, without any days off;
- One person possesses the identity documents of the people in his/her company.

Signals of trafficking for begging/stealing

- Child intercepted stealing, pick-pocketing, in the street;
- Obligation to earn a minimum amount of money;
- A “money collector” collects the earnings from begging;
- A middleman points out the locations where the child has to beg/steal (pick-pocketing).

Signals of domestic servitude

- Child sleeps and lives in the place where he/she works;
- Long working hours/no free time/leisure/poor living conditions;
- The child cannot leave the house or has restriction of movement.

Potential Signals

Behavioural cues can also point to the possibility that a child has been trafficked. Law enforcement or members of NGOs and other victim service providers may look for the following signals as further signs of child trafficking. The child:

- Seems drowsy, which may indicate the influence of drugs;
- Has visible signs of violence on his/her body: bruises, scratches, burns, etc.;
- Exhibits anxious behaviour: looks scared or cries;
- Shows a high level of stress; does not answer questions, avoids eye contact or seems unnaturally excited;
- Provides answers that seem pre-learned, too mature or unnatural for the child's age or consults with the accompanying adult before answering;
- Travels with an adult who is not his/her biological parent;
- Exhibits unnatural behaviour towards the accompanying adult;
- Claims that he/she does not know where his/her parents are, has no contact with the family;
- Does not know the exact destination, cannot define for how long he/she has left the home country;
- Has no travel documents, cannot explain what has happened to his/her passport.

C. Alternative Sources for the Referral of Presumed Cases of Trafficking¹⁴⁴

(1) Alternative Sources

Trafficking victims may be hidden among those who have legally or illegally entered a country, or legally or illegally reside in a country, those claiming asylum or persons working illegally and exposed to exploitative conditions. Law enforcement authorities and labour and social welfare inspectors should be alert to the possibility of trafficked victims hidden within these populations.

¹⁴⁴ This section was drafted by Patsy Sörensen, NGO Payoke, and Alexis A. Aronowitz, University College Utrecht.

Indirect indications or signs of human trafficking can be found in statistics generated by numerous agencies monitoring activities which may be related to trafficking. These include, but are not limited to statistics measuring:

- Applicants for international protection who are considered by the responsible national authority to be unaccompanied minors
- The number of persons who disappear from shelters/residences while in the asylum procedure
- Number of third country nationals detected by law enforcement or immigration authorities when entering or attempting to enter the country illegally
- Number of third country nationals who have been detected by law enforcement authorities while not fulfilling, or no longer fulfilling, the conditions for stay or residence in the Member State
- Diversity of nationalities within a group intercepted by law enforcement or immigration officials while in the country or trying to enter the country
- Number of persons found to be working in exploitative labour conditions
- Assessment of prevalence of crimes usually related to trafficking in human beings (falsified documents, smuggling, corruption of government officials, physical assaults of victims by traffickers, money laundering)

Table 1 Indirect Indications of Trafficking and Signalling Organizations

Indirect Indications	Organizations which may signal (possible or presumed) trafficked persons
Applicants for international protection who are considered by the responsible national authority to be unaccompanied minors	Law enforcement authorities, NGOs and other service providers dealing with migrants/asylum seekers
The number of persons who disappear from shelters/residences while in the asylum procedure	NGOs and other service providers, shelter employees, law enforcement authorities
Number of third country nationals detected by law enforcement authorities when entering or attempting to enter the country illegally	Law enforcement authorities
Number of third country nationals who have been detected by law enforcement authorities while not fulfilling, or no longer fulfilling, the conditions for stay or residence in the Member State	Law enforcement authorities
The number of (recent) migrants per nationality	Central Bureau of Statistics
Diversity of nationalities within a group intercepted by law enforcement or immigration officials while in the country or trying to enter the country	Law enforcement authorities
The number of visas issued and refused per purpose of stay	Ministry of Foreign Affairs/Ministry of Interior
The number of persons found to be working in exploitative labour conditions	Labour inspectors, law enforcement authorities, visitors/customers
Assessment of prevalence of crimes regularly related to trafficking in human beings (falsified documents, smuggling, corruption of government officials, physical assaults on victims by traffickers)	Law enforcement authorities
Local and informal economy assessments per sector (if available)	Labour inspectors, NGOs and other service providers, researchers
Local and national public and/or private corruption assessments (if available)	Law enforcement authorities, researchers

(2) Victim Identification and Data Collected by other Agencies¹⁴⁵

Other agencies can be instrumental in identifying persons at risk, potential victims, or presumed victims.¹⁴⁶ During the course of inspections, these persons may encounter individuals who appear to be trafficked persons. Reports of suspected cases of trafficking to NGOs and other victim service providers or the police by these agencies could result in the rescue and the provision of assistance to victims as well as valuable data on trafficking and trafficked persons for registration. Possible agencies include but are not limited to:

¹⁴⁵ Drafted by Flavia Pesce OsservatorioTratta/Institute for Social Research, Isabella Orfano, Osservatorio Tratta/Associazione On the Road, and Alexis A. Aronowitz, University College Utrecht.

¹⁴⁶ See footnote 76 for a definition of these terms.

- Immigration services;
- Health services;
- Labour inspectorates;
- Trade unions;
- Housing authorities;
- Other relevant sectors of civil society.

The direct involvement of these agencies in the provision and collection of data depends on the structure of the referral system in place in the country. Table 2 presents situations in which various agencies may come into contact with trafficked victims.

Table 2 Situation in Which Agencies May Identify Possible Cases of Trafficking

Agency	Situation
Immigration services	Identification of irregular migrants and asylum seekers in country or at border crossings
Health services	Provision of medical service to persons injured in accidents at work; provision of medical services to (migrant) sex workers, provision of emergency services to persons injured in an assault
Labour inspectorates	Suspicion of exploitation of workers during health and safety checks
Trade Unions	May identify situations of labour exploitation
Housing authorities	Overcrowding in poor housing conditions, particularly involving irregular migrants
Civil Society	Hotlines, NGOs involved in providing services to victims of domestic violence, sex workers, migrants

These and other agencies could be instrumental in assisting NGOs and other victim service providers, law enforcement and government authorities in identifying areas of high risk and identifying individuals strongly suspected of being trafficked persons. By generating data on these groups, governments may come closer to creating a clearer picture of the vague figure of human trafficking within their borders.

GUIDELINE 3

Member States of the European Union should identify common signals in the form of indicators and investigate both direct and indirect sources of data. Indicators may contribute to the assessment of the situation and identify risk areas. This activity is necessary in order to identify and assess both potential and actual trafficking cases and trends, and help design targeted prevention, assistance, enforcement and protection measures.

D. Uncovering the Dark Figure of Human Trafficking Cases¹⁴⁷

Due to the clandestine nature of human trafficking, it is impossible, with any degree of certainty, to identify the “dark figure” of this hidden crime, or to provide accurate estimates on the number of trafficked victims in a country. Discrepancies between estimated numbers of victims and those actually identified are huge¹⁴⁸ and the estimate is often ten times higher than the actual number of identified victims. In 2003, The Dutch National Rapporteur on Trafficking in Human Beings estimated that only five per cent of victims report their victimization or come to the attention of government authorities.¹⁴⁹ According to experts, the proportion of the number of identified victims out of the estimated totals varies considerably between countries, but is generally somewhere between five and ten per cent.¹⁵⁰

The table below provides an indication of this gap between estimates and victims actually identified in a number of EU Member States and the United States.

Country	Trafficking Estimates	Victims Identified	Year
Belgium ¹⁵¹	1,000 – 3,000	270	2000
Netherlands ¹⁵²	1,000 – 3,000	287	1999
Germany ¹⁵³	2,000 – 20,000	926	2000
United Kingdom ¹⁵⁴	4,000 annually	489	March 2003 – May 2006
United States	45,000 – 50,000	5,500	1999-2000

Source: Aronowitz (2009): *op.cit.*

One of the major criticisms of estimated numbers of human trafficking is that organizations or governments often fail to describe the methodology by which they reached these estimates. This problem has been addressed by the International Labour Organization (ILO), which in 2005, produced estimates of the number of people in forced labour as a result of trafficking. The ILO estimates that 2.45 million people are in forced labour worldwide as a result of trafficking (both internally and transnationally). The majority of victims are trafficked for sexual exploitation (43%), almost a third (32%) is trafficked for economic exploitation and 25% are trafficked for mixed reasons. It is estimated that 270,000 persons are trafficked in or into industrialized countries.¹⁵⁵

The ILO developed its own methodology to produce estimates of forced labour based on “double sampling” of reported cases of forced labour. This methodology leads to minimum estimates. The technical aspects of the methodology are described briefly in the box below.¹⁵⁶ The ILO cautions that “[t]his method does not generate reliable country estimates, which can only be obtained through systematic and in-depth national field studies”.¹⁵⁷

¹⁴⁷ This section was drafted by Alexis A. Aronowitz, University College Utrecht.

¹⁴⁸ Makkai, Toni (2003): *Thematic discussion on trafficking in human beings*, Workshop on trafficking in human beings, especially women and children, 12th Session of the Commission on Crime Prevention and Criminal Justice, Vienna, 15th May.

¹⁴⁹ The Research and Training Center of Polaris Project (2003): “*Very Low Number of Police Reporting Trafficking in Women*”, News Article, 21 January 2003. Polaris Project website: www.actioncenter.polarisproject.org.

¹⁵⁰ Lehti, Martti and Kauko, Aromaa (2007): *Trafficking in Human Beings for Sexual Exploitation in Europe*, in: *International Journal of Comparative and Applied Criminal Justice*, Fall 2007, Vol. 21, No. 2, pp. 123-145.

¹⁵¹ Lehti, M. (2003): *Trafficking in women and children in Europe*, HEUNI, No. 18. and Makkai, (2003): *op.cit.*

¹⁵² Lehti, M. (2003): *op.cit.*

¹⁵³ *Ibid.*

¹⁵⁴ United Kingdom Parliament, House of Lords and House of Commons, Joint Committee on Human Rights (2006), 26th Report of Session 2005-2006, Human Trafficking. HL 245/HC 1127. 13 October 2006.

¹⁵⁵ Belser, P.; de Cock, M.; Mehran, F. (2005): *ILO minimum estimation of forced labour in the world*, International Labour Office, Geneva.

¹⁵⁶ The methodology is explained in more detail in Belser, P.; de Cock, M.; Mehran, F. (2005), *op.cit.*

¹⁵⁷ *Ibid.* The difficulty of obtaining precise, reliable statistics was also pointed out in a report of the United States National Academy of Sciences (2004): *Monitoring international labour standards: Techniques and sources of information*, The National Academies Press, Washington DC.

Methodology of the ILO minimum estimate of forced labour

In the absence of reliable and widely accepted national estimates, the ILO methodology relies on a particular statistical method described as “double sampling” of reported cases of forced labour. This sampling procedure, called “capture – recapture” in the statistical literature, was originally designed to estimate the abundance of wildlife, but is now also being applied to many types of elusive human populations, including numbers of victims of war crimes. In its simplest form, the method consists of drawing two independent lists (capture and recapture), each representing a random sample of the population to be estimated. The number of persons in each of the two lists is then counted, as well as the number of persons found in both lists. The resulting three numbers provide the basis for estimating the size of the target population as a whole. In the present context, the double-sampling procedure was implemented by the ILO through engaging two teams of researchers, who worked independently of each other, with equal workloads and in similar environments.

The two teams were trained to produce two independent lists of validated reports of forced labour cases, using a wide range of ILO and non-ILO sources (including reports by international organizations, governments, law enforcement, trade unions, local and international non-governmental organizations, academia, the media, and others). A valid reported case of forced labour was defined as a piece of information on a page or a screen of an original source containing the following four elements: an activity recognized as a form of forced labour in the sense of ILO Convention No. 29 or No. 105; a numerical figure indicating the number of identified or identifiable persons involved; a geographical area where the activity is reported to have taken place; and a corresponding date or time interval falling within the period from 1995 to 2004. The two resulting lists were stored in separate databases, each organized by geographical region and broad form of forced labour. For each category, the number of valid reported cases of forced labour found by each team was counted, as well as the number of cases found by both teams. These numbers were then used to calculate the global number of reported cases of forced labour over the ten-year reference period by category. It has been shown that, under certain assumptions, this number, multiplied by the average number of victims per case, gives an estimate of the total number of persons in forced labour at a given time, including non-reported as well as reported cases.

It has to be underlined that this methodology leads to a strict minimum estimate of forced labour for a number of reasons, in particular because of the restriction to credible sources and valid data items. The seven languages known by the researchers have also set limits on their search for geographically dispersed sources. In general, throughout the study, every effort was made to err on the side of caution.

Source: *A Global Alliance Against Forced Labour*, International Labour Office, Geneva, 2005, p. 11, in: P. Belser; M. de Cock; F. Mehran (2005): *ILO minimum estimation of forced labour in the world*, International Labour Office, Geneva.¹⁵⁸

The challenge to produce valid estimates are complicated by the fact that any estimates must take into account the following criteria:

- Data on cases or persons presumed to be trafficked victims must meet the legal definitions in the particular country attempting to establish estimates;
- Estimates must fall within the designated timeframe (annual estimates or estimates over a longer period of time);
- Data must be reliable – the source in which the data are published must be credible;
- Care must be given to avoid registering duplicate cases.¹⁵⁹

¹⁵⁸ See also Thompson, S. K. (1992): *Sampling*, Ch. 18: “Capture–recapture sampling”, John Wiley and Sons, New York.

¹⁵⁹ P. Belser; M. de Cock; F. Mehran (2005): *op. cit.*, pp. 27-30.

PART VI PROTECTION MECHANISMS AND ETHICS¹⁶⁰

VI

Based on the developments in data-collection and data processing within information systems, data protection can be understood as one of the most prevailing fundamental human rights. As part of the right to privacy under the European Convention on Human Rights, data protection has a prominent position in the preservation of fundamental rights within the Council of Europe. Similarly, it constitutes one of the common values of the European Union, and is listed as a separate point within the European Charter of Fundamental Rights.

In general, questions on data protection can arise from various other categories of human rights, such as the fight against trafficking in human beings. Therefore an extensive scientific approach to data protection and its nature as a fundamental right is becoming more relevant and important.

Although it is generally acknowledged that the collection and storage of data serves as a means to quantify trafficking in human beings, any processing of personal data must abide by fundamental principles of data protection.¹⁶¹

A. Main Principles of Data Protection

According to the provisions and regulations contained in the legal documents referred to above, the following main principles of data protection must be adhered to.¹⁶²

Firstly, *personal data have to be processed fairly and lawfully*, meaning that fair treatment has to be shown towards the individual. In this regard, reliable information on the respective data processing must be given to the individual.

Secondly, *the principles of data quality require that the collection, use and disclosure of personal data be done only for specified, pre-defined and legitimate purposes* (principle of purpose limitation). The specific purposes for data processing must not be exceeded whatsoever and no further data processing incompatible with these purposes must be performed. Thus, *the respective purposes of data processing must be defined prior to the procedure, this is of utmost importance*.

A rationale can be qualified as legitimate if the individual has given consent to the processing of his or her data when the processing of data is in the vital interest of the individual ("vital" has to be interpreted in a narrow sense), or if the processing of data is necessary in order to meet any overriding legal interests of a third party. The latter example would include actions of data processing for purposes of maintenance of law and order or state security.

The concept of consent is a very important principle of data protection. According to this concept, *consent has to be given freely and voluntarily, upon satisfactory information on the concrete issue* and refers to consent for a pre-defined specific activity of data processing. Moreover, any consent provided can be withdrawn at any time, without giving any further reason for withdrawal. In cases where data of *minors* are to be collected, stored or further processed, *her/his legal guardian(s) have to be duly informed of the issue of consent and the pre-defined specific activity of data processing and the best interest of the child should always be taken into account*. Naturally, all (other) elements of the concept of consent apply.

¹⁶⁰ This section was drafted by Kerstin Buchinger, Ludwig Boltzmann Institute of Human Rights and is based on Annex III: Legal Data Protection Instruments in Europe.

¹⁶¹ Sölkner A., Uhl B. (2006): *Assessment of Return and Reintegration Assistance*, Activity Report of Activity 4.1 of the EU Twinning Project 'Strengthening Institutions in the Fight against Trafficking in Human Beings', p. 19. European Commission (2004), *op.cit.*

¹⁶² These principles apply to the storage and processing of electronic as well as of manual data.

Given the complex character of the concept of consent, the consent of a person may not be used in order to legitimize interference with the right to data protection as a means of circumventing a legal procedure. At the same time, it would not be advisable to substitute a lack of consent by relying solely on possible vital interests of the individual concerned. Only in exceptional cases would the vital interest of an individual justify a disclosure of personal data to third parties.¹⁶³ Rather, *any intention or action by the State to process personal data*, for example in relation to crime reduction, *has to be based on a sound (national and international) legal basis*. The legal provision in question has to be *precise* and has to *specify which state authority may process which categories of data for which pre-defined purposes*.

Moreover, *the time period of data storage* has to be clearly defined by law. At the national level, such a law should be drafted as *part of the national data protection legislation* which focuses on the processing of personal data regarding trafficking in persons.

Personal data being collected, used and/or disclosed need to be adequate, relevant and not excessive in relation to the purpose defined. *This relates to the so-called principle of avoidance of data which expresses that one may only use the amount of data that is necessary for the specific (legitimate) purpose*.

Furthermore, *the data have to be accurate and kept up-to-date*. Data which are inaccurate or incomplete (against the background of the specific purpose) have to be erased or updated (in light of the purpose for which they were collected or for which they are processed).

Finally, *personal data should be deleted as soon as they are no longer needed for the specific purpose*.

Where specific (sensitive) categories of data (i.e. medical data, data on the ethnic origin of a person, data relating to criminal offences, etc.) are concerned, even more specific safeguards (provided by domestic law) have to be implemented and obeyed. The degree of sensitivity depends on the legal and/or sociological context of each country. Domestic laws often (on the basis of Article 8, paragraph 1 of the Directive 95/46/EC) *contain a general prohibition of processing with regard to sensitive data, linked to an exhaustive catalogue of exceptions*. For example, a prohibition shall not apply where the data subject has given his/her explicit consent (except where domestic laws provide that the prohibition may not be lifted as a result of the data subject giving his/her consent) or where the processing is necessary to protect the vital interests of the data subject (where the data subject is physically or legally incapable of giving his/her consent).

Whenever possible, *personal data shall be de-personalized*, for example by means of unique identification numbers on files or restricted notes for any further use, disclosure and comparison.

GUIDELINE 8

Member States of the European Union should collect, process and exchange the minimum set of data in line with the proposals of this project in strict compliance with the national legislation on data protection including all relevant European regulations and international standards, which are equally applicable to paper data and electronic data.

¹⁶³ Kotschy, Waltraut (2004): *Data Protection*, in: *Ensuring Human Rights Protection in Countries of Destination: Breaking the Cycle of Trafficking*, Conference Report Organization for Security and Co-operation in Europe (OSCE)/Office for Democratic Institutions and Human Rights (ODIHR), p. 98.

B. Ethical Standards for Processing Data

Although the above-mentioned legal framework regarding data protection regulates many aspects of the challenging environment of the information society, there are some ethical guidelines in place that complement legal standards for processing statistical data.

The International Statistical Institute (ISI) adopted the Declaration on Professional Ethics in 1985. This Declaration covers three subject areas, whereby each area defines certain obligations with regard to data subjects, such as the avoidance of undue intrusion, the obtainment of informed consent, as well as the maintenance of confidentiality of records.¹⁶⁴

In 1994, the UN Statistical Commission adopted a set of fundamental principles of official statistics. Moreover, a range of standards regulates the production of the so-called Community statistics within the EU.

These principles provide that:

- Statistical agencies need to make decisions according to strict professional considerations, including scientific principles and professional ethics, on the methods and procedures for the collection, processing, storage and presentation of statistical data.
- Individual/personalized data collected by statistical agencies for statistical compilation, whether they refer to natural or legal persons, are to be strictly confidential and used exclusively for statistical purposes.

Moreover, a range of standards regulates the production of statistics within the EU. These include the Code of Practice concerning the independence, integrity and accountability of the national and Community statistical authorities, which was adopted by the European Commission in 2005.

Besides the standards mentioned, a number of other ethical guidelines have been developed and formulated for particular branches of science.

C. Do's and Don'ts

Do's	Don'ts
Whenever feasible, do revert to non-personalized/anonymous data.	Do not use personal data without the knowledge or unambiguous informed consent of the individual, as this may amount to an interference with the right to data protection.
Whenever personal data are used (collected, stored and further disclosed), verify that all relevant and applicable provisions of data protection are fully observed.	Do not subsequently use or disclose voluntarily submitted personal data whereby the data is used for purposes other than those of which the individual was informed, or if the data is disclosed to unauthorized third parties or stored in a way that fails to guarantee confidentiality and security of the data.
Whenever the processing of sensitive data is involved, do make use of state-of-the-art Privacy Enhancing Technologies (PETs) , i.e. methods of cryptography, to ensure confidentiality and data security.	

¹⁶⁴ European Commission (2006a): *European Handbook on Equality Data*. Directorate-General for Employment, Social Affairs and Equal Opportunities, p. 45.

Do process personal data fairly and lawfully .	
Do collect personal data only for specified, explicit and legitimate purposes .	Do not process personal data in a way incompatible with the pre-defined specified, explicit and legitimate purposes.
Do keep personal data accurate and up-to-date by ensuring that data that are inaccurate or incomplete, with regard to the purposes for which they were collected or for which they are further processed, are erased or updated.	Do not keep personal data in a form that permits identification of individuals for longer than necessary.

GUIDELINE 9

Personal data must only be used for predefined limited purposes with the consent of the trafficked person and/or his guardian on a case-by-case and strictly need-to-know basis. It must be depersonalized for further use, and disclosure and comparison must be regulated according to national legislation and the EU data protection laws. Institutionalized mechanisms must be developed to allow victims access to their personal data; victims should be allowed to modify, update or withdraw their data at any time.

PART VII OPTIONS FOR IMPLEMENTATION

VII

The report *Development of Guidelines for the Collection of Data on Trafficking in Human Beings, Including Comparable Indicators* presents EU Member States with indicators for the identification of trafficked victims, templates for registration of data pertaining to victims, traffickers, the trafficking process, and the criminal justice response to trafficking as well as guidelines for development of a registration system and the protection of data. A final step in this process deals with options for the implementation of the guidelines.

It is the interest of the Federal Ministry of the Interior of Austria that these guidelines should be implemented by Member States of the European Union. There are a number of alternative strategies for the implementation of the guidelines.

The Guidelines can be presented in the EU Council Working Party. This would give EU Member States the opportunity to voluntarily implement the Guidelines and would require no further development of the Guidelines at the EU level. Implementation by the Member States will be on a voluntary basis.

A second alternative would be to present the Guidelines in a Council Working Party and establish a pioneer group outside the EU for the coordinated implementation of the Guidelines and the exchange of (annual) national reports and good practices in the combating and prevention of trafficking in human beings. This alternative, too, would be non-binding for EU Member States.

A third alternative, also non-binding for EU Member States, would involve the preparation of a draft manual on the Guidelines and recommendation for its use. The Council would take note of the manual and adopt the recommendations.

The last alternative is the implementation of the Guidelines as a legal instrument of the EU (i.e. framework decisions).

The Federal Ministry of the Interior of Austria, the International Organization for Migration and Members of the Expert Team would like to impress upon Member States of the European Union that any effective national and EU system of data collection on trafficking in human beings must meet the following standards:

- It should optimize the identification of victims of trafficking using comparable, standardized and proven indicators
- It must protect the needs, safety and human rights of the victims
- It must comply fully with rules on protection of personal data
- Minimal but relevant data are collected, processed and reported in a timely and regular fashion
- It must be simple, robust, user-friendly and cost effective
- Reporting must be timely, comprehensive and reliable
- It should be compatible with existing national reporting systems (EU system defines minimum standards for data collection)
- It should strive to complement and be compatible with other international reporting systems
- Raw data should be collected and transformed into strategic information on the level of Member States
- It must remain independent from political and other external interference

EU Member States should produce annual reports. These reports can be submitted to the EU on a voluntary basis, or reporting to the EU could be made mandatory as part of a legal instrument.

The Guidelines presented in this report should assist EU Member States in contributing to an EU system of data collection on human trafficking that will support endeavours to increase and improve assistance to victims while ensuring a successful response of the criminal justice system to preventing and combating human trafficking.

ANNEXES

ANNEX I EXISTING PRACTICES AND INITIATIVES

A. EUROPOL

Contribution by Angelika Molnar

The objective of Europol is to improve the effectiveness and cooperation of competent authorities in preventing and combating various forms of serious international organized crime, including trafficking in human beings. Cooperation between European Union (EU) Member States is facilitated mainly through the exchange of information and by providing analytical support to ongoing investigations. Europol stores and analyzes personal data in a computerized system that comprises two components: the Europol Information System (EIS) and the Analysis Work Files (AWF). In order to safeguard this information, the Europol Convention outlines a strict framework for the control, supervision and security of data protection, and the two components mentioned above are the only means of storing personal data.

Of the two components, the EIS provides the central database for storing information and is hosted at Europol Headquarters in The Hague. This database is shared with authorized users in all EU Member States and is designed to store large volumes of information in a reliable, user-friendly system. This system supports the automatic detection of potential cross-border crimes and facilitates the exchange of classified information in a secure environment.

The AWF component is the primary method through which Europol extends analytical support to investigations by means of the collection and analyses of data submitted to Europol. AWF Phoenix, opened on 28 June 2007, identifies particular structures or clusters related to criminal networks involved in all forms of trafficking in human beings within, to and from the European Union (EU). By means of this activity, the AWF component adds value to ongoing investigations. The purpose of the file is to support, coordinate and/or initiate investigations in the Member State by using innovative analytical tools. These tools facilitate tracing of the patterns that link investigations in different Member States, and provide accurate intelligence reporting on the crime. Assessments of trends, developments and potential threats are also performed during analysis of the activity of organized crime groups involved in trafficking in human beings. In order to facilitate this exchange of data, Europol retains operational agreements with Canada, Croatia, Switzerland, USA, Norway, Iceland, Eurojust and Interpol. Europol also holds strategic agreements with Albania, Bosnia and Herzegovina, Colombia, the Former Yugoslav Republic of Macedonia (FYROM), Moldova, Russia, Turkey, the European Commission and the United Nations Office on Drugs and Crime (UNODC). By means of these agreements, these third-party countries and international organizations are able to make a strong contribution to data collection activities by Europol and assist in the global fight against trafficking in human beings.

B. FRONTEX

Contribution by Duco van Heel

Frontex, the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, was established under the Council Regulation (EC) No. 2007/2004 of 26 October 2004. Frontex complements and provides particular added value to the national border management systems of the EU Member States.

Frontex activities in the field of combating trafficking in human beings are required to closely follow the EU Plan on Best Practices, Standards and Procedures for Combating and Preventing

Trafficking in Human Beings (2005/C311/01). In turn, Frontex can be involved in the combating of trafficking in human beings by means of the following:

- the coordination and organization of joint operations and pilot projects at the EU external border;
- the supply of risk analyses to Member States;
- the development of common strategies to tackle trafficking through ports;
- the dissemination of training materials;
- complementary cooperation with Europol.

Frontex activities in combating trafficking in human beings should have a special focus on the most vulnerable victims of trafficking. The EU Action Plan recommends that the particular circumstances of the most vulnerable victims - children and women - be taken into account. The EU Action Plan also recommends that cooperation between Frontex and Europol be developed, especially with regard to the analytical activities concerning this phenomenon.

In order to pave the way for joint operational activities at the external borders of the EU, Frontex is exploring the possibility of regular data collection launched within the Frontex Risk Analysis Network, that is, among Member States' Border Guard Authorities. Frontex is also exploring the option of implementing regular data collection during joint operations coordinated by Frontex. Frontex Risk Analysis Unit is in the process of developing templates to be used in the data collection.

The strengthening of the capacities of the Border Guard Authorities of the Member States in combating trafficking in human beings is particularly important, considering that their location at the border provides the opportunity to identify potential victims, then intervene and ultimately prevent trafficking. Trained interviewers should be used to deal with potential victims of trafficking, paying special attention to vulnerable groups of children and women. In view of this objective, Frontex will also assess opportunities to provide training to the Border Guard Authorities of the Member States, with a particular focus on strengthening their capabilities to identify and properly handle victims of trafficking. Furthermore, Frontex could also serve as a repository of good practices with regard to the identification of victims of trafficking.

C. Hungary

Contribution by Viktória Végh, Ministry of Justice and Law Enforcement

Data collection regarding trafficking in human beings is primarily connected to criminal procedure. The main statistical database in this field in Hungary is the Unified Statistical System of Law Enforcement (ENYÜBS)¹⁶⁵ operated by the Ministry of Justice and Law Enforcement. All investigative agencies, for example the police, Hungarian Customs and Finance Guard, and the Office of the Public Prosecutor, provide data on trafficking in human beings and all criminal offences to ENYÜBS. The database follows the structure of the offence as stipulated in the Criminal Code and collects data on the perpetrator in terms of age, sex, qualifications, family status, causality, and the circumstances of perpetration, including the conduct and method of perpetration. As trafficking in human beings is a high-priority offence, data on the victim are also collected in terms of age, sex, qualification, profession and causality. The "Robocop" software used in police departments meets all administrative requirements for investigative procedures and can be used for statistical purposes. Recently, ENYÜBS developed a working group of representatives from the police force, the Hungarian Customs and Finance Guard and the Office of the Public Prosecutor. The Ministry of Justice and Law Enforcement is elaborating new indicators in order to cover all offences of the Criminal Code and focus more on the criminality aspects of each crime.

Apart from the above-mentioned methodology, there is only modest data collection on victims of trafficking by the Ministry of Social Affairs and Labour. The research carried out by the National Institute of Criminology on victims of trafficking is more significant. Furthermore, the judicial data collection system comprises only quantitative data on the work of the courts (number of

¹⁶⁵ Further information can be found on the following website: <http://crimestat.b-m.hu/Default.aspx>.

ongoing/completed cases, etc.), whereas qualitative data must be obtained upon request. The collection of data on trafficking in human beings and the coordination mechanisms against trafficking in human beings are being improved and aligned with the specific aim of the national strategy. Financial requirements are currently being estimated for further developments in this area.

D. International Centre for Migration Policy Development

Contribution by Enrico Ragaglia

In September 2006, the International Centre for Migration Policy Development (ICMPD) launched the *Programme for the Enhancement of Anti-trafficking Responses in South-Eastern Europe – Data Collection and Information Management (DCIM)*. This DCIM project has been jointly implemented by the ICMPD, Europol, the Migration, Asylum, Refugees Regional Initiative (MARRI Centre), and the Anti-Corruption and Anti-Trafficking network of NGOs (ACTA). The DCIM project was funded by the Swiss Agency for Development and Cooperation and the Royal Norwegian Ministry of Foreign Affairs. The total duration of the project was 20 months, from September 2006 to April 2008. The overall objectives of the project were to harmonize and improve the quality and reliability of data on prevention, protection and prosecution in cases related to trafficking in persons in the ten countries¹⁶⁶ and regions of South Eastern Europe (SEE). To this end, ICMPD supported the development of two distinct database systems to assist governments in anti-trafficking data collection. The first database is victim-centred and collects data on trafficked persons with information that can be helpful in prevention, protection and assistance for trafficking victims. The second database – the trafficker-centred and criminal justice database – collects information on perpetrators of the crime of human trafficking and tracks their cases through the full legal and judicial process. This database is a tool for tracking, monitoring and evaluating the prosecution of trafficking cases. The two databases are installed in several institutions in the SEE and are separate and distinct. They collect different types of information and consider the issues of trafficking from different angles. The two databases are stored separately and managed by different sectors of government. Together, the information from the two databases provides a more complete picture of human trafficking in the region, shedding light on the issues of prevention, protection and prosecution. The two distinct database systems are developed in the local languages and are managed by fully equipped PCs and monitors with end-user manuals that were donated during the course of the project implementation. The basis for the development of the two database systems was initiated by the research conducted by the participating institutions that culminated in the publication of the *Handbook on Anti-Trafficking Data Collection in South-Eastern Europe: Developing Regional Criteria*. The two database systems are currently operational.

In September 2008, ICMPD launched Phase II of the DCIM project, which is currently being implemented in Albania, Bosnia and Herzegovina, Croatia, Kosovo, The Former Yugoslav Republic of Macedonia (FYROM), Montenegro and Serbia. The project is funded by the Norwegian Royal Ministry of Foreign Affairs and will run for a period of 18 months, until March 2010. The DCIM-Phase II is implemented in cooperation with Europol, The Bureau of the Dutch National Rapporteur on Trafficking in Human Beings, the IOM, the MARRI Centre and the Southeast European Cooperative Initiative (SECI Centre).¹⁶⁷ The general objective of the DCIM-II is to strengthen the capacity of the participating countries to monitor, evaluate and review their National Anti-Trafficking Responses by building upon the achievements of the first phase of the DCIM project. In particular, the DCIM-II aims at extending continuous technical support to the participating countries through the combination of capacity-building efforts in the areas of data processing, maintenance and analysis. In addition, a feasibility study concerning the transnational exchange of trafficking in human beings records will be conducted.

Furthermore, in May 2008 the project *Trafficking in Human Beings: Data Collection and Harmonised Information Management Systems (DCIM-EU)*, was initiated by ICMPD and jointly implemented by the Ministry of Interior of the Czech Republic, the Ministry of Interior of Poland, the Ministry of Interior of Portugal, the Ministry of Interior of Slovakia, ICMPD, the Bureau of the Dutch

¹⁶⁶ Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Kosovo, The former Yugoslav Republic of Macedonia, Moldova, Montenegro, Romania, Serbia.

¹⁶⁷ Southeast European Cooperative Initiative – Regional Centre for Combating Trans-border Crimes.

National Rapporteur on Trafficking in Human Beings, the Associazione On the Road (Italian NGO) and the NEXUS Institute. The project is co-funded by the European Union and will be conducted over 18 months. The overall objective of the DCIM-EU project is to create a transnational information management system that includes the development of commonly accepted and comparable indicators for collecting data and information on victims of trafficking and traffickers/criminal justice. Based on these indicators, the project will offer the participating countries a technical solution to the collection of trafficking-related data by developing innovative software and running tests in a pilot country.

E. International Labour Organization (ILO)/European Delphi Survey

Contribution by Michaëlle de Cock and Roger Plant

Thus far, most of the work published on data collection on forced labour and human trafficking focuses on the analysis of databases of reported cases of victims of trafficking and forced labour. The results usually mention that these cases represent only the “tip of the iceberg”; therefore in 2004 the ILO launched a research project on methodologies which could be used to estimate the **full extent** of forced labour and trafficking. This research project takes into account the vast majority of victims who never “surface” to ask for any kind of help or support.

The initial results of this project were published in 2005 when, for the first time in its history, the ILO estimated that at least 12.3 million people are in forced labour around the world, and that 2.4 million are victims of human trafficking. The estimate, published in the report “A Global Alliance against Forced Labour”, indicated that 80 percent of contemporary forced labour, the majority, is in the private economy, while the remaining 20 percent is imposed by state authorities. Forced sexual exploitation for commercial purposes affects 1.4 million people - mostly girls and women. This ILO global estimate has been widely quoted in the media and has helped to raise global awareness. The figures have also been used to draw attention to the urgency of developing more reliable statistics at the national level, while providing guidance to policy-makers and benchmarks for measuring progress over time. In light of this priority, the ILO Special Action Program to Combat Forced Labour (SAP-FL) has now embarked on country-level activities. One constraint was the design of surveys specific to each national situation while maintaining consistency between studies and international legal instruments. In each country, a type of national survey adjusted to the local context has been identified as the most appropriate medium in which to embed the set of questions related to our topic. Another challenge was presented by the methodology of sampling; however this problem was simplified by limiting the scope of the sample to those countries with forced labour without trafficking and source countries of trafficking.

In terms of forced labour and trafficking, indicators have been developed through a two level procedure: the first level presents a methodological framework based on the ILO Conventions on Forced Labour and on the Palermo Protocol on Trafficking in Human Beings. This framework presents three main dimensions - recruitment and travel, labour conditions, and coercion exerted on the worker. Each dimension encompasses a series of broad indicators that can be rated on a scale according to the severity of the violation. The second level consists of customizing these indicators to the national context during a workshop where all the stakeholders active in the fight against trafficking and forced labour (government, statistical offices, law enforcement, justice, labour inspectorate, social partners, NGOs, other international organizations, academic etc.) are invited to share their knowledge and to reach a consensus on specific indicators. The result is then transcribed into a set of questions which are later embedded in a household survey that has been previously identified as the most suitable.

In cases of conducting the survey in source countries of trafficking, the survey seeks to target returned migrants as they are the most appropriate respondents to assess the risk of trafficking. All the information available in qualitative studies and analyses of identified victims is essential to understanding the patterns of trafficking, and therefore necessary to the design of the survey. This methodology is currently being implemented in various stages in Azerbaijan, Georgia, Moldova, Niger, Tajikistan and Zambia. The next step will be to refine the methodology in view of the first results and develop new tools specific to destination countries, or countries where forced labour takes place in a number of specific industries or regions.

European Delphi Survey - A Practical Exercise in Developing Indicators of Trafficking in Human Beings

A European consensus on operational indicators and their appropriate combination is necessary in the context of harmonizing both qualitative and quantitative research. For qualitative research, better indicators will provide guidance to researchers and practitioners on the evidence that should be gathered when interviewing possible victims. They will also guide labour inspectors when they attempt to find out if a specific worker should be counted as a victim of trafficking (whether the case has been prosecuted or not). Regarding quantitative estimates, these indicators can guide national statistical offices in their attempts to produce national estimates. These indicators are particularly useful when interviewing a representative sample of returned migrants in their countries of origin.

The need to reach a “consensus on the rough and ready operational definitions of trafficking applied in daily practice by police investigators, labour inspectors, prosecutors and relevant NGOs” was also stressed by a sub-group of the European Commission’s Expert Group on the policy needs for data on crime and criminal justice [2006/581/EC]. This sub-group on “Trafficking in Human Beings” strongly emphasized the need for collection of statistics that go beyond the collation of existing official crime statistics. Official crime statistics will not produce comparable statistics as the number of recorded cases depends on the size of investigative or prosecutorial efforts rather than of the phenomenon of trafficking. Therefore, the sub-group recommended that data should also be collected from other relevant sources, such as NGOs or labour inspectorates.

To facilitate this process, the sub-group recommended the use of the so-called Delphi methodology to produce a European consensus on a set of operational definitions. The Delphi method was developed in the 1950s and has since been widely used for a large set of applications in social, medical or political sciences. The objective of the Delphi methodology is to produce a consensus among a group of experts by means of an anonymous survey. The experts are selected for their presumed ability to provide precise and accurate indicators based on professional expertise and based on detailed knowledge about real cases of human trafficking.

As a follow-up to these recommendations, a joint EC-ILO project was carried out to implement the Delphi methodology. The resulting steering group was composed of experts from the European Commission, International Labour Office, United Nations Office on Drugs and Crime (UNODC) and the European Union Agency for Fundamental Rights (FRA). External advice and support on the technical aspects of the project were provided by the University of Geneva. In this project, the Delphi used two successive electronic surveys of experts: a first survey in March 2008 to collect indicators from experts, and a second one in July 2008 to ask experts to rate some indicators issued from the first phase of the survey. The experts were chosen to be representative of the following topics: sex, type of organization, country of work. The result is a list of operational indicators structured according to terms used in the Palermo Protocol. These indicators can be very easily translated into a practical assessment guide for any organization in contact with presumed victims, or in questionnaires for researchers or people in charge of designing surveys on trafficking. The combination of the different indicators can be used to identify victims of trafficking.

F. International Organization for Migration (IOM)

Contribution by Barbara Albrecht and Sarah Craggs

Since 1997, the International Organization for Migration has been operating on a global level to prevent and combat human trafficking through the implementation of over 500 projects in 85 countries. These projects focus on the prevention of human trafficking, the protection of and direct assistance to victims and the prosecution of traffickers. IOM takes a comprehensive approach to counter-trafficking within the wider context of managing migration. This approach is based on respect for human rights and takes into consideration the physical, mental and social well-being of the individual and his/her community. IOM also seeks to take sustainability measures through institutional capacity-building at the levels of government and civil society.

The IOM implements a unique tool to monitor assistance and collect information on the victims of trafficking: its global human trafficking database. This database is the largest that deals with

primary data on more than 13,325¹⁶⁸ registered victims of more than 80 different nationalities, trafficked to more than 90 destination countries. The database is a standardized anti-trafficking data-management tool available to all IOM missions and is actively used throughout all regions of the world. This unique tool specifically facilitates the management of the IOM direct assistance, movement and reintegration processes through a centrally managed system that also maps the victim's trafficking experience. The structure follows the format of the accompanying IOM Interview Forms that are applied by IOM missions and partnering organizations involved in direct assistance. The system contains a wealth of information both of a quantitative and qualitative nature, derived from specific questionnaires. These questionnaires consist of the Screening Interview Form, which is intended to assess whether the individual is a victim of trafficking and thus eligible for an IOM assistance project; and the Assistance Interview Form, which tracks the nature of the direct assistance provided along with documentation of further details of the trafficking experience.¹⁶⁹

While initially designed as a case-management tool for direct assistance programmes within IOM counter-trafficking efforts, the system quickly demonstrated an added value to research. Containing information of both a quantitative and qualitative nature, the system stores valuable primary data collected from assisted victims on the socioeconomic profile of victims, the profile of traffickers, trafficking routes, patterns of exploitation and abuse, nature of assistance provided and instances of re-trafficking.

In addition to serving as a case management function, the database also serves as a knowledge bank from which statistical and detailed reports can be drawn. In doing so, it strengthens the research capacity and understanding of the causes, processes, trends and consequences of trafficking, while informing program development and policy-making on counter-trafficking. As noted in the 2006 GAO report, "the [CTM] database created by the International Organization for Migration provides a useful systematic profile of victims and traffickers across countries" and "improves the overall understanding of the broader dimensions of trafficking."¹⁷⁰

In 2008, the IOM, together with Rebecca Surtees of the NEXUS institute, published the report *Trafficking of Men- A trend Less Considered*, which drew upon data held within the system. In 2009, the IOM will publish an additional number of in-depth narrative reports to form part of the *IOM Global Human Trafficking Thematic Research Series*. Drawing upon both quantitative and non-personal qualitative data from the IOM global database, the series will continue to address contemporary issues on human trafficking. The second edition will cover the issues of re-trafficking, and traffickers and organized crime.

In all cases, nothing that could compromise the privacy or identity of trafficked individuals is released: strict controls designed to ensure the confidentiality and security of all data have been established. Indeed, through the global database, the IOM seeks to promote and ensure international best practices by ensuring secure collection, storage and processing of standardized and comparable data on human trafficking in accordance with the IOM data protection principles.

Drawing upon the technology and methodology proven by the IOM over the past eight years, the IOM is currently seeking to develop the database as an external case management and data collection tool to be used by NGOs and governments. *The IOM Handbook on Direct Assistance for Victims of Trafficking* would complement the function of the database as a means of disseminating information from experiences and lessons learned to external parties active in the field of counter-trafficking. Whereas data collection efforts on trafficking have often been criticized for being fragmented, the IOM global trafficking database has been commended for being systematic and could "assist [...] efforts to compile better data on trafficking victims."¹⁷¹ Not only will the pre-defined and standardized IOM database structure, methodology and core trafficking indicators allow for the attainment of comparable transnational data, the data collection management system also has the potential to become one of the primary data collection and statistical tools for research on trafficking in human beings. Indeed, through the global database, the IOM seeks to promote and ensure

¹⁶⁸ As per 31 December 2008.

¹⁶⁹ Please contact CTS-db@iom.int for more detailed information on the Screening and Assistance Interview Forms.

¹⁷⁰ United States Government Accountability Office (2006): *Human Trafficking: Better Data, Strategy and Reporting Needed to Enhance U.S. Anti-trafficking Efforts Abroad*, July, pp. 10 and 21.

¹⁷¹ *Ibid.* p. 20.

international best practices for the secure collection, storage and processing of standardized and comparable data on human trafficking.¹⁷²

G. Italy

Contribution by the Central Directorate of Criminal Police/Ministry of Interior

The Ministry of the Interior of Italy participated in the project *Fight against Trafficking in Human Beings to the EU from EU Accession and Neighbouring Countries: Operational Network and Multidisciplinary Training Process*, funded by the European Commission, DG Justice, Freedom and Security under the AGIS Programme. The Project was implemented over a three-year period from 2004, and involved different actors engaged in the fight against human trafficking at regional and national levels, including administrations, governmental and non-governmental organizations (in particular, Ministries of Justice, Interior and Social Affairs, associations and NGOs), law enforcement and judicial authorities, legal practitioners, social workers and training professionals. The project covered a wide geographical area with a total number of twelve participating countries of origin, transit and destination: EU Member States (Belgium, France, Greece, Italy and the new Member States Bulgaria, Hungary and Romania), accession and candidate countries (Turkey) and third countries (Belarus, Moldova, Ukraine and Russia).

The project resulted in the implementation of training courses based on the two manuals developed during the first phase of the programme in which a multilateral consultation process was completed (the AGIS Guides on Best Practices for Students and Trainers) and focused on the EU *acquis* in this field. Following the drafting of these manuals, national training teams were identified to implement the second phase of the project which was focused on the training of trainers. The added value of this initiative was the pursuit of a multidisciplinary and multidimensional approach that continuously involves national groups of professionals from different operational areas (law enforcement bodies, prosecutors/judges, NGOs and international organizations). The participants were engaged in both the development of the manuals and in the training of trainers in order to achieve a common approach to prevention, counteraction against human trafficking and support for victim protection.

The third phase of the project entailed the presentation of national training courses that build upon the most current activities at the international level. In 2007, a national seminar for trainers was organised from the 14th to 16th of May in Rome, in cooperation with the IOM offices in Rome and Brussels. This event was hosted by the Italian Ministry of Interior at the Police Academy of Rome in the Trevi building. The seminar gathered a multidisciplinary audience of more than 25 local professionals from law enforcement bodies, the police force and NGOs operating in the field. The Italian team was tasked with facilitating the seminar sessions attended by the Moldovan and Romanian national teams where the specific working tools were training manuals translated into Italian. The aim of this first seminar was the joint development of a common set of indicators for the identification of the human trafficking offence and its victims. This objective was complemented by the technical contribution from several institutional actors active in this field, such as the Department for Rights and Equal Opportunities, the Presidency of the Council of Ministers and the National Anti-Mafia Prosecutor's Office.

H. The Netherlands: Bureau of the Dutch National Rapporteur on Trafficking in Human Beings

Contribution by the Bureau of the Dutch National Rapporteur on Trafficking in Human Beings

On 1 April 2000, an independent National Rapporteur on Trafficking in Human Beings was appointed in The Netherlands. Her task and that of her Bureau (established in October 2000) is to report to the Dutch government on the nature and extent of human trafficking in the Netherlands, and on the effects of anti-trafficking policy, and to come up with recommendations to improve the fight against trafficking. Their yearly trafficking reports, which are sent to the government and to Parliament, are available to the public. The reports (one extensive with a large amount of quantitative

¹⁷² Please contact CTS-db@iom.int for more detailed information.

and qualitative information and recommendations and the other a more concise quantitative update) contain information on relevant national and supranational regulations and legislation, as well as information on prevention, criminal investigations regarding human trafficking, prosecution of perpetrators and victim support. The seven reports are available in Dutch and in English.

The Bureau collects information in different ways. It carries out some research itself on varying topics (for instance on financial police investigations, on exploitation outside the sex industry, and on continued residence permits for victims of trafficking), and it performs secondary analysis on existing databases (for example databases of the Immigration and Naturalization Office, the Public Prosecutors Office, and Comensha - an NGO that registers all victims). Furthermore the Bureau takes part in various consultative structures (such as by the police, public prosecutors and policy makers) and has bilateral meetings with partners from its extensive network of people dealing with one aspect or another of the trafficking phenomenon. Due to the largely (but not exclusively) cross-border nature of the crime of human trafficking, the Bureau retains many contacts abroad and cooperates with international organizations.

The Rapporteur does not conduct operational tasks in investigating trafficking cases. The Rapporteur does not engage in prosecuting perpetrators, assisting victims nor constitute a complaints body. The core task is to report to the government and the Rapporteur and her staff are granted access to criminal files held by police and judicial authorities.¹⁷³

I. Observatory and Resources Centre on Trafficking in Human Beings¹⁷⁴

Contribution by Isabella Orfano

The Observatory and Resources Centre on Trafficking in Human Beings (*Osservatorio Tratta*) was established in Italy in 2005 within the framework of the European Union Equal Programme and continued to operate after the end of the programme. Its main objectives are to offer new skills and tools to professionals engaged in the anti-trafficking sector and to design and implement coordination mechanisms amongst different counter-trafficking agencies at national and transnational levels. In so doing, the *Osservatorio Tratta* positively influences the systems of investigation, intervention, monitoring, and networking.

Since its implementation, *Osservatorio Tratta* has:

- developed tools to study, gather and process data on human trafficking with a view to the establishment of a permanent monitoring system on trafficking in human beings;
- acquired a comprehensive knowledge of the different forms of trafficking (for sexual exploitation, forced labour, begging and petty crimes, organ transplant, illegal international adoption), including its quantitative and qualitative dimensions; the profiles and the life patterns of trafficked persons (from the trafficking experience to the support scheme and their social and labour inclusion); the national, European and international legislations; existing intervention policies; and evaluation tools to assess the anti-trafficking initiatives;¹⁷⁵
- identified, analyzed, and validated models of social intervention implemented in the counter-trafficking sector, in view of their development, exchange, and transferability;
- analyzed the innovative, not yet formally recognized, professional profiles and roles and their training curricula;
- set up a development system of models of intervention, networking, evaluation, and training curricula for all professionals engaged in the anti-trafficking field;

¹⁷³ Further information can be found on the website of the Bureau: <http://english.bnrm.nl>.

¹⁷⁴ *Osservatorio e Centro risorse sulla tratta di esseri umani*, shortly referred as to “*Osservatorio Tratta*”. For more detailed information visit: www.osservatoriotratta.it or contact: info@osservatoriotratta.it.

¹⁷⁵ *La tratta delle persone in Italia* (Trafficking in persons in Italy), a series of books, was launched and the following works published: Carchedi, F. and Orfano, I. (eds.) (2007): *Vol. 1. Evoluzioni del fenomeno e ambiti di sfruttamento*, Franco Angeli, Milano; Fachile, S.; Nicodemi, F.; Nibali Conti, M.; Alteri, G. (2007): *Vol. 2. Le norme di tutela delle vittime e di contrasto alla criminalità*, Franco Angeli, Milano; Prina, F. (2007): *Vol. 3. Il sistema degli interventi a favore delle vittime*, Franco Angeli, Milano; Oliva, D. (ed.) (2008):, *Vol. 4. La valutazione delle politiche, degli interventi, dei servizi*, Franco Angeli, Milano.

- developed systems of information, exchange, and operational coordination of projects and services active in the anti-trafficking sector at national and transnational level in order to optimize and diversify the available resources;
- set up a database¹⁷⁶ on the projects and the public and private agencies active in the anti-trafficking field in Italy, in the European Union and in Third Countries (covering more than 50 countries), that includes also their models of intervention, methodologies and operational tools;
- established a Centre of technical assistance for the development of anti-trafficking programmes, projects, interventions and measures of horizontal and vertical mainstreaming.

Through the website (www.osservatoriotratta.it) all above mentioned materials and services can be accessed. The website is designed to contribute to the improvement of the tools and practices for the knowledge, analyzes and interventions on trafficking in human beings.

Led by Associazione On the Road, *Osservatorio Tratta* is implemented by a diversified partnership of private and public agencies with an extensive experience in providing services directly to victims of trafficking as well as studies on such phenomenon: Azienda Ulss 16 of Padova, Censis, CNCA (National Coordination of Care Communities), Municipality of Venice, Department of Social Sciences – University of Turin, Irecoop Veneto (Regional Institute for Education and Cooperative Studies), IRS (Social Research Institute), Nova (National Consortium for Social Innovation), Province of Pisa, Save the Children Italia ONLUS.

The work carried out by *Osservatorio Tratta* led to the establishment of the first institutional observatory on trafficking by the Italian government in 2009. However, the partnership intends to continue its composite work to further strengthen a fully independent observatory on trafficking in human beings and related policies and interventions at national, European and transnational level.

J. Regional Observatory of Lombardy

Contribution by Patrizia Farina

The monitoring activities on leaving-prostitution-paths carried out by the Regional Observatory on slavery and prostitution have been conducted since 2008 as part of the Osservatorio Regionale Lombardo.¹⁷⁷ These activities can be taken as an example of collecting data on trafficking as processed by the Osservatorio Regionale Lombardo's experts and presented on annual basis.

The main goal is the analysis of the characteristics of those who availed themselves of the leaving-prostitution service or asked for social backing in their aim to leave prostitution. Data are provided by the Caritas Network which is active throughout Lombardy and works in favour of women, men and transgender individuals seeking an escape from prostitution or for other needs.

While compiling the database, the gathering of statistical data involved some preliminary actions in order to identify the non-institutional by-lines in the area. This action would allow for the creation of a network wide enough to monitor large areas of the territory. Further action includes the development of a statistical culture among the social operators, which was proven to be necessary in order to ensure the quality of information.

The data processing depends on both the content of the data gathering tools and the need for knowledge as expressed by the network itself. Another crucial factor is represented by the request for information on the part of the social operators, to whom the results are addressed.

The structure of the questionnaires utilized by the Street Units is different from those of Reception. The Street Unit offers a person-oriented relationship in a place where people can get acquainted, and provides an opportunity for the individual to be heard outside of the prostitution environment. Street Unit personnel provide legal, employment and health information (especially in terms of information on AIDS and other sexually transmitted diseases). The data set matching the chart is entered during a single contact, yet the information concerning the characteristics of the individual can be processed further. As per Reception, the data set matching the chart is centred on the individual, that is, it is structured by single individual entries. The Reception path is conducted in three stages that are legally required to be concluded within 18 months: emergency reception, first reception

¹⁷⁶ See Section “Database degli enti” in: www.osservatoriotratta.it and Section “Database” in: www.osservatoriotratta.it/headway/index.php.

¹⁷⁷ Osservatorio Regionale per l'integrazione e la multiethnicità: <http://www.ismu.org/ORIM/>.

and second reception. Due to the evolutionary nature of this path, allowance is made for the transition from one stage to another, in a similar fashion to transitioning through different stages towards the conclusion of a path to recovery.

K. Romania: The Romanian Database on Trafficking in Human beings

Contribution by Cristian Chihaiia and Dumitru Licsandru

The Romanian Database on Trafficking in Human Beings was entirely developed by the National Agency against Trafficking in Persons (ANITP)¹⁷⁸ and has been fully operational since January 2007. The database enables ANITP to receive and process information regarding the victims with a view to their identification and prompt referral to specialized support services. The database also allows for better monitoring of the assistance provided to victims, as well as a deeper understanding of the trafficking in persons and more accurate predictions for trafficking trends.

From a technical point of view, the national system is a multilevel IT system, using a central data base, a data interrogation application and a user web interface. Access to the National Database is granted to ANITP personnel as well as to accredited personnel from the General Directorate for Combating Organized Crime within the General Inspectorate of the Romanian Police and the General Inspectorate of Border Police. The information contained in the Database can be collected from other partner institutions and NGOs through the ANITP Regional Centres. Data access is provided through the Data and Voice Communication Network of the Ministry of Administration and Interior.

A set of 70 indicators (or criteria) divided into six categories¹⁷⁹ are presented in the charts - an indication of the multivariable analysis of the phenomenon of trafficking in persons in Romania. The quantitative and qualitative cross analysis of the information included in the Database provides the ANITP specialists a regular and more elaborate picture of the phenomenon. Based on this picture, they can make recommendations in order to prevent trafficking and provide better assistance to victims.

The Romanian database on trafficking in persons was mentioned among the four worldwide examples of best practices in the *Trafficking in Persons Report 2008* published by the U.S. Department of State in June 2008.

L. Sweden: The Office of the National Rapporteur on Trafficking in Human Beings

Contribution by Kajsa Wahlberg

In December 1997 the Swedish Government appointed the National Police Board of Sweden as the National Rapporteur (NR) on Trafficking in Women in compliance with the Hague Declaration.¹⁸⁰ In turn, the National Police Board delegated the task to the National Criminal Police (NCP). The NCP prepared a national plan of action (NAP) against trafficking in human beings for sexual purposes for the police forces. In 2004, in response to Sweden ratifying the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the implementation of this protocol into national laws, the area of investigation of the NR was expanded to include trafficking in human beings for other purposes than sexual exploitation.

This NAP sets out the mandate of the NR:

1. The NR is to identify and characterize the existence of trafficking in human beings for sexual and other purposes in and to Sweden;
2. In the annual reports, the NR will review the connection between trafficking in human beings and other forms of serious crime such as smuggling of human beings, prostitution and sexual exploitation.

¹⁷⁸ For further information on the National Agency against Trafficking in Persons please see ANITP's website: <http://anitp.mira.gov.ro>.

¹⁷⁹ These categories are: identification personal data, pre-trafficking period (i.e. educational background or family status), recruitment and transportation, exploitation period, assistance period and post-assistance period.

¹⁸⁰ The Ministerial Declaration on European Guidelines for Effective Measures to Prevent and Combat Trafficking in Women for the Purpose of Sexual Exploitation (Hague, 24-26 April 1997).

The mandate of the NR includes the collection and analysis of data and information about the extent of trafficking in human beings in and to Sweden, as well as recommendations for how the problem can be prevented and combated. The Office of the National Rapporteur also handles intelligence information concerning suspected criminal activities, answers questions from the media and the public, and arranges and participates in seminars and training events nationally and internationally.

The NCP will soon make public a joint policy document for police and prosecutors on investigative/operational measures against trafficking in human beings by law enforcement. The NR publishes annual reports on the character, state and scale of trafficking in human beings in and to Sweden. To ensure that the documentation is reliable, information is collected at source through the six existing regional Criminal Intelligence Units. So far the NR has released nine annual reports.

Over the years, the Office of the National Rapporteur has developed a large national and international network with representatives from Interpol, Europol, governments, public authorities, agencies and regional and nongovernmental organizations working to eliminate trafficking in human beings.

M. The SIAMSECT files/MONTRASEC

Contribution by Gert Vermeulen

The SIAMSECT files - Standardised templates and blue print for European Union-wide collection of statistical information and analysis on missing and sexually exploited children and trafficking in human beings.

Trafficking in human beings and missing and sexually exploited children have become serious worldwide problems to which much attention is directed from the political world. Current data collection on these phenomena reveals many shortcomings. Data are either absent, incomparable, unreliable or insufficient, and existing data collection systems contain weaknesses.

SIAMSECT focused on the development of indicators on violence and related data collection regarding missing and sexually exploited children and trafficking in human beings. Inspiration for the indicators came from previous projects, literature study, working visits to various international organizations, criminal law definitions, variables used by law enforcement authorities and working definitions used by governmental and non-governmental organizations.

The research aimed at developing a blueprint for a European Union (EU) template and an EU collection plan allowing for standardized and integrated statistical information and strategic analysis at both Member State and EU level on the phenomena concerned. Three templates were created: “trafficking in human beings”, “sexual exploitation of children” and “missing children”, all three subdivided into event, victim and author.

From a methodological point of view, such an EU template and collection plan are indispensable for centralized, coherent, scientifically reliable and comparable data mapping in national data collection focal points at Member State level. Such methodology would also allow for genuine EU strategic monitoring of the phenomena concerned and subsequent evidence-based policy-making on missing and sexually exploited children and trafficking in human beings at both Member State and EU level.

MONTRASEC - Monitoring Trafficking in Human Beings and Sexual Exploitation of Children: benchmarking for Member State and European Union reporting, turning the SIAMSECT templates into a user-friendly interface and reporting tool.

Developing templates was a necessary exercise despite still being very theoretical. Presented in the final report is the ideal situation of working with standardized templates. In order to enhance the practical applicability of the templates, they should be transformed into a user-friendly database that can be filled in a comprehensive manner and which should be tested by performing a test case in a selection of Member States (Belgium and Italy).

The MONTRASEC project has two purposes: firstly, to develop and to deliver a ready-to-use and statistically responsible IT-platform which builds on the templates developed in the Siamsect Files and which brings together the different spread partial data of the relevant partners in an integrated data collection mechanism. Such a mechanism should allow for the development of an accurate view of the

phenomena of missing and sexually exploited children and trafficking in human beings; and secondly, to benchmark the reports of the National Reporters by developing a 'report style sheet' of which the integrated data collection mechanism is the kernel. The overall effect of both purposes should be a substantial advance in the manner in which the phenomena of human trafficking and missing and sexually exploited children is described, interpreted and analyzed.

N. The UNODC Mapping Exercise under the UN.GIFT

Contribution by Fabrizio Sarrica

Five years ago, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children came into effect, and the time is ripe for an assessment of the progress made since then. In March 2007, the United Nations Office on Drugs and Crime (UNODC) began a study of the state of the global response to the practice of human trafficking. The research went beyond the ratification of the Protocol to inquire as to how many countries had formulated national legislation and created supporting institutions, and how many investigations, prosecutions and convictions these efforts had produced.

The data collection made use of the UNODC regional field offices around the world and was coordinated by UNODC Headquarters in Vienna.¹⁸¹ Eventually, information was collected on 155 countries and territories during the period from 2003 to 2007, under three subject areas:

- information on legislative and administrative frameworks, including the status of anti-trafficking laws; the creation of government victim protection and support programmes; the establishment of special law enforcement units on trafficking in persons; and the drafting of national action plans to deal with the human trafficking problem;
- criminal justice data, including the number of investigations, arrests, prosecutions and convictions, and profile of the offenders;
- information on victim services, including the number of victims identified by public authorities and sheltered by service providers; and the number of foreign victims returned to their home countries, as well as the profile of the victims.

This UNODC data collection activity resulted in the largest existing data set on trafficking in persons, containing information for more than 50,000 victims officially detected by state authorities between 2003 and 2007 around the world. More information was collected concerning the offenders and their profiles. A *Global Trafficking in Persons Report* will depict trends, patterns and trafficking flows for these 155 countries and territories on the basis of the solid information collected.

This UNODC study examines the collective global response to human trafficking. Over time, the collection of information from so many different perspectives can, in aggregate, compensate for many of the deficiencies of the data itself. This global data set, reviewed periodically, can indeed tell us something more about the trends and patterns of the problem.

This data collection exercise can be sustained by means of inclusion in a regular data collection exercise. Ultimately, the goal should be to provide a database robust enough that concerns from the international community can be addressed, such as: What are the specific trafficking trends? What are the main trafficking patterns and flows? Where is trafficking in persons most acute and how might it be recognized? Without an answer to these questions, appropriation of scarce resources becomes guesswork, and measurement of progress very unreliable. Sound information is needed to support decisions on a topic as important as human trafficking.

¹⁸¹ The researchers were placed at UNODC field offices in Abuja, Bangkok, Brasilia, Cairo, Dakar, Mexico City, Nairobi, New Delhi, Pretoria and Tashkent.

O. University of Miami: Measuring the Number of Trafficked Women and Children - Point-in-Time Estimates¹⁸²

Contribution by Thomas M. Steinfatt

This method was used to estimate the number of women and children trafficked into sex work in brothels in Cambodia. The methodology is based upon a number of assumptions, among some of the most important: sex trafficking is a retail commercial enterprise which recruits new customers from advertising; sex venues spend their advertising budget on kickbacks to those who bring customers to their brothel or massage parlour, and the best advertising agents for these venues are taxi drivers.

Four simultaneous, complementary and overlapping methods are used.

1) Local information is obtained in population centers in order to locate *venues mapped via GPS*. Taxi drivers are sought out as they are usually aware of sex venues and often receive a kickback from them for bringing customers. The venues are motivated to let taxi drivers know their location. Taxi drivers are a principal source of new customers in any urban or semi-urban area. Multiple informants/data gatherers are used over several days in larger locations until no new venues can be found through interviewing multiple additional informants, usually three to five additional informants. The mapping obtained is ruled essentially complete by employing the '3 to 5 drivers and no-new-venues' rule. *Product*: A GPS mapping of sex work locations.

2) *Communication with sex venue management and direct observation* of and limited communication with sex workers. Local persons who are often taxi drivers other than those used in 1) are used to enter the larger venues located by 1), normally two persons per large venue and one per smaller and less urban venues. These data gatherers are selected based on the observed and informed characteristics and demographics of the customer base of the venue, such that the demographics of the data gatherers match that of the observed customer base. The data gatherers are usually not aware of the purpose of the data gathering. They are informed about the information that is wanted (perhaps for the purpose of a party outside of the brothel if asked) and are asked to provide it. Data so obtained include the number of apparently underage workers in evidence; the number that venue management claims to be capable of producing for a large party; the total number of workers; the number of workers allowed to leave with a customer; the ethnicities of these workers; and the number working off a debt (usually requested only by the last data gatherer per venue). The data relating to underage workers, to those who cannot leave, and to those said to be working off a debt when available, are used to determine the number/proportion of workers who are underage or forced. *Product*: The mean, or sometimes the maximum, of the numbers in each category is taken to be the best estimate of the number/proportion and type of trafficked persons in that venue.

3) A check on the data may exist in data from the tourism department or the police concerning the number of entertainment places and the estimate of total workers. Police estimates sometimes show more venues than found since closed venues may be not removed, while new venues are added to the list. *Product*: A comparison list to check/partially validate the GPS location mapping.

4) In larger localities such as cities and large towns, an intensive small sample *City Block Sampling* study may be used to estimate trafficking at minor venues throughout the city that might have been missed by other methods. Data from the purposive sample of blocks is compared with data gathered through (1), (2), and (3) for those blocks.

¹⁸² The method was awarded first place in UNIAP's (United Nations Inter-Agency Project on Human Trafficking) 2007 international competition for best methods of measuring human trafficking.

ANNEX II IOM AND ICMPD TEMPLATES FOR THE COLLECTION OF DATA



A. The IOM Template for the collection of victim-centred data¹⁸³

The International Organization for Migration has developed a set of eighteen core indicators and variables, based on the IOM Screening and Assistance questionnaires¹⁸⁴ which underpin the collection of a minimum set of victim-centred trafficking data worldwide.

The indicators are divided into the following four sections:

1. the profile of the victim of trafficking;
2. the trafficking process;
3. exploitation;
4. the response to the victim.

This set of core indicator guides the collection of data regarding the profile of the victim and some factors that increase the risk of trafficking. It further provides insights into patterns of entry into and movement in the trafficking process, the profile of traffickers and their means to control the victim. In addition, the set of core indicators enhances understanding regarding the different types of exploitation, referral mechanisms, assistance provided and the response of the police and justice system.

VARIABLE	INDICATORS
VoT¹⁸⁵ Profile:	<ol style="list-style-type: none"> 1. Sex 2. Age 3. Citizenship 4. Ethnicity 5. Marital status 6. Children 7. Education 8. Socio-economic status
Trafficking Process:	<ol style="list-style-type: none"> 9. Entry into migration/trafficking process 10. Profile and functions of traffickers 11. Means of control 12. Movement process
Exploitation:	<ol style="list-style-type: none"> 13. Type of exploitation 14. Length of exploitation 15. Means of control

¹⁸³ Also see Part I.E.(3). of this report for information on the IOM’s core indicators and Annex I.F. for more information on the IOM’s work.

¹⁸⁴ Please contact CTS-db@iom.int for more information on the Screening and Assistance Interview Forms.

¹⁸⁵ Victim of Trafficking (VoT).

Response:	16. Referral mechanism 17. Types of assistance 18. Law enforcement action
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(1) Core Indicators

The core indicators show different levels of operationalization. Some, such as “sex” and “age”, are identifiable on the basis of one question, whereas indicators such as “movement process” and “individuals implicated in the trafficking process” are generally much more complex. The core indicators have been made concrete in such a manner that, to some degree, also data of more complex trafficking cases can be adequately captured during the interview with the victim.

Concretely, the eighteen core indicators translate as follows, followed by an annex:

INDICATOR	QUESTIONS/ANSWERS
VoT Profile:	
1. Sex	Sex <i>(Male/ female/ transgender/unknown)</i>
2. Age	Date of Birth <i>(dd/mm/yyyy)</i> How old was the individual when the exploitation began? Age (at time of screening/first interview) <i>(Age in years)</i>
3. Citizenship	Citizenship <i>(Answers: ISO standard coding list for country)</i>
4. Ethnicity	Ethnicity <i>(Answers: ISO standard coding list ethnicity)</i>
5. Marital status	Marital status. <i>(Single/Partner/Married/Divorced/Separated/Widowed/NA/NK¹⁸⁶)</i>
6. Number of Children	Does the individual have any children? <i>(Yes/No/NA/NK)</i> Number of children : <i>(0, 1, 2, 3, 4, 5, etc...)</i>

¹⁸⁶ NA: Not Available.
NK: Not Known.

7. Education	<p>What was the last level of education received? (<i>Primary or elementary school/Middle school/Secondary school/High school/Technical training/University/Religious education/None/Other/NA/NK</i>)</p> <p>Total number of years of education: (<i>0, 1, 2, 3, 4, 5, etc...</i>)</p>
8. Socio-economic status	<p>What was the individual's perception of her/his families' economic status? (<i>Well-off/Standard/Poor/Very poor/Other/NA/NK</i>)</p> <p>What was the last activity the individual was engaged in prior to departure from the place of origin? (<i>Agricultural work/Begging/Child care/Construction/Domestic work/Factory work/Fishing/Low-level criminal activities/Military service/ Mining/ Prostitution/Restaurant and hotel work/Small street commerce/Study/Trade/Transport sector/Unemployed/Other/NA/NK</i>)</p>

INDICATOR	QUESTIONS/ANSWERS
Trafficking Process	
9. Entry into migration/trafficking	<p>How did the individual enter the process (indicate multiple options if necessary)? (<i>Kidnapping/Sold by member of family/Sold by non-family member/Adoption/Educational opportunity/Family visit/Friend visit/ Labour migration/ Marriage/Tourism/Other/NA/NK</i>)</p> <p>Did entry into the process involve recruitment? (<i>Yes/No</i>)</p> <p>If YES, how was contact initiated between the individual and her/his recruiter? (<i>Personal contact/Employment agency/Travel agency/Internet advertisement/Newspaper advertisement/Radio advertisement/Television advertisement/Other/NA/NK</i>)</p>
10. Profile and functions of those implicated in the trafficking process	Profile of those implicated in the trafficking process (<i>See question 17 in annex to core indicators</i>)
11. Means of control at entry and travel stage	What means were used to control the individual? (<i>See question 18 in annex to core indicators</i>)
12. Movement of victim of trafficking	<p>If the individual is a victim of trafficking, was the type of trafficking in-country or transnational? (<i>In-country/Transnational/Both</i>)</p> <p>Country of origin, transit countries, country of destination, period of travel</p>

	(month/year), travel with other victims/migrants, own documents, forged documents, official border crossing (See question 20 in annex to core indicators)
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INDICATOR	QUESTIONS/ANSWERS
Exploitation	
13. Type of exploitation	<p>Was there exploitation? (Yes/No)</p> <p>If NO, was there a real and substantial threat of exploitation, although actual exploitation never took place? (Yes/No/NA/NK)</p> <p>If exploited, which type(s) of exploitation did the individual experience last? (specify all that apply) (Sexual exploitation/Forced labour/Low level criminal activities/Forced military service/Forced marriage/Organ removal/Other).</p> <p>What type of work was undertaken in the case of forced labour? (Agricultural work/Begging/Child care/Construction/Domestic work/Factory work/Fishing/Mining/Restaurants and hotel work/Small street commerce/Trade/Transport Sector/Other/NA/NK)</p>
14. Length of exploitation	<p>How long did the only/most significant exploitation (or activity) occur? (Years/Months/ Weeks/Days and/or hours)</p>
15. Means of control	<p>What means were used to control the individual during the exploitation phase? (See question 26 annex to core indicators)</p>

INDICATOR	QUESTIONS/ANSWERS
Response	
16. Referral mechanism	<p>Type of referring organization/individual: (NGO/International organization/Law enforcement/Immigration/Government/Embassy/ IOM Mission/Hotline/Self-referral/Walk-in/Family/Friend/Client/Other/NA/NK)</p>
17. Types of Assistance	<p>What is the assistance given to the VoT and/or her/his family members? Select more than one if necessary.</p> <p>Pre-departure assistance: (VoT Yes/No; Family members Yes/No)</p> <p>Travel assistance: (VoT Yes/No; Family members Yes/No)</p>

	<p>Reception assistance: (VoT Yes/No; Family members Yes/No)</p> <p>Reintegration assistance: (VoT Yes/No; Family members Yes/No)</p> <p>Resettlement assistance (VoT Yes/No; Family members Yes/No)</p> <p>Other- please specify (VoT Yes/No; Family members Yes/No)</p>
18. Law enforcement action	<p>Has the individual pursued a civil claim in the civil courts? (Yes/No/NA/NK) If YES, please specify: If YES, was any financial settlement awarded: (Yes/No/NA/NK) If YES, how much: (Total in USD)</p> <p>Has a criminal investigation occurred in the country of origin? (Yes/No/NA/NK) If YES, did it result in a prosecution? (Yes/No/NA/NK) If YES, was there a conviction? (Yes/No/NA/NK) If YES to the criminal investigation question, has the individual collaborated with the criminal justice system during the criminal investigation? (Yes/No/NA/NK) If YES, please specify: (Giving of evidence/Witness during the trial/Other)</p>

(2) Annex to Core Indicators

The following questions are to be seen as the annex to the core indicators above and have been taken from the IOM Screening Interview and Assistance Interview Forms.

VoT Profile

1. First name(s):
2. Family name(s):
3. Screening date: (dd-mm-yyyy)
4. Sex: (Male/Female/Unknown)
5. Date of birth: (dd-mm-yyyy)
6. Age (in number of years):
7. Citizenship:
8. Ethnicity:

9. What is the marital status of the victim at the time of entry into process?
(Single/Partner/Married/Divorced/Separated/Widowed/NA/NK)

10. Does the individual have any children? (Yes/No/NA/NK)
10.1 If YES, number of children:

11. What was the last level of education received? (Primary or elementary school/ Middle school/ Secondary school/ High school/ Technical training/University/Religious education/None/Other/NA/NK)

12. Total number of years of education: (Please specify number of years)

13. What was the individual's perception of her/his family economic status?
(Well-off/ Standard/ Poor/Very poor/Other/ NA/NK)

14. What was the last activity the individual was engaged in prior to departure from the place of origin?
(Give multiple answers if necessary)
(Agricultural work/Begging/Child care/Construction/Domestic work/Factory work/Fishing/Low-level criminal activities/Military service/Mining/Prostitution/Restaurant and hotel work/Small street commerce/Study/Trade/Transport sector/Unemployed/Other/NA/NK)

Trafficking Process

15. How did the individual enter the process? (Indicate multiple options if necessary)
(Kidnapping/Sold by member of family/Sold by non-family member/Adoption/Educational opportunity/ Family visit/Friend visit/Labour migration/Marriage/Tourism/Other/NA/NK)

15.1 If OTHER, please specify:

16. Did entry in to the process involve recruitment? (Yes/No)

16.1 If YES, how was contact initiated between the individual and her/his recruiter?
(Personal contact/Employment agency/Travel agency/Internet advertisement/Newspaper advertisement/Radio advertisement/Television advertisement/Other/NA/NK)

16.2. If OTHER, please specify:

17. Profile of all individuals implicated in trafficking process? (add rows if necessary)

	Sex	Nationality(ies)	Role in Trafficking Process (select all that apply):	From (place/country) -> To (place/ country)
Person 1:	(Male/Female/ NA/NK)		(Recruiter/Kidnapper/ 'Seller'/Buyer/Transporter/ Harbourer/Receiver/Exploiter)	From To
Person 2:	(Male/Female/ NA/NK)		(Recruiter/Kidnapper/ 'Seller'/Buyer/Transporter/ Harbourer/Receiver/Exploiter)	From To
Person (To be added for each additional person)	(Male/Female/ NA/NK)		(Recruiter/Kidnapper/ 'Seller'/Buyer/Transporter/ Harbourer/Receiver/Exploiter)	From To

18. Were any of the following means used to control the individual?

Physical abuse	(Yes/No/NA/NK)	If YES, who by? (Recruiter/ Transporter/Harboured/Receiver/ Other- specify)
Psychological abuse	(Yes/No/NA/NK)	If YES, who by? (Recruiter/ Transporter/Harboured/Receiver/ Other- specify)
Sexual abuse	(Yes/No/NA/NK)	If YES, who by? (Recruiter/ Transporter/Harboured/Receiver/ Other- specify)
Threats to individual	(Yes/ No/NA/NK)	If YES, who by? (Recruiter/ Transporter/Harboured/Receiver/ Other- specify)
Threat of action by law enforcement	(Yes/No/NA/NK)	If YES, who by? (Recruiter/ Transporter/Harboured/Receiver/ Other- specify)
Threats to family	(Yes/No/NA/NK)	If YES, who by? (Recruiter/ Transporter/Harboured/Receiver/ Other- specify)
False promises/deception	(Yes/No/NA/NK)	If YES, who by? (Recruiter/ Transporter/Harboured/Receiver/ Other- specify)
Denied freedom of movement	(Yes/Partial/No/NA/NK)	If YES, who by? (Recruiter/ Transporter/Harboured/Receiver/ Other- specify)
Given drugs	(Yes/No/NA/NK)	If YES, who by? (Recruiter/ Transporter/Harboured/Receiver/ Other- specify)
Given alcohol	(Yes/No/NA/NK)	If YES, who by? (Recruiter/ Transporter/Harboured/Receiver/ Other- specify)
Denied medical treatment	(Yes/No/NA/NK)	If YES, who by? (Recruiter/ Transporter/Harboured/Receiver/ Other- specify)
Denied food/drink	(Yes/No/NA/NK)	If YES, who by? (Recruiter/ Transporter/Harboured/Receiver/ Other- specify)
Withholding of wages	(Yes/Partial/No/NA/NK)	If YES, who by? (Recruiter/ Transporter/Harboured/Receiver/ Other- specify)
Withholding of identity Documents	(Yes/No/NA/NK)	If YES, who by? (Recruiter/ Transporter/Harboured/Receiver/ Other- specify)
Withholding of travel documents	(Yes/No/NA/NK)	If YES, who by? (Recruiter/ Transporter/Harboured/Receiver/ Other- specify)
Debt bondage	(Yes/No/NA/NK)	If YES, who by? (Recruiter/ Transporter/Harboured/Receiver/ Other- specify)
Excessive working hours	(Yes/No/NA/NK)	If YES, who by? (Recruiter/ Transporter/Harboured/Receiver/ Other- specify)
If OTHER means of control, specify:	(Yes/No/NA/NK)	If YES, who by? (Recruiter/ Transporter/Harboured/Receiver/ Other- specify)

19. If the individual is a victim of trafficking, was the type of trafficking in-country or transnational?

(In-country/Transnational/Both)

20. Case movement by place/country, type and time-frame.

Place/ Country of Departure	Transit country (Yes/ No/ NA/ NK)	If YES, Please give countries in chronological order	Place/ country of (intended) last exploitation	Means of transport (Bus/Car/Air/ Train/Boat/ Foot/Other) Select all that apply	Date (mm/yy yy to mm/yyyy y)	Travelled with other persons/ victims/ migrants? (Yes/No/ NA/NK)	Travelled with own docs? (Yes/ No/ NA/ NK)	Forged Docs? (Yes/ No/ NA/ NK)	If applicable, was the border to country of destination crossed at an official entry point? (Yes/No/ NA/NK)
To be filled in, as applicable									

Exploitation

21. Was there exploitation? (Yes/No).

21.1 If NO, was there a real and substantial threat of exploitation, although actual exploitation never took place? (Yes/No/NA/NK).

22. If exploited, which type(s) of exploitation did the individual experience last? (X more than one if necessary)

- Sexual exploitation
 - Forced labour
 - Low-level criminal activities
 - Forced military service
 - Forced marriage
 - Organ removal
 - Other
- If OTHER, please specify:

23. What type of work was undertaken?

(Agricultural work/Begging/Child care/Construction/Domestic work/Factory work/Fishing/Mining/ Restaurant and hotel work/Small street commerce/Trade/Transport sector/Other/NA/NK)

24. How old was the individual when the activity began? (Age)

25. How long did the only/most significant activity occur? (Years/Months/Weeks/Days and/or hours)

26. Were any of the following means used to control the individual during the activity?

Physical abuse	(Yes/No/NA/NK)	If YES, who by? (Receiver/Exploiter/ Clients/Other- specify)
Psychological abuse	(Yes/No/NA/NK)	If YES, who by? (Receiver/Exploiter/ Clients/Other- specify)
Sexual abuse	(Yes/No/NA/NK)	If YES, who by? (Receiver/Exploiter/ Clients/Other- specify)
Threats to individual	(Yes/No/NA/NK)	If YES, who by? (Receiver/Exploiter/ Clients/Other- specify)
Threats to individual	(Yes/No/NA/NK)	If YES, who by? (Receiver/Exploiter/ Clients/Other- specify)
Threat of action by law enforcement	(Yes/No/NA/NK)	If YES, who by? (Receiver/Exploiter/ Clients/Other- specify)

Threats to family	(Yes/No/NA/NK)	If YES, who by? (Receiver/Exploiter/Clients/Other- specify)
False promises/deception	(Yes/No/NA/NK)	If YES, who by? (Receiver/Exploiter/Clients/Other- specify)
Denied freedom of movement	(Yes/Partial/No/NA/NK)	If YES, who by? (Receiver/Exploiter/Clients/Other- specify)
Given drugs	(Yes/No/NA/NK)	If YES, who by? (Receiver/Exploiter/Clients/Other- specify)
Given alcohol	(Yes/No/NA/NK)	If YES, who by? (Receiver/Exploiter/Clients/Other- specify)
Denied medical treatment	(Yes/Regular/Occasional/Only in emergency cases/No/NA/NK)	If YES, who by? (Receiver/Exploiter/Clients/Other- specify)
Denied food/drink	(Yes/No/NA/NK)	If YES, who by? (Receiver/Exploiter/Clients/Other- specify)
Withholding of wages	(Yes/Partial/No/NA/NK)	If YES, who by? (Receiver/Exploiter/Clients/Other- specify)
Withholding of identity documents	(Yes/No/NA/NK)	If YES, who by? (Receiver/Exploiter/Clients/Other- specify)
Withholding of travel documents	(Yes/ No/NA/NK)	If YES, who by? (Receiver/Exploiter/Clients/Other- specify)
Debt bondage	(Yes/No/NA/NK)	If YES, who by? (Receiver/Exploiter/Clients/Other- specify)
Excessive working hours	(Yes/No/NA/ NK)	If YES, who by? (Receiver/Exploiter/Clients/Other- specify)
<u>If exploited for prostitution (sexual exploitation):</u>		
Denial of freedom to refuse client	(Yes/No/NA/NK)	If YES, who by? (Receiver/Exploiter/Clients/Other- specify)
Denial of freedom to refuse certain acts	(Yes/No/NA/NK)	If YES, who by? (Receiver/Exploiter/Clients/Other- specify)
Denial of freedom to use a condom	(Yes/Partial/No/NA/NK)	If YES, who by? (Receiver/Exploiter/Clients/Other- specify)
If OTHER means of control, specify:		

Response

27. Type of referring organization/individual: (NGO/International organization/Law enforcement/ Immigration/Government/Embassy/IOM Mission/Hotline/Self-referral/Walk-in/Family/Friend/Client/ Other/NA/NK)

28. What are the types of assistance given to the VoT and/or her/his family members? (Select more than one if necessary)

Pre-departure assistance:

VoT (Yes/No)

Family members (Yes/No)

Travel assistance

VoT (Yes/No)

Family members (Yes/No)

Reception assistance:

VoT (Yes/No)

Family members (Yes/No)

Reintegration assistance:

VoT (Yes/No)

Family members (Yes/No)

Resettlement assistance:

VoT (Yes/No)

Family members (Yes/No)

Other-please specify:

VoT (Yes/No)
Family members (Yes/No)

29. Has the individual pursued a civil claim in the civil courts? (Yes/No/NA/NK)

29.1 If YES, please specify:

29.2 If YES, was any financial settlement awarded: (Yes/No/NA/NK)

29.3 If YES, how much: (Total in Euro/USD)

30. Has a criminal investigation occurred in the country of origin? (Yes/No/NA/NK)

30.1 If YES, did it result in a prosecution? (Yes/No/NA/NK)

30.2 If YES, was there a conviction? (Yes/No/NA/NK)

31. If YES, has the individual collaborated with the criminal justice system during the criminal investigation? (Yes/No/NA/NK)

31.1 If YES, please specify: (Giving of evidence/Witness during the trial/Other)

32. Interview data/Remarks:

B. ICMPD Template for the collection of trafficker-centred data

The following template of a questionnaire of trafficker-centred data has been taken from the ICMPD *Handbook on Anti-Trafficking Data Collection in South-Eastern Europe*. This template has been elaborated in the frame of the ICMPD Data Collection and Information Management programme in South-Eastern Europe (DCIM).¹⁸⁷ This template was produced in consultation with various anti-trafficking stakeholders in South-Eastern Europe, in particular with those national offices and institutions in charge of the investigation and prosecution of the perpetrators of the crime of trafficking in human beings. This template is currently in use to collect data related to the traffickers and the criminal justice system in the DCIM participating countries.¹⁸⁸

Section 1: Trafficker's profile

1a) Name of accused trafficker

Possible value: first name and surname.

Please fill-in the blanks:

Last name: ...

First name: ...

1b) Trafficker aliases

Possible value: this is an open text field. Multiple values can be specified.

Please fill-in the blanks:

Trafficker aliases: ...

1c) Sex of the trafficker

Possible values may be male, female, transsexual or unknown.

Please fill-in the blanks:

Sex: ...

1d) Date of birth

Possible values: the day, month and year of birth of the trafficker, in this sequence. The exact date of birth should be based on the trafficker's identity documents rather than their self-stated date of birth.

Please fill-in the blanks:

Date of birth: ...

¹⁸⁷ See Annex I.D. for further information on ICMPD's work. Surtees (2008b): *Handbook on Anti-Trafficking Data Collection in South-Eastern Europe: Developing Regional Criteria*, International Centre for Migration Policy Development, Vienna.

¹⁸⁸ Albania, Bosnia-Herzegovina, Bulgaria, Croatia, Kosovo, Macedonia, Moldova, Montenegro, Romania and Serbia.

1e) Trafficker's citizenship

Possible values: any country or combination of countries. In some situations, traffickers may hold multiple citizenships, in which case all citizenships should be listed.

Please fill-in the blanks:

Citizenship: ...

1f) Trafficker's country of residence

Possible values: any country. There should only be one value to this question.

Please fill-in the blanks:

Trafficker's country of residence: ...

1g) Country of birth

Possible values: any country. There should only be one value to this question.

Please fill-in the blanks:

Country of birth: ...

1h) Trafficker's ethnicity

Possible values: Albanian; Ashkali; Bosnian; Bulgarian; Croatian; Egyptian; Gorani; Hungarian; Macedonian; Moldovan; Montenegrin; Pomak; Roma; Romanian; Russian; Serbian; Turkish; N/A; other (please list one or more not included in this preliminary list). As many persons will likely have more than one ethnicity, there is the option to fill in more than one indicator for this section.

Please fill-in the blanks:

Trafficker's ethnicity: ...

1i) Role in the trafficking chain

Possible values: document processor, recruiter, transporter, exploiter, "boss", other (please specify) or unknown. The trafficker may have more than one role in the trafficking chain, in which case multiple values should be included.

Please fill-in the blanks:

Role in the trafficking chain: ...

1j) Criminal record

Possible values are unlimited. This section is an open field of text to list all past charges, warrants or convictions. It is important to note when it is a conviction or charge. For example, "conviction for murder" or "charged with theft". Where no past criminal convictions exist, the value should be "no criminal record". Where incomplete information is available about this issue, the value should be "unknown". There may also be individuals with "unresolved" charges or with "charges pending".

Please fill-in the blanks:

Criminal record: ...

Section 2: Investigation phase

2a) Date case initiated

Possible value: day, month and year.

Please fill-in the blanks:

Date case initiated: ...

2b) Location case was initiated

Possible values: this is an open text field. Designations used in the database should be consistent with the specific administrative structures of the individual SEE country/territory.

Please fill-in the blanks:

Location case was initiated: ...

2c) Initiation method

Possible values: complaint lodged; tips; proactive investigation; reactive investigation; unknown; other.

Please fill-in the blanks:

Initiation method: ...

2d) Date investigation commenced

Possible value: day, month and year.

Please fill-in the blanks:

Date investigation commenced: ...

2e) Date investigation completed

Possible value: day, month and year.

Please fill-in the blanks:

Date investigation completed: ...

2f) Date of arrest

Possible value: day, month and year.

Please fill-in the blanks:

Date of arrest: ...

2g) Charges at arrest

Possible values are unlimited. This section is an open field text.

Please fill-in the blanks:

Charges at arrest: ...

2h) Type of trafficking/exploitation

Possible values: sexual exploitation, forced labour and services, begging, delinquency, adoption, removal of organs, other (please specify). In some cases, victims may have suffered multiple forms of exploitation in which case they will need to provide more than one answer to this question.

Please fill-in the blanks:

Type of trafficking/exploitation: ...

2i) Number of victims involved

This field notes the numbers of trafficked persons involved (as victims) in the case for which the trafficker was arrested.

Possible values: 0, 1 - 5; 6 - 10; 11 - 20; 21 - 30; 30-39; 40-49; 50-59; 60+; unknown

Please fill-in the blanks:

Number of victims involved: ...

2j) Victim statements

This section notes the number of victims who have provided statements against the trafficker in the course of the investigation.

Possible values: 0, 1 - 5; 6 - 10; 11 - 20; 21 - 30; 30-39; 40-49; 50-59; 60+; unknown

Please fill-in the blanks:

Victim statements: ...

2k) Pre-trial victim protection

This field notes whether any of the victims involved as victims/witnesses in the cases received any protection during this pre-trial phase.

Possible values: 0, 1 - 5; 6 - 10; 11 - 20; 21 - 30; 30-39; 40-49; 50-59; 60+; unknown

Please fill-in the blanks:

Pre-trial victim protection: ...

Section 3: Trial phase

3a) Charges at trial

Possible values are unlimited. This section is an open field for text. In the event that the accused pleaded guilty to the charges, this should be noted here. Where this is the result of a plea bargain, please note any changes in the process such as a reduction to lesser charges and/or a reduced sentence.

Please fill-in the blanks:

Charges at trial: ...

3b) Location of trial

Possible values: this is an open text field. Designations used in the database should be consistent with the specific administrative structures of the individual SEE country/entity.

Please fill-in the blanks:

Location at trial: ...

3c) Date trial commenced

Possible value: day, month and year.

Please fill-in the blanks:

Date trial commenced: ...

3d) Date trial ended

Possible value: day, month and year.

Please fill-in the blanks:

Date trial ended: ...

3e) Victim testimony

This question notes the number of victims who have provided testimony against the trafficker in the course of the trial.

Possible values are 0, 1 - 5; 6 - 10; 11 - 20; 21 - 30; 30-39; 40-49; 50-59; 60+; unknown

Please fill-in the blanks:

Victim testimony: ...

3f) Trial victim protection

This question asks whether any of the victims involved as victims and/or witnesses in the cases received any protection during the trial phase. During the trial, there may be different types of protection available such as the option to provide testimony by video or full-time police protection. Wherever some protection is afforded, this should be noted.

Possible values: video testimony, full-time police protection, escort to court, closed court session, witness protection option, none, unknown, other (please specify). Where multiple forms of protection were offered, please note each of these forms.

Please fill-in the blanks:

Trial victim protection: ...

3g) Trial outcome

This question documents the outcome of the trial – the formal ruling on the various charges, whether trafficking or non-trafficking charges.

Possible values: guilty; acquitted; mistrial; pending; unknown; not applicable.

Please fill-in the blanks:

Trial outcome: ...

3h) Sentence imposed (at trial)

This field notes the sentence imposed in the case of a guilty verdict in the trial.

Possible values: prison; fine; suspended sentence; house arrest; community service; other; unknown; not applicable. This section is only to be completed in the case of a guilty verdict in the trial. More than one value may be required in this section. That is, a sentence like “prison” may be imposed in combination with another penalty like a “fine”. All relevant penalties should be registered.

Please fill-in the blanks:

Sentence imposed (at trial): ...

3i) Duration of sentence (at trial)

This question asks for the length of the sentence imposed when the sentence has been “prison”, “suspended sentence”, “house arrest”, “community service” or “prison” in combination with another penalty like a “fine”.

Possible values: 0; 1 - 6 months; 7 - 12 months; 1 - 2 years; 3 - 5 years; 6 - 10 years; 11 - 15 years; 16 - 20 years; 20 - 25 years; 26 - 30 years; +30 years.

Please fill-in the blanks:

Duration of sentence (at trial): ...

3j) Fine imposed (at trial)

This field notes the amount of the fine imposed where the sentence/penalty was a fine. In some cases the penalty will only be a fine; in other cases a fine may be imposed in combination with another sentence – i.e. “prison”, “suspended sentence”, “house arrest”, “community service” and/or “prison” in combination with another penalty like a “fine”.

Possible values: an integral number, representing the local currency unit.

Please fill-in the blanks:

Fine imposed (at trial): ...

Section 4: Appeal process

4a) Conviction appealed

This section records the appeal process in the case of a conviction.

Possible values: yes, no or unknown

Please fill-in the blanks:

Conviction appealed: ...

4b) Appeal commenced

This question documents the date – day, month and year – that the appeal process commenced.

Possible value: day, month and year.

Please fill-in the blanks:

Appeal commenced: ...

4c) Appeal concluded

This question documents the date – day, month and year – that the appeal process was concluded.

Possible value: day, month and year.

Please fill-in the blanks:

Appeal concluded: ...

4d) Basis of appeal

This field registers the grounds upon which the appeal is based.

Possible values are unlimited. This section is an open field for text.

Please fill-in the blanks:

Basis of appeal: ...

4e) Victim protection during appeal

This question asks whether any of the victims involved as victims and/or witnesses in the case received any protection during the appeal phase.

Possible values: 0, 1 - 5; 6 - 10; 11 - 20; 21 - 30; 30-39; 40-49; 50-59; 60+; unknown

Please fill-in the blanks:

Victim protection during appeal: ...

4f) Result of the appeal process

This question asks about the result of the final appeal in the case. While most legal systems have various stages of appeal, this section refers only to the final appeal and, thus, the final result in this case.

Possible values: guilty; acquitted; mistrial; pending; unknown; not applicable

Please fill-in the blanks:

Result of the appeal process: ...

4g) Sentence imposed (at appeal)

This question asks about the sentence imposed in the case of a guilty verdict in the final appeal process.

Possible values: prison; fine; suspended sentence; house arrest; community service; other; unknown; not applicable. This section is only to be completed in the case of upholding a guilty verdict. More than one value may be required in this section. That is, a sentence like “prison” may be imposed in combination with another penalty like a “fine”. All relevant penalties should be completed.

Please fill-in the blanks:

Sentence imposed (at appeal): ...

4h) Duration of appeal sentence

This question asks for the length of the sentence imposed in the final appeal stage when the sentence has been “prison”, “suspended sentence”, “house arrest”, “community service” or “prison” in combination with another penalty like a “fine”.

Possible values: 0; 1 - 6 months; 7 - 12 months; 1 - 2 years; 3 - 5 years; 6 - 10 years; 11 - 15 years; 16 - 20 years; 20 - 25 years; 26 - 30 years; +30 years.

Please fill-in the blanks:

Duration of appeal sentence: ...

4i) Fine amount (at appeal)

This question asks for the amount of the fine included in the sentence at the conclusion of the appeal process. This line of inquiry considers whether sentences and/or penalties imposed at trial are upheld as a result of the appeals process.

Possible values: integral number, representing the local currency unit.

Please fill-in the blanks:

Fine amount (at appeal): ...

Section 5: Post-trial phase

5a) Final sentence implementation

This question considers the extent to which the final sentence (whether prison, house arrest, suspended sentence, community service, etc.) was imposed and implemented.

Possible value: open text section in which the period of the sentence is filled in.

Please fill-in the blanks:

Final sentence implementation: ...

5b) Fine implementation

This question considers the extent to which the final fine was imposed and implemented.

Possible values: integral number, representing the local main currency unit.

Please fill-in the blanks:

Fine implementation: ...

5c) Post-trial victim protection

This question asks whether any of the victims involved as victims and/or witnesses in the case received protection following the final appeal process.

Possible values: 0, 1 - 5; 6 - 10; 11 - 20; 21 - 30; 30 - 39; 40 - 49; 50 - 59; 60+; unknown

Please fill-in the blanks:

Post-trial victim protection: ...

5d) Victim compensation ordered

This question asks about whether the victim received any financial compensation as a result of the trafficking proceedings and, if so, in what amount. There is a difference between being ordered to pay compensation and the actual receipt of this compensation. This question refers to the actual receipt of compensation – whether and in what amount compensation was actually received by victims.

Possible values: integral number, representing the local main currency unit.

Please fill-in the blanks:

Victim compensation ordered: ...

Section 6: Other

6a) Comments on the case

This is an open text field which can be used to enter additional details, clarification or comment about the case.

Comments: ...

ANNEX III LEGAL DATA PROTECTION INSTRUMENTS IN EUROPE



Contribution by Kerstin Buchinger and Julia Planitzer, Ludwig Boltzmann Institute of Human Rights

A. The European Convention on Human Rights

One of the most important legal instruments that must be taken into account when addressing the issue of data protection in Europe is the European Convention on Human Rights (ECHR).¹⁸⁹ The relevant provision for data protection is Article 8 of the Convention¹⁹⁰ which stipulates the right to respect for private and family life, home and correspondence, and offers protection for a person's right to privacy. Due to a lack of further definition, the rights covered by this article cannot be clearly distinguished from each other.¹⁹¹ This affects, in particular, the right to respect for private life as well as the rights belonging to the private sphere of individuals.

As such, the protection of privacy comprises a strong defensive right against any state intrusions into privacy, and upholds an intense governmental duty to protect individuals and/or other legal entities from fundamental rights interferences by third parties.

Given the steadily increasing means of modern computer-aided collection and utilisation of information, the protection of personal data reverts to one of the most important guarantees under Article 8 of the Convention, whereby the right to data protection is considered as a specific category of the right to privacy.¹⁹²

When personal data of individuals or other legal entities are collected, stored or otherwise processed, and the individuals or legal entities concerned are thereby compromised in their privacy, the scope of protection of Article 8, paragraph 1 ECHR comes into effect and the action can be qualified as interference in the right to privacy.¹⁹³

According to Article 8, paragraph 2 ECHR, interferences by public authorities with the rights guaranteed under Article 8, paragraph 1 are justified if they are intended or prescribed by law as necessary in a democratic society in instances: in the interest of national security, public safety or the economic well-being of the country; for the prevention of disorder or crime; for the protection of health or morals; or for the protection of the rights and freedoms of others.

As regards the explicit legal basis for justified interferences, the Convention requires a high level of determination as well as precision of national provisions, especially in terms of secret state measures, for example secret surveillance measures which severely compromise the private life of individuals or other entities. Similarly, the collection and storage of personal data as well as their disclosure or transmission is often carried out secretly and without notification to the person or legal entity concerned. Thus, specific demands have to be made with regard to the determination of the legal basis in question. Furthermore, adequate measures against any form of misuse of information have to be initiated.¹⁹⁴

¹⁸⁹ Council of Europe (1950): *Convention for the Protection of Human Rights and Fundamental Freedoms as amended by Protocol No. 11*, Rome, 04.11.1950.

¹⁹⁰ Article 8 states that: 1. Everyone has the right to respect for his private and family life, his home and his correspondence. 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interest of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

¹⁹¹ Van Dijk, P., van Hoof, G.J.H. (1998): *Theory and Practice of the European Convention on Human Rights*. 3rd edition, Kluwer Publishing, p. 489.

¹⁹² Grabenwarter, Christoph (2008): *Europäische Menschenrechtskonvention*, 3rd edition, p. 194.

¹⁹³ *Ibid.* p. 195.

¹⁹⁴ *Ibid.* p. 208.

Article 8, paragraph 2 of the Convention also refers to a broad spectrum of legitimate aims in order to justify state interferences within the scope of the protection stipulated in paragraph 1. Accordingly, the protection of national security may demand storage and transmission of personal data without granting any rights of access to or correction of this data by the persons concerned, for example in the context of an inspection of individuals. At the same time, such measures could be justified on grounds of public safety or with regard to the prevention of disorder or crime.¹⁹⁵

Besides the need for a legitimate aim, interferences have to be in line with the so-called proportionality principle in order to be qualified as justified interferences. According to this general principle, a proper balance of legally protected interests has to be struck. The principle particularly requires that the extent of deviation from the rights and fundamental freedoms guaranteed by the Convention is not disproportionate in relation to the legitimate needs and interests that have initiated the deviation.¹⁹⁶

Concerning interferences with the right to protection of personal data, the public interest in the collection, storage and other forms of processing of specific kinds of data has to be weighed against the protection of the right to respect for private life or privacy. In doing so, the respective categories of data, as well as their meaning for the core area of personality of each of the persons concerned, have to be taken into account in an adequate way.¹⁹⁷

As far as the collection, storage and usage of personal data by non-state actors is concerned, the concept of the horizontal effect (*Drittwirkung*) of fundamental rights emerges. Although Article 8, paragraph 2 ECHR explicitly refers to an ‘interference by a public authority’, the concept of positive obligations developed by the European Court of Human Rights (ECtHR), suggests an interpretation according to which States are obliged to actively protect the right to privacy, even if initiated by private individuals or institutions.¹⁹⁸

B. The Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data¹⁹⁹ at the Council of Europe Level

This Convention, drawn up within the Council of Europe by a committee of governmental experts under the authority of the European Committee on Legal Co-operation (CDCJ), was opened for signature on 28 January 1981 and entered into force on 1 October 1985. Its general aim is to strengthen data protection across all Member States of the Council of Europe, especially the legal protection of individuals with regard to automatic processing of personal information relating to them.²⁰⁰

Articles 5 to 11 of the Convention form its central part and state the basic principles for data protection. Article 5 refers to the quality of data and stipulates the fulfilment of two fundamental legal standards: the data should be correct, relevant and not excessive in relation to the purpose for which they are being stored, and, the use of data (collection, storage and disclosure) should be carried out in a correct way. Consequently, any storage of data for undefined or illegitimate purposes is not in accordance with this provision.²⁰¹

The list of special categories of data contained in Article 6 of the Convention mentions certain categories of data that are considered to be especially sensitive. These categories are: data revealing racial origin, political opinion or religious or other belief, the status of health or the sexual life of individuals, as well as data relating to criminal convictions. The processing of these kinds of data is likely to lead to interferences with individual rights and interests as information on such issues normally reflect the most personal areas of life. The list of data categories mentioned in this Article is

¹⁹⁵ Grabenwarter, C. (2008): *op.cit.* p. 209.

¹⁹⁶ Van Dijk, P., van Hoof, G.J.H. (1998): *op.cit.* p. 80.

¹⁹⁷ Grabenwarter, C. (2008): *op.cit.* p. 210.

¹⁹⁸ Van Dijk, P., van Hoof, G.J.H. (1998): *op.cit.* p. 494.

¹⁹⁹ Council of Europe (1981): *op.cit.*

²⁰⁰ *Ibid.* para. 1.

²⁰¹ *Ibid.*, para. 40-42.

not meant to be exhaustive but exemplary, and must be understood as such. The respective degree of sensitivity strongly depends on the legal and sociological context of each country concerned.²⁰²

Article 7 of the Convention refers to the principle of data security. According to this provision, appropriate security measures have to be taken in order to protect personal data against accidental or unauthorized destruction or accidental loss, as well as against unauthorized access, alteration or disclosure.

Article 8 foresees certain additional safeguards for individuals in order to enable them to defend their rights appropriately. In order to meet these requirements, the Convention requires that for each automated data file or record²⁰³ the controller²⁰⁴ should be identified and known. With regard to a confirmation of whether or not personal data, and the corresponding information of the person concerned, are stored in automatic data files, various formulas are possible: for example communication at the request of the individual or at the initiative of the controller of the file, or communication free of charge at fixed intervals.²⁰⁵

Article 9 stipulates certain exceptions to the basic principles for data protection, which are limited to those that are necessary for the protection of fundamental values in a democratic society. Article 9, paragraph 2 clearly mirrors the wording of Article 8, paragraph 2 ECHR, which lists the major state interests (state security, public safety, monetary interest of the State and the suppression of criminal offences) that may require exceptions. The notion ‘suppression of criminal offences’ for example, comprises criminal investigation measures as well as measures for the prosecution of criminal offences. Article 9, paragraph 2 on the other hand refers to major interests of private parties. Finally, Article 9, paragraph 3 implies the possibility of restricting the exercise of the right to data protection with regard to data processing activities that do not pose any notable risk. Included in this category are, for example, scientific research activities or the statistical usage of data.²⁰⁶

Article 10 of the Convention stipulates that each State Party establish appropriate sanctions and remedies for violations of data protection provisions of domestic law, giving effect to the basic principles for data protection set out in Chapter II of the Convention. Such sanctions and remedies can be of differing nature (civil, administrative, criminal), depending on the specific situation in each of the States.

Last but not least, Article 11 states that the basic principles for data protection only constitute a certain basis upon which the State Parties are welcome to build a more advanced system of protection.

The Council of Europe Convention on Action against Trafficking in Human Beings,²⁰⁷ which entered into force on 1 February 2008, also refers to Convention No. 108. Article 11 of this Convention, stating that personal data regarding victims shall be stored and used in conformity with the conditions provided by the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data. Parties to the Convention on Action against Trafficking in Human Beings are required to apply the requirements of Convention No. 108 regardless of whether they have ratified it or not.²⁰⁸

With regard to children, Article 11, paragraph 2 provides for special protection measures to ensure that the identity or details allowing the identification of a child victim of trafficking are not made public.

²⁰² Council of Europe (1981): *op. cit.* para. 43-48.

²⁰³ According to Article 2 of the Convention, “*automated data file*” (or automated record) means any set of data undergoing automatic processing.

²⁰⁴ According to Article 2 of the Convention, “*controller of the file*” means the natural or legal person, public authority, agency or any other body who is competent according to the national law to decide what should be the purpose of the automated data file, which categories of personal data should be stored and which operations should be applied to them.

²⁰⁵ Council of Europe (1981): *op. cit.* para 50-54.

²⁰⁶ *Ibid*, para 55-59.

²⁰⁷ Council of Europe (2005): *op. cit.*

²⁰⁸ Council of Europe (2005): *op. cit.*, Explanatory Report para 141.

C. Directive 95/46/EC on the Protection of Individuals with regard to the Processing of Personal Data and the Free Movement of such Data²⁰⁹

The European Community Directive on the protection of personal data, Directive 95/46/EC, forms an integral part of the commitment of all democratic societies across the European Union, ensuring respect for the fundamental rights and freedoms of individuals. In particular, the Directive aims at ensuring respect for the right to privacy with regard to the processing of personal data, and contributes to the respect for the rights protected by the European Convention on Human Rights, especially under Article 8 ECHR.

The Directive is divided into seven chapters. The general rules on the lawfulness of the processing of personal data are laid down in Chapter II, which is divided into nine sections. Section I refers to the principles relating to data quality. Section II defines criteria for making data processing legitimate. Section III mentions special categories of processing, relating to racial or ethnic origin, political opinions, religious or philosophical beliefs, trade-union membership, health or sex life. The information to be given to the individual is contained in Section IV. Section V relates to the individual's right to access the data, whereas Section VI refers to certain exemptions and restrictions. The individual's right to object to the processing of data is stated in Section VII. Section VIII contains provisions related to confidentiality and security. Finally, Section IX refers to the obligation to notify the supervisory authority before carrying out any processing operation.

With regard to the scope of application, the Directive only applies to matters falling under the first pillar of the European Union, for example in matters of asylum and immigration policies. Regarding the third pillar, Police and Judicial Co-operation in Criminal Matters, the only legal grounds for data protection at present are the two aforementioned Conventions.²¹⁰ Thus, the present Directive does not apply to the processing of personal data in the course of activities that fall outside the scope of Community law, neither does it apply to processing operations concerning public security, defence, State security nor the activities of the State in areas of criminal law, such as the fight against Trafficking in Human Beings. This fact may, however, be exposed to certain changes if the Treaty of Lisbon comes into effect, as one of the most prominent innovations of this treaty is arguably the scrapping of the known pillar system.

D. The Charter of Fundamental Rights of the European Union²¹¹

When it comes to questions of data protection in Europe, the Charter of Fundamental Rights of the European Union (EU), which will form part of the European Constitution if the Treaty of Lisbon comes into effect, must be mentioned.

Articles 7 to 9 of the Charter jointly provide for a comprehensive protection of privacy, being composed of several scopes of guarantee.²¹² Whereas the rights laid down in Article 7 of the Charter²¹³ were – almost literally – taken from Article 8 ECHR, a separate provision on the latest element of the right to privacy, the ‘Protection of Personal Data’, was created with Article 8 of the Charter.²¹⁴ This provision allows for the growing demands for data protection due to technological progress and

²⁰⁹ European Parliament and Council of European Union (1995): *Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data.*

²¹⁰ The respective provisions of the Charter of Fundamental Rights of the European Union (Articles 7 to 9, see explanations below under part D.) do not have any legally binding effect yet; this would change with the entry into force of the Treaty of Lisbon.

²¹¹ European Parliament (2000): *Charter of Fundamental Rights of the European Union*. C 364/01, 18.12.2000.

²¹² Winkler R. (2006): *Die Grundrechte der Europäischen Union*, p. 396.

²¹³ Article 7 (Respect for private and family life) reads as follows: *Everyone has the right to respect for his or her private and family life, home and communications.*

²¹⁴ Article 8 (Protection of personal data) stipulates that 1. *Everyone has the right to the protection of personal data concerning him or her.* 2. *Such data must be processed fairly for specified purposes and on the basis of the consent of the person concerned or some other legitimate basis laid down by law. Everyone has the right of access to data which has been collected concerning him or her, and the right to have it rectified.* 3. *Compliance with these rules shall be subject to control by an independent authority.*

consequent state and/or public interests. The Charter takes a notable step toward a comprehensive recognition of the importance of the concept of data protection.²¹⁵

Article 8 of the Charter is based on multiple sources: Article 286 of the Treaty establishing the European Community; the Directive 95/46/EC; Article 8 ECHR and the Council of Europe Convention No. 108.²¹⁶ Consequently, the article adopts certain formulations of these instruments, especially from the EC-Directive. Thus, the right to protection of personal data, covered by Article 8, is to be exercised under the conditions stated in the Directive but may be limited under the conditions set out by Article 52 of the Charter.²¹⁷

According to Article 52, limitations on the exercise of rights and freedoms guaranteed by the Charter must be provided for by law and must respect the essence of those rights and freedoms. Subject to the principle of proportionality, limitations may be made only if they are necessary and meet the objectives of general interests recognized by the EU or the need to protect the rights and freedoms of others. Insofar as the Charter contains rights which correspond to those guaranteed by the ECHR, the meaning and scope of those rights shall be the same as those laid down by the ECHR. However, this does not prevent the Charter from providing more extensive protection.

The fundamental rights covered by Articles 7 to 9 of the Charter correspond to the protection of the right to privacy against restrictions imposed by the European Union and its Member States within the scope of application of Union law. In addition, Article 8 of the Charter goes beyond restrictions by stipulating certain positive obligations, for example the right to information/access and correction with regard to data processing, as well as the necessity to install certain independent and effective control mechanisms.²¹⁸

Regarding the concept of consent, the "consent of the person concerned" as mentioned in Article 8, paragraph 2 of the Charter has to be understood as given freely and without any coercion. Furthermore, the concept functions on the assumption of informed consent, meaning that the person concerned has been duly informed of the planned processing of data. In addition, only consent given with regard to specified, explicit and legitimate purposes of data processing may be qualified as a valid form of consent.

Concerning the justification of interferences, Article 8 of the Charter contains specific reservations, which in fact are based on the general requirements for justification that emerge from the ECHR.²¹⁹

E. Council Framework Decision 2008/977/JHA on the Protection of Personal Data processed in the framework of police and judicial cooperation in criminal matters²²⁰

Since the European Community Directive on the protection of personal data (Directive 95/46/EC) only applies to matters falling within the first pillar, this Council Framework Decision aims at protecting personal data processed in the framework of police and judicial cooperation in criminal matters between the Member States of the European Union (Title VI of the Treaty on European Union, TEU).

This Council Framework Decision seeks to protect personal data which are or have been transmitted or made available between Member States or made available by Member States to competent authorities or to information systems established on the basis of Title VI of the Treaty on European Union. Competent authorities encompass police, customs and judicial authorities as well as authorities of Member States which are authorized to process personal data and authorities which are established on the basis of Title VI of TEU. The principles of lawfulness, proportionality and purpose

²¹⁵ Kotschy (2004): *op.cit.* p. 95.

²¹⁶ European Parliament (2000): *Charter of Fundamental Rights of the European Union*. CHARTE 4473/00, Convent 49, text of explanations relating to the text of the Charter, explanation on Art 8 of the Charter.

²¹⁷ Winkler (2006): *op. cit.* pp. 396-397.

²¹⁸ *Ibid.* p. 398.

²¹⁹ *Ibid.* p. 408.

²²⁰ Council of the European Union (2008b): *Council Framework Decision 2008/977/JHA of 27 November 2008 on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters.*

are laid down and they include inter alia that for further processing for another purpose this new purpose may not be incompatible with the original one. Since personal data are made available to other Member States or to competent authorities, provisions concerning specific forms of processing are laid down. For special categories of data relating to racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, health or sex life the processing is only permitted when this is strictly necessary and when the national law provides adequate safeguards. In addition, the transmission of personal data to private parties is possible under certain restrictions. The Council Framework Decision contains the principle that personal data are transferred only to third States or to international bodies which ensure an adequate level of protection for the intended data processing.

Specific rights of the data subject are also laid down, such as the right of access, the right to rectification, erasure or blocking, the right to compensation and the right of the data subject to seek judicial remedy. Independent national supervisory authorities have to advise and monitor the application of the respective provisions adopted.

GLOSSARY²²¹

Abduction: The act of leading someone away by force or fraudulent persuasion.

Aggregate data: Information, usually summary statistics, which may be compiled from personal data, but are grouped in a manner to preclude the identification of individual cases.

Child: An individual being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier.²²²

Child trafficking: Children are protected from trafficking in several international legal instruments and are considered a special case: “*The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered ‘trafficking in persons.’*”²²³

Child labour: Any work performed by a child which is detrimental to his/her health, education, physical, mental, spiritual, moral or social development.²²⁴ States are required to set a minimum age for employment and to regulate the hours and conditions of employment.

Child Exploitation: According to the Convention on the Rights of the Child, 1989 and the Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999, child exploitation includes: economic exploitation (any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development), sexual exploitation (sexual abuse, prostitution, child’s pornography) and abduction of, sale of or trafficking in children, or any other forms of child exploitation.²²⁵

Coercion: Compulsion by physical force or threat of physical force.

Consent: Any free, voluntary and informed decision that is expressed or implied and which is given for a specified purpose.²²⁶

Convention on the Rights of the Child: Defines universal principles and norms for the protection of children’s rights, founded on the respect for the dignity of each child, regardless of race, gender, language, religion, origins, wealth or birth status. The main principles of the Convention are non-discrimination; devotion to the best interests of the child; the right to life, survival and development; and respect for the views of the child.

Control: To exercise restraining or directing influence over.²²⁷ A core component of trafficking in persons: Traffickers use many methods to control and coerce their victims, including debt bondage, isolation (i.e. removal of identity or travel documents), fear and violence (psychological and physical).

Controller: Shall mean the natural or legal person, public authority, agency or any other body which alone or jointly with others determines the purposes and means of the processing of personal data; where the purposes and means of processing are determined by national or Community laws or regulations, the controller or the specific criteria for his nomination may be designated by national or Community law.²²⁸

²²¹ Adapted from IOM (2007): *The IOM Handbook on Direct Assistance for Victims of Trafficking*, Geneva and IOM (2004b): *Glossary on Migration*, International Migration Law, Geneva.

²²² Article 1, 1989 Convention on the Rights of the Child.

²²³ Article 3, UN Protocol to Prevent, Suppress, and Punish Trafficking in Persons.

²²⁴ Article 32, 1989 Convention on the Rights of the Child.

²²⁵ IOM (2004b): *op. cit.* p.13.

²²⁶ *Ibid.*

²²⁷ Merriam-Webster Online Dictionary, www.m-w.com.

²²⁸ European Parliament and Council of European Union (1995): Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, Official Journal L 281 , 23 November 1995.

Council of Europe Convention on Action against Trafficking in Human Beings: Entered into force on 1 February 2008. The Convention is a comprehensive treaty focused mainly on the protection of victims of trafficking and safeguarding their rights. It also aims at preventing trafficking and prosecuting traffickers. The Convention applies to all forms of trafficking, whether internally or transnational, and whether or not related to organized crime. The victim is defined as “*any natural person who is subject to trafficking in human beings as defined in this article*”. The Convention also provides for a reflection period for victims of trafficking and the setting up of an independent monitoring mechanism (GRETA) guaranteeing parties’ compliance with its provisions.²²⁹

Country of destination: A country that a trafficked person is travelling to; a country that is a destination for migratory flows (legal or illegal).

Country of origin: A country that a trafficked person is coming from; a country that is a source of migratory flows (legal or illegal).

Country of transit: A country that a trafficked person travels through; a country through which migratory flows move (legal or illegal).

Data processing/processing of personal data: Any operation or set of operations which is performed upon personal data, whether or not by automatic means, such as collection, recording, organization, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction.²³⁰

Data protection: The systematic application of a set of institutional, technical and physical safeguards that preserve the right to privacy with respect to the collection, storage, use and disclosure of personal data.²³¹

Data security: A set of physical and technological measures that safeguard the confidentiality and integrity of personal data and prevent unauthorized modification, tampering, unlawful destruction, accidental loss, improper disclosure or undue transfer.

Data subject: An identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to his physical, physiological, mental, economic, cultural or social identity.²³²

Debt bondage: “*The status or condition arising from a pledge by a debtor of his/her personal services or of those of a person under his/her control as security for a debt whereby the value of those services as reasonably assessed is not applied towards the liquidation of the debt, or the length and nature of those services are not respectively limited and defined.*”²³³ Sometimes used as a mechanism to control and coerce victims of trafficking in persons.

Deception: In the migration context, this term not only refers to false or wrong information, but also to the intentional abuse of capitalizing on the lack of information available to the migrant.²³⁴

Domestic servitude: Servitude can be understood as a “*dependant, economically abusive labour relationship*” with “no reasonable possibilities to escape”. In some cases, the “*abusive labour conditions of the live-in migrant domestic workers... [can] accurately be described as servitude.*”²³⁵

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.²³⁶ A core component of trafficking in persons: “*Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced*

²²⁹ Council of Europe (2005): *op. cit.*

²³⁰ European Parliament and Council of European Union (1995): Directive 95/46/EC, *op. cit.*

²³¹ *Ibid.*

²³² European Parliament and Council of European Union (1995): Directive 95/46/EC, *op. cit.*

²³³ Article 1, 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery.

²³⁴ IOM (2004b): *op. cit.* p. 18.

²³⁵ Human Rights Watch (2001): *Hidden in the Home: Abuse of Domestic Workers with Special Visas in the United States*, Vol. 13, No. 2 (G), June : <http://www.hrw.org/reports/2001/usadom/>.

²³⁶ Black’s Law Dictionary.

*labour or services, slavery or practices similar to slavery, servitude or the removal of organs.*²³⁷ Traffickers transport their victims for the sole purpose of personal gain, often either to make large amounts of money from their exploitation or to obtain free or cheap services or labour.

Forced labour: Can be defined as “*all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.*”²³⁸ Further state responsibilities are included in the Abolition of Forced Labour Convention of 1957.

Forced marriage: Can be defined as marriage that is not voluntary. According to the 1962 Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, “*Marriage shall be entered into only with the free and full consent of the intending spouses.*” Forced marriage is recognized as a practice similar to slavery when: “*A woman, without the right to refuse, is promised or given in marriage on payment of a consideration in money or in kind to her parents, guardian, family or any other person or group*”; “*The husband of a woman, his family, or his clan, has the right to transfer her to another person for value received or otherwise*”; or, “*a woman on the death of her husband is liable to be inherited by another person.*”²³⁹ Forced marriage is also prohibited under the 1979 Convention for the Elimination of All Forms of Discrimination against Women.

Forced migration: General term used to describe a migratory movement in which an element of coercion exists, including threats to life and livelihood, whether arising from natural or man-made causes (e.g. movements of refugees and internally displaced persons as well as people displaced by natural or environmental disasters, chemical or nuclear disasters, famine, or development projects).²⁴⁰

Guidelines: Guidelines, or policy statements, serve as recommendations by a body of experts.

Human Rights: Those liberties and benefits which, by accepted contemporary values, all human beings should be able to claim “as of right” in the society in which they live. These rights are contained in the International Bill of Rights, comprising the Universal Declaration of Human Rights 1948, and the International Covenants on Economic, Social and Cultural Rights and on Civil and Political Rights 1966, and have been developed by other treaties from this core (i.e. The Convention on the Elimination of All Forms of Discrimination against Women, Racial Discrimination Convention).

Identity document: A piece of documentation designed to prove the identity of the person carrying it.

Indebted servitude: Servitude can be understood as a “*dependent, economically abusive labour relationship*” with “*no reasonable possibility of escape.*”²⁴¹ Servitude sometimes results from situations of debt bondage, where debts are used to control victims of trafficking.

Informed consent: An agreement to do something or to allow something to happen made with complete knowledge of all relevant facts, such as the risks involved or any available alternatives.²⁴²

Internal trafficking: Trafficking in persons which take place within a country.

Irregular migration: Movement that takes place outside the regulatory norms of the sending, transit and receiving countries. There is no clear or universally accepted definition of irregular migration. From the perspective of destination countries, irregular migration constitutes illegal entry, stay or work in a country, meaning that the migrant does not have the necessary authorization or documents required under immigration regulations to enter, reside or work in a given country. From the perspective of the sending country, the irregularity is seen in cases in which, for example, a person crosses an international boundary without a valid passport or travel document or does not fulfil the administrative requirements for leaving the country.

Isolation: Traffickers often use isolation as a means of control and coercion. Isolation can include (but is not limited to) the removal of identification or travel documents, and linguistic or social isolation of victims.

²³⁷ Article 3, UN Protocol to Prevent, Suppress, and Punish Trafficking in Persons.

²³⁸ Article 2, Forced Labour Convention of 1930.

²³⁹ Article 1c, Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery.

²⁴⁰ IOM (2004b): *op. cit.* p. 25.

²⁴¹ Human Rights Watch (2001): *op. cit.*

²⁴² www.nolo.com

Kidnapping: Kidnapping can be defined as unlawful forcible abduction or detention of an individual or group of individuals, usually accomplished for the purpose of extorting economic or political benefit from the victim of the kidnapping or from a third party. Kidnapping is normally subject to the national criminal legislation of individual States; there are, however, certain kidnappings that fall under international law (i.e. piracy).²⁴³

Migrant worker: “A person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national.”²⁴⁴

Migration: A process of moving, either across an international border, or within a State. Migration is a population movement, encompassing any kind of movement of people, whatever its length, composition and causes; Migration includes migration of refugees, displaced persons, uprooted people, and economic migrants.

Non-personal data: Any information that does not relate to an identified or identifiable data subject.

Organized crime: A structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences, in order to obtain, directly or indirectly, a financial or material benefit.²⁴⁵

Personal data: Any information relating to an identified or identifiable natural person (“data subject”); an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to his physical, physiological, mental, economic, cultural or social identity.²⁴⁶

Personal data filing system: Any structured set of personal data which are accessible according to specific criteria, whether centralized, decentralized or dispersed on a functional or geographical basis.²⁴⁷

Prevention: The act of preventing (to keep from happening or existing)²⁴⁸ is part of a comprehensive strategy to combat trafficking in persons. Prevention can include (but is not limited to) information and awareness-raising activities, research, seminars and training, cooperation and networking (locally, nationally, regionally and internationally) and, more broadly, addressing root causes of trafficking such as domestic violence, social and economic exclusion, discrimination and others. Prevention measures are closely linked to creating education and livelihood opportunities, strengthening national social welfare and child protection systems or equivalent structures.

Processor: A natural or legal person, public authority, agency or any other body which processes personal data on behalf of the controller.²⁴⁹

Prosecution: A criminal proceeding in which an accused person is tried. As part of a comprehensive strategy to combat trafficking in persons, prosecution interventions can include (but are not limited to) strengthening legislation and policy, increasing criminal penalties, building capacity, and national and transnational cooperation (i.e. between NGOs and law enforcement).

Prostitution: The practice of engaging in sexual activity, usually with individuals other than a spouse or friend, in exchange for immediate payment in money or other valuables.²⁵⁰

Protection: The notion of protection reflects all the concrete measures that enable individuals at risk to enjoy the rights and assistance foreseen for them by international conventions. The act of protection recognizes that individuals have rights and that the authorities who exercise power over them have obligations. Protection means

²⁴³ Feinrider, M. (1985): *Kidnapping*, in: Encyclopaedia of Public International Law, No. 8, Human Rights and The Individual In International Law, International Economic Relations, North-Holland, Elsevier Science Publishers B.V., 1985, p. 355.

²⁴⁴ Article 2, 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

²⁴⁵ UN Convention against Transnational Organized Crime (2000), Annex 1, Article 2.

²⁴⁶ European Parliament and Council of European Union (1995): Directive 95/46/EC, *op. cit.*

²⁴⁷ *Ibid.*

²⁴⁸ Merriam-Webster Online.

²⁴⁹ European Parliament and Council of European Union (1995): Directive 95/46/EC, *op. cit.*

²⁵⁰ Encyclopaedia Britannica Online: <http://www.britannica.com>.

defending the legal existence of individuals, alongside their physical existence.²⁵¹ Protection is part of a comprehensive strategy to combat trafficking in persons. Protection of victims can include (but is not limited to) shelter, medical and psychological assistance, establishing visa options, voluntary return and reintegration, integration in destination country, safety, and national and transnational cooperation.

Recipient: A natural or legal person, public authority, agency or any other body to whom data are disclosed, whether a third party or not; however, authorities which may receive data in the framework of a particular inquiry shall not be regarded as recipients.²⁵²

Recruitment: A core component of trafficking in persons. Recruitment can be divided into fully deceptive, partially deceptive, and/or by force (abduction) or under threat or through fraud, abuse of power, abuse of a position of vulnerability etc. In the context of child trafficking, none of the above.

Regular migration: Migration that occurs through recognized, legal channels.

Sexual exploitation: In the context of trafficking, sexual exploitation takes many forms, including exploitation through prostitution, pornography, exotic dancing, sex tourism, or forced marriage. Victims can be men, women or children. Sexual exploitation is prohibited by a variety of international instruments, including the Geneva Conventions and the 1993 Declaration on the Elimination of Violence against Women and the Convention on the Rights of the Child.

Slavery: The status or condition of a person over whom any or all the powers attaching to the right of ownership are exercised.²⁵³ Slavery is identified by an element of ownership or control over another's life, coercion and the restriction of movement and by the fact that someone is not free to leave or to change employer (i.e. traditional chattel slavery, bonded labour, serfdom, forced labour and slavery for ritual or religious purposes).

Smuggler (of people): An intermediary who is moving people in furtherance of a contract with them, in order to illegally transport them across an internationally recognized State border.

Smuggling of migrants: *“The procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident.”*²⁵⁴

Third party: Any natural or legal person, public authority, agency or any other body other than the data subject, the controller, the processor and the persons who, under the direct authority of the controller or the processor, are authorized to process the data.²⁵⁵

Trafficker (of humans): A person who is moving people in order to obtain an economic or other profit by means of deception, coercion and/or other forms of exploitation. In the case of child trafficking, the use of illicit means is irrelevant. The intent of the trafficker is to exploit the person and gain profit or advantage from their exploitation.

Trafficking in persons: *“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”.*²⁵⁶ In the case of children, the use of means is irrelevant.

Transportation: The movement of goods or persons from one place to another by a carrier. A core part of trafficking in persons, movement can be international (involving two or more countries) or can take place from one part of a country to another (i.e. internal trafficking). Transportation can take place legally or illegally, by air, land or sea.

²⁵¹ Bouchet-Saulnier, Françoise (2002): *The Practical Guide to Humanitarian Law*, Rowman & Littlefield Publishers, Inc.

²⁵² European Parliament and Council of European Union (1995): Directive 95/46/EC, *op. cit.*

²⁵³ Article 1, Slavery Convention, 1926 as amended by 1953 Protocol.

²⁵⁴ Article 3, UN Protocol against the Smuggling of Migrants by Land, Air and Sea.

²⁵⁵ European Parliament and Council of European Union (1995): Directive 95/46/EC, *op. cit.*

²⁵⁶ Article 3, UN Protocol to Prevent, Suppress, and Punish Trafficking in Persons.

Travel documents: Generic term used to encompass all documents that are acceptable proof of identity for the purpose of entering another country. Passports and visas are the most widely used forms of travel documents. Some states also accept certain identity cards or other documents.

United Nations Convention against Transnational Organized Crime: Deals with the fight against organized crime in general and some of the major activities in which transnational organized crime is commonly involved, such as money laundering, corruption and the obstruction of investigations or prosecutions. To supplement the Convention, two Protocols also tackle specific areas of transnational organized crime that are of particular concern (trafficking in persons and smuggling of migrants).

Unit of analysis: Major entity that is being analyzed.

United Nations Protocol against the Smuggling of Migrants by Land, Air and Sea: Supplement to the UN Convention against Transnational Organized Crime. This Protocol deals with the growing problem of organized criminal groups who smuggle migrants, often at high risk to the migrants and at great profit for the offenders.

United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons: Supplemental to the UN Convention against Transnational Organized Crime. This Protocol deals with trafficking in persons as a form of cross-border organized crime, providing the most widely acknowledged definition of trafficking in persons.²⁵⁷

Victim: A person who is acted on and usually adversely affected by a force or agent; one that is injured, destroyed, or sacrificed under any of various conditions (accidents, crimes, etc.); one that is subjected to oppression, hardship, or mistreatment; one that is tricked or duped.²⁵⁸

Victim of trafficking/trafficked person: An individual who is a victim of the crime of trafficking in persons.²⁵⁹

Worst Forms of Child Labour: *“All forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict; the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances; the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties; work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.”*²⁶⁰

²⁵⁷ Article 3, UN Protocol to Prevent, Suppress, and Punish Trafficking in Persons.

²⁵⁸ Merriam-Webster Online.

²⁵⁹ IOM (2004b): *op. cit.* p. 69.

²⁶⁰ Article 3, 1999 Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

MEMBERS OF THE EXPERT TEAM

Name	Institution	Country
Barbara ALBRECHT	IOM Vienna	
Alexis A. ARONOWITZ	University College Utrecht	The Netherlands
Wim BONTINCK	Belgian Federal Police	Belgium
Kerstin BUCHINGER	Ludwig Boltzmann Institute of Human Rights	Austria
Marco BUFO	Associazione On the Road	Italy
Sarah CRAGGS	IOM Headquarters	
Giampiero D'AMICO	Central Directorate of Criminal Police/Ministry of the Interior	Italy
Sandro DE ANGELIS	Central Directorate of Criminal Police/Ministry of the Interior	Italy
Michaëlle DE COCK	ILO	
Erika GAMSJÄGER	Federal Ministry of the Interior/Criminal Intelligence Service	Austria
Emanuele GIORDANI	Central Directorate of Criminal Police/Ministry of the Interior	Italy
Anelise GOMES DE ARAUJO	OSCE	
Kurt HAGER	Federal Ministry of the Interior	Austria
Jozef HLINKA	Ministry of the Interior	Slovak Republic
Hana KOVÁČOVÁ	Permanent Mission to the International Organizations in Vienna	Slovak Republic
Michel KRANK	Police Grand Ducale	Luxembourg
Eurídice MÁRQUEZ SÁNCHEZ	IOM Vienna	
Mariana MARTINS	ICMPD	
Pierre MICCOLIS	Police Grand Ducale	Luxembourg
Angelika MOLNAR	EUROPOL	
Anders OLJELUND	Adviser to the Ministry of Justice	Sweden
Flavia PESCE	Osservatorio Tratta/Institute for Social Research	Italy

Julia PLANITZER	Ludwig Boltzmann Institute of Human Rights	
Enrico RAGAGLIA	ICMPD	
David REISENZEIN	IOM Vienna	
Pier ROSSI-LONGHI	IOM Vienna/Technical Cooperation Centre for Europe and Central Asia	
Günther SABLATTNIG	Federal Ministry of the Interior	Austria
Fabrizio SARRICA	UNODC	
Henrik SJÖLINDER	Ministry of Justice	Sweden
Patsy SÖRENSEN	NGO Payoke	Belgium
Rebecca SURTEES	Nexus Institute to Combat Human Trafficking	
Bärbel UHL	President of the EU Experts Group on Trafficking in Human Beings	
Duco VAN HEEL	FRONTEX	
Viktória VÉGH	Ministry of Justice and Law Enforcement	Hungary
Peter VON BETHLENFALVY	IOM Vienna former Chief of Mission	
Jelena VON HELLDORFF	Institute for International Assistance and Solidarity	Belgium

LIST OF EXPERTS CONTRIBUTING IN WRITING

Lead Author: Alexis A. ARONOWITZ, University College Utrecht

PART I PRELIMINARY CONSIDERATIONS TO ENSURE EFFECTIVE DATA COLLECTION

Alexis A. ARONOWITZ, University College Utrecht
Sarah CRAGGS, IOM
Isabella ORFANO, Osservatorio Tratta/Associazione On the Road
Flavia PESCE, Osservatorio Tratta/Institute for Social Research
Jelena VON HELLDORFF, Institute for International Assistance and Solidarity

PART II TRAFFICKING DATA: WHAT DATA SHOULD BE COLLECTED

Alexis A. ARONOWITZ, University College Utrecht
Angelika MOLNAR, EUROPOL
Jelena VON HELLDORFF, Institute for International Assistance and Solidarity

PART III TEMPLATES FOR MORE COMPREHENSIVE DATA COLLECTION

All Members of the Expert Group
Alexis A. ARONOWITZ, University College Utrecht
Angelika MOLNAR, EUROPOL

PART IV PROCEDURAL CONSIDERATIONS

Alexis A. ARONOWITZ, University College Utrecht
Sarah CRAGGS, IOM
Anelise GOMES DE ARAUJO, OSCE
Isabella ORFANO, Osservatorio Tratta/Associazione On the Road
Flavia PESCE, Osservatorio Tratta/Institute for Social Research

PART V TOWARDS IDENTIFYING POTENTIAL CASES OF TRAFFICKING

Alexis A. ARONOWITZ, University College Utrecht
Isabella ORFANO, Osservatorio Tratta/Associazione On the Road
Flavia PESCE, Osservatorio Tratta/Institute for Social Research
Patsy SÖRENSEN, NGO Payoke

PART VI PROTECTION MECHANISMS AND ETHICS

Kerstin BUCHINGER, Ludwig Boltzmann Institute of Human Rights

PART VII OPTIONS FOR IMPLEMENTATION

Alexis A. ARONOWITZ, University College Utrecht
Kurt HAGER, Federal Ministry of the Interior of Austria

ANNEXES

ANNEX I EXISTING PRACTICES AND INITIATIVES

Barbara ALBRECHT, IOM

Alexis A. ARONOWITZ, University College Utrecht

Sarah CRAGGS, IOM

Michaëlle DE COCK, ILO

Cristian CHIHAIA, Romanian National Agency against Trafficking in Persons

Patrizia FARINA, Ismu Foundation and Department of Statistics, University of Milan Bicocca

Dumitru LICSandRU, Romanian National Agency against Trafficking in Persons

Angelika MOLNAR, EUROPOL

Isabella ORFANO, Osservatorio Tratta/Associazione On the Road

Roger PLANT, ILO

Enrico RAGAGLIA, ICMPD

Fabrizio SARRICA, UNODC

Thomas STEINFATT, University of Miami

Duco VAN HEEL, FRONTEX

Viktória VÉGH, Ministry of Justice and Law Enforcement of Hungary

Gert VERMEULEN, University of Ghent/Institute for International Research on Criminal Policy

Kajsa WAHLBERG, National Rapporteur on Trafficking in Human Beings of Sweden

Bureau of the Dutch National Rapporteur on Trafficking in Human Beings

Central Directorate of Criminal Police/Ministry of Interior of Italy

ANNEX II IOM AND ICMPD TEMPLATES FOR THE COLLECTION OF DATA

International Centre for Migration Policy Development

International Organization for Migration

ANNEX III LEGAL DATA PROTECTION INSTRUMENTS IN EUROPE

Kerstin BUCHINGER, Ludwig Boltzmann Institute of Human Rights

Julia PLANITZER, Ludwig Boltzmann Institute of Human Rights

BIBLIOGRAPHY

A. Reports cited

- Aronowitz, Alexis A.
2009 *Human Trafficking, Human Misery. The global trade in human beings*, Praeger Publishers, Westport CT.
- Belser, P.; de Cock, M.; Mehran, F.
2005 *ILO minimum estimation of forced labour in the world*, International Labour Office, Geneva.
- Bouchet-Saulnier, Françoise
2002 *The Practical Guide to Humanitarian Law*, Rowman & Littlefield Publishers, Inc.
- Bundeskriminalamt der Bundesrepublik Deutschland
2007 *Human Trafficking National Situation Report*.
- Carchedi, F. and, I. Orfano, I. (eds.)
2007 Vol. 1. *Evoluzioni del fenomeno e ambiti di sfruttamento*, Franco Angeli, Milano.
- Council of Europe
1981 *Explanatory Report to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data*, paragraph. 1.
- Council of the European Union
2008 *EU Annual Report on Human Rights 2008*, Council Document N° 14146/1/08 REV 1, 29 October 2008.
- Dottridge, Mike
2007 *Measuring Responses to Trafficking in Human Beings in the European Union: an Assessment Manual*, Draft Text (21 September 2007) for the Meeting on the EU Anti-Trafficking Day, Brussels 18 October 2007
- Dutch National Rapporteur on Trafficking in Human Beings
2007 *Trafficking in Human Beings - Fifth Report of the Dutch National Rapporteur*, The Hague, Bureau HNRM.
- European Commission
2007 Conference on the occasion of the EU Anti-Trafficking Day “*Trafficking in Human Beings: Time for Action*”, Panel 2: *Recommended Indicators to monitor and evaluate national anti-trafficking policies* (initiative of the EU Expert Group on Trafficking in Human Beings), 18 October.
2006a *European Handbook on Equality Data*. Directorate-General for Employment, Social Affairs and Equal Opportunities.
2006b *Expert Conference on the Implementation of the EU Plan on Trafficking in Human Beings*, Brussels, 28-29 June.
2004 *Report of the Experts Group on Trafficking in Human Beings*, Brussels, 22 December.
- EUROPOL
2007 *Trafficking in Human Beings in the European Union: A Europol perspective*.
2006 *Organised Crime Threat Assessment*.
- Fachile, S.; Nicodemi, F.; Nibali Conti, M.; Alteri, G.
2007 Vol. 2. *Le norme di tutela delle vittime e di contrasto alla criminalità*, Franco Angeli, Milano.

- Feinrider, M.
1985 *Kidnapping*, in: *Encyclopaedia of Public International Law*, No. 8, Human Rights and The Individual in International Law, International Economic Relations, North-Holland, Elsevier Science Publishers B.V.
- Folden, Claus; Manke, Marina and Mortensen, Thomas
2007 *Sharing Data: Where to Start*, International Organization for Migration.
- Grabenwarter, Christoph
2008 *Europäische Menschenrechtskonvention*, 3rd edition.
- Human Rights Watch
2001 *Hidden in the Home: Abuse of Domestic Workers with Special Visas in the United States*, Vol. 13, No. 2 (G), June.
- International Organization for Migration
Pending *Practical Guidelines on a Memorandum of Understanding between Law Enforcement Agencies and key Stakeholders in the Field of Trafficking in Human Beings*, UN.GIFT, Vienna.
2007 *The IOM Handbook on Direct Assistance for Victims of Trafficking*, Geneva.
2006 *Resource Book for Law Enforcement Officers on Good Practices in Combating Child Trafficking*, Vienna.
2004a *Changing Patterns and Trends of Trafficking in Persons in the Balkan Region*, Geneva.
2004b *Glossary on Migration*, International Migration Law, Geneva.
- International Organization for Migration, London School of Hygiene and Tropical Medicine and United Nations Global Initiative to Fight Human Trafficking
2009 *Caring for Trafficked Persons: Guidance for Health Providers*
- International Organization for Standardization
2008 List of English country names and code elements in alphabetical order as given in ISO 3166-1 and the corresponding ISO 3166-1-alpha-2 code elements.
- Kotschy, Waltraut
2004 *Data Protection*, in: *Ensuring Human Rights Protection in Countries of Destination: Breaking the Cycle of Trafficking*, Conference Report Organization for Security and Co-operation in Europe (OSCE) /Office for Democratic Institutions and Human Rights (ODIHR).
- Laczko, Frank
2002 *Human Trafficking: The need for Better Data*, Migration Information Source, International Organization for Migration, November.
- Lethi, Martti
2003 *Trafficking in women and children in Europe*, HEUNI, No. 18.
- Lethi, Martti; Kauko, Aromaa
2007 *Trafficking in Human Beings for Sexual Exploitation in Europe*, in: *International Journal of Comparative and Applied Criminal Justice*, Fall 2007, Vol. 21, No. 2.
- Machado, Paulo; Penedo, Rita; Pesce, Flavia
2007 *From data collection to monitoring systems: Analysis and proposals*, AA.VV, *Headway. Improving Social Intervention Systems for Victims of Trafficking*, Noktus, Warsaw.
- Makkai, Toni
2003 *Thematic discussion on trafficking in human beings*, Workshop on trafficking in human beings, especially women and children, 12th Session of the Commission on Crime Prevention and Criminal Justice, Vienna, 15th May 2003.

- Mattar, Mohamed
2006 *Comparative Modes of National Reporting Mechanisms on the Status of THB*, unpublished background paper.
- Oliva, D. (ed.)
2008 Vol. 4. *La valutazione delle politiche, degli interventi, dei servizi*, Franco Angeli, Milano.
- Organization for Security and Co-operation in Europe
2007 Results from OSCE 6th Alliance conference on “*National Monitoring and Report Mechanism to Address THB: the Role of National Rapporteurs*”, Vienna, 21 May.
- Prina, F.
2007 Vol. 3. *Il sistema degli interventi a favore delle vittime*, Franco Angeli, Milano.
- Shlapkohl, Laura
2006 *Human Trafficking and the Common European Asylum System: Victim Protection and Assistance in the European Union*, The Fletcher School, April.
- Sölkner, Andrea; Uhl, Bärbel
2006 *Assessment of Return and Reintegration Assistance*, Activity Report of Activity 4.1 of the EU Twinning Project “Strengthening Institutions in the Fight against Trafficking in Human Beings”.
- Surtees, Rebecca
2008a *Trafficking of men - a trend less considered: The case of Belarus and Ukraine*, International Organization for Migration, Migration Research Series N° 36, Geneva
2008b *Handbook on Anti-Trafficking Data Collection in South Eastern Europe: Developing Regional Criteria*, ICMPD, Vienna.
2007 *Trafficking victims in SEE – what we know, what we need to know*, Conference Presentation Mensenhandel: achtergrond en aanpak, Amsterdam, Free University of Amsterdam (Vrije Universiteit Amsterdam), 31 October.
- Thompson, S. K.
1992 Sampling, Ch. 18: “*Capture–recapture sampling*”, John Wiley and Sons, New York
- United Kingdom Parliament, House of Lords and House of Commons, Joint Committee on Human Rights
2006 *26th Report of Session 2005-2006, Human Trafficking*. HL 245/HC 1127. 13 October.
- United Nations Economic and Social Council
2000 *Report for the Regional Preparatory Meeting of the 2000 Review of Implementation of the Beijing Platform for Action*, January.
- United Nations Office on Drugs and Crime
2006 *Trafficking in Persons: Global Patterns*, Vienna.
- United States Department of State
2008 *Trafficking in Persons Report*, Office to Monitor and Combat Trafficking in Persons, Washington, DC, June.
2004 “*How Can I Recognize Trafficking Victims?*” Fact Sheet, Office to Monitor and Combat Trafficking in Persons, Washington DC, 28 July.
- United States Government Accountability Office (GAO)
2006 *Human Trafficking: Better Data, Strategy and Reporting Needed to Enhance U.S. Anti-trafficking Efforts Abroad*, July.
- United States National Academy of Sciences
2004 *Monitoring international labour standards: Techniques and sources of information*, The National Academies Press, Washington DC.

- Van Dijk, P.; Van Hoof, G.J.H.
 1998 *Theory and Practice of the European Convention on Human Rights*, Deventer, Kluwer Publishing, 3rd edition.
- Winkler, Roland
 2006 *Die Grundrechte der Europäischen Union*, Wien.
- Zimmerman, Cathy et. al.
 2006 *The health risks and consequences of trafficking in women and adolescents. Findings from a European study*, The London School of Hygiene and Tropical Medicine, London.

B. European and International Legal Documentation

Council of Europe

- 2005 *Convention on Action Against Trafficking in Human Beings*, CETS N°197, 16 May 2005.
- 2001 *Recommendation Rec. (2001)11 on guiding principles on the fight against organised crime*, adopted by the Committee of Ministers on 19 September 2001.
- 1981 *Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data at the Council of Europe level*, CETS No. 108, 28.01.1981.
- 1970 *Resolution 428(1970)*. Council of Europe, Consultative Assembly, Twenty-First Ordinary Session (Third Part), Texts Adopted (1970).
- 1950 *Convention for the Protection of Human Rights and Fundamental Freedoms as amended by Protocol No. 11*, Rome, 04.11.1950.

Council of the European Union

- 2008a *18 Months EU Council Working Programme for the three EU Presidencies*, Council Doc N° 10093/08, 9 June 2008.
- 2008b *Council Framework Decision 2008/977/JHA of 27 November 2008 on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters*.
- 2006 *Follow-up to the Action Plan on trafficking in human beings*, 15321/2/06 REV 2 CRIMORG 177 MIGR 164 ENFOPOL 192, 14 December 2006.
- 2005 *EU Plan on Best Practices, Standards and Procedures for Combating and Preventing Trafficking in Human Beings*, Official Journal C 311 of 9 December 2005.
- 2004 *Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subjects of an action to facilitate illegal immigration, who cooperate with the competent authorities*, Official Journal L 261, 06 August 2004.
- 2002 *Council Framework Decision on Combating Trafficking in Human Beings (2002/629/JHA)*.
- 2001 *Council Framework Decision of 15 March 2001 on the standing of victims in criminal proceedings (2001/220/JHA)*.

European Commission

- 2008 *Commission Working Document - Evaluation and monitoring of the implementation of the EU plan on best practices, standards and procedures for combating and preventing trafficking in human beings*, COM(2008) 657 final, 17 October 2008
- 2006a *Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions - A Roadmap for equality between women and men 2006-2010 (COM 2006/92 final)*.
- 2006b *Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee - Developing a comprehensive and coherent EU strategy to measure crime and criminal justice: An EU Action Plan 2006-2010*, COM(2006) 437 final, 7 August 2006.
- 2005 *Communication from the Commission to the European Parliament and the Council - Fighting Trafficking in Human Beings - an Integrated Approach and Proposals for an Action Plan (COM 2005/514)*.
- 2002 *Brussels Declaration on Preventing and Combating Trafficking in Human Beings*.

European Parliament

- 2006 *Draft Report with a proposal for a European Parliament recommendation to the Council on fighting trafficking in human beings - an integrated approach and proposals for an action plan (2006/2078(INI))*, Committee on Civil Liberties, Justice and Home Affairs.
- 2004 *European Parliament resolution on strategies to prevent the trafficking of women and children who are vulnerable to sexual exploitation (2004/2216(INI))*.
- 2000 *Charter of Fundamental Rights of the European Union*, Official Journal C 303 of 14 December 2007.

European Parliament and Council of European Union

- 1995 *Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data*, Official Journal L 281 , 23 November 1995.

International Labour Organization

- 1999 *Worst Forms of Child Labour Convention* No. 182.
- 1957 *Abolition of Forced Labour Convention* No. 105.
- 1930 *Convention on Forced Labour* No. 130.

Organization for Security and Co-operation in Europe

- 2006 Brussels Ministerial Council Decision No. 14/06, *Enhancing efforts to combat trafficking in human beings, including for labour exploitation, through a comprehensive and proactive approach*, MC(14) Journal No. 2, Agenda item 8, 5 December.
- 2003a *Action Plan to Combat Trafficking in Human Beings*, Annex, PC.DEC/557, 462nd Plenary Meeting, 24 July 2003.
- 2003b *Maastricht Ministerial Council Decision No. 2/03 Combating Trafficking in Human Beings*, 1- 2 December 2003.

United Nations

- 2000a *Convention against Transnational Organized Crime* (General Assembly resolution 55/25).
- 2000b *Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime* (General Assembly resolution 55/25, Annex III).
- 2000c *Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime* (General Assembly resolution 55/25, Annex II).

United Nations Office of the High Commissioner for Human Rights

- 1990 *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*. Adopted by General Assembly resolution 45/158 of 18 December 1990. Enters into force on 1 July 2003.
- 1989 *Convention on the Rights of the Child*. Adopted and opened for signature, ratification and accession by General Assembly resolution 44/25, of 20 November 1989, entry into force 2 September 1990, in accordance with article 49.
- 1956 *Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery*. Adopted by a Conference of Plenipotentiaries convened by Economic and Social Council resolution 608 (XXI) of 30 April 1956 and done at Geneva on 7 September 1956 entry into force 30 April 1957, in accordance with article 13.
- 1926 *Slavery Convention*, entered into force in 1927. The *Slavery Convention* was amended by the *Protocol*, 182 U.N.T.S. 51, entered into force December 7, 1953.

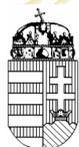
Other

- 1997 *The Hague Ministerial Declaration on European Guidelines for Effective Measures to Prevent and Combat Trafficking in Women for the Purpose of Sexual Exploitation*, adopted by a Ministerial Conference 26 April 2008.

Experts from the following organizations and institutions contributed to the Guidelines:



E U R O P O L



Ministry of Justice and
Law Enforcement, Hungary



Osservatorio e Centro Risorse sul Traffico di Esseri Umani



OSCE, Office of the Special Representative
and Co-ordinator for Combating Trafficking
in Human Beings





The lack of reliable and comparable data on trafficking in human beings remains one of the main obstacles in effectively preventing and combating trafficking in human beings as well as protecting and assisting victims. This report provides EU policy makers, governments and other stakeholders involved in counter-trafficking with a set of guidelines on how to collect, store and exchange data on trafficking in human beings in an effective and comparable way. It also includes recommendations on relevant data to collect as well as on procedural, data protection and victim identification mechanisms. This report is intended to be a useful and practical tool to enhance the capacities of relevant national authorities and foster cooperation in this field.

The Guidelines have been developed within the framework of the project *Development of Guidelines on the Collection of Data on Trafficking in Human Beings, Including Comparable Indicators* implemented by the Federal Ministry of the Interior of Austria and the International Organization for Migration in Vienna, with generous financial support from the European Commission. Numerous experts from governments, law enforcement, non-governmental organizations, international organizations and research institutes have supported and largely contributed to this initiative.

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