

Approved by the Interagency Coordination Council for  
Carrying out Measures Against Trafficking in Persons  
Meeting №1  
November 20, 2006

*Annex 14 to the CEDAW 4-5 Report by Georgia*

*Unofficial translation*

## **Operational Instruction for Protection of (Statutory) Victims of Trafficking in Persons**

### **National Referral Mechanism and Victim Identification Procedures**

Tbilisi, Georgia  
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*Operational Instruction for Protection of (Statutory) Victims of Trafficking in Persons (hereinafter – the National Referral Mechanism) serves as a document of agreement between and cooperation of state bodies, international organizations and non-governmental sector in the process of protection of (statutory) victims of trafficking in persons.*

*The following structures working on protection and assistance to (statutory) victims of trafficking in persons are involved in the National Referral Mechanism via the following three stages:*

- 1. Identification of a Victim and Granting a Status of Trafficking in Persons***
- 2. Protection and Assistance to (Statutory) Victims of Trafficking in Persons***
- 3. Reintegration and Rehabilitation of (Statutory) Victims of Trafficking in Persons***

## ***Part One***

### ***Identification of Victims of Trafficking in Persons***

#### ***1. First Contact with the alleged victim of trafficking in persons***

1.1. The first contact with the alleged victim of trafficking in persons may have: employees of the border guards' service, Police, representative of the Office of the Public Defender of Georgia, non-governmental organizations, medical institutions.<sup>1</sup>

1.2. If there is a suspicion that a person is a possible victim of trafficking in persons, or if such a suspicion emerges or a victim identifies himself/herself as a victim of trafficking in persons, he or she shall be informed of all the rights and obligations prescribed by the Law, as well as his/her legal status and a respective list of rights and obligations shall be handed over to him/her.

1.3. An alleged victim of trafficking in persons shall be notified right at the beginning of the exemption from criminal responsibility for any illegal act that he/she has committed coercively, due to being a victim of trafficking in persons<sup>2</sup>. Alleged victim of trafficking in persons shall also be notified without a delay that he/she has a right to apply to an institution providing services for the victims of trafficking (a shelter).<sup>3</sup>

1.4. A special mobile group shall be called on if an alleged victim of trafficking in persons wishes to apply for identification of his/her status as of a victim of trafficking in persons. If an alleged victim wishes to contact a mobile group after a while, respective contact information shall be handed over to him/her.

#### ***2. Identification of a Victim and Granting a Status***

2.1. Identification of victims of trafficking in persons is conducted in accordance with the Standards and Rules of Identification of Victims of Trafficking in Persons, as approved by the President of Georgia upon submission by the Interagency Coordination Council for Carrying out Measures against Trafficking in Persons (*hereinafter – the “Coordination Council”*);

2.2. A Permanent Group created at the Coordination Council (*hereinafter – the “Permanent Group”*) considers granting a status of a victim of trafficking in persons within 48 hours after an application of an alleged victim of trafficking in persons to a shelter or other relevant institution;

2.3. A Permanent Group considers granting a status of a trafficking in persons based on the information provided to the group by the special mobile group;

2.4. A special mobile group shall be created by the Legal Entity of Public law – “State Fund for Protection and Assistance of (Statutory) Victims of Trafficking in Persons” (*hereinafter - “the Fund”*), upon the submission of the Permanent Group. The mobile group conducts first interview with a victim. Based on the information collected as a result of an interview (in the form of a

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<sup>1</sup> A room for conducting an interview with a victim can be allocated at the border crossing points and in the Police. \

<sup>2</sup> The Law on Fight against Trafficking in Persons

<sup>3</sup> The Law on Fight against Trafficking in Persons

questionnaire) and additional oral explanations of the mobile group, the Permanent Group makes a decision of granting a status of a victim of trafficking in persons.

2.5. After granting a status of a victim of trafficking in persons, if the victim so wishes, he/she may be placed in a shelter. Otherwise he/she may enjoy all the guarantees for victims of trafficking in persons, as envisaged by the legislation<sup>4</sup>.

A document of cooperation of the state, non-state and international organizations on provision of legal, medical, psychological and other types of services, The Strategy for Rehabilitation and Social Reintegration of the Victims of Trafficking in Persons, is a part of the **National Referral Mechanism**.

**48 hours long term:** if an alleged victim of trafficking in persons does not have a shelter within the afore-mentioned 48 hours, there are three alternatives on giving him/her a possibility to stay:

- a temporary waiting room be created at the border in West Georgia, and a similar room identified in a medical institution in East Georgia;
- a special project be created, within which there will be funding allocated for provision of overnight expenses;
- both options shall be realized.

### ***3. Procedure of Granting a Status of a Victim of Trafficking in Persons***

3.1. Granting a status of a victim of trafficking in persons by the Permanent Group shall take place within 48 hours after a respective application of the alleged victim to the shelter or other relevant institution;

3.2. The Permanent Group considers granting a status of a victim of trafficking in persons to an alleged victim based on Victim Identification Questionnaire filled-out as a result of an interview conducted with an alleged victim of trafficking in persons. The mobile group submits the filled-out identification questionnaire to the Permanent Group. If an alleged victim so wishes, the permanent Group may have an interview with him/her.

3.3. If the Permanent Group grants the status of a victim of trafficking in persons, it issues the respective document confirming the individual case of granting the status. One copy of the document shall be handed over to the victim, one copy stays with the Permanent Group and one copy is sent to the Fund.

When granting the status of a victim of trafficking in persons, the Permanent Group provides the victim with the written information on possibilities of shelter, compensation, medical assistance and other programs.

3.4. If the Permanent Group refuses granting a status of a victim of trafficking in persons, the Permanent Group provides the Fund with this information.

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<sup>4</sup> A victim is handed over a standard document, composed of the following: a) Information on the available help in the health sector (with the contact details); b) information on free legal aid (contact details included); c) The list of guarantees envisaged by the Law of Georgia on the fight against Trafficking in Persons and criminal procedural legislation of Georgia.

- 3.5. A victim of trafficking in persons, which was granted a status of a statutory victim of trafficking by the law enforcement in accordance with the Criminal Procedure legislation, is equal to a person with the status of trafficking in persons granted by the Permanent Group. Therefore, the statutory victim is entitled to use services of shelter, claim compensation from the state, enjoy health care services and other programs. The statutory victim shall be informed about all the mentioned rights at the moment of granting a status of a statutory victim of trafficking in persons.
- 3.6. A person, who was granted a status of a victim of trafficking in persons by a foreign country, international organization or an organisation of a foreign country, can apply for granting the status of a victim of trafficking in Georgia to the Permanent Group. A foreign national may be granted a status of a victim of trafficking in persons, if illegal acts realised against him/her started, continued or finalised in Georgia. The Permanent Group shall not automatically recognize a person as a victim of trafficking in persons, if he/she is recognized as such by a foreign country, organizations of foreign countries or international organizations. The Permanent Group considers such cases according to the established rule, as any other application.

A person recognized as a victim of trafficking in persons by a foreign country, by an organization of a foreign country or by an international organization, may use services of shelter, claim compensation from the state, enjoy health care services and other programs only after granting to him/her a status of a victim of trafficking in persons by the Permanent Group.

#### ***4. Mobile Group***

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- 4.1. A mobile Group is composed of two experts: a lawyer and a psychologist.
- 4.2. There are two mobile groups operating on the territory of Georgia: one in East Georgia and the other one in West Georgia.
- 4.3. A mobile Group is called in cases of identification of an alleged victim of trafficking in persons or self-identification. A special identification questionnaire is filled out by the Mobile Group along with conducting an interview with him/her. A filled-out identification questionnaire is submitted to the Permanent Group. The Mobile Group considers issue of granting the status of the victim of trafficking in persons based on the questionnaire filled-out by the mobile group during the interview with the alleged victim of trafficking in persons.
- 4.4. The mobile group members are obliged to keep in secret any identification-related data of the possible victim, notwithstanding whether the status of a victim is granted or refused to a person. Revealing this data incurs criminal liability.

#### ***5. The Permanent Group***

- 5.1. The granting of the status of a victim of trafficking in persons is exercised by the Mobile Group. The Mobile Group considers an issue of granting the status of a victim of trafficking to a person based on the questionnaire submitted by the mobile group. The mobile group does not grant a status of a victim of trafficking automatically to a person, who is recognized as such by a foreign state,

international organization or a foreign NGO. The Mobile Group considers such a case as any other application, in accordance with the generally established rules.

5.2. The Permanent Group consists of 5 members. Composition of the Permanent Group is confirmed by the Interagency Coordination Council for Carrying out Measures against Trafficking in Persons. Establishment of the alternative members of the Permanent Group members by the Coordination Council is also possible.

5.3. The Permanent Groups makes decisions on granting a status of a victim of trafficking in persons with the 4/5 of the composition.

5.4. The Permanent Group submits the information on granting or refusing the status of the victim of traffickign in persons to the Fund.

5.5. The members of the Permanent Group are obliged to keep in secret any identity-related data of the an victim of trafficking in persons, despite the fact whether a status of a victim is granted to him/her. Revealing the data incures criminal liability.

## ***Part Two***

### ***Protection and Assistance to (Statutory)Victims of Trafficking in Persons***

#### ***1. Shelter***

1.1. After receiving a status of a (statutory) victim of trafficking in persons he/she is entitled to use the services of an institution providing services for the victims of trafficking in persons (a shelter) and enjoy other rights envisaged by the Chapter.

1.2. An institution providing services for the victims of trafficking in persons (a shelter) is established to protect victims of trafficking in persons, support, rehabilitate and fully reintegrate them into their families and society. A shelter is created at the Fund, as a structural unit of the legal entity of public law. Any natural or legal person is also entitled to establish a legal entity of private law – an institution providing services for the victims of trafficking in persons (a shelter), in line with the organizational-legal form, established by the Georgian legislation.<sup>5</sup>

1.3. A (statutory) victim shall be placed in a shelter only based on his/her consent and only after granting a status of a (statutory) victim of trafficking in persons. Placing a victim in a shelter is not dependent on the cooperation of the victim with the law-enforcement authorities in the process of criminal proceedings on a given crime. A shelter is contacted with regard to placing a person in the shelter by the organization or a natural person, who is in contact with him/her.

1.4. The Shelter must meet the standards established by the Georgian legislation.

1.5. A Shelter, with the consent of a (statutory) victim of trafficking in persons, provides the following services for him/her:

- a. Secure place of residence with decent living conditions;
- b. Food and clothes;
- c. Medical aid;

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<sup>5</sup> If a person approaches NGO, which has a shelter, after undergoing an identification procedure, he/she shall be suggested to use that shelter

- d. Psychological counseling;
- e. Legal assistance and court representation (including filing complaints, appearing in court proceedings as a witness, requesting asylum, obtaining documents for returning to the country of origin).
- f. Providing the information in the language the victim understands; provision of the assistance of the lawyer in case of necessity;
- g. Participation in the long-term and short-term programs of rehabilitation and reintegration (professional and other educational programs, support in employment).

1.6. The victim shall be placed in the shelter on the basis of the individual contract, taking into account the age, sex and other special requirements.

1.7. Upon entering the shelter, a (statutory) victim undergoes medical examination.

### ***Length of staying in a shelter and conditions for leaving a shelter***

1.8. The period of stay in a shelter based on a contract, is 3 months. The extension of the term, once it expires, is possible.

1.9. The victim may leave the shelter voluntarily before the term expires.

### ***Internal Regulation of a Shelter***

1.10. The shelter shall function on the basis of Internal Regulations of the Shelter.

1.11. Internal Regulation shall be in compliance with the standards established for a shelter and it shall be followed both by victims and the staff.

1.12. The violation of internal regulations may result into the termination of the contract for both – staff and victim.

1.13. Shelter Administration staff are obliged to keep in secret identification data of the victims of trafficking in persons placed in the shelter. Revealing the data incurs criminal liability in accordance with the law.

## ***2. Compensation***

### ***A right to claim compensation***

2.1. After granting a status of a (statutory) victim of a trafficking in persons, he/she is entitled to claim compensation, which is granted by the Fund, in accordance with the procedure prescribed by the legislation.

2.2. Granting compensation is not dependent on the cooperation of the victim with the law-enforcement authorities.

2.3. If a (statutory) victim of trafficking in persons receives compensation from the Fund and meanwhile as a result with the law enforcement authorities, his/her trafficker is detained, the received compensation does not restrict the (statutory) victim's right to claim material, moral and property damage.

### ***Procedure of granting compensation***

2.4. A compensation is granted to a victim of trafficking in persons, who had incurred moral, property and material damage as a result of trafficking in persons and who was granted a status of a victim of trafficking in persons by the Permanent Group created at the Coordination Council for Carrying out Measures against Trafficking in Persons.

2.5. A compensation is granted to a (statutory) victim of trafficking in persons, who had incurred moral, property and material damage as a result of trafficking in persons and who was granted a status of a (statutory) victim of trafficking in persons by the law enforcement authority in accordance with the rules prescribed by the criminal procedure legislation.

2.6. Compensation amount is paid through bank transaction.

### ***Compensation Amount***

2.7. Compensation amount to be granted to a victim of trafficking in persons by the State Fund for Protection and Assistance of (Statutory) Victims of Trafficking in Persons is GEL 1,000.

2.8. The Fund provides for keeping in secret any identification data of the victims of trafficking in persons. Revealing this data incurs criminal liability as prescribed by the legislation.

## **3. Other Measures of Protection and Assistance to (Statutory) Victims of Trafficking in Persons**

### ***Reflection Period***

3.1. A (statutory) victim of trafficking in persons is entitled to a 30 days-long reflection period, in order to make a decision on cooperation with the law enforcement bodies in the process of criminal procedures.

3.2. Reflection period is calculated from the day of application of the alleged victim to a shelter or law enforcement bodies.

3.3. During the reflection period a victim is exempted from the criminal liability envisaged by the Article 371 of the Criminal Code of Georgia.

### ***Safe Repatriation***

3.4. Safe repatriation encompasses several components: arrangement of relevant documentation, issue of safety, etc.

3.5. After expiration of reflection period or after completion of respective criminal procedure a state undertakes relevant measures for return of the foreign (statutory) victim to the country of origin.

3.6. After completion of criminal procedure a foreigner, upon his request, may be granted an asylum in Georgia, if there is a reasonable ground to believe that in case of return to the country of origin, his/her life, health or liberty may be threatened.

3.7. Consular and diplomatic representations of Georgia cooperate with all the respective state agencies in issuing in the shortest possible terms IDs or certificates for return to Georgia to the Georgian nationals and stateless persons permanently residing in Georgia, who become (statutory) victims of trafficking in persons and their actual return to Georgia.

3.8. In order to safely and voluntarily return (statutory) victims of trafficking in persons to Georgia, the state agencies cooperate with the respective bodies of other countries, international organizations and non-enterprenual legal entities.

### ***Medical Assistance***

3.9. A (statutory) victim of traffickin in persons is entitled to benefit from the medical assistance programs as provided the Ministry of Labour, Health and Social Protection. A (statutory) victim of trafficking in persons is notified on these programs by the Permanent Group or the law enforcement authorities, accordingly.

### ***Legal Aid***

3.10. A (statutory) victim of trafficking in persons is entitled, to benefit from free of charge legal aid. A (statutory) victim of trafficking in persons is notified on the free legal aid and the organizations providing this service by the Permanent Group or law enforcmeent authorities, respectively, when granting the status of a (statutory) victim of trafficking in persons.

## ***Part Three***

### ***1. Rehabilitation and Reintegration of (Statutory) Victims of Trafficking in Persons***

1.1. Institutions providing services for the victims of trafficking in persons shall elaborate rehabilitation and reintegration into family and society programs for (statutory) victims of trafficking in persons.

1.2. Ministry of Education and Science of Georgia together with the Ministry of Labor, Health and Social Affairs provides for inclusion into professional education and other educational activities of (statutory) victims of trafficking in persons, based on their consent.

1.3. The measures directed at the protection of personal security of (statutory) victims of trafficking in persons and their psycho-social rehabilitation shall be conducted based on their consent and with the total secrecy of their personal identification data.

### ***Protection of Secrecy of the Identity Data of (Statutory) Victims of Trafficking In Persons and Liability for their Disclosure***

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Representatives of state structures, international organizations, governmental and non-governmental organizations, who were notified of the identity data of (statutory) victims of trafficking in persons in the course of their implementation of official duties, must keep In secret all the identification data of (statutory) victims of trafficking in persons.