

Government Decree No. 354/2012. (XII.13)

on the identification order of victims of trafficking in human beings

The Government orders the following on the basis of authorization granted in Section 4 Subsection (4) of the Act CXXXV of 2005 on Crime Victim Support and State Compensation and acting on the basis of Article 15 Paragraph (1) of the Fundamental Law:

1. Rules of procedure on the identification of victims of trafficking in human beings

1. § For the purposes of this Decree the following definitions shall be used:

1. *Bodies entitled to identification*: health service provider, health state administration body, personal care provider, public educational institution, the police, the labor authority, consulate official, the border police authority, the asylum authority, the victim support service, the National Crisis Management and Information Hotline (hereinafter referred to as “OKIT”), the probation service and the legal aid service.

2. *Identification interview*: the conversation aiming the identification of potential victims of trafficking in human beings, conducted on the basis of the identification data sheet attached to the Government Decree (Annex 1).

2a. *Safe accommodation*: an apartment, housing or room in a property located in a place unknown to the suspected perpetrator of trafficking in human beings committed to the detriment of the person involved in the identification interview, thus ensuring safety.

2b. *Indirect victim*: a minor child of a person identified as a victim of trafficking in human beings.

3. *Voluntarily collaborating body*: a legal entity that is not sustained by the state or municipality, as well as organization without legal entity which under their operation obtain knowledge of a Hungarian citizen or a foreigner with the right of free movement and residence who is potentially a victim of trafficking in human beings.

2. § (1) In the occasion the body that performs the identification, in its scope of procedure obtains knowledge or detects otherwise that a Hungarian citizen or a person who holds a permit of free movement and residence is potentially a victim of trafficking in human beings, an identification interview shall be conducted with the person concerned.

(2) In the occasion the body performing the identification is not the competent capital or county government office (hereinafter referred to as “regional victim support service”) according to the current location of the person involved, and it assesses that the person involved in the identification interview is presumably a victim of trafficking in human beings, the assigned regional victim support service shall be notified without delay by sending the identification data sheet through the web-based system operated by the Ministry of Justice (hereinafter referred to as “EKAT System”). In case of an identification interview conducted abroad with a Hungarian citizen, the Government Office of the Capital City Budapest acting as victim support service of jurisdiction shall be notified. The regional victim support service also registers without delay in the EKAT System the identification forms filled out offline or

received not through the System. The identification forms are registered upon the written consent of the victim.

(3) In the occasion the body that performs the identification interview assesses that the victim does not have a safe accommodation, besides the measures set out in Subsection (2), with the consent of the victim immediately notifies the OKIT by sending the identification data sheet.

(4) If, on the grounds of the identification interview it is established that the person who was identified as victim of trafficking in human beings is in need of medical aid, and there is no need for the measure specified in Subsection (3), the body that performs the identification besides the measure set out in Subsection (2), with the written consent of the victim, refers the victim to the basic health service provider.

(5) If, on the grounds of the identification interview the person who was identified as victim of trafficking in human beings turns out to be a minor, according to Section 5 a.) of Act XXXI of 1997 on Child Protection and Guardianship Administration (hereinafter referred to as "Child Protection Act), the body that performs the identification immediately initiates the official procedure according to Section 17 Subsection (2) b.) of the Child Protection Act.

(6) In the occasion the voluntarily collaborating body obtains knowledge of a Hungarian citizen or a person who holds a permit of free movement and residence who is potentially a victim of trafficking in human beings, an identification interview shall be conducted with the person concerned. If the voluntarily collaborating body assesses that the person involved in the identification interview is presumably a victim of trafficking in human beings, the regional victim support service shall be notified without delay by sending the identification data sheet. In case of an identification interview conducted abroad with a Hungarian citizen, the Government Office of the Capital City Budapest acting as victim support service of jurisdiction shall be notified. The regional victim support service registers without delay in the EKAT System the identification data sheets.

3. § (1) The OKIT following its notification shall inform the person identified as a victim of trafficking in human beings about the conditions of placement in sheltered accommodation. If the victim concerned requests the placement, the OKIT refers him/her to sheltered accommodation.

(2) The sheltered accommodation shall notify the OKIT electronically within 12 hours of any change in the number of available beds and the number of remaining capacity.

4. § (1) Adult victims of trafficking in human beings and if necessary, persons qualifying as indirect victims can be placed at sheltered accommodation.

(2) The building of the sheltered accommodation is free from external signs indicating its function and its address is kept secret.

(3) For the duration of the recovery of a person identified as a victim of trafficking in human beings the sheltered accommodation

a) shall provide free and safe housing and, if necessary, crisis intervention, additional mental health care, as well as food, clothing and hygienic supplies.

b) shall contribute to the enforcement of interest of the person identified as a victim of trafficking in human beings, and the arrangement of the necessary measures for the social reintegration of the victim.

(4) An organization with experience in providing personal care to persons in crisis situation, capable of providing the services specified in Subsection (3) in a place suitable for the social reintegration of victims in accordance with the professional protocol adopted by the minister responsible for family policy shall be eligible to operate sheltered accommodation.

(5) The operation of sheltered accommodation shall be supported by the State through a maintenance contract only with service providers which meet the conditions set out in Subsection (4). The maintenance contract has to be concluded for a period of 1 year.

4/A. § The protocol assisting the identification and referral of Hungarian citizens and persons with the right of free movement and residence who fell victim to trafficking in human beings and identified in the territory of Hungary is included in Annex 2.

5. § (1) The regional victim support service shall inform the minister responsible for victim support quarterly for statistical purposes, by sending data on the detected cases, rendered unfit for identifying the persons concerned.

(2) The minister responsible for victim support on the basis of the information received in line with Subsection (1) shall prepare statistical summary.

2. Special rules concerning the procedure of Hungarian citizens identified as victims of trafficking in human beings abroad

6. § (1) In the procedure for the identification of Hungarian citizens as victims of trafficking in human beings abroad, the consulate official, as well as the voluntarily collaborating body, besides the measures set out in Section 2, informs the person concerned about the conditions of placement in a sheltered accommodation.

(2) The OKIT shall accept notification for need of sheltered accommodation related to Hungarian citizen identified as victim of trafficking in human beings abroad from a consulate official, the Police and an organization voluntarily collaborating in the identification procedure.

(3) Following the notice, the OKIT informs the person identified as victim of trafficking in human beings, through the organizations specified in Subsection (2) on the accessibility of the sheltered accommodation. If the victim concerned requests the placement, the OKIT refers him/her, in cooperation with the organizations specified in Subsection (2) to sheltered accommodation.

3. Final clause

7. § This Decree shall enter into force on 1 January 2013.

4. Compliance with the EU law

8. § This Decree serves the purpose of compliance with Article 11 of Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA.

Annex 1 to Government Decree No. 354/2012. (XII.13)

Identification data sheet for the identification of victims of trafficking in human beings

Guidance to the data recorder for the use of the identification data sheet

The purpose of the identification data sheet is to establish whether the person involved in the identification procedure is a victim of trafficking in human beings. The person concerned shall be duly informed about the purpose of the identification interview beforehand. Before initiating the identification interview, the person concerned shall be also informed that in case victimization is not established on the basis of the identification interview or he/she is presumably a victim of trafficking in human beings but does not wish to consent to further proceeding, the identification data sheet will only be used for statistical purposes, rendered unfit for identifying the person concerned.

During the identification interview the person involved shall be observed and screening questions shall be asked based on the indicators of the identification data sheet. Based on the answers it can be determined whether the person concerned is presumably a victim of trafficking in human beings. In all cases, questions shall be asked in each category. The presumption of victimization shall be established independently in the three categories. The person concerned is presumably a victim of trafficking in human beings in the given category, if

- two signs of high probability or
- one sign of high probability and one sign of medium or low probability or
- two signs of medium probability and one sign of low probability

were detected.

The person involved in the identification procedure is presumably a victim of trafficking in human beings if the presumption of victimization is established in all categories.

A. General data

Name:

Gender:

Place and date of birth:

Place of residence, accommodation, other contact information:

Nationality:

Native language:

Can he/she speak Hungarian? *YES/NO*

Number of dependent minor children:

Type and serial number of personal identification document:

Name of the organization conducting the identification interview:

Name and job title of the person conducting the identification interview:

Place and date of filling in the data sheet:

B. Signs of victimization

Appearance

High probability

1. Visible injuries (bruises, burns, cuts, scars, etc.)
2. Signs of untreated infections
3. Visible malnutrition
4. Physical disability
5. The person seems to have been instructed earlier on what to say

Medium probability

1. Signs of exhaustion
2. Neglected, poor clothing
3. The person is not dressed adequately for the work
4. The person is dressed typically for sexual activity

Low probability

1. Excessive, unreasonable anxiety, confusion, feeling of shame
2. The person is reluctant to talk to the representatives of official bodies, avoids eye contact
3. Pregnancy

Personal circumstances

High probability

1. Lack of personal identification documents
2. Signs of the person's free movement being restricted or controlled
3. There is always someone who speaks instead, the person can only speak to strangers with permission
4. The person lives in a family but eats separately
5. The person was forced to consume alcohol or drugs
6. The person was forced to commit a crime
7. The person receives social benefits but the payment is being taken over by someone else or has to be handed over to another person immediately
8. In case of female person identified abroad: 3 years old or younger child(ren) left in Hungary

Medium probability

1. The person does not know the address of his/her accommodation
2. Continuously changing accommodation
3. Poor accommodation, unsuitable for residential purposes
4. The person permanently lives in a boarding house or similar accommodation

Low probability

1. The workplace is the same as the accommodation
2. The person lives with a family whose members are not his/her relatives or foster parents

Working conditions

High probability

1. Extensive working hours (duration of activity)
2. The person is not entitled to have a break from work or a day off
3. The person cannot keep the money earned
4. Excessive fees for transportation, accommodation, food

Medium probability

1. Lack of employment contract or the actual circumstances are not corresponding to the contract
2. The working conditions are unilaterally set by the employer
3. The person believes to owe money to the employer
4. Lack of safety equipment at the workplace
5. The person cannot tell the address of his/her workplace
6. The person cannot tell his/her qualifications and what work does he/she performs
7. Continuously changing workplace

C. Statements, other measures

I, the undersigned understand that I have been identified as a presumed victim of trafficking in human beings. I consent to the transfer and processing of my personal data as follows:

(1) I consent to the transfer of my personal data to the victim support service and to the processing of my personal data by the competent bodies involved in the proceedings of the victim support service. I request the county / capital victim support service to be notified.

.....
(signature)

(2) I do not have safe accommodation, therefore I consent to the transfer of my personal data to the National Crisis Management and Information Hotline (OKIT) and to the processing of my personal data by the competent bodies involved in the proceedings of the OKIT.

.....
(signature)

(3) I'm in need of medical aid, therefore consent to the transfer of my personal data to the basic health service provider and to the processing of my personal data by the competent bodies involved in the healthcare.

.....
(signature)

The competent bodies use my personal data for a specific purpose only in the course of their own proceedings and do not disclose it to third parties. I acknowledge that the identification data sheet may be used for statistical purposes, rendered unfit for identifying me personally.

Date:

.....
Signature of the data recorder

.....
Signature of the identified person

The person involved in the identification is presumably not a victim of trafficking in human beings.

Date:

.....
Signature of the data recorder

Annex 2 to Government Decree No. 354/2012. (XII.13)

