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Measuring Responses to Trafficking in Human Beings in the European Union: an Assessment Manual

Directorate General Freedom, Security and Justice



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
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**DRAFT TEXT FOR THE MEETING ON THE
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• **INTRODUCTION**

This manual is intended to enhance the capacity of European Union (EU) Member States to develop and implement policies and strategies in response to trafficking in human beings. It presents a checklist of 55 questions asking whether particular measures have been implemented, along with indicators to measure the results. The indicators are intended to enable Member States to measure their own progress, in particular in implementing recommendations made in the *Report of the Experts Group on Trafficking in Human Beings* (published by the European Commission on 22 December 2004¹).

The December 2004 Experts Group report contained a total of 132 recommendations, some for action by Member States and some for action at European level. This manual focuses on action at national level, by Member States. The Experts Group report also called for actions by the European Commission, the European Union acting collectively and other European institutions, which are not addressed by this manual.

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¹ The Experts Group’s report can be accessed at:
http://ec.europa.eu/justice_home/doc_centre/crime/trafficking/doc/report_expert_group_1204_en.pdf

Principles and topics covered by the manual

The manual follows the structure of the December 2004 Experts Group report, focusing on measures recommended by the Experts Group and presenting questions to allow Member States to assess whether they are implementing these and a total of 55 indicators to allow Member States to measure their progress. The manual consists of four separate but overlapping parts. Part I focuses on six guiding principles, all of which are essential foundation stones if the range of other actions required to combat trafficking in human beings are to be successful. The subsequent three parts focus on prevention (Part II), protection and assistance (Part III) and law enforcement strategies (Part IV). The manual ends with two appendices. Appendix 1 contains a list of acronyms and glossary of terms. Appendix contains a table summarising the 55 'key questions' for Member States. It has a short bibliography at the end.

In each of the four parts, the manual contains a checklist of key questions to enable Member States to assess whether they are making progress in implementing essential anti-trafficking measures. Each checklist is preceded by a summary of the measures needed and a short explanation (or 'rationale') about them. The summary of measures needed is sometimes slightly longer than the list of key questions. However, it is the key questions which are the main focus of this manual.

In each case, the key questions are followed by several indicators – ways of measuring the progress of each Member State in implementing actions to stop trafficking and to protect people who have been trafficked. The checklists and indicators do not relate to all 132 recommendations contained in the December 2004 Experts Group's report: they focus on the principle steps for Member States to take. However, if there is progress in implementing the measures mentioned in the checklists, it is probable that suitable policies and systems will be in place for the wider range of other objectives mentioned in the December 2004 Experts Group's report to be achieved.

In relation to each of the key questions, the manual presents two sets of indicators and a suggestion as to where the information required to measure progress towards meeting each of these indicators can be obtained (known as a "means of verification"). The manual thereby intends to allow each Member State to measure its progress in implementing anti-trafficking measures. If a National Rapporteur on Trafficking in Human Beings or equivalent institution has already been established, it is likely that much of the information required for measuring progress will be contained in this institution's periodic public reports.

The agencies or institutions which would be appropriate to use these indicators and to measure the Member State's progress in implementing anti-trafficking measures vary widely from State to State. The most obvious institution which could do so would be a National Rapporteur on Trafficking in Human Beings or the national structure set up to coordinate anti-trafficking initiatives (such as a National Referral Mechanism). However, in other cases it could be the main Ministry responsible for coordinating plans or action to stop trafficking in human beings.

What the indicators are intended to measure

Each question is accompanied by two indicators. The two separate indicators relate to: (1) the “outcome” or direct effects of a specific measure or action; and (2) the “impact” of the same action (the medium or long-term effects of an action, one or two years later). Broadly speaking, the first of these (the “impact” indicator) measures whether a measure has been implemented and has had any results. In effect, this indicator measures whether the changes intended to be triggered by a measure have started to occur, for example six months or so after a new policy was adopted. The second indicator (the “outcome” indicator) is intended to measure the longer term impact of a policy or action over a period of some two years.

The indicators which the manual identifies are mostly specific actions which seem essential if the objective suggested in each key question is to be met, although some have an indirect, rather than a direct effect, on patterns of trafficking. They represent a series of stepping stones on the way to achieving longer-term objectives. In relation to each indicator, the manual suggests a “means of verification”, intended to be a standard way in every Member State of measuring change. While the indicator represents change of a qualitative sort, the means of verification seek to represent change in a way that Member States can measure objectively.

In this manual and in other initiatives supported by the European Commission’s Directorate General on Freedom, Security and Justice, an indicator is defined as:

“A characteristic or attribute which can be measured to assess an activity in terms of its outputs or impacts. Output indicators are normally straightforward. Impact indicators may be more difficult to obtain, and it is often appropriate to rely on indirect indicators as proxies. Indicators can be either quantitative or qualitative.”²

In project jargon, indicators are routinely used in the course of projects (and at their end) to measure achievements and to monitor whether the project has had the intended effects or not. Sometimes other project indicators are used to assess “immediate results”. For example, when an activity involves distributing information about trafficking in the form of 1,000 leaflets to warn migrants about the danger of being trafficked, “immediate results” indicators confirm that the leaflets have been produced and distributed, but not whether they have had any of the intended effects. This is the role of “outcome” and “impact” indicators. When preparing this manual, consideration was given to including immediate results indicators, but it was felt that they would not play a useful role.

“Outcome indicators” measure what the immediate changes have been as a result of an action or measure being taken. “Impact indicators” measure a wider set of changes brought about in the medium and long term after an action was taken, not only intended changes, but also any unexpected changes that occurred as a result. Consequently, the impact indicators used in this manual regularly require comparison of statistics for the most recent calendar (or financial/administrative) year available with similar statistics from two years earlier, in order to note changes which have occurred in the meantime.

² Definition from the Glossary contained in Annex 3, page 99, of the Communication from the Commission to the Council and European Parliament, ‘Evaluation of EU Policies on Freedom, Security and Justice’, COM (2006) 332 final, 28 June 2006 (page 99).

Methods used to compile the indicators

This manual was compiled by a consultant in consultation with members of the Experts Group on Trafficking in Human Beings. The consultancy started with a review of existing publicly available information about indicators and means of verification developed by others to monitor and assess the impact of anti-trafficking measures. Two existing sources of information about indicators were available: (1) evaluation reports or other assessments of anti-trafficking measures and programmes, which had identified possible indicators or commented on those already being used; and (2) information from other relevant European or international agencies (from publications or interviews) about data that has already been collected systematically, to see whether some existing data could be used as indicators (or to verify indicators) for measures recommended by the Experts Group. Both publications and web-sites of relevant organisations were consulted, including those of: the International Labour Office, particularly its Special Action Programme on Forced Labour (SAPFL); EUROJUST (the European Union's Judicial Cooperation Unit); EUROPOL (the European Police office); and EUROSTAT (the Statistical Office of the European Communities).

After reviewing the statistics and other quantitative information currently available to measure changes occurring in Member States, the consultant concluded that very few could be used as meaningful indicators to measure the progress of anti-trafficking measures. He noted that in a different region of the world, South East Asia, a deliberate attempt was made recently to stop the use of quantitative indicators such as, "the number of arrests of suspected traffickers", because specialists concluded that they were a relatively misleading way of measuring the impact of anti-trafficking measures.³ The consultant concluded that it was more appropriate to opt for indicators which consist of specific actions that it is essential to implement in order to achieve longer-term objectives involved in stopping trafficking in human beings. As these actions are not all reported in publicly accessible documents, in some cases the means of verification require information to be provided by a particular agency in the form of an "affidavit", i.e., a formal statement of evidence (sworn and witnessed).

The consultant had access to suggestions (for indicators) already drafted by members of the Experts Group on some topics. He had two separate meetings with members of the Experts Group, one at the beginning of the consultancy and one near the end. At the initial meeting, it was recognised that requiring Member States to measure indicators relating to all 132 of the recommendations in the December 2004 report would be unfeasible, as it would result in an unwieldy instrument. A decision was made to focus on the most important measures recommended by the Experts Group, measures considered to be key and which were likely to make other anti-trafficking measures successful. In between the two meetings, the consultant submitted proposals to members of the Experts Group and received advice and suggestions in response. However, the manual remains the responsibility of the consultant alone.

³ In part because of the temptation to describe arrests as involving traffickers when they do not or to carry out arbitrary arrests in order to meet targets concerning numbers of arrests of traffickers. See Association of Southeast Asian Nations (ASEAN), *ASEAN Responses to Trafficking. Ending Impunity for Traffickers and Securing Justice for Victims*. ASEAN, April 2006.

Terms and acronyms used in the manual

One impediment to measuring progress in efforts to combat trafficking in human beings in different EU Member States has been that agencies in different Member States define certain key terms in different ways. Some relevant terms are defined in the Glossary below (such as ‘indicators’, and ‘*ex ante* and *ex post* impact assessment’). When key terms appear in the manual, they are presented ***in bold italics***. The manual follows the use of terminology suggested in the December 2004 Experts Group’s report and the Glossary in Annex 3 of the Communication from the Commission to the Council and European Parliament, ‘Evaluation of EU Policies on Freedom, Security and Justice’. It also uses the terminology used the ***Council Framework Decision of 19 July 2002 on combating trafficking in human beings*** and, when the Framework Decision did not provide guidance on the definition of terms, in the United Nations (UN) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (the UN ‘***Trafficking Protocol***’) and guidelines issued by specialised intergovernmental organisations.

I. GUIDING PRINCIPLES FOR ALL ACTION TO STOP TRAFFICKING IN HUMAN BEINGS

While specific measures are needed to prevent trafficking in human beings, to protect and assist people who have been trafficked and to prosecute traffickers, they are unlikely to be effective, unless these have solid and coherent foundation stones. The guiding principles identified by the Experts Group and presented in Part I of the manual represent these foundation stones. They are complementary and interdependent: if one of the six is missing, the other five cannot compensate for it, with the result that more specific initiatives are unlikely to be effective. Before presenting each of the six guiding principles and listing their indicators, it is appropriate to summarise all six principles together:

1. Ensure your country has an adequate legal framework and (adequate) definition of trafficking in human beings;
2. Make human rights a paramount issue;
3. Take a holistic, coordinated and integrated approach;
4. Make government policies linked to migration, the economy and the informalisation of the workplace consistent with efforts to stop trafficking in human beings;
5. Respect the rights of children and the State's duty to protect them in anti-trafficking actions;
6. Promote research about trafficking in human beings and monitor and evaluate the impact of all anti-trafficking measures.

With the exception of first principle, these guiding principles do not focus narrowly on the issue of trafficking in human beings. They are about the broader policy context within which policies and measures to address trafficking are situated. The principles stress the importance of a human rights approach (summarised by the UN High Commissioner for Human Rights as, "The human rights of trafficked persons shall be at the centre of all efforts to prevent and combat trafficking and to protect, assist and provide redress to victims"⁴); of a holistic approach that ensures that a series of distinct policies concerning issues as separate as migration, employment and prostitution are consistent with the objective of protecting people from being trafficked; and of coordination between the many different professionals who have a role to play in stopping trafficking and assisting people who are trafficked. They also stress that anti-trafficking policies should be evidence-based and that sufficient evidence must therefore be collected and analysed to allow policies to be reviewed and modified in the light of their actual impact.

⁴ Principle 1 in the High Commissioner's *Recommended Principles and Guidelines on Human Rights and Human Trafficking*, UN document E/2002/68/Add.1, 20 May 2002, (see bibliography).

Principle 1 – Ensuring an adequate legal framework and definition of trafficking in human beings

1. Rationale for the measures required

Each Member State requires appropriate legislation to prosecute traffickers and impose sufficient penalties to deter others. It also requires appropriate legislation to protect and assist trafficked persons and legal agreements with other countries to ensure effective cooperation between States in detecting and prosecuting traffickers and exchanging personal data about *presumed trafficked persons* who require protection and assistance in returning to their country of origin.

Member States are required by *Council Framework Decision of 19 July 2002 on combating trafficking in human beings*⁵ to ensure that legislation defining and punishing the offence of trafficking in human beings covers trafficking committed for the purpose of a variety of forms of exploitation, including “labour exploitation” and “sexual exploitation”.⁶

As far as anyone under 18 it concerned, the Experts Group considers that “exploitation” in the UN Trafficking Protocol should be defined in EU Member States in the light of the UN Convention on the Rights of the Child and the International Labour Organization’s (ILO) Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the *Worst Forms of Child Labour*. This means “exploitation”, in the case of children, should be defined to include, at a minimum: all forms of forced labour, servitude or debt bondage; all forms of commercial sexual exploitation (prostitution, the production of pornography and pornographic performances); the use of a child for illicit activities; the involvement of a child in any work that is likely to be hazardous or harmful to the child’s health, safety or morals; illegal adoption; and illicit removal of organs. The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of any of these forms of exploitation should be regarded as a case of trafficking, whether transnational or national, and whether or not it involves organised criminal groups or individual traffickers operating alone.

The measures for Member States to take to ensure there is an adequate legal framework include:

1. Check that your legislation implementing the *Framework Decision on combating trafficking in human beings* and the *UN Trafficking Protocol* makes it an offence to subject someone to any of the forms of exploitation mentioned in the Framework Decision, including “forced or compulsory labour or services”, rather than focusing only on some, such as the “exploitation of the prostitution of others” and sexual exploitation, without referring to other forms of

⁵ Official Journal of the European Communities Official Journal L 203, pages 1 to 4, 1 August 2002. http://eur-lex.europa.eu/LexUriServ/site/en/oj/2002/l_203/l_20320020801en00010004.pdf

⁶ Although the UN Trafficking Protocol covers the issue of trafficking for organ removal, the Framework Decision does not. Neither focuses on trafficking (mainly of babies) for the purpose of adoption. Both should be offences in every Member States, but not necessarily in laws concerned with trafficking in human beings.

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- exploitation.⁷
2. Confirm that this legislation distinguishes clearly between trafficking in human beings and quite different offences, such as people smuggling or illegal entry into a State, so that law enforcement officials give priority to identifying people who have been trafficked (*‘trafficked persons’*), and ensure they have no incentive to misidentify trafficked persons instead as offenders who should be detained or deported.
 3. Check that your legislation criminalises all the practices covered by the definition of trafficking in human beings, such as debt bondage and other techniques used by traffickers, such as retaining, removing, concealing, damaging or destroying a travel or identity document of another person.
 4. Confirm that your legislation covers internal trafficking (as well as transnational trafficking) and cases of trafficking in which organised crime is not involved.
 5. Check that your legislation ensures that trafficked persons are protected and assisted, as required by international standards,⁸ and adopt bi-lateral legal agreements with other States to govern all relevant aspects of the two States’ cooperation in relation to the investigation and prosecution of traffickers and also the protection, assistance and possible repatriation of *presumed trafficked persons*.
 6. Ensure that your legislation considers anyone who recruits, transports, transfers, harbours or receives a child in order to earn money from the child in any of the *worst forms of child labour* to have trafficked the child, whether or not any of the coercive means mentioned in legislation concerning the trafficking of adults are employed.

2. Key Questions for each Member State

1. Does your country’s anti-trafficking legislation include, as purposes for which individuals are trafficked, forced or compulsory labour or services, slavery or practices similar to slavery, or servitude? If not, does your country have separate

⁷ The Framework Decision on combating trafficking in human beings states (article 1) that “the recruitment, transportation, transfer, harbouring, subsequent reception of a person, including exchange or transfer of control over that person” for the purpose of exploitation of that person’s labour or services shall be punishable, “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.”

⁸ Relevant guidelines issued by specialised intergovernmental organisations on protection and assistance include:

- a) The UN High Commissioner for Human Rights’ *Recommended Principles and Guidelines on Human Rights and Human Trafficking*, *op. cit.*
- b) UNICEF’s *Guidelines for Protection of the Rights of Child Victims of Trafficking*, which were initially designed especially for South Eastern Europe (in 2003). In 2006 UNICEF issued a reference guide which was applicable to the cases of all children trafficked anywhere in Europe: UNICEF, *Reference Guide on Protecting the Rights of Child Victims of Trafficking in Europe*, http://www.unicef.org/ceecis/protection_4440.html
- c) The UN High Commissioner for Refugees (UNHCR), *Guidelines on International Protection: The application of Article 1A(2) of the 1951 Convention and/ or 1967 Protocol relating to the Status of Refugees to victims of trafficking and persons at risk of being trafficked*, UNHCR document HCR/GIP/06/07, 7 April 2006, accessed at www.unhcr.org/doclist/publ/3d4a53ad4.html.

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legislation making it an offence to recruit or traffic individuals for all of these purposes?

2. Do your country's *law enforcement agencies* and immigration service have clear instructions to identify trafficked persons, rather than to categorise them as offenders (who have committed immigration offences or other crimes)? Are the Government's messages about priorities and any systems for setting 'targets' for these agencies consistent with these instructions?
3. Does your country's legislation make it an offence to traffic an individual within your country?
4. Does your country's legislation on trafficking in human beings state explicitly that the recruitment, transportation, transfer, harbouring, or subsequent reception of a child under 18 years of age, including exchange or transfer of control over that child, constitute trafficking, even if the child is not subjected to any of the coercive means which are involved in the case of an adult?

3. Indicators

Question 1. Definition of trafficking in human beings	
Outcome indicator 1	Means of verification
Evidence that your country's anti-trafficking legislation refers to the purposes of trafficking (or the forms of exploitation associated with trafficking) and includes references to: forced or compulsory labour or services, slavery or practices similar to slavery (or servitude and specific practices similar to slavery, such as debt bondage).	Text of your country's anti-trafficking legislation referring to the purposes of trafficking or the forms of exploitation associated with trafficking, as it currently stands.
Impact indicator 1	Means of verification
Confirmation that the police have circulated instructions to police officers about legislation on trafficking adopted since 2002, EITHER (i) pointing out the changes in comparison with past legislation, OR (ii) pointing out what the essential elements of such a crime are OR (iii) suggesting how to detect offences involving trafficking other than for sexual exploitation.	Existence of a relevant circular or instruction issued by the police, covering details in one of the three options.

Question 2. Making it a priority to identify trafficked persons	
Outcome indicator 2	Means of verification
Evidence that the impediments to preserving witnesses and organising the successful prosecution of traffickers, caused by potential witnesses being deported due to the priority given to combating irregular migration, has resulted in a change of policy and victims of trafficking being allowed to remain. (Same as Outcome indicator 9)	Policy document introducing a reflection period/reflection delay for trafficked persons (Same as Outcome indicators 9 and 35.1) (see Part III.1 for explanation of reflection periods)
Impact indicator 2	Means of verification
Evidence that no presumed trafficked person has been counted among the irregular migrants who have been deported and who have been counted as contributing to	Affidavit from the head of the immigration service on the number of presumed trafficked persons

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the objectives or targets set for deportations by your country's immigration service or other agency.	among those departed in the last calendar year.
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Question 3. Internal trafficking	
Outcome indicator 3	Means of verification
Evidence that your country's anti-trafficking legislation is applicable to cases involving people who have been both recruited and exploited <i>within</i> your country, without requiring the person to have been taken across an international border for the case to be considered one of trafficking.	Text of legislation (either anti-trafficking legislation or separate legislation) covering the these offences when committed within the country.
Impact indicator 3	Means of verification
Evidence that your country's anti-trafficking legislation is used to prosecute traffickers suspected of recruiting people in your country for exploitation in your country, i.e., internal trafficking.	EITHER Reports in the media or elsewhere of arrests of suspects for trafficking someone within your country (i.e., a case of internal rather than transnational trafficking); OR Records or statistics on prosecutions and convictions: one or more judgment relating to a case of internal trafficking.

Question 4. Definition of trafficking when a child is involved	
Outcome indicator 4	Means of verification
Evidence that your country's legislation, when it concerns children being trafficked, considers it a punishable trafficking offence, even if none of the means mentioned in paragraph 1 of Article 1 of the Framework Decision have been used to recruit, transport (etc.) the child.	Text of your country's anti-trafficking legislation or other legislation covering offences involving the trafficking or exploitation of children.
Impact indicator 4	Means of verification
Evidence that children who have been trafficked <u>without</u> being subjected to coercion or deception in the course of their recruitment are not denied any of the rights to protection and assistance that are accorded to adult trafficked persons.	Affidavits confirming this from EITHER temporary guardians appointed for such children, OR organisations providing residential accommodation to such children OR lawyers representing such children.

Principle 2 - Human rights as a paramount issue

1. Rationale for the measures required

In devising policies and measures to combat trafficking in human beings, Member States are bound to take care that these do not contravene standards set in the international human rights conventions and treaties which they have signed and ratified. A *human rights approach* offers a conceptual and normative framework for organising anti-trafficking policies and measures, which places priority on respecting the internationally recognised human rights of individuals who are trafficked and others who are at significant risk of being trafficked, and places their interests at the centre of anti-trafficking policies.⁹ This makes it vital to assess what the effects of your country's policies are on such people: the human rights approach offers a framework to monitor and evaluate anti-trafficking policies, practices and actions in order to find out what their real and potential impact is on victims of trafficking and others directly concerned. A further implication is that measures to prevent trafficking and to protect trafficked persons should conform to the *principle of proportionality* and be the least intrusive among the various options which might achieve the desired results of preventing trafficking or protecting trafficked persons.

Popular understanding of trafficking, forced prostitution and forced labour is relatively elementary, so any suggestion that an individual, male or female, has been trafficked might cause that person prejudice, in whichever country they are located. It is important to keep information about the identity of trafficked persons confidential and to adopt systems which allow confidential personal data to be shared with other agencies without endangering the individuals concerned. No personal data which might allow the identity of a trafficked person to be deduced may be made public or given to the media. One option for agencies recording personal data about individuals who may have been trafficked is to use the practice known as "restricted notes" in relation to files containing information about such individuals, meaning that personal information about a trafficked person is marked with a number, and the identity of the person concerned is only known to a few people.

Other measures required by a human rights approach are mentioned elsewhere in this manual, under a variety of headings. For example, it requires Member States to carry out risk assessments concerning every presumed trafficked person (see III.5), allow trafficked persons a reflection delay after being identified before they are asked to decide whether to cooperate in police inquiries (see III.2) and ensure that the 'best interests' of the child are a primary consideration in all actions and decisions concerning children (see Principle 5).

Particular measures for Member States to implement a human rights approach are:

⁹ See the Glossary for a full explanation of the term "human rights approach". There is a reference to it in the Council of Europe's Convention on Action against Trafficking in Human Beings (Council of Europe Treaty Series - No. 197), adopted in May 2005. Article 5.3 requires States Parties to, "promote a Human Rights-based approach", as well as to use gender mainstreaming and a child-sensitive approach in the development, implementation and assessment of policies and programmes to prevent trafficking in human beings.

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1. Amend your anti-trafficking policies and measures to ensure that protecting and respecting the human rights of people who have been trafficked or are at risk of being trafficked is the main priority for all such policies and measures.
2. Take the potential impact of anti-trafficking policies and measures on the human rights of trafficked persons and other groups who are likely to be affected into account explicitly when policies and measures are proposed, and also when their actual impact is assessed.¹⁰
3. Check that government agencies and other relevant organisations are not using any techniques which have the effect of labelling individuals in ways that are interpreted by others to suggest that the individual has been trafficked (and thereby ensure that these techniques do not cause prejudice to the individuals concerned). The techniques which might have this effect include some which have no direct connection with the way the cases of trafficked persons are processed, such a deportation or other stamp in a passport, which is nevertheless interpreted by people in the person's home country to indicate that they have been trafficked.

2. Key Questions for each Member State

5. Do the Government's policies and measures to combat trafficking in human beings make it an explicit priority to respect and protect the human rights of people who have been trafficked?
6. Have there been attempts, prior to the adoption of anti-trafficking policies by your Government, to investigate what their probable impact will be, either on trafficked persons or on individuals who are reckoned to be at high risk of being trafficked?
7. Has the impact of anti-trafficking measures in your country been assessed?¹¹
8. Have the authorities in your country taken action to ensure that government agencies which come into contact with presumed trafficked persons (e.g., law enforcement agencies, the immigration service and consular services, and social services) do not use techniques which cause prejudice to the individuals concerned, for example by labelling individuals in a way that is interpreted by others to suggest that the person has been trafficked?

3. Indicators

Question 5. Human rights as an explicit priority	
Outcome indicator 5	Means of verification
Evidence that the Government's policy or policies on trafficking in human beings has been modified to ensure that the measures entailed conform with the State's international human rights commitments; OR Evidence that such modifications were	One or more modifications of anti-trafficking measures or policies, which clearly represent a move towards a human rights approach; OR Affidavit from relevant government department confirming that the anti-trafficking policy was examined and found to be in conformity with all

¹⁰ An attempt to predict what the impact of a measure will be before it is implemented is known as an *ex ante* impact assessment. An assessment afterwards, to assess what the impact has actually been, is known as an *ex post* impact assessment. In both cases an impact assessment is not the same as an evaluation of the effectiveness or efficiency of the measures concerned. Impact assessments must look more widely and identify unforeseen effects, as well as those that are expected.

¹¹ NB This question is developed further in Question 19 (Principle 6), suggesting further indicators.

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considered but deemed to be unnecessary.	the State's human rights commitments.
Impact indicator 5	Means of verification
Evidence that trafficked persons are able to exercise their rights in two specific ways: (1) to receive legal counselling; AND (2) to receive information on how they can seek compensation or damages.	Increase in number of presumed victims of trafficking who receive legal counselling (i.e. number counselled in the last calendar year in comparison to the same number two years earlier): data coming from organisations providing services to trafficked persons OR from a national lawyers' organisation; AND Existence of materials advising victims of trafficking how they can seek compensation or damages, in languages they can understand.

Question 6. <i>Ex ante</i> impact assessments	
Outcome indicator 6	Means of verification
Evidence that, when a new anti-trafficking measure was considered, a substantial effort was made to predict what the impact would be on trafficked persons, or individuals at high risk of being trafficked, or on migrant workers in the informal sector, or sex workers.	1. Results of an <i>ex ante</i> impact assessment available; OR 2. One or more modifications to anti-trafficking measures, which represent a move towards a human rights approach and which are justified by the effects that such measures were having on people.
Impact indicator 6	Means of verification
Evidence that information is being obtained from trafficked persons on an on-going basis and taken into account whenever revisions of anti-trafficking measures are considered. I.e., Confirmation that a government department or agency involved in adopting anti-trafficking measures has collected relevant information or commissioned research among people who have been trafficked (into or out of, or within, your country) about their experiences.	Affidavit from either a ministry or a law enforcement agency, confirming that such information has been collected AND that such information has been taken into account when anti-trafficking measures were reviewed and changes considered.

Question 7. <i>Ex post</i> impact assessments	
Outcome indicator 7	Means of verification
Same as Impact indicator 6 on <i>ex ante</i> impact assessments, i.e. Evidence of the evaluation or impact assessment of an anti-trafficking policy or measure after it has been implemented for one year or more (and can be expected to have brought about change).	Results of an evaluation or <i>ex post</i> impact assessment available.
Impact indicator 7	Means of verification
Evidence that the wider impact of other policies on people who have been trafficked has been assessed (e.g., immigration policies; policies concerning the prohibition or regulation of sex work, etc.).	Amendments of policies which affect migrants or people working in the informal sector, which are attributed to concern that the policies were having some (unforeseen) effects.

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Question 8. Avoiding labelling individuals as ‘trafficked’	
Outcome indicator 8	Means of verification
Evidence that government agencies in contact with presumed trafficked persons (e.g., involved in recording personal data about presumed trafficked persons or providing them with services) do not use techniques which have the unintended effect of suggesting to others that a person has been trafficked. This involves reviewing techniques, identifying those which might cause prejudice, and abandoning or modifying them.	Affidavits from relevant agencies confirming that they have: (1) carried out reviews, and (2) abandoned or modified techniques which might cause prejudice.
Impact indicator 8	Means of verification
Evidence or a reduction or absence of complaints by trafficked persons who have returned to their own countries (that they have been caused prejudice as a result of techniques used by organisations in your country involved in handling their cases).	Reports from lawyers or other service-providing agencies in your country who represented or were in close contact with presumed trafficked persons before their departure; OR Reports by government agencies or NGOs (in the countries to which trafficked persons have returned from your country) about the experience of returning trafficked persons.

Principle 3 - The need for a holistic, coordinated and integrated approach

1. Rationale for the measures required

Trafficking in human beings is a multi-dimensional problem. It is perceived variously to be a legal problem, a human rights problem, a gender problem, a development problem, a migration problem or an economic problem. Each approach suggests different strategies to solve the problem. No single approach can stop trafficking from occurring and a holistic approach using a variety of complementary interventions is the only way to adequately address trafficking in human beings. This involves balancing law enforcement strategies with the provision of appropriate remedies for people who have been trafficked and an emphasis on social inclusion - both of people who have been trafficked and other groups of people who are at high risk of being trafficked because they are socially excluded and do not have access to the opportunities available to most others. In all three key areas of anti-trafficking operations (prevention, protection and law enforcement), a multidisciplinary team of professionals from several different fields – police, social services, specialised service providers and NGOs – is likely to prove more effective than a team from only one background. Developing systems which ensure an integrated approach by professionals from different backgrounds is therefore essential.

To enable professionals from different backgrounds to work together, all the different government institutions involved and, if possible, non-governmental agencies as well, need to adopt standard terminology and a commonly agreed methodology to assess which cases constitute trafficking in human beings and to collect and record data on cases of trafficking in human beings. The key question and indicators on this appear in Principle 6.

For Member States, this means:

1. Ensure that policies on a variety of (apparently) separate issues are coordinated and consistent with the objective of stopping trafficking and protecting trafficked persons, and resolve the contradictions that are often apparent in Member States' policies and priorities between measures concerning immigration and measures to protect the security of the person.
2. Ensure effective coordination between the various government agencies involved in anti-trafficking activities, between those agencies and NGOs, and between the agencies in one Member State and those in other states. Within a single country, organisations and individuals from many disciplines can play a role in efforts to stop trafficking: law enforcement (police, prosecutors and judges) and the immigration service and also local authorities, trade unions, labour inspectors, employers, employees, *self organisations*, NGOs, international organisations and other relevant sectors of civil society.

Policy coherence: The policy areas which should be made consistent include: migration, organised crime, employment and labour rights, human rights, prostitution, security of the person (i.e., for individuals who are trafficked); and broader issues such as unequal international economic relationships and gender issues such as violence and discrimination against women. Addressing contradictions means in particular resolving contradictions between the priority of immigration policies (to remove people who stay

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in your country illegally) and the priorities of public security policies (to detect and prosecute traffickers, preserve potential witnesses and protect individuals from being subjected to abuse, whether they are living legally in a country or not).

Coordination at national level: This requires policies and strategies that identify and connect all the actors in different agencies and disciplines who can play a useful role in the response to trafficking in human beings. Key steps for Member States include:

- Set up a national coordination structure, to ensure that governmental and non-governmental agencies work together effectively against traffickers and to support trafficked persons;
- Set up a referral mechanism at national level, so that it is clear to all agencies how to respond when a trafficked person is identified and to which agency s/he should be referred. This might be a *national referral mechanism* (NRM) with the characteristics of an NRM suggested by the OSCE (i.e. acting as the national coordination structure), or might focus specifically on referrals and standard operating procedures (SOPS);¹²
- Establish an inter-ministerial governmental body that will guarantee appropriate coordination of the policies, strategies and initiatives which comprise the national response to trafficking in human beings;
- Adopt a plan or plans (of action) and policies at national level to combat trafficking in human beings. Whether there is a specific national plan of action to combat trafficking in human beings or a set of separate initiatives, a *time-bound* programme is required that sets targets to be achieved, deadlines by when they must be achieved and indicating which agency is responsible for what.

2. Key Questions for each Member State

9. Has your Government addressed possible contradictions between its policies concerning trafficking in human beings and those concerning immigration?
10. Has a national coordination structure been established (whether or not it is called a 'national referral mechanism') to oversee the development, coordination, monitoring and regular evaluation of plans and policies at national level on the issue of trafficking in human beings, including mechanisms for referring trafficked persons to appropriate services? Does it ensure the participation of representatives of civil society or NGOs?

3. Indicators

Question 9. Resolving contradictions between policies	
Outcome indicator 9	Means of verification
Evidence that the impediments to preserving witnesses and organising the successful prosecution of traffickers, caused by potential witnesses being deported due to the priority given to combating irregular migration, has	Policy document introducing a reflection delay for trafficked persons (Same as Outcome indicator 35.1).

¹² This measure is the subject of III.1 below. The OSCE/ODIHR handbook on the establishment of National Referral Mechanisms (*National Referral Mechanisms. Joining Efforts to protect the Rights of Trafficked Persons. A Practical Handbook*, 2004) can be accessed at <http://www.osce.org/odihr/documents.html>

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resulted in a change of policy and victims of trafficking being allowed to remain.	
Impact indicator 9	Means of verification
Evidence that contradictions have been resolved, for example by adopting provisions to allow third country nationals to migrate into the country into manual jobs.	Number of work permits issued for third country nationals entering the country with permits to work in manual jobs, showing an increase in the last calendar year in comparison to two years earlier.

Question 10. Coordination at national level	
Outcome indicators 10	Means of verification
10.1 National coordination structure (NRM or equivalent) is functioning and meetings occur regularly.	Reports of individual meetings of the national coordination structure OR coordination structure annual report available publicly or to other government agencies.
10.2 Budget lines allocated by the Government to allow implementation of the activities of the national coordination structure.	Budget lines or reports of spending of the national coordination structure.
10.3 Confirmation that NGOs or representatives of civil society attend meetings of the national coordination structure and are able to make proposals concerning coordination or referrals.	Text of the administrative decision establishing the national coordination structure; OR Minutes of meetings of the national coordination structure.
Impact indicators 10	Means of verification
10.1 Cooperation has been strengthened between police, prosecutors, immigration service and other relevant government agencies (such as customs and tax authorities).	Standard Operating Procedures (SOPS) available for referrals, specifying which organisation is responsible for providing particular services to a trafficked person.
10.2 Adoption and regular monitoring, evaluation and review of a time-bound programme or national plans of action.	Updated version of national strategies/plans of action available every second year, based on monitoring, evaluation and review of previous plans.
10.3 Cooperation strengthened between government agencies and NGOs or other representatives of civil society.	Copies of bilateral MoUs between individual NGOs and government agencies, specifying their mutual responsibilities (or multilateral MoUs).

Principle 4 – Policies linked to migration, the economy and the informalisation of the workplace

1. Rationale for the measures required

The policies of most Member States do not allow third country nationals to enter their countries to take up manual jobs, despite high demand for manual labour. The result is that migrants resort to working without being permitted to do so and find jobs in the informal, unprotected sectors of the labour market, where they can be abused and exploited with relative impunity. One particular sector which is unregulated in most Member States is the commercial sex sector, which absorbs significant numbers of women migrants, who have not necessarily been trafficked. Recent economic trends and deregulation policies have also contributed to the informalisation of the workplace and the expansion of the *informal economy* in many Member States, with substantial numbers of people now working in every Member State who are not protected by labour laws or other regulations. This combination of policies and economic trends has increased the vulnerability of migrants to being trafficked. The vast majority of people who are trafficked are migrants seeking a better life, who would prefer legal employment in other countries but, unable to get legal jobs, accept offers to work in a country where they have no legal entitlement to work or reside. Whatever their legal status, all such migrants have a right not to be trafficked and not to be subjected to *exploitation*. Member States have a corresponding duty to protect everyone on their territory from such abuse, whether they are entitled to be in the country or not.

Particular measures for Member States to take are:

1. Adopt and implement policies to allow third country nationals to enter the country and work, according to the scale of demand for labour in your national economy (in both the skilled and unskilled or unprotected sectors) and coordinated to match the needs of the migrants' countries of origin and the interests of the migrants themselves.
2. Pay explicit attention in these policies to inequalities between men and women in the process of migration (i.e., they must be gender sensitive) in order to respect the human rights principle of *non-discrimination*.
3. Intensify action to ensure that internationally-recognised human rights and labour rights are respected in the unregulated and unprotected parts of the economy where many migrants are employed, in particular to reduce levels of exploitation in the sectors where migrant women work or provide services (such as domestic work, *au pair* or similar arrangements and the commercial sex sector). This includes ensuring that migrant workers can exercise their right to *freedom of association*. Intensifying such action does not mean focusing on offences unconnected with exploitation, such as immigration offences.

2. Key Questions for each Member State

11. Does your Government have a policy which allows third country nationals to enter the country and work in jobs which are either manual or do not require special qualifications, on either a short-term (i.e. up to 12 months) or long-term basis? If so, does this cover work in sectors where trafficking or forced labour have been reported (such as agricultural and domestic work and the commercial sex sector) or are these

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sectors in practice filled by migrant workers who have not entered the country under the terms of your Government's migration policies?

12. Are the jobs for which migrant workers are granted work permits in your country predominantly ones in which men are employed, rather than women? I.e., do policies relating to immigrant workers have the effect of promoting immigration by men rather than women or providing greater protection to immigrants who are men than women?
13. Do government agencies check respect for human rights, labour rights and working conditions in the unprotected sectors of the economy (including sectors where it is predominantly women, rather than men, who work or provide services, such as domestic work, *au pair* or similar arrangements, and the commercial sex sector) and try to detect exploitative working practices, including cases of forced labour and trafficking.

3. Indicators

Question 11. Immigration policy	
Outcome indicator 11	Means of verification
Existence of a current government policy (or policies) allowing third country nationals to enter the country and work in unskilled jobs, either on a short-term (i.e. up to 12 months) or on a longer term basis, as well as skilled jobs.	Check on the provisions of government policies relating to immigration, in particular whether they allow short-term placements for foreign (third country) workers and work permits for foreign (third country) workers.
Impact indicator 11	Means of verification
Increases in the number of migrant workers from third countries who are given work permits for jobs that are either manual or do not require special qualifications.	Number of legal migrants from third countries who arrived for the first time in your country last year, with temporary or long-term work permits for employment for jobs that are either manual or do not require special qualifications (i.e. unskilled jobs), in comparison with the number of similar migrants two years earlier.

Question 12. Avoiding discrimination in jobs open to migrant workers	
Outcome indicator 12	Means of verification
Existence of current government policies allowing men and women who are third country nationals to enter the country and work, but which do <u>not</u> at the same time stipulate that work permits should be issued predominantly for jobs which tend to be held by men.	Explicit provision in these policies which allows migrants from third countries to work in parts of the informal economy into which women are reported to have been trafficked (e.g., agricultural and domestic work or the sex sector).
Impact indicator 12	Means of verification
Evidence of an increase in the number of migrant women paying income tax.	Tax returns and compilation of information about women who are not citizens but who do pay tax on income in your country.

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Question 13. Checking the unprotected employment sector	
Outcome indicator 13	Means of verification
Confirmation that the principal agencies in your country responsible for detecting exploitative working practices (e.g., the police, prosecutors, labour inspectors or health and safety services) have investigated cases in unprotected sectors, including the sectors in your country where migrant women are reported to work or earn.	Number of inspections (by labour inspectors or other enforcement officials) or cases of exploitation referred for further investigation and possible prosecution and confirmation that they include inspections of sectors in which women constitute more than half those who are working or earning.
Impact indicator 13	Means of verification
Evidence of improvements in techniques to detect exploitative working practices.	Increase in the number of inspections of workplaces (by labour inspectors or other enforcement officials) or cases of exploitation referred for prosecution in the last calendar year in comparison to two years earlier.

Principle 5 – The rights of children and the duty to protect them in anti-trafficking actions

1. Rationale for the measures required

While children who are trafficked have at least the same rights as adults who have been trafficked, Member States also have legal obligations (under the terms of the UN Convention on the Rights of the Child) to provide them with special protection and to ensure that the “best interests” of the child are a primary consideration in all actions (and decisions) concerning children. This means that Member States must implement additional and sometimes different measures to protect and assist children who have been trafficked and also to prevent children being trafficked. To do so, it is essential to understand the specific ways in which individuals under 18 have been trafficked in the recent past (taking into account that the ways young children below 13 or 14 are recruited and exploited differ to those affecting older adolescents).

The Experts Group has noted with concern reports that *unaccompanied children* and children presumed to have been trafficked, who have been placed by the authorities in residential accommodation, have, in numerous Member States, subsequently left their accommodation and gone missing. While evidence that they remained under the control of traffickers while in such accommodation and returned to them subsequently is only available in some cases, better techniques are needed to protect such children.

The Experts Group recommends that, when identifying child victims, Member States ensure that their definition of “exploitation” includes, at a minimum, all the “*worst forms of child labour*”¹³ and that the child’s possible consent to being recruited or employed in such “worst forms” is never used against the child.

Alongside standard measures to be taken to uphold the rights of children and ensure that actions concerning them are in their best interests,¹⁴ particular measures that the Experts Group considers essential for Member States to take regarding children are:

1. Ensure that any child who has been recruited, transported, transferred, harboured or received in order to be involved in any forms of exploitation mentioned in the *Framework Decision on trafficking in human beings* or the ILO Convention on the *Worst Forms of Child Labour* is accorded at least the same rights to protection and assistance as other trafficked persons.
2. Give immigration services and law enforcement agencies instructions that anyone who might be under 18 years of age and who is presumed to have been trafficked is entitled to the benefit of the doubt and to all the rights and protection due to a child.
3. Introduce a mechanism or procedure to ensure that the best interests of the child are a primary consideration in all actions (and decisions) concerning children who are presumed to have been trafficked, for example by ensuring that a temporary guardian is appointed to accompany each trafficked child and to attend meetings where decisions concerning a *durable solution* for the child are considered, in

¹³ The need for appropriate legislation on this point is mentioned in Principle 1– Ensuring an adequate legal framework and definition of trafficking in human beings.

¹⁴ Measures concerning trafficked children are listed in UNICEF’s *Reference Guide on Protecting the Rights of Child Victims of Trafficking in Europe*, http://www.unicef.org/ceecis/protection_4440.html

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order to confirm that the child's views are being taken into account and that the best interests of the child are a primary consideration.

4. Ensure the relevant authorities in your country have a full understanding of the ways that children have been trafficked or exploited in their country, commissioning research if necessary, and identify both the situations in which children are vulnerable to being trafficked and any gaps or short-comings in existing protection systems, in both cases to take any remedial action which is required.

2. Key Questions for each Member State

14. Do the policies and procedures in your country ensure that young people who are presumed to have been trafficked before reaching the age of 18 are entitled to the same rights to protection and assistance as other presumed trafficked persons, in addition to special rights that they are entitled to because they were under 18 years of age when trafficked?
15. Do the immigration service(s) and law enforcement agencies give the benefit of the doubt to any young people whose precise age is in doubt, but who might be under 18 years of age, and, if the person might have been trafficked, accord them all the rights that a child would have?
16. Does your country have a procedure or mechanism in place for ensuring that the best interests of the child are a primary consideration in all actions (and decisions) concerning children who are presumed to have been trafficked, such as those concerning a ***durable solution*** for the child?
17. Have the authorities in your country identified the specific ways in which children have been trafficked or exploited in your country and any shortcomings in protection systems in your country, which should protect children? If so, have they taken action to address the situations in which children are particularly vulnerable to traffickers and to remedy any shortcomings in protection systems?

3. Indicators

Question 14. Children have at least the same rights as adults	
Outcome indicator 14	Means of verification
Evidence that children are entitled to protection and assistance (i.e., that they are not entitled to <u>less</u> rights than adult trafficked persons, but are also entitled to the additional protection to which children have a right).	Reports from lawyers representing presumed trafficked persons in their late teens (17 and 18), whose age might not be assessed correctly, or who might not be given the benefit of the doubt.
Impact indicator 14	Means of verification
Evidence that children have access to at least the same rights to protection and assistance as adult trafficked persons, in particular that young people who have been trafficked as children are not being required to leave the country when they reach 18, while those trafficked as adults are allowed to remain indefinitely.	National Rapporteur's report; OR Affidavits from organisations providing social assistance to young people aged 16, 17 and 18 who are presumed to have been trafficked; OR Published report concerning the SOPS used by police or immigration service, which contains evidence on this point.

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Question 15. The benefit of the doubt	
Outcome indicator 15	Means of verification
Evidence that, in the course of identifying trafficked persons, the immigration service and law enforcement agencies give the benefit of the doubt to anyone whose precise age is in doubt, but who might be under 18 years of age, and accord them all the rights that a trafficked child would have.	Procedures (e.g., Standard Operating Procedures, SOPS) used by the immigration service and police to assess the age of presumed trafficked persons AND unaccompanied children (who enter the country or come into conflict with the law).
Impact indicator 15	Means of verification
Evidence that presumed trafficked persons in their late teens (17 and 18) have been given the benefit of the doubt if their age is uncertain and accorded all the rights that a trafficked child would have.	Same as for Outcome Indicator 14 Reports from lawyers representing presumed trafficked persons in their late teens (17 and 18), whose age might not be assessed correctly, or who might not be given the benefit of the doubt.

Question 16. Mechanism for upholding the best interests of the child	
Outcome indicator 16	Means of verification
Evidence that a mechanism is in place for ensuring that the best interests of the child are a primary consideration in all actions, including decisions about durable solutions.	Existence of procedures (in SOPS or other procedures followed by police or immigration service), stipulating that a temporary guardian is to be appointed for any child from another country (another Member State or a third country) who is suspected or having been trafficked or is unaccompanied.
Impact indicator 16	Means of verification
Evidence that a mechanism is functioning to ensure that the best interests of the child are a primary consideration in all actions, including decisions about durable solutions.	Confirmation from lawyers representing children or temporary guardianship service that temporary guardians have been able to attend meetings convened to reach a durable decision concerning a trafficked child from another country (whether a Member State or a third country).

Question 17. Specific vulnerabilities of children and gaps in protection for children	
Outcome indicators 17	Means of verification
17.1 Evidence that the authorities in your country have identified the specific ways in which children have been trafficked or exploited in your country.	For both indicators: same verification as for Outcome indicator 18 : Research report(s) resulting from research (whether compiled by a governmental institution or other) to identify causal factors and gaps in protection systems and suggesting strategies to address these.
17.2 Evidence that the authorities in your country have identified any shortcomings in protection systems in your country which should protect children from being trafficked or from being exploited.	

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Impact indicator 17	Means of verification
Evidence that action has been taken to address the situations in which children have been found to be particularly vulnerable to traffickers and to remedy any shortcomings in protection systems.	Announcement of new initiative backed by your Government to prevent trafficking in children; OR Affidavit from EITHER a law enforcement agency OR the immigration service OR social services that gaps in protection identified by research have led to a child protection system being modified. (Similar to verification for Question 18 [Principle 6], but, in this case, child-specific)

Principle 6 – The need for research, monitoring and evaluation and for standard systems for recording data

1. Rationale for the measures required

Information is a crucial component of anti-trafficking activities. It is needed for intelligence purposes, as prosecution evidence and to understand the circumstances in which people are trafficked and the causal factors which can be addressed by prevention initiatives. Information is needed to understand what impact anti-trafficking measures are having, both to see if they are having the desired effect or also if there are unforeseen or counter-productive effects, and to adjust the measures accordingly. This means carrying out the impact assessments mentioned under Principle 2.

People who have already been trafficked who can provide particularly valuable information about the gaps or inadequacies of existing efforts to protect them. While questioning trafficked persons is a routine part of efforts to bring traffickers to justice and of assessments of the needs of trafficked persons, collecting information from them to identify causal factors and gaps in protection systems is not yet a routine part of strengthening prevention and protection measures. Particular care needs to be taken when questioning trafficked persons, in order to avoid subjecting them to further trauma or harm. Further, information about trafficked persons is particularly sensitive. Put in the wrong hands or handled incorrectly, it causes harm to them. It is important to distinguish between two different types of data: non-personal, anonymous data, which can be made public, and personal data, which must be subjected to legal data protection measures.

In addition to collecting information systematically about trafficking in human beings to inform their policies, Member States should collect and analyse information about all the activities in their country to combat trafficking and assist trafficked persons. Once analysed, information about these activities, containing non-personal data about trafficking cases, should be made public regularly. This means identifying a central place at national level where information from different sources is brought together and analysed. This could be an independent National Rapporteur (on trafficking in human beings)¹⁵ or a comparable independent mechanism with a similar mandate and expertise. Being independent means that, along the lines of an Ombudsperson, the National Rapporteur is accountable directly to Parliament or the National Assembly, rather than to a specific minister or agency, so it is not appropriate for the NRM or an agency responsible for anti-trafficking operations to perform this role. On the basis of an analysis of the information obtained, National Rapporteurs should identify gaps and bottlenecks and propose method to address them.

To compile or compare information from different agencies, it is essential that each Member State should ensure that its various agencies share a common language and have standard methods for recording data. The Experts Group has also recommended that standard methods be adopted by all Member States.

¹⁵ 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.

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The measures for Member States to take to carry out the research that is needed, to ensure adequate monitoring and to protect personal data about trafficked persons include:

1. Commission researchers to collect evidence about factors which cause or contribute to trafficking in human beings. This includes assessing whether poverty, violence against women and girls, the lack of economic opportunities for women and girls and discrimination against minorities are salient factors and also whether the lack of capacity of government institutions to carry out their mandates effectively has resulted in inadequate protection.
2. Monitor and assess the impact of your country's anti-trafficking policies and measures, including law enforcement strategies, collecting evidence about both their intended effects and their unforeseen or unintended effects, to draw conclusions about their effectiveness and any changes that might be needed
3. Establish a central system where information from different sources and agencies (governmental and non-governmental) about efforts to combat trafficking, cases of individuals who have been trafficked and measures to protect and assist them is brought together and analysed systematically. This could be called a National Rapporteur on trafficking in human beings. In analysing information about all the anti-trafficking measures taken in your country (including any national action plan to address trafficking in human beings), this institution should: (i) identify gaps and shortcomings in anti-trafficking measures; (ii) propose methods to the Government and Parliament to remedy such gaps and shortcomings; and (iii) report publicly on its findings and recommendations.
4. Ensure all government institutions in your country mean the same when they describe a case as one of trafficking in human beings, and that they use standard methods to record data on cases of trafficking in human beings.
5. Ensure that exchanges of information between different agencies, either in the same country or in different countries, about individuals who are presumed to have been trafficked or are at risk of being trafficked, and other information which is operationally sensitive, occur on the base of previously concluded protocols stipulating how information should flow between different agencies and meeting relevant legal requirements on the protection of personal data.¹⁶

2. Key Questions for each Member State

18. Has your Government commissioned research to identify causal factors (in the cases of trafficking in human beings occurring in your country) and gaps in protection systems which have contributed to the cases occurring? Has such research identified the salient characteristics of people trafficked into or out of your country, which may have contributed to their being trafficked?
19. Has research been carried out in your country (whether by government-financed institutions or independently) to collect evidence about the impact of your Government's anti-trafficking policies and measures, including criminal justice strategies, and has this research collected information about their unforeseen or unintended effects as well as their intended effects?¹⁷

¹⁶ Member States have a legal obligation to maintain personal data confidential, 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.

¹⁷ NB See the related question under Principle 2, Question 19: "Has the impact of anti-trafficking measures in your country been assessed?"

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20. Is there an independent National Rapporteur on trafficking in human beings in your country, or a similar structure responsible for gathering and analysing information about all the anti-trafficking measures taken in the country and reporting publicly in a regular way?
21. Is there a common understanding in government institutions and NGOs about what constitutes a case of trafficking in human beings and are standard methods in use in all government institutions to record data about cases of human trafficking?
22. Does your country have a legally enforced system for protecting personal data in place, which ensures that exchanges of personal data (such as personal details about presumed trafficked persons) between different government agencies, either in the same country or with agencies in another country, occur only on the basis of a previously concluded protocol, stipulating how information should flow between the different agencies and meeting relevant legal requirements on the protection of personal data?

3. Indicators

Question 18. Research to identify causal factors and gaps in protection	
Outcome indicator 18	Means of verification
Evidence that the Government has supported or financed research to identify causal factors and gaps in protection systems that could be addressed in your country.	Research report(s) resulting from research (whether compiled by a governmental institution or other) to identify causal factors and gaps in protection systems and suggesting strategies to address these.
Impact indicator 18	Means of verification
Evidence that the underlying and root causes of cases of trafficking in your country are considered when new prevention initiatives are planned, whether these are in your country or in places from which people are reported to be trafficked to your country.	Announcement of new initiative backed by your Government to prevent trafficking in human beings; OR Affidavit from EITHER a law enforcement agency OR the immigration service OR social services that gaps in protection identified by research have led to a protection system being modified.

Question 19. Assessment of the impact of anti-trafficking policies and measures	
Outcome indicator 19	Means of verification
Evidence of the assessment of the impact of your Government's anti-trafficking policies and measures in general, OR separate impact assessments relating to: (i) criminal justice strategies; (ii) prevention efforts, either in your country or those supported by your government in another country from which people have been trafficked to your country; or (iii) the wider impact of the policies and measures on trafficked persons and others affected, such as migrants and people working in the informal economy.	Instruction(s) commissioning such research OR Research report(s) resulting from such research.
Impact indicator 19	Means of verification
Some of your Government's anti-trafficking policies and	National Rapporteur's annual

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measures are amended (or explicitly confirmed, unchanged) in the light of evidence about their impact.	report OR Amendments to government-backed efforts to prevent trafficking or assist trafficked persons which members of the NRM are told about.
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Question 20. A National Rapporteur on trafficking in human beings or similar structure	
Outcome indicators 20	Means of verification
20.1 A single institution in your country is responsible for gathering and analysing data collected about trafficking in human beings and about all anti-trafficking measures AND all relevant government agencies are providing this institution with information.	Administrative decision from the Government or a specific Ministry (confirming that the National Rapporteur or similar structure has exclusive responsibility for oversight of trafficking patterns and anti-trafficking measures); OR First or periodic (annual or semi-annual) public report issued by the National Rapporteur.
20.2 The National Rapporteur or similar institution has appropriate means/resources.	Government budget allocating resources to the National Rapporteur.
Impact indicator 20	Means of verification
One or more of the remedial actions proposed by the National Rapporteur has been implemented.	1. Periodic public report(s) issued by the National Rapporteur OR 2. Announcement by a Minister or government agency that it is modifying an anti-trafficking measure and attributing this change to a recommendation by the National Rapporteur.

Question 21. Common terminology and methods for recording data	
Outcome indicator 21	Means of verification
Evidence that efforts have been made at national level to standardise both definitions of terms (related to trafficking in human beings) and the criteria used in assessing whether particular individuals have been trafficked.	Comparison of glossaries used by separate agencies involved in detecting cases of trafficking or assisting trafficked persons; OR Confirmation in public report of National Rapporteur (if there is one) that such efforts have been made.
Impact indicator 21	Means of verification
A common system for collecting and recording data on trafficking is in place and used by all government institutions.	Existence of a lexicon or glossary and national guidelines on identifying trafficked persons; OR See Outcome indicator 36 : Copy of protocol or standard operating procedures currently in use by police and other organisations to identify trafficked adults.

Question 22. Protecting personal data about presumed trafficked persons	
Outcome indicator 22	Means of verification
Evidence that, when personal data information	Percentage of government agencies known to

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<p>about trafficked persons is shared with other agencies or individuals, personal information is only divulged in line with legal directives and/or with consent of the individual concerned (or, in the case of a child, the child's guardian or other person with formal responsibility for the child's best interests).</p>	<p>record personal data and relevant intergovernmental organisations or NGOs, which have appropriate guidelines/standard operating procedures on the exchange of personal data. This information may be available from the national data protection authority.</p>
<p>Impact indicator 22</p>	<p>Means of verification</p>
<p>Evidence that a system of "restricted notes" and unique identification numbers on files concerning personal information about presumed trafficked persons, or an equivalent system to hide the name of a trafficked person, is standard use in your country among organisations which record information about presumed trafficked persons (i.e., law enforcement agencies, the immigration service, social services, and any relevant intergovernmental organisation or NGOs.</p>	<p>Affidavits from the organisations concerned, confirming that they have introduced the use of "restricted notes" or unique identification numbers; OR Information from other relevant organisations about an alternative system that they use, which demonstrates that it has an equivalent effect of protecting the identity of individuals about whom information is recorded.</p>

II. ACTION TO PREVENT TRAFFICKING IN HUMAN BEINGS

Far more can be done to *prevent trafficking in human beings* than is often recognised. While the principle prevention technique to receive attention in many Member States has been the use of public information programmes to warn potential migrants and others about the danger of being trafficked, a great deal can also be achieved by identifying the gaps or shortcomings in existing protection systems and by ensuring that the right levels of knowledge and expertise are available in relevant specialist agencies.

II.1 The technical capacity of institutions to stop trafficking

1. Rationale for the measures required

Member States must ensure the institutions specifically established to respond to cases of trafficking in human beings have adequate capacity and expertise to do so and similarly ensure that other relevant agencies involved in actions related to trafficking have the appropriate capacity and technical expertise to play their role. ‘Relevant agencies’ include: front-line police and border guards, police investigators, prosecutors, judges, immigration service officials (or alien police), consular personnel, labour inspectors and international military and police peacekeepers. They also include relevant specialists among the following groups: trade unionists, journalists, health professionals (psychologists and medical doctors), school and university teachers, the staff of NGOs engaged in anti-trafficking work, social workers, and public administration officials. Providing training for such people (and building links between them to improve coordination) is a key element for any strategy or action plan against trafficking in human beings. Training in support of national strategies and the establishment of recurrent training schemes for all relevant actors should be included in national action plans.

At national level, the expertise of individual agencies and professionals in relation to trafficking can be harnessed by the national coordination structure (see Principle 3). At local level, the establishment of multi-disciplinary teams consisting of representatives of law enforcement, social services and health and education professionals is an important step to improve the effectiveness of their collective efforts to prevent trafficking and to protect and provide assistance to individuals who have been trafficked.

Consequently, three measures for Member States to take to ensure institutions responding to trafficking cases have adequate expertise and capacity are:

1. Increase the institutional capacity and technical expertise of relevant agencies to combat trafficking in human beings and to take action to prevent people from being trafficked, by providing them with the expertise, equipment and levels of resources which are appropriate for the tasks they must perform.
2. Ensure relevant government agencies and NGOs involved in counter-trafficking activities receive specialised training to enhance their work. This includes separate child-specific training organised for all law enforcement officials, border guards and other officials and NGOs who might come into contact with trafficked children.
3. Set up ‘multi-disciplinary team’ (or inter-agency co-ordination groups) in areas from which people are reported to have been trafficked or trafficked persons are

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returning.

2. Key Questions for each Member State

23. Do the principal agencies in your country, governmental and non-governmental, which are involved in anti-trafficking actions, have adequate levels of expertise, equipment and resources to perform the roles expected of them (e.g., roles specified in your country's national plan against trafficking or referral system or by your national coordination structure)?
24. Have the staff of these agencies had specialised training (about how they should act when responding to cases of trafficking in human beings) and did this include child-specific training for all law enforcement officials, border guards and other officials and NGOs who might come into contact with trafficked children?
25. In the case of Member States from which or within which people have been trafficked., have 'multi-disciplinary teams' or inter-agency co-ordination groups been set up in areas of your country from which young people are reported to have been trafficked?

3. Indicators

Question 23. Appropriate levels of expertise, equipment and levels of resources	
Outcome indicator 23	Means of verification
Evidence is available that the levels of expertise, equipment and resources available to the principal agencies have increased to allow them to perform their expected roles.	EITHER Comparison of a yearly updated total resource plan for the implementation of the national anti-trafficking strategy or national action plan (if there is on), showing increased spending in the last budget year in comparison to two years previously; OR Percentage increase in budget of the principal law enforcement agency responsible for counter-trafficking operations in the current calendar year in comparison to two years earlier.
Impact indicator 23	Means of verification
Evidence is available of enhanced performance as a result of having adequate levels of expertise, equipment and resources, i.e., cases of trafficking are detected in more places in your country OR cases involving a wider spectrum of forms of exploitation are detected, indicating a move from a focus on just one form of exploitation (such as sexual exploitation of adult women) to a wider range of cases (e.g., involving labour exploitation or children).	Comparison of reports of detected trafficking cases in the last calendar year with two years previously indicates EITHER that cases have been identified in more places, OR that there has been a change from a focus on just one form of exploitation to one or more other forms (with 'sexual exploitation', 'labour exploitation' and 'child exploitation' counting as different forms).

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Question 24. Appropriate specialised training	
Outcome indicator 24	Means of verification
Evidence is available of specialised training being provided on trafficking in human beings and child trafficking to the principal agencies, including: police investigators and prosecutors, immigration service (or alien police), consular personnel and labour inspectors.	Existence of standard operating procedures (SOPS) for the identification and referral of trafficked persons AND confirmation from the principal agencies that staff have been trained to use these SOPS.
Impact indicator 24	Means of verification
Evidence is available that some trade unionists, psychologists and physicians, staff of NGOs engaged in anti-trafficking work and social workers have received relevant training to allow them to take part in anti-trafficking operations.	Confirmation from two or more organisations representing these groups that training was provided to them, concerning the identification and referral of trafficked persons (i.e., whether specifically about the use of SOPS or not).

Question 25. Multi-disciplinary teams at local level in areas from which people have been trafficked	
Outcome indicator 25	Means of verification
Steps taken to set up a multi-disciplinary team (or coordinate the activities of relevant professionals) in one or more locality from which individuals are reported to have been trafficked.	Instruction (to set up such a team) issued by national coordination structure OR national authority (ministry or other) responsible for social services OR a local authority; OR National Rapporteur's periodic report.
Impact indicator 25	Means of verification
Multi-disciplinary teams focusing on prevention of trafficking or of the exploitation associated with trafficking are reported to be convened regularly in at least one area of the country.	Reports published by the national coordination structure OR national authority responsible for social services; OR National Rapporteur's periodic report; OR report published by local authority.

II.2 Administrative controls to combat trafficking in human beings

1. Rationale for the measures required

Administrative controls can be used to regulate and monitor procedures, practices and agencies that are believed to have an influence on the prevalence of trafficking in human beings. They include measures linked to systems to control immigration (e.g., at border entry points and in consulates issuing visas), where victim identification checklists can be used to assess the likelihood that a foreign woman, man or child entering your country is being trafficked. Additional preventive measures are the regulation and monitoring of private employment, *au pair*, marriage, tourist and adoption agencies, which might be used by traffickers, as well as sectors of the economy where trafficked persons are reported to have been subjected to exploitation, such as sweat shops, domestic work, street begging, bars, the commercial sex industry and, in some countries, agriculture, shell fish collection and construction. Regulation can include the introduction of a code of conduct (and associated mechanisms to check that a code is respected) or other quality standard for such agencies, to avoid workers being abused. In the case of unregulated activities such as begging, measures can be taken to discourage adult beggars from being accompanied by children who are used to attract public attention and sympathy (and who have sometimes been trafficked). Other preventive measures include monitoring the Internet to detect the potential illegal use of Internet for trafficking purposes, for example, by escort, adoption and bridal agencies.

In all cases the authorities are responsible for ensuring that administrative controls are consistent with the State's obligations under international human rights law and conform with the ***principle of proportionality***,¹⁸ that is to say that they are proportional to the abuse reported to be occurring, which the procedures seek to prevent, and the least intrusive among the various options available (i.e., in the case of immigration-linked measures, that they do not unduly hamper the ability of travellers in general, or women travellers in particular, to enter and leave your country).

Particular measures for Member States are:

1. Review the systems your country uses to control immigration (i.e. systems in-country and in consulates which issue visas), in order to introduce procedures to help identify trafficked persons and traffickers, such as the use of victim identification checklists. Ensure that such procedures conform to the international human rights standards to which your country is committed to upholding and are

¹⁸ General Comment 27 on Freedom of Movement, issued in 1999 by the Human Rights Committee, the treaty-monitoring body established under the terms of the United Nations *International Covenant on Civil and Political Rights*, explains this principle:

Restrictive measures must conform to the principle of proportionality; they must be appropriate to achieve their protective function; they must be the least intrusive instrument amongst those which might achieve the desired result; and they must be proportionate to the interest to be protected... The principle of proportionality has to be respected not only in the law that frames the restrictions, but also by the administrative and judicial authorities in applying the law.

Paragraphs 14 and 15 of the Human Rights Committee's General Comment 27 ('Freedom of movement', Article 12 of the International Covenant on Civil and Political Rights), UN Document CCPR/C/21/Rev.1/Add.9 (1999), accessed at http://training.itcilo.it/ils/CD_Use_Int_Law_web/Additional/Library/English/UN_S_B/GC_human-rights/gc27_1999.pdf.

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proportional to the abuse reported to be occurring and which the procedures seek to prevent.

2. Introduce techniques to regulate and monitor (i) private agencies which might be used by traffickers, such as private employment agencies and other agencies dealing with marriage, tourism and adoption, and (ii) sectors of the economy where trafficked persons are reported to have been subjected to exploitation.

2. Key Questions for each Member State

26. Have the authorities responsible for immigration (immigration service or border police and consulates issuing visas) introduced systems or procedures designed to help identify possible trafficked persons and traffickers?
27. Have efforts been made to ensure that any new systems or procedures used by the authorities responsible for immigration are not discriminatory (e.g., against women) and are not excessive (i.e., are proportional to the abuse reported to be occurring and which they seek to prevent)?
28. Has your country taken steps to regulate or monitor the activities of private recruitment or employment agencies and other agencies dealing with marriage, tourism or adoption, which are suspected of being used by traffickers?

3. Indicators

Question 26. Immigration service systems to identify cases of trafficking	
Outcome indicator 26	Means of verification
Evidence that immigration-related systems or procedures have been introduced, which were intended to help identify trafficked persons or traffickers	Administrative circular or instruction to consular officials concerning precautions to take when issuing visas (to check whether applicants might be trafficked); AND Confirmation from the immigration service that victim identification checklists are in use (either when issuing visas or at border points) to identify people who might be in the process of being trafficked.
Impact indicator 26	Means of verification
Evidence that immigration-related systems or procedures have helped identify presumed trafficked persons.	The number of trafficked persons identified at borders (and by consulates), comparing information from the immigration service on cases detected in the last calendar year with the number of cases two years previously.

Question 27. Ensuring such systems do not violate human rights standards	
Outcome indicator 27	Means of verification
Evidence that care was paid to ensure that new systems or procedures conformed to human rights standards, either while being drafted or as a result of subsequent review.	Affidavit from head of immigration service stating that new immigration-related systems were vetted to see that they conformed with your country's obligations to respect human rights standards; OR Confirmation from your national human rights institution (i.e., independent commission or ombudsperson set up by the Government),

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	that it has reviewed the new systems and that they conform with human rights standards.
Impact indicator 27	Means of verification
Evidence that some immigration-related systems or procedures have been removed or amended in the light of new information about the methods used by traffickers or the impact of the systems on travellers.	Administrative circulars issued by the immigration service or affidavit from the head of the immigration service.

Question 28. Steps to regulate or monitor the activities of private agencies	
Outcome indicator 28	Means of verification
Evidence that action has been taken to regulate or monitor private recruitment agencies and other agencies which are suspected of being used by traffickers.	Copy of a law or administrative regulation to regulate, monitor or oversee the activities of specific categories of recruitment agency (thought to be used by traffickers); AND Report concerning the implementation of such a law or regulation, or report of a body responsible for authorising or overseeing the activities of particular agencies.
Impact indicator 28	Means of verification
Evidence that action to regulate or monitor private recruitment agencies and other relevant agencies has had the desired effect of reducing cases of trafficking or exploitation: i.e., leading to a reduction in numbers of people subjected to forced labour in sectors where regulation, monitoring or oversight has been introduced (comparing numbers of case detected before and after new measures were taken). ¹⁹	Report concerning the implementation of such a law or regulation, OR report of a body responsible for authorising or overseeing the activities of particular agencies, OR National Rapporteur's period report.

¹⁹ If authorities in the Member State have not previously been active investigating cases of trafficking or forced labour in a sector of the economy which is monitored for the first time, it is likely that the number of identified cases will initially rise, rather than diminish, as a direct result of efforts to identify cases of trafficking or forced labour. In such cases the desired impact is likely to take longer than two years.

II.3 Actions to prevent trafficking which complement criminal justice interventions

1. Rationale for the measures required

A range of prevention initiatives can address factors which cause trafficking in human beings, both push factors in countries of origin and pull factors in Member States. Such initiatives can address a range of underlying and root causes, but unless this identification of causes is based on evidence (rather than guesswork), particularly on information provided by people who have already been trafficked, there is a risk that prevention initiatives will be aimed at the wrong targets and fail to have the desired effect.

In the countries from which people have been trafficked into EU Member States, the most commonly mentioned push factors are poverty and unemployment, sometimes provoked by social reforms, the disappearance of public sector employment and the decline of industries and agriculture. However, complex economic, social and cultural factors, including globalisation, employment policies, trade, migration policies,²⁰ gender and ethnic discrimination and weaknesses in the rule of law all fuel trafficking in human beings. With regard to children, weaknesses of child protection systems also do so and, in the case of women and adolescent girls, research suggests tolerance of violence against women in some countries is also a significant push factor. It is therefore essential for Member States to take action to address (at home and abroad):

- violence and discrimination against women and girls and minorities and the lack of economic opportunities for them in their countries of origin;
- the lack of protection for women and girls working in the *informal economy*, both at home and abroad, notably in the area of domestic and sexual services;
- weaknesses in the rule of law and in the capacity of institutions to confront organised crime;
- and a lack of capacity of state-run social services to identify and protect individuals who have a similar profile to others who have been trafficked.

The lack of protection available to migrant workers is exacerbated when they are unable to exercise their right to *freedom of association* (mentioned under Principle 4). Ensuring migrants can join trade unions or self-organisations is also a form of prevention.

Measures for Member States to take include:

1. Review strategies to prevent trafficking in human beings that the Government is supporting at home and abroad to ensure they are based on accurate information about the experience of individuals who have already been trafficked (i.e., based on information provided by individuals who have already been trafficked) and to ensure their impact is assessed periodically (to check they have had the desired effect, rather than adverse effects on trafficked persons or related groups such as individuals considered at high risk of being trafficked)?
2. Amend prevention strategies in the light of evidence about the root causes of trafficking.

²⁰ And, outside Europe, humanitarian crises, regional conflicts and environmental disasters.

2. Key Questions for each Member State

29. Have the strategies to prevent trafficking in human beings being used by government agencies in your country or supported financially in other countries by Ministries or government agencies in your country been reviewed to ensure they are evidence-based and have they been evaluated to check they have had the desired effect and not any unintended adverse effects?
30. Have the strategies to prevent trafficking in your country been amended in the light of evidence available about factors causing or contributing to trafficking in human beings, in particular;
- i. the lack of protection for women and girls working in the *informal economy*, both in your country and abroad, notably in the area of domestic and sexual services; and
 - ii. a lack of capacity of state-run social services to identify and protect children and adults who have a similar profile to others who have already been trafficked.
31. Have the prevention strategies supported financially by your Government in other countries (other Member States or third countries) been amended in the light of evidence available about factors causing or contributing to trafficking in human beings?

3. Indicators

Question 29. Review of prevention strategies	
Outcome indicator 29	Means of verification
29.1 Review of prevention strategies used in your country to check they are evidence-based and take information about gaps and weaknesses in protection systems, provided by trafficking persons, into account.	Published or unpublished review of prevention strategies or of information available on which prevention strategies are based.
29.2 Review of prevention strategies supported by your government abroad to check they are evidence-based.	Instruction within relevant government Ministry for development cooperation or Foreign Ministry.
Impact indicator 29	Means of verification
Changes identified in Impact Indicators 30 & 31	

Question 30. Modifying prevention strategies in your country in the light of evidence	
Outcome indicator 30	Means of verification
Gaps or shortcomings are identified in prevention strategies used in your country, on the basis of evidence provided by people who have been trafficked into or out of your country, and prevention strategies are changed or amended to cover such gaps.	Existence of one or more reports commissioned by a government agency, assessing causal factors contributing to trafficking in your country, considering, among other evidence, information provided directly by people who have been trafficked.
Impact indicator 30 (same as Impact Indicator 18)	Means of verification
Evidence that the underlying and root causes	Announcement of new initiative backed by a

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<p>of cases of trafficking in your country is considered when new prevention initiatives are planned, whether these are in your country or in places from which people are reported to be trafficked to your country.</p>	<p>government agency in your country to prevent trafficking in human beings; OR Affidavit from EITHER a law enforcement agency OR the immigration service OR social services that gaps in protection identified by research have led to a protection system being modified.</p>
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Question 31. Modifying prevention strategies supported by your Government in other countries in the light of evidence

Outcome indicator 31	Means of verification
<p>Evidence that gaps or shortcomings in prevention strategies financed by your Government in one or more other countries have been identified.</p>	<p>Affidavit or confirmation from your Ministry for Development Cooperation or other government agency financing prevention initiatives abroad (e.g., your country's Embassies) that such initiatives have been evaluated and that evidence of their impact was collected from people known to be at high risk of being trafficked.</p>
Impact indicator 31	Means of verification
<p>Evidence that prevention strategies supported abroad by your Government have been amended in the light of evidence about factors causing or facilitating trafficking.</p>	<p>Affidavit or confirmation from your Ministry for Development Cooperation or other government agency financing prevention initiatives abroad that all new projects to prevent trafficking initiated in the last calendar year included a presentation of evidence justifying the hypothesis that they would have the desired effect.</p>

II.4 Using information about trafficking as a prevention technique

1. Rationale for the measures required

Increasing awareness about trafficking in human beings –among both the general public and potential migrants – and the various forms of exploitation associated with trafficking has been the technique most commonly used in Europe to prevent trafficking. Evaluations show that awareness raising campaigns targeted at categories of people who are known to be at disproportionately high risk of being trafficked are most effective when complemented by other preventive techniques and when they are perceived by the people who are the targets of the campaign to advocate actions which are clearly in their interests. There is evidence that campaigns which do not go beyond the message, “Don’t migrate because you risk being caught by traffickers”, have been dismissed by the very people they were intended to influence as anti-migration propaganda. Campaigns which give advice on how to secure a better livelihood, while avoiding traps set by traffickers and others, seem more likely to be more effective.

Principle 6 emphasises that awareness raising campaigns should be preceded by an initial research phase, so that a campaign identifies specific groups of people to try and influence in ways to which they are likely to be receptive and the campaign’s messages are based on the experiences of real people who have been trafficked (while not disclosing any personal data about the individuals concerned). Asking people who have received information during awareness raising campaigns what they have learned does not in itself confirm that they will pay attention to the advice given, so it is difficult to assess the impact of awareness raising initiatives without organising surveys some years later to find out how the recipients of advice behaved afterwards.

Particular measures for Member States to take are:

1. Base efforts to increase awareness of trafficking in human beings among people considered to be at risk or among the general public on research which has identified the groups of people who at greatest risk of being trafficked. Ensure the awareness raising efforts are designed to meet the needs of such specific groups and complement information with other measures, if these seem to be needed.
2. Integrate basic information about trafficking and the ways in which some young people increase the risk to themselves (of being trafficked), and also information about sensible precautions to avoid being trafficked, into the school curriculum in your country for children at an age when it is still compulsory for them to attend school and before they reach an age when significant numbers of children in your country are known to be trafficked.
3. Make advice available free of charge to migrants and potential migrants in your country on what procedures to follow to obtain legal employment (in your country or abroad), how to migrate while avoiding being entrapped by traffickers, and what to do if subjected to exploitation or other abuse by traffickers or others.

2. Key Questions for each Member State

32. Are efforts in your country to increase awareness about trafficking in human beings specifically targeted on categories of people who are known (on the basis of research findings) to be at disproportionately high risk of being trafficked?

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33. Is information about trafficking in human beings and precautions to avoid being trafficked part of the school curriculum in your country. If so, is information provided to school children at an age when it is still compulsory for them to attend school and before they reach an age when significant numbers are known to be trafficked?
34. Is advice freely available to migrants and potential migrants in your country (from hotlines or other accessible sources) on how to obtain legal employment (in your country or abroad), on precautions to take to avoid being entrapped by traffickers or others who will subject them to abuse, and what to do if subjected to exploitation or other abuse by traffickers or employers?

3. Indicators

Question 32. Targeting information on individuals who are at high risk	
Outcome indicator 32	Means of verification
See Outcome indicator 18 . Evidence that agencies given responsibility for increasing awareness about trafficking in human beings (in your national action plan or under other anti-trafficking plans) target their efforts to make people aware of the risk of being trafficked on individuals or communities who are at disproportionately high risk of being trafficked.	Comparison of the target audiences which such agencies say they have targeted with data available on the salient characteristics of individuals already trafficked, to check if the two coincide or are different.
Impact indicator 32	Means of verification
Evidence that the number of people seeking advice about precautions to avoid being trafficking or on legal employment opportunities is increasing; AND Evidence that awareness raising efforts targeted on people who are at disproportionately high risk of being trafficked have had some success.	Statistics collected by organisations providing advice or running hotlines for migrants or potential migrants: number of users of centres or hotlines providing safe migration information, to show changes (comparing data for last year available with two years previously) in number of people seeking advice about precautions; AND (if they collect appropriate data) to indicate whether they share the characteristics of those known to be at disproportionately high risk of being trafficked.

Question 33. Information about trafficking in the school curriculum	
Outcome indicator 33	Means of verification
Evidence that the school curriculum includes a presentation of information about trafficking in human beings for children before they reach an age at which any are reported to have been trafficked (excluding babies or children under five years of age who have been trafficked for adoption).	Check topics included in the national school curriculum (or local curricula), to confirm that they include information about trafficking in human beings (both what it involved, the risks of being trafficked and the ways in which individuals become an accessory by paying for the services of trafficked persons).
Impact indicator 33	Means of verification

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<p>Evidence that school children have received appropriate information at school, in the form of confirmation from school children or school inspectors that the topic of human trafficking <u>has</u> been mentioned in class (i.e., it is not sufficient that it is <u>supposed</u>, according to the curriculum, to be taught).</p>	<p>Reports of school inspectors or interviews with a representative sample of school students; AND Description of what was taught in class, to confirm it covered the circumstances in which young people enter the control of traffickers and precautions to avoid this, not just information about abuse experienced by trafficked persons.</p>
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Question 34. Free advice for migrants	
Outcome indicator 34	Means of verification
<p>Evidence that advice is available to immigrants and potential emigrants mentioning appropriate precautions to avoid being entrapped by traffickers or others who might subject them to forced labour, and what to do if subjected to exploitation or other abuse by traffickers or employers; AND confirmation that such advice is free.</p>	<p>Existence of hotlines providing information on emigration or trafficking and confirmation that they are toll-free; OR Existence of free government publications providing such advice.</p>
Impact indicator 34	Means of verification
<p>Evidence that a significant proportion (at least 20 per cent) of migrants and potential migrants are accessing advice.</p>	<p>Numbers of people reported to have accessed advice in the last calendar year (e.g., numbers of publications disseminated [to target audience, not dissemination points], numbers of downloads from an internet site, or statistics collected by organisations providing advice or running hotlines for migrants), comparing these numbers to the total number of emigrants or immigrants (whichever are at highest risk of being trafficked) that year to see whether more than 20 per cent accessed such information.</p>

III. ACTION TO PROTECT AND ASSIST TRAFFICKED PERSONS

Identifying people who have been trafficked is a crucial first step to protecting and assisting trafficked persons, as well as a step towards identifying traffickers and depriving them of their profits. Consequently, establishing formal procedures to identify trafficked persons more systematically than in the past is a key part of any anti-trafficking strategy. However, these procedures are not simply about identifying people who may have been trafficked. An integral part of such procedures is a referral mechanism to ensure that possible victims of crime are referred promptly to appropriate services for protection and assistance. Another integral element is a procedure to allow presumed trafficked persons to recover from possible trauma and recover control of their lives before they are asked to provide law enforcement officials with information to support a possible prosecution. The wider system involving identification, referral and procedures to allow trafficked persons to recover is known in some Member States as a *national referral system*.

It is important that a wide range of agencies contribute to the process of agreeing formal procedures and agree to implement them. These include government officials, law enforcement agencies, the judiciary, the immigration service, social services, local social welfare organisations, NGOs, trade unions, labour inspectors and other labour related agencies. The organisations which are best placed to identify individuals being subjected to labour exploitation may be quite different to those best placed to identify individuals subjected to sexual exploitation. Identification procedures need to be complemented by other measures concerning the way trafficked persons are treated subsequently, so that they do not feel that they would be better off remaining with an abusive employer than seeking the protection of the law. The subsequent sections of Part IV focus on these measures.

As the needs and rights of adults who have been trafficked are likely to differ from the needs and rights of trafficked children, distinct referral procedures may be needed to follow whenever a child is identified as a presumed victim of trafficking. Each Member State should check that they respect the principles mentioned in international standards, such as UNICEF's *Guidelines on the Protection of Child Victims of Trafficking*.²¹

III.1 Establishing a referral system to identify trafficked persons, refer them for assistance and guarantee them a minimum period to recover

1. Rationale for the measures required

Identifying people who have been trafficked is the first step to protecting and assisting trafficked persons. However, doing so is difficult, particularly as trafficked persons share many characteristics with other categories of migrants and people experiencing abuse. Further, many are intimidated and traumatised at the time that law enforcement agencies first come into contact with them. They may not perceive themselves to have been 'trafficked' and are unlikely to provide law enforcement agencies with accurate

²¹ See Footnote 8.

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information that can be used bring a prosecution. In these circumstances it is all too easy for law enforcement or immigration officials to label a trafficked person as an ‘illegal immigrant’ to be deported. They thereby fail to provide the person with protection and also fail to identify a significant crime committed against the person. The result is that traffickers escape with impunity.

Substantial evidence is now available that women and girls who have been trafficked into sexual exploitation are not in a position to make informed choices about their future within a short time of being withdrawn from the control of traffickers, or for some time afterwards, while they are suffering from shock or trauma.²² For periods up to several months, such victims of crime may not be able to provide accurate information to law enforcement officials seeking to gather evidence about crimes committed against them, nor to make informed decisions about whether they want to risk cooperating with criminal investigations or not (for, by doing so, they expose themselves and their loved ones to a risk or reprisals from traffickers or their associates). There is also evidence that the practice of making assistance conditional on cooperation with law enforcement, even if it delivers short-term benefits for law enforcement, contributes in the long-term to making trafficked persons suspicious of law enforcement agencies and unwilling to talk openly about their experiences, consequently hindering rather than helping with prosecutions. Again, the result is that traffickers escape with impunity.

For these reasons, the Experts Group considers that Member States should adopt a system of reflection delays and temporary and permanent residence permits for all presumed trafficked persons who are not entitled to reside in the country in which they have been identified, a system to allow them a reflection period of no less than three months, to recover, escape from the control of traffickers (which is often a gradual process rather than instant one) and make an informed decision on whether to cooperate in criminal proceedings. During this reflection period the trafficked person should feel secure from any threat of deportation and given access to support services. The system of temporary and permanent permits should not be made conditional on presumed trafficked persons’ agreeing to provide evidence for prosecutions (either during the reflection period or afterwards). This system could be adopted by each individual Member State or be achieved by amending the *Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third country nationals victims of trafficking in human beings or to third country nationals who have been subjects of an action to facilitate illegal immigration and who cooperate with the competent authorities*.²³ This Council Directive requires Member States to grant presumed trafficked persons a reflection period but specifies that their duration and starting point is to be determined according to national law.

In summary, in order to identify trafficked persons more effectively, it is important that Member States:

1. Develop a referral system for anyone who is presumed to have been trafficked, adopting this formally and ensuring the procedures agreed are implemented by all agencies which might be in a position to identify, protect or assist trafficked

²² See Cathy Zimmerman et al, *Stolen smiles: a summary report on the physical and psychological health consequences of women and adolescents trafficked in Europe*, The London School of Hygiene and Tropical Medicine, 2006.

²³ “Member States shall ensure that the third-country nationals concerned are granted a reflection period allowing them to recover and escape the influence of the perpetrators of the offences so that they can take an informed decision as to whether to cooperate with the competent authorities” (article 6.1, Council Directive 2004/81/EC), Official Journal of the European Communities L 261, 6 August 2004, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004L0081:EN:HTML>

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- persons.
2. Develop effective methods to identify trafficked persons who are in transit and also those already being exploited. The methods must identify those subjected to sexual exploitation and also those subjected to labour exploitation. If priority has so far been given to identifying trafficked women and girls subjected to sexual exploitation, it is important for relevant agencies to develop methods to identify trafficked persons subjected to other forms of exploitation.
 3. Grant possible trafficked persons a reflection period of three months whenever there is the slightest suspicion that the person concerned has been trafficked.

2. Key Questions for each Member State

35. Has your country adopted a standard system to be followed whenever someone is identified as a possible trafficked person (whether this is known as a 'national referral system' or 'standard operating procedures' or another title)? If so, is this standard system implemented by NGOs and other non-governmental actors, as well as by government agencies?
36. Do the relevant authorities (law enforcement, immigration and others) use formal protocols for identifying adults and children who may be in the process of being trafficked into or out of the country and for identifying adults and children who are being exploited in your country, whatever the form of exploitation involved?
37. When a third country national is identified as a presumed victim of trafficking, is she or he entitled to a reflection period before being asked to cooperate in a police investigation or other criminal proceedings? If so, can a reflection period be granted if there is even the slightest suspicion that a person has been trafficked (or is a higher level of evidence required) and is the minimum reflection period at least three months?

3. Indicators

Question 35. A referral system	
Outcome indicator 35	Means of verification
Evidence that a referral system (or systems) has been established for presumed trafficked persons; AND that this was done in consultation with organisations involved in identifying trafficked persons or providing services to them, which are not government agencies.	Decree or other administrative order establishing a referral system; AND An MoU between a law enforcement agency and an NGO providing services to trafficked persons or health professionals; AND An affidavit from the same NGO or groups of health professionals, confirming that they were consulted when the referral system was being prepared and that their views were taken into account.
Impact indicator 35	Means of verification
Evidence that the referral system results in trafficked persons being referred for appropriate services.	National Rapporteur's report confirms role played by non-government actors: OR Document showing referral system or SOPS explicitly includes a role for non-government actors; AND Affidavit from an NGO providing residential accommodation or other services to presumed trafficked

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	persons, confirming presumed trafficked persons are being referred to it by a law enforcement agency.
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Question 36. Formal protocols for identifying trafficked persons	
Outcome indicator 36	Means of verification
Evidence that law enforcement agencies have formal protocols or procedures for identifying trafficked persons being exploited and that these concern both victims of sexual exploitation and victims of labour exploitation.	Copy of protocol or SOPS currently in use by police and other organisations to identify trafficked adults; AND Copy of protocol or SOPS currently in use by police and other organisations to identify trafficked children.
Impact indicator 36	Means of verification
Evidence that formal protocols or procedures for identifying anyone being subjected to sexual or labour exploitation or the worst forms of child labour, including trafficked persons, are being used by law enforcement agencies and other relevant organisations, such as those running drop-in centres, out-reach units and hotlines.	Copy of protocols or SOPS currently in use by <u>labour inspectors</u> to identify individuals who have been trafficked or subjected to forced labour or anyone under 18 subjected to any of the worst forms of child labour; AND Copies of protocols or guidelines in use by organisations running drop-in centres, out-reach units or hotlines, which are intended to help identify trafficked persons.

Question 37. A reflection period	
Outcome indicators 37	Means of verification
37.1 Evidence that all presumed trafficked persons are entitled to a reflection delay.	Text of legislation or regulation allowing a reflection delay.
37.2 Evidence that a reflection delay is granted whenever there is <i>the slightest suspicion</i> that an adult or child has been trafficked and that presumed trafficked adults are entitled to a reflection period of at least three months.	(Similar to Indicator 37 above) Criteria (stipulated in the text) for granting a reflection delay to trafficked persons; AND minimum period for reflection delay (stipulated in the text).
Impact indicator 37	Means of verification
37.1 Evidence that a reflection delay is granted whenever there is the slightest suspicion that a person has been trafficked.	Number of trafficked persons reported in the last calendar year (by media, law enforcement agencies or the National Rapporteur) to have been identified, COMPARED with The number of identified victims of trafficking who were granted a reflection period in the last calendar year.
37.2 Evidence that presumed victims are granted a reflection delay of at least three months whenever there is the slightest suspicion that a person has been trafficked.	National Rapporteur's report OR Number of victims of trafficking who are granted a reflection period of at least three months in relation to the number of assisted victims of trafficking during the last calendar year (and compared to two years earlier). Number of presumed victims of trafficking who are granted a reflection period of less than three months.

III.2 Assistance for individuals who have been trafficked

1. Rationale for the measures required

Trafficked persons have rights: the same rights as every other person and also specific rights because they have been trafficked. They should be able to exercise their rights regardless of their willingness or capacity to testify against their traffickers. Offering them either protection, assistance or a temporary right to remain in a foreign country as privileges, conditional on their testifying, rather than rights, undermines their confidence in State institutions and the ability of these institutions to protect their interests. This directly influences their decision to cooperate with the authorities. The absence of adequate assistance (in a country of origin, transit or destination) may expose trafficked persons to further trauma and the risk that they will be re-trafficked (thereby incurring further expenses for the agencies involved in identifying, protecting and assisting them). Simply stipulating that trafficked persons are entitled to have access to services is not enough by itself: minimum quality standards should be agreed in each Member State for the services to be provided, and the standards relevant for services for trafficked adults are likely to be different to those required for trafficked children.

Specific measures for every Member State to take to ensure that adequate assistance is available to everyone who has been trafficked are:

1. Provide assistance and protection to all presumed trafficked persons, whatever form of exploitation they have experienced, through a range of specialised service providers, to meet their needs both immediately and in the medium term. This means ending the practice of making assistance to trafficked persons conditional on their agreeing to cooperate with law enforcement officials.
2. Ensure that nationals of other Member States are entitled to such assistance and protection (i.e., that it is not tied to the granting of a reflection period or temporary residence status, neither of which are required by individuals trafficked from other Member States).
3. Ensure appropriate minimum standards are set in relation to the services provided to presumed trafficked adults and children and that organisations providing such services, whether government-run agencies or non-governmental, receive adequate support from government budgets to enable them to meet the minimum standards agreed.

2. Key Questions for each Member State

38. Are all the individuals who are identified in your country as presumed trafficked persons provided with protection and assistance and have law enforcement agencies in your country abandoned the practice of making access for trafficked persons to some or all forms of assistance conditional on their agreeing to cooperate with law enforcement officials or to take part in criminal proceedings?
39. Is there adequate provision in your country to ensure that nationals of your country and nationals of other Member States who are presumed to have been trafficked have access to at least the same forms of protection and assistance that are provided to third country nationals who are presumed to have been trafficked? I.e., have the authorities taken action to ensure that laws and regulations do not make provision for assistance to be provided uniquely to people trafficked to your country from outside the EU?

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40. Have minimum standards been set in your country for the services to which trafficked persons are referred (i.e., covering safe and appropriate accommodation, health care, counselling, free legal assistance, education, vocational training and employment opportunities)? If so, are procedures in place for checking that these are respected and do organisations providing services to trafficked persons receive timely and adequate financial support from the Government to meet the minimum standards agreed?

3. Indicators

Question 38. Providing unconditional assistance to trafficked persons	
Outcome indicator 38	Means of verification
Evidence that no agencies in your country suggest to trafficked persons that either protection or access to some or all forms of assistance are conditional on their agreeing to cooperate with law enforcement officials or to take part in criminal proceedings.	Affidavits confirming this from head of main police anti-trafficking unit and from head of immigration service; AND Reports published by organisations providing services to trafficked persons or by others monitoring the experience of trafficked persons in your country after they have been identified.
Impact indicator 38	Means of verification
Evidence that all the individuals who are identified in your country as presumed trafficked persons are provided with appropriate protection and assistance.	Periodic reports of the National Rapporteur or NRM; OR Reports published by organisations providing services to trafficked persons; AND by others monitoring the experience of trafficked persons in your country after they have been identified.

Question 39. Protection and assistance to nationals of other Member States	
Outcome indicator 39	Means of verification
Evidence that the laws or regulations in your country governing the provision of assistance to presumed trafficked persons entitle nationals of your country and nationals of other Member States who are presumed to have been trafficked to at least the same forms of protection and assistance that are provided to third country nationals who are presumed to have been trafficked.	Text of law or regulation setting criteria for assistance to be provided to presumed trafficked persons; confirmation that this is not limited to third country nationals, thereby excluding nationals of other Member States.
Impact indicator 39	Means of verification
Evidence that nationals of other Member States who are presumed to have been trafficked to your country are receiving appropriate assistance.	Report of National Rapporteur or main police anti-trafficking unit: comparison of data about the nationality of all the trafficked persons identified who in your country in the last calendar year with data about those who received assistance in the same period – to check that nationals of other Member States were not excluded from assistance.

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Question 40. Minimum standards and adequate resources for service provision	
Outcome indicator 40	Means of verification
Evidence that minimum standards for services have been set (either a standard for all agencies or specific standards for different services) and are the subject of inspection or quality assurance.	<p>Copy of one or more set of minimum standards set with respect to the quality of services for trafficked adults, which, among its provisions, specifies the process for checking that the standards are adhered to; AND</p> <p>Reports of an audit or other formal check (i.e., independent inspection or self-inspection) to confirm adherence to minimum standards by at least one organisation in your country that is providing residential accommodation to trafficked persons.</p>
Impact indicator 40	Means of verification
Evidence that service providers get adequate government financial support and that such support is not being reduced in the absence of objective evidence that the number of trafficked persons requiring services is falling in the same proportion.	<p>Relevant budget lines of relevant government ministries or departments providing finance for services, both for the last calendar year and for the equivalent period two years earlier. A comparison should be made between the percentage change in spending between the two with the reported percentage change over the same period in the number of trafficked persons requiring assistance, to establish if the two appear to be changing at the same rate, or if budget lines are reducing or increasing proportionally more than the reported number of trafficked persons; AND</p> <p>Allocations per trafficked person per week for those in residential accommodation in budgets of one or more organisations providing accommodation to trafficked persons, which are supported financially by the Government to do so.</p>

III.3 Witness protection and treatment of trafficked persons in the course of legal proceedings²⁴

1. Rationale for the measures required

Member States already have numerous obligations with respect to victims of crime in the course of criminal proceedings. The *Council Framework Decision of 15 March 2001 on the Standing of Victims in Criminal Proceedings*²⁵ requires each Member State to, “recognise the rights and legitimate interests of victims with particular reference to criminal proceedings”, “ensure that victims who are particularly vulnerable can benefit from specific treatment best suited to their circumstances” (article 2), and guarantee their rights to receive information and to protection (articles 4 and 8). The Experts Group considers that the following principles are a particular priority for Member States to uphold in the course of criminal investigations and legal proceedings which involve trafficked persons as witnesses or other roles:

1. trafficked persons should be treated as victims of crime and able to exercise all the usual rights of victims of crime;
2. trafficked persons should not be detained, charged or prosecuted for violations of immigration law or for activities they have been involved in as a direct consequence of their situation as trafficked persons, such as the possession or use of fraudulent documents, prostitution or crimes they have been coerced into carrying out.
3. special care should be taken to ensure that trafficked persons do not suffer further harm (either feeling further traumatised or suffering additional prejudice) as a result of contact with law enforcement officials or others involved in the criminal justice system;
4. the safety of the trafficked person and their family²⁶ is of paramount importance and should be accorded higher priority than the need to secure a conviction (of a trafficker);
5. all trafficked persons should be protected, regardless of the degree to which they cooperate with the police or other law enforcement officials, or the extent of their involvement in criminal proceedings.

These principles require Member States to take specific measures to protect trafficked persons who participate in the criminal justice system from coming to further harm, during investigations, before a trial (during preliminary examination of a witness by a judge or pre-trial cross-examinations in those Member States in which these occur), during a trial and up to and after a verdict has been delivered. In exceptional cases, these include ensuring the anonymity of witnesses,²⁷ while a range of other techniques can be used to reduce the likelihood that victim-witnesses will feel intimidated.

²⁴ The term ‘legal proceedings’ is used to refer to all court cases, including civil actions, whereas the term ‘criminal proceedings’ is used more specifically to refer to prosecutions of suspected offenders.

²⁵ Official Journal of the European Communities, L 82, pages 1 to 4, 22 March 2001, http://eur-lex.europa.eu/LexUriServ/site/en/oj/2001/l_082/l_08220010322en00010004.pdf

²⁶ ‘Family’ includes those with whom the trafficked person has a close relationship, other than their parents and siblings, for example partners.

²⁷ See *Van Mechelen versus The Netherlands* (judgment of the European Court of Human Rights, 23 April 1997), in which the Court held that anonymity of witnesses could be allowed in exceptional circumstances, where:

a) there was a well founded threat of violence;

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In order to uphold these five principles, Member States should:

1. Ensure that victims of trafficking involved in criminal proceedings are able to exercise all the recognised rights of victims of crime.
2. Take appropriate measures to protect trafficked persons who take part in legal proceedings as witnesses or victims of crime, in addition to measures routinely taken to protect victims of other categories of crime.
3. Ensure that trafficked persons, including children, are not detained, charged or prosecuted for violations of immigration law or for activities they are involved in as a direct consequence of their situation as trafficked persons.

2. Key Questions for each Member State

41. Are trafficked persons who are third country nationals and who are involved in criminal proceedings in your country entitled to (and able to exercise) at least the same rights as victims of other categories of crime?
42. Have any special measures been taken to protect adults or children who have been trafficked and who take part in criminal proceedings as witnesses or victims of crime, i.e., measures in addition to those taken to protect victims of other categories of crime?
43. Have the authorities in your country taken sufficient steps to ensure that trafficked persons, including children, are not detained, charged or prosecuted for violations of immigration law or for activities they are involved in as a direct consequence of their situation as trafficked persons?

3. Indicators

Question 41. Rights of trafficked persons as victims of crime	
Outcome indicator 41	Means of verification
Evidence that trafficked persons who take part in legal proceedings as witnesses or victims of crime are <u>not</u> excluded by law or administrative regulation from any of the rights to which people who have been victims of other types of crime are entitled.	Texts of relevant laws concerning victims of crime (to ensure that nationals from other countries, particularly third country nationals, are not excluded from any of the rights to which victims of crime who are citizens in your country are entitled); AND Texts of laws governing reflection delays and status of trafficked persons who agree to testify in the criminal justice system (to check they contain no provision denying trafficked persons from other States any rights to which citizens who are victims of crime are entitled).
Impact indicator 41	Means of verification
Evidence that trafficked persons who are third country nationals and who take part in legal proceedings as witnesses or victims of crime have been given adequate information and advice (i.e., their rights to information and	Affidavit from one or more lawyer representing a victim of trafficking, specifying the times when his or her client was provided with information about the progress or status of legal proceedings and commenting on

- b) the witnesses were heard in the presence of the defendants lawyer; and
- c) there was other (identification) evidence unrelated to those witnesses.

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advice were respected) before, during and after a trial in which they have been involved.	whether the information was adequate or inadequate, and confirming that this included prompt information about the outcome of the trial.
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Question 42. Special measures to protect trafficked persons in criminal proceedings

Outcome indicator 42	Means of verification
Evidence that trafficked persons who have provided statements for use in prosecutions have been given adequate pre-trial and in-court protection. ²⁸	Information from the police or prosecutors on the percentage of victim-witnesses who are taken care of by a witness protection programme or other special programme to protect victims of trafficking or trafficked persons, out of all trafficked persons involved in criminal proceedings; OR Reports by media or other sources which mention evidence being given at the trial of a suspected trafficker by someone whose identity was not disclosed publicly to the court or the defendants or their legal counsel. ²⁹
Impact indicator 42	Means of verification
Evidence of a reduction in harassment or threats to trafficked persons taking part in criminal proceedings as witnesses or victims of crime, by comparing the number of prosecutions of traffickers or their associates for supplementary offences committed against a trafficked person (i.e. threats, harassment or actual harm against a trafficked person or her or his relatives, before, during or after a trial) in the last calendar year with similar statistics from two years earlier.	Court record about the number of relevant prosecutions (not the number of convictions).

Question 43. Efforts to ensure trafficked persons are not detained or charged

Outcome indicator 43	Means of verification
43.1 Evidence that the authorities have taken steps to understand what 'ensuring that trafficked persons are not detained or prosecuted for activities they are involved in as a direct consequence of their situation as trafficked persons' means in operational terms.	Training materials for law enforcement agencies on the issue of trafficking in human beings, which describe situations in which a person apparently committing a crime might be a victim of trafficking and should not be treated as a criminal suspect, and appropriate methods and procedures to use in such cases.
43.2 Same as Outcome Indicator 36 : Evidence that law enforcement agencies have	Copy of protocol or SOPS currently in use by police and other organisations to identify

²⁸ Pre-trial protection includes panic alarms in their accommodation or mobile telephones with direct access to police officers responsible for their protection. In-court measures include giving evidence by video-link and other measures to keep a witness' identify anonymous and efforts to prevent relatives or associates of the accused from intimidating a victim-witness, e.g., by providing separate waiting areas for prosecution and defence witnesses.

²⁹ For example, behind a screen, or by video link, or a pre-recorded interview being admitted as trial evidence.

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<p>formal protocols or procedures for identifying trafficked persons being exploited and that these concern both victims of sexual exploitation and victims of labour exploitation.</p>	<p>trafficked adults AND trafficked children.</p>
<p>Impact indicator 43</p>	<p>Means of verification</p>
<p>Evidence that measures have been taken which result in law enforcement agencies not detaining, charging or prosecuting trafficked persons for violations of immigration law or for activities they are involved in as a direct consequence of their situation as trafficked persons; i.e., comparing two sets of crime statistics for the last calendar year with similar statistics from two years earlier.</p>	<p>Reduction in number of arrests involving individuals who subsequently claim in their defence that they were forced to commit the offence, either because they were trafficked or because they were being coerced by another person; OR Reduction in number of children who are nationals of other Member States or third countries and who are prosecuted for offences which were reportedly committed when they were acting under the control of an older criminal, e.g., theft and burglary.</p>

III.4 Return and social inclusion

1. Rationale for the measures required

In order to prevent trafficked persons from being victimised once again upon their arrival back in their country of origin or re-trafficked, and to protect their safety more generally, it is essential to establish systems and procedures for carrying out a **risk assessment** in respect of every presumed trafficked person before they return to their country of origin. The purpose of such risk assessments is to ensure that trafficked persons are not sent back to a situation that endangers their life, health or personal freedom or would expose them to the likelihood of being subjected to cruel, inhuman or degrading punishment or treatment.³⁰ It is also an opportunity to ensure they are not subjected to **refoulement**.³¹ Carrying out a risk assessment involves consulting the person concerned, as well as considering evidence available about her or his specific circumstances.

In the case of a child from another Member State or third country, a temporary guardian must be appointed to ensure the child's best interests are a primary consideration in the decision about a durable solution, as well as to see that the child's views are heard and taken into account. In the case of a child, risk assessments should also check whether a suitable carer is ready (and has agreed) to take responsibility for the child in her or his country of origin. Evidently, it is essential that a suitable person or agency in the child's country of origin should be contacted and should agree to provide the child with appropriate care before a trafficked child returns to her or his country of origin. It must also be clear from the information provided by an agency in the child's country of origin that this person or agency has the ability and resources to look after the child.

Apart from the risk of reprisals from criminals or of being detained or prosecuted themselves (for example, for having used false papers or for taking part in prostitution, in those countries where this is considered a crime, even if the person concerned had been trafficked), trafficked persons face a series of other problems on their return. Individuals who were trafficked for prostitution risk being stigmatised and discriminated against; some are rejected by their families or communities when these hear about their experience. Everyone who has been trafficked persons faces the challenge of finding a viable means of existence, a problem that is aggravated if they have children or a family to take care of. Such challenges should be addressed in any risk assessment.

Measures for Member States to ensure the safety and reintegration of trafficking persons returning to their own countries are:

1. Carry out a risk assessment before anyone suspected of having been trafficked is deported or returned to their country (and ensure the assessment is done in an appropriately sensitive way so that the trafficked person does not suffer any negative consequences).

³⁰ Under Articles 2 and 3 of the European Convention of Human Rights, States have a positive obligation to protect individuals. Protection offered to trafficked persons should be on the basis of individual risk assessment and need.

³¹ See UN High Commissioner for Refugees (UNHCR), *Guidelines on International Protection: The application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees to victims of trafficking and persons at risk of being trafficked*, UNHCR document HCR/GIP/06/07, 7 April 2006, accessed at www.unhcr.org/doclist/publ/3d4a53ad4.html.

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2. Agree formal procedures or protocols bilaterally with other Member States or third countries, to govern the process of return of a trafficked person to their own country (preferably a voluntary assisted return rather than a non-voluntary return), and ensure these guarantee the rights of the individuals involved.
3. Make appropriate ***social assistance programmes*** available to returnees upon their return to their own country on a voluntary basis, meeting minimum standards which have been agreed for such programmes, and ensure returnees are informed about such programmes.

2. Key Questions for each Member State

44. Are risk assessments carried out by your country's authorities as a matter of routine before any foreign national (adult or child) who is suspected of having been trafficked returns to her/his country of origin? If so, is the person concerned directly involved and are her or his views sought and taken into account when a decision is under consideration about whether she/he should remain in your country, or return to her/his country of origin or go to another country? And are appropriate procedures in place to ensure that, when risk assessments require inquiries to be made in the trafficked person's country of origin, they are carried out in such a way that they do not cause the person prejudice upon arrival home?
45. Has your country reached a formal agreement with any other Member State or other State governing the process of repatriation of trafficked persons? If so, do these contain guarantees or minimum standards concerning respect for the human rights of the individuals concerned, both in your country and in their country of origin?
46. If and when individuals who are presumed to be trafficked persons return to your country from abroad, are ***social assistance programmes*** available to which they are entitled to have access unconditionally and free of charge if they wish to do so, and are they routinely informed about the programmes on offer?

3. Indicators

Question 44. Risk assessments	
Outcome indicator 44	Means of verification
Evidence that risk assessments are routine before trafficked persons are repatriated or encouraged to return home; AND Evidence that an explicit attempt has been made to ensure that risk assessments do not cause prejudice to an individual upon return home (similar to Impact Indicator 8).	Affidavit from the authority in your country responsible for overseeing repatriations, confirming that a risk assessment was carried out for each trafficked person or child who was repatriated in the last calendar year; AND (Same as Impact Indicator 8): Reports by government agencies or NGOs (in the countries to which trafficked persons have returned from your country) about the experience of returning trafficked persons.
Impact indicator 44	Means of verification
Evidence that risk assessments are carried out before each assisted trafficked person leaves your country to return home. This can be obtained by comparing of two figures: the	National Rapporteur's report; OR Affidavit from the authority in your country responsible for overseeing repatriations on the number of risk assessments in the last

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number of presumed trafficked adults/children repatriated or reported to have returned to their country of origin in the last calendar year with the number of risk assessments carried out that year concerning presumed trafficked adults/children. The data should be disaggregated to show separated results for children and adults.	calendar year concerning (i) trafficked adults and (ii) trafficked children who were repatriated; AND (from the same source) the number of trafficked adults and trafficked children (including young adults who were trafficked as children) who returned to their countries or origin.
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Question 45. Bilateral agreements for repatriation of presumed trafficked persons	
Outcome indicator 45	Means of verification
<p>Evidence that repatriations of trafficked adults and children to one or more countries are governed by formal procedures, stipulated in a bilateral agreement or other formal agreement with another State; AND</p> <p>If there are such agreements, evidence that they contain guarantees concerning protection of the rights of those who are repatriated and respect for their rights. This is to be confirmed by checking that they contain provisions specifying (at a minimum): (i) that trafficked persons who might be returned to their country of origin are consulted before a decision is made, and their views are taken into account; and (ii) that trafficked children being repatriated will be accompanied at all times during the repatriation process.</p>	<p>Copy of treaties or bilateral agreements with each other State concerned; AND</p> <p>Confirmation, by a qualitative check, that each such agreement contains the two provisions stipulated.</p>
Impact indicator 45	Means of verification
<p>Evidence that procedures for repatriations of trafficked persons are observed and that their rights are respected in the course of repatriation: i.e., that the two provisions mentioned above are respected by obtaining information,</p> <p>(i) from lawyers representing one or more trafficked adults, confirming that their client was consulted about their wishes to return to their home country and any possible objections; AND</p> <p>(ii) in the case of trafficked children, from your country's guardianship service, confirming that temporary guardians appointed for trafficked children from another country attend meetings at which <i>durable decisions</i> are made; AND that temporary guardians accompany children to border points or airports when they are leaving the country and have witnessed that that children are accompanied thereafter.</p>	<p>(i) Affidavit from one or more lawyer representing a trafficking person (if no such lawyers are available, an affidavit from an NGO providing accommodation to trafficked adults); AND</p> <p>(ii) Affidavit from your country's guardianship service.</p>

Question 46. Social assistance programmes in countries of origin	
Outcome indicator 46	Means of verification
<p>46.1 Evidence that health care is available free of charge for trafficked persons returning to your country.</p>	<p>Copy of relevant law, regulation or standard operating procedures (from social services or other agency organising assistance for returnee trafficked persons) stipulating services to be offered to returnees who have been trafficked; AND</p> <p>In Member States where free health care is financed by social security contributions and is not available to adults who have <u>not</u> made contributions (even if this was because they had been trafficked abroad), affidavit or other evidence</p>

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	from authority responsible for social security or finance of health care, confirming that presumed trafficked persons do not have to pay for health services.
46.2 Evidence that support to secure a livelihood (career advice, vocational training for young people and access to job training or micro-credit) is available free of charge for trafficked persons returning to your country;	Information leaflet or affidavit from an agency providing livelihood-related assistance to trafficked persons who have returned to your country, describing the services on offer and confirming that trafficked persons do not have to pay for these.
46.3 Evidence that social assistance programmes for returnees are; (i) not conditional on the individual agreeing to cooperate with the police or provide testimony for use in prosecutions; and (ii) are voluntary (i.e., they do not lose other benefits if they chose not to participate).	Affidavit from national social services authority OR a specific branch of social services, confirming that returnees are not required to pay for health services received during any period in residential accommodation or for six months afterwards; AND Affidavit from the head of the relevant police anti-trafficking unit that police do not tell returnees that any services are conditional on their cooperating with police investigations, or make access to assistance or services conditional in this way.
Impact indicator 46	Means of verification
Evidence that social assistance programmes in countries of origin are effective.	Percentage of returnees known to still be in the country 12 months after returning; AND Percentage of adult returnees who have a job 12 months after their return to their country.

IV. LAW ENFORCEMENT STRATEGIES

It is not sufficient for Member States to adopt new legislation against trafficking in human beings and hope that it will be implemented. Steps have to be taken to ensure that law enforcement officials understand the new law, the ways to detect trafficking and the various elements which constitute the crime of trafficking and the evidence they might be able to obtain to prosecute traffickers. In particular it is a priority to reduce the dependency of the courts on victim testimony and to increase the attention that the courts give to paying damages or compensation to victims of crime. Efforts to protect victim-witnesses are important in this regard, but, as they relate to *protection*, they are highlighted in the preceding section III.3.

IV.1 Developing law enforcement agency expertise, establishing priorities and ensuring coordination and cooperation between agencies

1. Rationale for the measures required

In order to detect cases of trafficking, gather evidence against the criminals concerned and respond to the people they have trafficked appropriately, it is essential for specialist law enforcement units to be established, with the expertise and capacity to respond to the full range of trafficking cases that occur (i.e., both trafficking for sexual exploitation and trafficking for labour exploitation). Such units can either be specialist police anti-trafficking units or have broader responsibilities. Either way, they need to develop the relevant expertise to identify cases of trafficking in human beings and the various forms of exploitation associated with trafficking. As relatively more progress has been achieved in Europe in identifying women and girls who have been trafficked for sexual exploitation than in identifying those trafficked into forced labour in other sectors, it is important that expertise in detecting such other cases be developed.

It is also a priority to develop *intelligence led* investigative techniques which reduce the criminal justice system's dependency on victim testimony and correspondingly reduce the burden imposed on victims in the course of criminal proceedings. However, efforts to reduce the burden imposed on victims in the course of criminal proceedings should not be misinterpreted as a justification for neglecting the need to protect trafficked persons and provide the assistance to which they are entitled.

Gathering intelligence and evidence about trafficking cases routinely requires cooperation with law enforcement agencies both in the same country³² and in other countries (both other Member States and third countries). This means that each Member State must have effective systems in place to ensure that its criminal justice agencies can cooperate with the criminal justice agencies in other Member States and in relevant third countries.

In summary, this means Member States taking the following steps:

1. Establish police units with a specific expertise and capacity to deal with all cases of trafficking in human beings (i.e. whether involving adults, children, women, men, sexual exploitation or labour exploitation). Police in these units and other relevant

³² See Principle 3 on 'The need for a holistic, coordinated and integrated approach'.

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law enforcement agencies should develop appropriate expertise to identify possible cases of trafficking and forced labour.

2. Give priority to developing pro-active and intelligence led investigative techniques, in order not to be over dependent on evidence provided by trafficked persons to secure convictions of traffickers (with the implicit risk that the witnesses involved are at danger of reprisals from criminals).
3. Put effective systems in place to ensure that the criminal justice agencies in your country can cooperate with agencies in other Member States (and also third countries), to which or from which people are being trafficked from your country, to detect, investigate and prosecute cases of trafficking in human beings and to protect the victims of traffickers if and when they return to their home countries.

2. Key Questions for each Member State

47. Has your country got one or more specialist police unit with specific expertise and capacity to respond to cases of trafficking in human beings occurring in your country, involving all the various forms of exploitation associated with trafficking?
48. Has this specialist unit (and/or other law enforcement agencies in your country) developed techniques to detect cases of trafficking and secure convictions of traffickers, which are *intelligence led* and do not rely mainly on testimony provided by victims of trafficking?
49. Are effective systems in place to ensure that the criminal justice agencies in your country can cooperate with the criminal justice agencies in other Member States?

3. Indicators

Question 47. Specialist anti-trafficking unit	
Outcome indicator 47	Means of verification
Evidence that a specialist anti-trafficking unit has been established and has protocols to ensure effective coordination with other relevant branches of law enforcement (e.g., immigration service and labour inspectors);	Statute or mandate of specialist anti-trafficking unit; AND Copies of protocols with one or more other agencies, or reports of the existence of such protocols in the annual report of the National Rapporteur or the national coordination structure.
Impact indicator 47	Means of verification
Evidence that the specialist anti-trafficking unit is functioning effectively and investigating cases involving a range of forms of exploitation, (i.e., rather than focusing exclusively on one form of exploitation).	Increases in the number of cases detected of each of the following categories of trafficking, <ul style="list-style-type: none"> • trafficking in adults into sexual exploitation, • trafficking in adults into other forms of exploitation (or cases in which the specific purpose was not known), • and trafficking in children, by comparing the numbers for the last calendar year with those from two years earlier.

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Question 48. Intelligence led investigation techniques	
Outcome indicator 48	Means of verification
Evidence that appropriate techniques have been adopted (and are being used) to detect cases of trafficking involving adults (women and men), children (girls and boys), sexual exploitation and labour exploitation.	Percentage of police in specialist unit(s) responsible for investigating trafficking cases who have received training in intelligence led techniques for detecting cases of trafficking AND percentage who have received training in detecting cases of trafficking involving children.
Impact indicator 48	Means of verification
Increase in numbers of convictions of traffickers based substantially on evidence other than evidence provided by victims of these traffickers.	Numbers of such convictions, comparing the numbers for the last calendar year with those two years earlier.

Question 49. Cooperation between agencies in different States	
Outcome indicator 49	Means of verification
Mutual assistance and extradition procedures cover trafficking and operate effectively. I.e., Systems are in place to allow cooperation with criminal justice agencies in one or more other Member States, either specifically on cases involving trafficking in human beings (or more specifically, trafficking in women or trafficking in children) or including cases involving trafficking in human beings.	One or more bi-lateral or multilateral agreements involving law enforcement agencies (or a Ministry) in your country and their counter-parts in one or more other Member State.
Impact indicator 49	Means of verification
Law enforcement officials responsible for preparing prosecutions in your country (police or prosecutors) are able to get from other Member States assistance in obtaining evidence. One or more trafficking-related prosecution in the past calendar year is reported to have used evidence provided by police in another Member State.	Report by media or others (e.g., National Rapporteur's report); OR Affidavit from law enforcement agency responsible for preparing prosecutions; OR Extradition of at least one suspected trafficker to your country from another Member State; OR extradition of at least one to another Member State from your country.

IV.2 Tackling corruption

1. Rationale for the measures required

Trafficking in human beings across frontiers is largely controlled by organised crime. The way organised crime generally functions is to impose its will on others by means of intimidation and/or corruption. Research shows corruption of public officials by traffickers to be one of the recurring and structural characteristics of human trafficking.³³ Public officials can potentially act with a common purpose with criminals; they also facilitate criminals' activities while being unaware of the nature of the crime being committed, for example in the case of labour inspectors or social workers, through wilful negligence to carry out their responsibilities.

The Experts Group would like to see every Member States committed to an anti-corruption programme of action, in particular to address the causes of corruption in public services where employees might be well placed to facilitate (or neglect to stop) the activities of traffickers, such as law enforcement, the immigration service, customs, labour inspectors and social workers. This includes action to address causes of corruption at *micro* level (where individual officials find themselves in situations which invite or lead to corruption), at *meso* level (where the culture in an organisation and insufficient internal checks and balances create an environment in which corruption can occur) and *macro* level (where the changing nature of government can create fertile ground for corruption, particularly when decentralisation results in increased opportunities for public servants in decentralised bodies to exercise their discretion and to engage in corruption).

The main measure for Member States to take is:

1. Adopt a strategy at governmental level to identify and address the causes of corruption and abuse of power (by public officials and others) at different levels.

2. Key Questions for each Member State

50. Has your Government adopted a national strategy or action plan to combat corruption and, if so, does this include action to address the causes of corruption and abuse of power at different levels?

51. Have the various opportunities which might allow public officials to facilitate the activities of traffickers, directly or indirectly, been investigated and identified and has appropriate remedial action been taken?

3. Indicators

Question 50. Action against corruption in general	
Outcome indicator 50	Means of verification
Evidence of plans to take action to combat	Anti-corruption plan (or plans) or national

³³ See e.g., Wijers, M. and L. Lap Chew, *Trafficking in Women, Forced Labour and Slavery-like Practices in Marriage, Domestic Labour and Prostitution*, STV/Global Alliance Against Trafficking in Women, Utrecht/Bangkok, 1999 (rev. ed.).

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corruption and address the causes of corruption and abuse of power which might facilitate trafficking.	strategy confirms that it identifies causes of corruption (at micro, meso or macro levels) and requires action to address these.
Impact indicator 50	Means of verification
Evidence of action already taken to combat corruption and address the causes of corruption and abuse of power which might facilitate trafficking.	Check reports from relevant ministry or other governmental body responsible for reporting on anti-corruption initiatives, for information about actions already taken, to confirm that these included action at least at two levels (of the three: <i>micro</i> , <i>meso</i> and <i>macro</i>).

Question 51. Specific action to reduce opportunities for corruption linked to trafficking in human beings	
Evidence that systems to prevent corruption, such as internal safeguards and checks, internal regulations or control systems, have been introduced or modified in agencies which potentially come into contact with traffickers (e.g., law enforcement, the immigration service, labour inspectors and social workers).	Periodic reports from such agencies; (OR periodic implementation reports or evaluations of the effectiveness and execution of an anti-corruption plan or strategy); AND Numbers of reported investigations or prosecutions or convictions concerning corruption by officials in two such agencies (in periodic reports from such agencies OR in an affidavit from their heads).
Impact indicator 51	Means of verification
Evidence that the opportunities for corrupt officials to aid and abet traffickers have been investigated and identified in at least two relevant agencies, and appropriate remedial action taken to prevent a repetition.	Reports by internal inspection services involved in checking (i) police units responsible for detecting cases of trafficking in the country's capital; and (ii) the labour inspection service.

IV.3 Tracing and confiscating traffickers' assets

1. Rationale for the measures required

Numerous human trafficking cases involve organised criminal groups that prepare, plan, direct or control criminal activities in several countries and move the proceeds of their crimes in cash between countries. The Financial Action Task Force (FATF/GAFI)³⁴ has suggested measures for law enforcement agencies to take to prevent and detect such movements of cash, which complement measures intended to halt the activities of traffickers more directly. The FATF pointed out that, "the money transfers can play a crucial role in the hiding of proceeds".

The Experts Group is concerned that financial investigations and the confiscation of traffickers' assets are not yet a routine part of anti-trafficking operations of all Member States. It considers these to be an essential component of investigations into trafficking-related crimes, as well as a way of acquiring money to finance payments as damages or compensation to people who have been trafficked, as confiscated or seized proceeds of traffickers can be ear-marked to compensate or pay damages to their victims or the victims of other traffickers (see IV.4).

The key measure for Member States to take is:

1. Ensure that, whenever cases of trafficking are detected and the suspected traffickers are identified, efforts are automatically made to identify, trace and either confiscate or seize the proceeds of trafficking/assets of traffickers (in human beings).

2. Key Question for each Member State

52. Is it routine, when a suspected case of trafficking in human beings is detected, that efforts are made to identify, trace and either confiscate or seize the proceeds of trafficking/assets of traffickers?

Question 52. Tracing and confiscating/seizing traffickers' assets	
Outcome indicator 52	Means of verification
Police investigations into suspected cases of trafficking include financial investigations to detect the illegal proceeds of crime.	Affidavit from head of the principal police anti-trafficking unit reporting on the number of suspected traffickers' bank accounts which have been frozen in the last calendar year ; OR National Rapporteur's periodic reports.
Impact indicators 52	Means of verification
52.1 Court judgments order the confiscation or seizure of assets of convicted traffickers and payments (compensation or damages) to foreign	Copy of one or more court judgments in the last calendar year ordering the assets of someone convicted of trafficking to be confiscated or seized; AND

³⁴ FATF/GAFI, *Money laundering and terrorist financing typologies, 2004-2005*, issued 10 June 2005 and accessed at <http://www.fatf-gafi.org/dataoecd/16/8/35003256.pdf>. The report concerns the proceeds from people smuggling, as well as trafficking in human being.

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<p>victims of trafficking. Comparison of number of judgments and amounts confiscated in last calendar year with same period two years earlier.</p>	<p>Total amount of money confiscated from criminals in the past calendar year, either as proceeds of trafficking or (if such specific information is unavailable) proceeds of crimes which included trafficking in human beings.</p>
<p>52.2 Number of foreign victims of trafficking who received compensation or damages each year as a percentage of all foreign victims of trafficking involved in court cases as victims or witnesses. Same as Impact indicator 55</p>	<p>Statistics (on compensation/damages paid) compiled by the courts and by any relevant State compensation schemes. NB This does not refer to court orders that they <u>should</u> be paid, but requires evidence that they have already received payments.</p>

IV.4 Restitution and compensation for victims

1. Rationale for the measures required

Victims of crime (including trafficking in human beings) have a **right to compensation** and restitution for any damages they have suffered, including economic loss (such as earnings which have been withheld from them). Exercising this right is essential to allow trafficked persons to reintegrate into society and restart their lives. They should be able to exercise this right in the course of criminal and civil proceedings and also by having access to any appropriate State compensation schemes. This right should be enforceable when victims of trafficking cannot obtain compensation directly from the offender, by earmarking confiscated or seized proceeds of traffickers to compensate or pay damages to their victims or the victims of other traffickers.

If no State-run compensation scheme currently exists that can make payments to trafficked persons, or the existing scheme would potentially exclude victims of certain forms of exploitation,³⁵ the Government should create a State compensation fund which would be able to make compensation payments to trafficked persons, along with procedures to allow them to apply for payments.

Measures for Member States include:

1. Enable victims of trafficking to remain in your country while they make a claim for compensation or damages.
2. Earmark confiscated or seized proceeds of traffickers for use as a first priority to compensate or pay damages to victims of trafficking.
3. Establish a State compensation fund (if one is not already in existence), which can make compensation payments to trafficked persons, whatever exploitation they have experienced.

2. Key Questions for each Member State

53. Is the ability of citizens of other Member States or third countries, who have been trafficked in your country, to be paid compensation or damages in your country (either via court proceedings or otherwise) hampered in any way, either because foreign victims of trafficking are not allowed to remain in your country while claims are considered, or because some convicted traffickers who are ordered by the courts to pay compensation or damages fail to do so and their victims have no alternative channel from which to seek payments?
54. Are confiscated or seized proceeds of traffickers earmarked for use as a first priority to compensate or pay damages to victims of trafficking?
55. Does your country have a State-run compensation scheme which is authorised to pay compensation to victims of trafficking, whatever form of **exploitation** they have experienced?

³⁵ As some Member States have funds which can potentially pay compensation to individuals who have been trafficked for labour exploitation, but not those trafficked for sexual exploitation.

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3. Indicators

Question 53. Access to compensation or damages	
Outcome indicator 53	Means of verification
53.1 Payments are received routinely by victims of trafficking following the conviction of individuals responsible for trafficking or exploiting them. I.e., same as Impact Indicator 55 : Number of foreign victims of trafficking who received compensation or damages each year as a percentage of all foreign victims of trafficking involved in court cases as victims or witnesses.	Statistics (on compensation/damages paid) compiled by the courts and by any relevant State compensation schemes. NB This does not refer to court orders that they <u>should</u> be paid, but requires evidence that they have received payments.
53.2 Members of the judiciary or Ministry of Justice review prosecutions of traffickers to assess whether victims of trafficking have experienced difficulties in lodging requests for compensation or damages or difficulties in getting compensation or damages actually paid, and make recommendations for changes in procedures accordingly.	Report of review and recommendations (either for changes in procedures or no change).
Impact indicator 53	Means of verification
Foreign victims of trafficking are allowed to remain in your country while a court case or application concerning compensation or damages is outstanding.	(Same as Outcome Indicator above): Statistics (on the number of foreign victims of trafficking known to have received compensation or damages each year as a percentage of all foreign victims of trafficking involved in court cases as victims or witnesses) compiled by the courts and by any relevant State compensation schemes.

Question 54. Earmarking the proceeds of traffickers	
Outcome indicator 54	Means of verification
Decision by the courts or Ministry of Justice (or other state body) that proceeds from trafficking or assets of traffickers, which are confiscated or earmarked by the State, should be earmarked to compensate or pay damages to victims of trafficking	Existence of such a decision.
Impact indicator 54	Means of verification
Payments for compensation or damages to victims of trafficking are made and come from a fund constituted all or in part from confiscated or seized assets of traffickers.	Source of payments of compensation or damages made to victims of trafficking (data provided by courts OR by lawyers representing trafficked persons).

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Question 55. Access to a State-run compensation scheme	
Outcome indicator 55	Means of verification
55.1 Appropriate government officials responsible for the administration of justice confirm that anyone subjected to any of the forms of <i>exploitation</i> associated with trafficking can be paid compensation out of a fund managed by the State.	Affidavit or advice issued by officials responsible for the administration of justice OR by the organisation running a State-run compensation scheme.
55.2 In Member States where no State-run compensation scheme currently exists which can make payments to trafficked persons, or where an existing compensation scheme can only make payments to trafficked persons subjected to certain forms of exploitation, action is taken to set up a compensation fund for victims of trafficking who are not currently entitled to compensation payments.	Order by a Ministry to set up such a fund and confirmation that money is being allocated to the fund, either from confiscated or seized assets from convicted traffickers or from a regular State budget line.
Impact indicator 55	Means of verification
(Same as Outcome Indicator 53.1): Payments are received routinely by victims of trafficking following the conviction of individuals responsible for trafficking or exploiting them.	Statistics (on the number of foreign victims of trafficking known to have received compensation or damages each year as a percentage of all foreign victims of trafficking involved in court cases as victims or witnesses) compiled by the courts and by any relevant State compensation schemes.

APPENDIX 1. ACRONYMS AND GLOSSARY OF TERMS

Acronyms

EC	European Commission
EU	European Union
ILO	International Labour Office and International Labour Organization
IOM	International Organization for Migration
MoU	Memorandum of Understanding
NGO	Non-governmental organisation
NRM	National Referral Mechanism
ODIHR	Office for Democratic Institutions and Human Rights (OSCE)
OSCE	Organization for Security and Co-operation in Europe
SOPS	Standard Operating Procedures
UN	United Nations
UNICEF	United Nations Children's Fund

Glossary

One impediment to measuring progress in efforts to combat trafficking in human beings in different European Union Member States has been that different agencies in different Member States define certain key terms in different ways. The Glossary below presents a set of standard definitions, based principally on the *Report of the Experts Group on Trafficking in Human Beings* (December 2004) and on legal instruments adopted by the European Union, other European institutions or the United Nations or other intergovernmental organisations. The manual uses the definitions contained in this Glossary.

Term	Definition
Administrative controls (to prevent trafficking in human beings)	Administrative controls are geared to regulate and monitor procedures, practices and agencies that may have an influence on the prevalence of trafficking in human beings. This includes accessing a range of mechanisms, from repressive to positive enforcement, and implies multi-agency cooperation, including civil society as well as private sector participation. Use can be made of both sanctions and incentive schemes. In order to work, administrative controls must be implemented in a transparent and accountable way and their use guided by an emphasis on human rights obligations.

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Affidavit	Formal (sworn) statement of evidence.
Child	The word child is used throughout this manual in accordance with the definition contained in Article 1 of the UN Convention on the Rights of the Child: "...a child means every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier".
Durable solution	Long-term arrangements made for a child who has been trafficked.
Empowerment (of individuals who have been trafficked)	The process through which an individual who has been trafficked can develop her/his ability to stand independently, make her/his own decisions and show control over her/his life.
Evaluation	Judgement of interventions according to their results, impacts and the needs they aim to satisfy. It is a process undertaken by an agency order to identify what can be learned for policy and planning.
Exploitation	<p>The EU Council Framework Decision of 19 July 2002 on combating trafficking in human beings refers to the exploitation of a "person's labour or services" and defines this to include, at least, "forced or compulsory labour or services, slavery or practices similar to slavery or servitude". It also refers to "the exploitation of the prostitution of others or other forms of sexual exploitation, including in pornography" (article 1.1).</p> <p>The term exploitation is also defined in international law in article 3 (a) of the UN Trafficking Protocol: "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."</p> <p>As the Framework Decision does not address the last of these forms of exploitation ("the removal of organs"), this is not covered by references in this manual to exploitation.</p> <p>With regard to the purpose of "exploitation of prostitution and other forms of sexual exploitation" it is important to note that both the UN Trafficking Protocol and the EU Council Framework Decision on combating trafficking in human beings make a clear distinction between trafficking and prostitution as such. Although the Protocol explicitly mentions the exploitation of the prostitution of others and other forms of sexual exploitation as one of the purposes of trafficking, neither instrument implies a specific positive or negative position on (voluntary, non-coerced adult) prostitution as such, leaving it to the discretion of individual States how to address prostitution in their domestic laws.</p>
Exploitative working practices	Employment practices which result in one of the forms of exploitation defined by the Framework Decision of 19 July 2002 on combating trafficking in human beings or facilitate their occurrence.
Framework Decision of 15 March 2001 on the standing of victims in criminal	Published in the Official Journal of the European Communities Official Journal, L 82/1, pages 1 to 4. 22 March 2001, http://eur-lex.europa.eu/LexUriServ/site/en/oj/2001/l_082/l_08220010322en00010004.pdf

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proceedings	This includes the requirement that Member States, “shall recognise the rights and legitimate interests of victims with particular reference to criminal proceedings” (article 2.1), the right (of victims) to receive information (article 4), their right to protection (article 8), their right to compensation in the course of criminal proceedings (article 9), and provisions concerning victims resident in another Member State (article 11).
Framework Decision of 19 July 2002 on combating trafficking in human beings	The European Union’s corner stone in standardising responses to trafficking in human beings, incorporating a definition of the offence of trafficking in human beings and specifying minimum penalties. Published in the Official Journal of the European Communities Official Journal L 203, pages 1 to 4. 1 August 2002, http://eur-lex.europa.eu/LexUriServ/site/en/oj/2002/l_203/l_20320020801en0010004.pdf
Freedom of association	The right to form trade unions or other organisations, including ‘self organisations’. Guaranteed by the ILO’s Convention No. 47 on Freedom of Association and Protection of the Right to Organise Convention, (1948), article 2 of which states, “Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorisation”.
Human rights approach	<p>Essentially, a human rights approach integrates the norms, standards and principles of the international human rights system into legislation, policies, programmes and processes. Essential elements of a human rights based approach are the observance of human rights norms, including the principle of non-discrimination, standard setting and accountability, recognition of human beings as subjects and holders of rights, including the right to security, participation, empowerment and the integration of a gender, child rights’ and, where applicable, ethnic perspective.</p> <p>The concept of a ‘right’ means that it is a legally enforceable entitlement, which the government is obliged to respect, promote, protect and fulfil. This concept means that those not enjoying their rights (such as people who have been trafficked) must be given an opportunity to claim them. It also means that, if their rights are violated (as they are when trafficked persons are under the control of a trafficker), they are entitled to restitution – the State takes action to put them back into a situation that is at least as good as it was before their rights were violated. By definition, such an approach is incompatible with policies or activities that have the effect of violating rights, and it permits no ‘trade-offs’ between, for example, the prosecution of perpetrators and the rights of the victim.</p> <p>More generally, it could be said that a human rights approach places people and their human rights at the centre of the agenda. The guiding principle is that anti-trafficking instruments should not only be consistent with the respect for and the protection of human rights but also that they should not create or exacerbate existing situations that cause or contribute to trafficking by instituting policies and practices that further undermine or adversely affect the human rights of persons, in particular the rights of trafficked persons, women, migrants, internally displaced persons, refugees and asylum-seekers. The UN High Commissioner for Human Rights’ <i>Recommended Principles and</i></p>

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	<p><i>Guidelines on Human Rights and Human Trafficking</i> (2002) outline the key elements of a human rights approach in the context of anti-trafficking initiatives and can be accessed at http://www.ohchr.org/english/about/publications/papers.htm.</p>
Impact	<p>A general term used to describe the effects of a measure on society. Impact can be either positive or negative and foreseen or unforeseen and can be caused either directly or indirectly by an initiative and be either intended or unintended. Initial effects are called outcomes/results, whilst impact is usually longer-term.</p>
Impact assessment (<i>ex ante</i> or <i>ex post</i>)	<p>Impact assessment is about examining the likely economic, social and environmental impact of an action that is being proposed or has already been carried out. It identifies and assesses the issue at stake and the objectives pursued. It identifies the main options for achieving the objectives and analyses their likely impact. It outlines the advantages and disadvantages of each option as well as synergies and trade-offs.</p> <p><i>Ex ante</i> evaluation or impact assessment is performed before an initiative is taken, to predict what its consequences will be.</p> <p><i>Ex post</i> evaluation or impact assessment is performed after an initiative has been completed.</p>
Indicators	<p>A characteristic or attribute which can be measured to assess an activity in terms of its outputs or impacts. Output indicators are normally straightforward. Impact indicators may be more difficult to obtain, and it is often appropriate to rely on indirect indicators as proxies. Indicators can be either quantitative or qualitative.</p>
Informal sector (of the economy)	<p>The informal sector was defined by the ILO in 1991 as, “very small-scale units producing and distributing goods and services, and consisting largely of independent, self-employed producers in urban areas of developing countries, some of whom also employ family labour and/or a few hired workers or apprentices; which operate with very little capital, or none at all; which utilise a low level of technology and skills; which therefore operate at a low level of productivity; and which generally provide very low and irregular incomes and highly unstable employment to those who work in it.” More recently, in 2002, the ILO noted that, “The term ‘informal economy’ has come to be widely used instead [of ‘informal sector’] to encompass the expanding and increasingly diverse group of workers and enterprises in both rural and urban areas operating informally. They differ in terms of type of production unit and type of employment status...They include own-account workers in survival-type activities, such as street vendors, shoeshiners, garbage collectors and scrap- and rag-pickers; paid domestic workers employed by households; homeworkers and workers in sweatshops who are “disguised wage workers” in production chains; and the self-employed in micro-enterprises operating on their own or with contributing family workers or sometimes apprentices/employees”. (ILO, <i>Decent work and the informal economy</i>, 2002, www.ilo.org). Virtually by definition, informal jobs are not protected under labour legislation.</p>
Intelligence led policing (to detect cases of trafficking)	<p>Investigative techniques which do not rely on the testimony of people who have been trafficked or exploited, involving front line police gathering and disseminating information, e.g., in communities where exploitation may be occurring.</p>

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Internal trafficking	Cases involving adults or children who are trafficked within their own countries, sometimes to be exploited only a few kilometres from their original homes and other times on the opposite side of their country.
Law enforcement agency	For the purposes of this manual, this term refers not only to police, gendarmerie and related agencies, but also to immigration services and to government agencies supervising labour law, such as labour inspectors.
Monitoring	A continuous process of examining delivery in terms of adoption and implementation of different measures, especially legislation. It is not to be confused with programme monitoring, which consists of examining the delivery of programme outputs to the intended beneficiaries. Evaluation, on the other hand, is carried out at a discrete point in time, and consists of an in-depth study. Monitoring generates data which can be used in evaluations.
National Referral Mechanism (NRM)	The NRM is a coordinating structure which makes recommendations for national policy and procedures concerning trafficked persons and ensures they are referred to the services they need so that their human rights are respected. The title was initially devised by the Organization for Security and Co-operation in Europe (OSCE) Office for Democratic Institutions and Human Rights (ODIHR), when it suggested a structure to ensure coordination between government ministries, NGOs and others involved in caring for victims of trafficking and making decisions affecting them.
Non-discrimination	The Charter of Fundamental Rights of the European Union states (Article 21, Non-discrimination) that, “Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited”.
Policy	A set of activities, which may differ in type (programmes, measures, procedures, laws or rules) and beneficiaries or target groups, directed towards common general objectives or goals. Unlike projects and programmes, a policy is not usually delimited in terms of time or budget.
Presumed trafficked person	Because trafficked persons are often initially unable or reluctant to identify themselves as such, the term “presumed trafficked person” is used to describe persons who are suspected to have been trafficked or deemed likely to be victims of trafficking, and who should therefore come under the general scope of anti- trafficking programmes and services.
Prevention of trafficking in human beings	Prevention of trafficking in human beings comprises a wide range of strategies, which seek to reduce the risk of the crime occurring and its potential harmful effects on individuals and the society. These strategies have to be based on a broad, multidisciplinary knowledge of trafficking in human beings, its causes and counter trafficking best practices. At the same time they have to be gender-sensitive and integrate a human rights perspective. Elements are research, awareness raising, training and administrative controls along with addressing the

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	<p>root causes of trafficking and the issue of demand. Prevention is not only an issue for countries of origin, but also for countries of destination. Prevention strategies should counteract discrimination, marginalisation and social exclusion.</p>
Principle of proportionality	<p>Proportionality means relating enforcement action to the risks. Deciding what is reasonably practicable to control risks involves the exercise of judgement. In the context of anti-trafficking measures, it means establishing an appropriate balance between measures taken to protect specific individuals or groups of adults or children, on the one hand, and enabling these people and others to exercise their human rights and freedoms, on the other. In considering how to get the balance appropriate, comments issued by the Human Rights Committee, the treaty-monitoring body established under the terms of the UN International Covenant on Civil and Political Rights, about freedom of movement (Article 12 of the Covenant), point to two key principles which must underlie this balance:</p> <p>“Restrictive measures must conform to the principle of proportionality; they must be appropriate to achieve their protective function; they must be the least intrusive instrument amongst those which might achieve the desired result; and they must be proportionate to the interest to be protected...The principle of proportionality has to be respected not only in the law that frames the restrictions, but also by the administrative and judicial authorities in applying the law”. Human Rights Committee General Comment 27 on Freedom of Movement, 1999 (UN Document CCPR/C/21/Rev.1/Add.9).</p>
Protection	<p>The notion of protection reflects all the concrete measures that enable individuals at risk to enjoy the rights and assistance foreseen them by international conventions. Protecting means recognising that individuals have rights and that the authorities who exercise power over them have obligations.</p>
<i>Refoulement</i>	<p>The expulsion or return of a refugee to the frontiers of territories where her or his life or freedom is threatened because of her or his race, religion, nationality, membership of a particular social group or political opinion. The 1951 Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees set standards that apply to adults and children:</p> <p>(1) a person who has a “well-founded fear of being persecuted” for one of the reasons stated in the 1951 Refugee Convention is a refugee;</p> <p>(2) refugee status is declaratory in nature, that is to say a person who fulfils the criteria defining someone as a refugee already has the status of a refugee and is arguably entitled to the protection associated with this status before the authorities of the country where she or he is seeking asylum formally recognize the person’s status;</p> <p>(3) a person who is seeking asylum or who holds refugee status cannot be forced to return to the country of origin or to the frontiers of any country which might in turn force them to return to their country of origin (the principle of non-<i>refoulement</i>).</p>
Right to compensation	<p>Trafficked persons are victims of serious crimes. Many of them have been seriously violated and suffered physical harm and/or economic damages or loss. Compensation for the harm, damage and/or loss they have suffered is an important element of restitution and recovery. Compensation and restitution are not only an essential aspect from the</p>

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	<p>perspective of the victims to have justice done, but are also an essential step for the social re-integration of the victims.</p> <p>The right to compensation should be enforced in both criminal and civil proceedings, as well as any State compensation schemes, and should apply not only for the injuries suffered by the trafficked person as a victim of crime, but also for the loss of wages that would have been earned had the trafficked person been correctly paid for the forced labour she/he undertook. States should put in place provisions, such as access to legal aid, and seizure of criminal assets, that in practice enable trafficked persons to claim compensation.</p> <p>“Each Member State shall ensure that victims of criminal acts are entitled to obtain a decision within reasonable time limits on compensation by the offender in the course of criminal proceedings, except where, in certain cases, national law provides for compensation to be awarded in another manner”.</p> <p>“Victims resident in another Member State. Each Member State shall ensure that its competent authorities can take appropriate measures to minimise the difficulties faced where the victim is a resident of a State other than the one where the offence has occurred, particularly with regard to the organisation of the proceedings”.</p>
Right to information and advice	<p>This should include immediate access to support organisations and access to translation and free legal advice. Clear, accurate information needs to be given on options available to trafficked persons, including cooperation with police, and the consequences of these options, including victim and witness assistance and protection schemes. Full information should be given at all stages, with access to advice, and time to consider the information and options. Children should be informed in a manner that is understandable to them.</p>
Right to privacy	<p>Specified in Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (the European Convention on Human Rights). Trafficked persons have the right to privacy and respect for their private and family life. Many trafficked persons will suffer stigma from their community or others if details of their trafficking experience are made public. In addition, sharing of personal information of trafficked persons can increase security risks to them and their families. States should ensure privacy is protected by measures, including ensuring that trafficked persons’ names and court proceedings are not publicised by the media, and that there are provisions governing the collecting and sharing of information of trafficked person’s details between agencies.</p>
Right to protection	<p>Under Articles 2 and 3 of the European Convention on Human Rights, States have a positive obligation to protect individuals. Protection offered to trafficked persons should be on the basis of individual risk assessment and need. It should be offered in consultation with the trafficked person. Usually practical forms of protection are more effective, cheaper, and less intrusive for the trafficked person than full scale witness protection programmes. With regard to <i>unaccompanied</i> children, a legal guardian should be appointed to protect her/his interest and ensure adequate protection of the child.</p>
Right to protection	<p>Each Member State shall ensure a suitable level of protection for</p>

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(in the case of a victim of crime)	victims [of crime] and, where appropriate, their families or persons in a similar position, particularly as regards their safety and protection of their privacy, where the competent authorities consider that there is a serious risk of reprisals or firm evidence of serious intent to intrude upon their privacy.
Risk assessment	Any decision to deport or return a trafficked person, including trafficked children, should be preceded by a risk assessment, that is to say an assessment regarding the safety and well-being of the trafficked person and her/his children and family members during and after return, to ensure that trafficked persons are not sent back to a situation that endangers their life, health or personal freedom and/or would submit them to inhuman or degrading treatment. Under Articles 2 and 3 of the European Convention of Human Rights, States have a positive obligation to protect individuals. Protection offered to trafficked persons should be on the basis of individual risk assessment and need.
Self organisation	A group of people with a common purpose or interest who exercise their right to freedom of association. In the context of trafficking in human beings, this might be an association formed by a group of trafficked persons or an association formed by individuals working in a similar sector, such as sex workers, when this does not have any formal status as a trade union.
Social assistance programmes	<p>In general these should include access to the labour market, vocational training, education and other services aimed at enabling the trafficked person to regain control over her/his life and to build a sustainable future.</p> <p>In the country to which a person has been trafficked, they should include at the minimum safe and appropriate accommodation, counselling, health care, free legal assistance, education, vocational and employment opportunities. All services must be provided on a voluntary and confidential basis, in a non-discriminatory and non-judgmental manner and in compliance with a number of basic principles derived from international human rights norms, in particular the respect for privacy, confidentiality, self-determination and freedom of movement.</p> <p>Upon return to their country of origin, the programmes available to a trafficked person should be based on an individual needs assessment and include: regularisation of the documentation status of the person concerned; appropriate housing; health care; psychological assistance; legal aid; assistance in finding viable means of existence, including vocational training, if requested; and support of self-organisation. It is important that such programmes be voluntary (for a trafficked person) and ensure: the protection of their privacy and safety; strict protection of the confidentiality of the relation between the service provider and the trafficked person; non-stigmatisation; freedom of movement of the trafficked person; the treatment of trafficked persons in a respectful, non judgmental and non moralising or patronising way; and that the needs, views and concerns of the trafficked person should be at the centre.</p>
Specialised services for trafficked	These are listed in UNICEF's <i>Guidelines for Protection of the Rights of Child Victims of Trafficking</i> and UNICEF's <i>Reference Guide on Protecting the Rights of Child Victims of Trafficking in Europe</i> (accessible at

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children	http://www.unicef.org/ceecis/protection_4440.html . They includes suitable housing, preferably in a family environment (e.g., foster families or residential settings specific for children and with appropriate adult support); specialised psychosocial services, etc.
Third country	Reference to any country outside the European Union. The term ‘third country nationals’ applies to people who come from a country outside the EU into an EU Member State.
Time-bound (plan)	Plan which specifies dead-lines by which actions have to be completed.
Trafficked person	The term “trafficked persons” is used as a general term, referring to those who have been trafficked and are entitled to assistance and protection on the very basis of that fact, whereas the term “victims of trafficking” is used in its judicial meaning and specifically refers to those who are recognised in criminal proceedings as victims in a specific case of trafficking in relation to identified perpetrators. The Experts Group explicitly wants to stress the reality of trafficked persons as victims of a severe crime and human rights abuse, it also shares the concern that the use of the word “victim”, because of its emphasis on vulnerability, passivity and powerlessness fails to recognise the dignity, courage, aims and choices of the individuals concerned.
Trafficker	An individual who is involved in ‘trafficking in human beings’, whether operating alone, in a small group, or in a group of three or more persons that qualifies to be called an ‘organised crime group’.
Trafficking in human beings	Offences concerning trafficking in human beings for the purposes of labour exploitation or sexual exploitation are defined in Article 1 of the EU Council Framework Decision of 19 July 2002 on combating trafficking in human beings The phrase “trafficking in human beings” signifies the same as “Trafficking in persons” (defined below).
Trafficking in persons	The UN Trafficking Protocol provides a definition of trafficking in persons. The definition in Article 3 (a) contains three distinct, but interconnected elements: <ol style="list-style-type: none"> 1. the recruitment, transport, transfer, harbouring or receipt of a person; 2. by use of threat, force, coercion, abduction, fraud or deception, abuse of power or a position of vulnerability or giving or receiving payments or benefits to achieve the consent of a person having control over another person; 3. for the purpose of the exploitation of prostitution of others or other forms of sexual exploitation, forced labour or services, slavery, practices similar to slavery, servitude or the removal of organs. <p>Article 3 (b) stipulates that the consent of a victim of trafficking in persons to the intended exploitation is irrelevant where any of the means mentioned above is used, whereas Art. 3 (c) states that the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation should be considered “trafficking in persons” even if this does not involve any of the means mentioned above, meaning that coercion is not required to consider a child as being trafficked.</p>

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Trafficking Protocol	UN <i>Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children</i> , supplementing the UN <i>Convention against Transnational Organized Crime</i> (2000). This Protocol is sometimes referred to as the 'Palermo Protocol'. It can be accessed at http://www.unodc.org/pdf/crime/a_res_55/res5525e.pdf
Unaccompanied child	Unaccompanied children (also called unaccompanied minors) are children who have been separated from both parents and other relatives and are not being cared for by an adult who, by law or custom, is responsible for doing so.
Victim of crime	'Victim' shall mean a natural person who has suffered harm, including physical or mental injury, emotional suffering or economic loss, directly caused by acts or omissions that are in violation of the criminal law of a Member State.
Victim of trafficking	See 'trafficked person' above
Worst forms of child labour	Defined by article 3 of the International Labour Organization (ILO) Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (1999) to comprise: “(a) 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; (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances; (c) 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; (d) 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.”
Young person / young people	Refers to children under 18 and young adults aged 18 to 23.

APPENDIX 2. CHECKLIST OF THE 55 KEY QUESTIONS

This checklist repeats the 55 key questions for Member States mentioned in the four parts of this manual.

CHECKLIST OF KEY QUESTIONS TO ASSESS MEMBER STATES' PROGRESS IN IMPLEMENTING ANTI-TRAFFICKING MEASURES
1. Does your country's anti-trafficking legislation include, as purposes for which individuals are trafficked, forced or compulsory labour or services, slavery or practices similar to slavery, or servitude? If not, does your country have separate legislation making it an offence to recruit or traffic individuals for all of these purposes?
2. Do your country's law enforcement agencies and immigration service have clear instructions to identify trafficked persons, rather than to categorise them as offenders (who have committed immigration offences or other crimes)? Are the Government's messages about priorities and any systems for setting 'targets' for these agencies consistent with these instructions?
3. Does your country's legislation make it an offence to traffic an individual within your country?
4. Does your country's legislation on trafficking in human beings state explicitly that the recruitment, transportation, transfer, harbouring, or subsequent reception of a child under 18 years of age, including exchange or transfer of control over that child, constitute trafficking, even if the child is not subjected to any of the coercive means which are involved in the case of an adult?
5. Do the Government's policies and measures to combat trafficking in human beings make it an explicit priority to respect and protect the human rights of people who have been trafficked?
6. Have there been attempts, prior to the adoption of anti-trafficking policies by your Government, to investigate what their probable impact will be, either on trafficked persons or on individuals who are reckoned to be at high risk of being trafficked?
7. Has the impact of anti-trafficking measures in your country been assessed?
8. Have the authorities in your country taken action to ensure that government agencies which come into contact with presumed trafficked persons (e.g., law enforcement agencies, the immigration service and consular services, and social services), do not use techniques which cause prejudice to the individuals concerned, for example by labelling individuals in a way that is interpreted by others to suggest that the person has been trafficked?
9. Has your Government addressed possible contradictions between its policies concerning trafficking in human beings and those concerning immigration?
10. Has a national coordination structure been established (whether or not it is called a 'national referral mechanism') to oversee the development, coordination, monitoring and regular evaluation of plans and policies at national level on the issue of trafficking in human beings, including mechanisms for referring trafficked persons to appropriate

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<p>services? Does it ensure the participation of representatives of civil society or NGOs?</p>
<p>11. Does your Government have a policy which allows third country nationals to enter the country and work in jobs which are either manual or do not require special qualifications, on either a short-term (i.e. up to 12 months) or long-term basis? If so, does this cover work in sectors where trafficking or forced labour have been reported (such as agricultural and domestic work and the commercial sex sector) or are these sectors in practice filled by migrant workers who have not entered the country under the terms of your Government's <i>migration policies</i>?</p>
<p>12. Are the jobs for which migrant workers are granted work permits in your country predominantly ones in which men are employed, rather than women? I.e., do policies relating to immigrant workers have the effect of promoting immigration by men rather than women or providing greater protection to immigrants who are men than women?</p>
<p>13. Do government agencies check respect for human rights, labour rights and working conditions in the unprotected sectors of the economy (including sectors where it is predominantly women, rather than men, who work or provide services, such as domestic work, <i>au pair</i> or similar arrangements, and the commercial sex sector) and try to detect exploitative working practices, including cases of forced labour and trafficking.</p>
<p>14. Do the policies and procedures in your country ensure that young people who are presumed to have been trafficked before reaching the age of 18 are entitled to the same rights to protection and assistance as other presumed trafficked persons, in addition to special rights that they are entitled to because they were under 18 years of age when trafficked?</p>
<p>15. Do the immigration service(s) and law enforcement agencies give the benefit of the doubt to any young people whose precise age is in doubt, but who might be under 18 years of age, and, if the person might have been trafficked, accord them all the rights that a child would have?</p>
<p>16. Does your country have a procedure or mechanism in place for ensuring that the best interests of the child are a primary consideration in all actions (and decisions) concerning children who are presumed to have been trafficked, such as those concerning a durable solution for the child?</p>
<p>17. Have the authorities in your country identified the specific ways in which children have been trafficked or exploited in your country and any shortcomings in protection systems in your country, which should protect children? If so, have they taken action to address the situations in which children are particularly vulnerable to traffickers and to remedy any shortcomings in protection systems?</p>
<p>18. Has your Government commissioned research to identify causal factors (in the cases of trafficking in human beings occurring in your country) and gaps in protection systems which have contributed to the cases occurring? Has such research identified the salient characteristics of people trafficked into or out of your country, which may have contributed to their being trafficked?</p>
<p>19. Has research been carried out in your country (whether by government-financed institutions or independently) to collect evidence about the impact of your Government's anti-trafficking policies and measures, including criminal justice strategies, and has this research collected information about their unforeseen or unintended effects as well as their intended effects?</p>

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20. Is there an independent National Rapporteur on trafficking in human beings in your country, or a similar structure responsible for gathering and analysing information about all the anti-trafficking measures taken in the country and reporting publicly in a regular way?
21. Is there a common understanding in government institutions and NGOs about what constitutes a case of trafficking in human beings and are standard methods in use in all government institutions to record data about cases of human trafficking?
22. Does your country have a legally enforced system for protecting personal data in place, which ensures that exchanges of personal data (such as personal details about presumed trafficked persons) between different government agencies, either in the same country or with agencies in another country, occur only on the basis of a previously concluded protocol, stipulating how information should flow between the different agencies and meeting relevant legal requirements on the protection of personal data?
23. Do the principal agencies in your country, governmental and non-governmental, which are involved in anti-trafficking actions, have adequate levels of expertise, equipment and resources to perform the roles expected of them (e.g., roles specified in your country's national plan against trafficking or referral system or by your national coordination structure)?
24. Have the staff of these agencies had specialised training (about how they should act when responding to cases of trafficking in human beings) and did this include child-specific training for all law enforcement officials, border guards and other officials and NGOs who might come into contact with trafficked children?
25. In the case of Member States from which or within which people have been trafficked, have 'multi-disciplinary teams' or inter-agency co-ordination groups been set up in areas of your country from which young people are reported to have been trafficked?
26. Have the authorities responsible for immigration (immigration service or border police and consulates issuing visas) introduced systems or procedures designed to help identify possible trafficked persons and traffickers?
27. Have efforts been made to ensure that any new systems or procedures used by the authorities responsible for immigration are not discriminatory (e.g., against women) and are not excessive (i.e., are proportional to the abuse reported to be occurring and which they seek to prevent)?
28. Has your country taken steps to regulate or monitor the activities of private recruitment or employment agencies and other agencies dealing with marriage, tourism or adoption, which are suspected of being used by traffickers?
29. Have the strategies to prevent trafficking in human beings being used by government agencies in your country or supported financially in other countries by Ministries or government agencies in your country been reviewed to ensure they are evidence-based and have they been evaluated to check they have had the desired effect and not any unintended adverse effects?
30. Have the strategies to prevent trafficking in your country been amended in the light of evidence available about factors causing or contributing to trafficking in human beings, in particular;

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<p>iii. the lack of protection for women and girls working in the <i>informal economy</i>, both in your country and abroad, notably in the area of domestic and sexual services; and</p>
<p>iv. a lack of capacity of state-run social services to identify and protect children and adults who have a similar profile to others who have already been trafficked.</p>
<p>31. Have the prevention strategies supported financially by your Government in other countries (other Member States or third countries) been amended in the light of evidence available about factors causing or contributing to trafficking in human beings?</p>
<p>32. Are efforts in your country to increase awareness about trafficking in human beings specifically targeted on categories of people who are known (on the basis of research findings) to be at disproportionately high risk of being trafficked?</p>
<p>33. Is information about trafficking in human beings and precautions to avoid being trafficked part of the school curriculum in your country. If so, is information provided to school children at an age when it is still compulsory for them to attend school and before they reach an age when significant numbers are known to be trafficked?</p>
<p>34. Is advice freely available to migrants and potential migrants in your country (from hotlines or other accessible sources) on how to obtain legal employment (in your country or abroad), on precautions to take to avoid being entrapped by traffickers or others who will subject them to abuse, and what to do if subjected to exploitation or other abuse by traffickers or employers?</p>
<p>35. Has your country adopted a standard system to be followed whenever someone is identified as a possible trafficked person (whether this is known as a 'national referral system' or 'standard operating procedures' or another title)? If so, is this standard system implemented by NGOs and other non-governmental actors, as well as by government agencies?</p>
<p>36. Do the relevant authorities (law enforcement, immigration and others) use formal protocols for identifying adults and children who may be in the process of being trafficked into or out of the country and for identifying adults and children who are being exploited in your country, whatever the form of exploitation involved?</p>
<p>37. When a third country national is identified as a presumed victim of trafficking, is she or he entitled to a reflection period before being asked to cooperate in a police investigation or other criminal proceedings? If so, can a reflection period be granted if there is even the slightest suspicion that a person has been trafficked (or is a higher level of evidence required) and is the minimum reflection period at least three months?</p>
<p>38. Are all the individuals who are identified in your country as presumed trafficked persons provided with protection and assistance and have law enforcement agencies in your country abandoned the practice of making access for trafficked persons to some or all forms of assistance conditional on their agreeing to cooperate with law enforcement officials or to take part in criminal proceedings?</p>
<p>39. Is there adequate provision in your country to ensure that nationals of your country and nationals of other Member States who are presumed to have been trafficked have access to at least the same forms of protection and assistance that are provided to third country nationals who are presumed to have been trafficked? I.e., have the authorities taken action to ensure that laws and regulations do not make provision for assistance to be provided uniquely to people trafficked to your country from outside the EU?</p>

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40. Have minimum standards been set in your country for the services to which trafficked persons are referred (i.e., covering safe and appropriate accommodation, health care, counselling, free legal assistance, education, vocational training and employment opportunities)? If so, are procedures in place for checking that these are respected and do organisations providing services to trafficked persons receive timely and adequate financial support from the Government to meet the minimum standards agreed?
41. Are trafficked persons who are third country nationals and who are involved in criminal proceedings in your country entitled to (and able to exercise) at least the same rights as victims of other categories of crime?
42. Have any special measures been taken to protect adults or children who have been trafficked and who take part in criminal proceedings as witnesses or victims of crime, i.e., measures in addition to those taken to protect victims of other categories of crime?
43. Have the authorities in your country taken sufficient steps to ensure that trafficked persons, including children, are not detained, charged or prosecuted for violations of immigration law or for activities they are involved in as a direct consequence of their situation as trafficked persons?
44. Are risk assessments carried out by your country's authorities as a matter of routine before any foreign national (adult or child) who is suspected of having been trafficked returns to her/his country of origin? If so, is the person concerned directly involved and are her or his views sought and taken into account when a decision is under consideration about whether she/he should remain in your country, or return to her/his country of origin or go to another country? And are appropriate procedures in place to ensure that, when risk assessments require inquiries to be made in the trafficked person's country of origin, they are carried out in such a way that they do not cause the person prejudice upon arrival home?
45. Has your country reached a formal agreement with any other Member State or other State governing the process of repatriation of trafficked persons? If so, do these contain guarantees or minimum standards concerning respect for the human rights of the individuals concerned, both in your country and in their country of origin?
46. If and when individuals who are presumed to be trafficked persons return to your country from abroad, are social assistance programmes available to which they are entitled to have access unconditionally and free of charge if they wish to do so, and are they routinely informed about the programmes on offer?
47. Has your country got one or more specialist police unit with specific expertise and capacity to respond to cases of trafficking in human beings occurring in your country, involving all the various forms of exploitation associated with trafficking?
48. Has this specialist unit (and/or other law enforcement agencies in your country) developed techniques to detect cases of trafficking and secure convictions of traffickers, which are intelligence led and do not rely mainly on testimony provided by victims of trafficking?
49. Are effective systems in place to ensure that the criminal justice agencies in your country can cooperate with the criminal justice agencies in other Member States?
50. Has your Government adopted a national strategy or action plan to combat corruption and, if so, does this include action to address the causes of corruption and abuse of

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power at different levels?
51. Have the various opportunities which might allow public officials to facilitate the activities of traffickers, directly or indirectly, been investigated and identified and has appropriate remedial action been taken?
52. Is it routine, when a suspected case of trafficking in human beings is detected, that efforts are made to identify, trace and either confiscate or seize the proceeds of trafficking/assets of traffickers?
53. Is the ability of citizens of other Member States or third countries, who have been trafficked in your country, to be paid compensation or damages in your country (either via court proceedings or otherwise) hampered in any way, either because foreign victims of trafficking are not allowed to remain in your country while claims are considered, or because some convicted traffickers who are ordered by the courts to pay compensation or damages fail to do so and their victims have no alternative channel from which to seek payments?
54. Are confiscated or seized proceeds of traffickers earmarked for use as a first priority to compensate or pay damages to victims of trafficking?
55. Does your country have a State-run compensation scheme which is authorised to pay compensation to victims of trafficking, whatever form of <i>exploitation</i> they have experienced?

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