

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 Article 4 (4) of the Act CXXXV of 2005 on Crime Victim Support and State Compensation and acting on the basis of Article 15 (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 service provider, police, labor authority, consulate official, border police authority, the asylum authority, the victim support service, legal aid services, and probation services.
2. *Identification conversation*: The conversation aiming the identification of potential victims of trafficking in human beings shall be held on the basis of the identification data sheet (Annex 1.) attached to the Government Decree.
3. *Voluntarily collaborating body*: legal entity that is not sustained by the state or municipality, as well as organization without legal entity which under their operation obtain knowledge on a person – holding a permit of free movement and residence – who is presumably a victim of human trafficking.

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 presumably a victim of human trafficking, shall conduct an identification conversation with this person.

(2) In the occasion the body performing the identification is not the district office of the capital or county government office of the current location of the person involved, and it assesses that the person involved in the identification conversation is presumably a victim of human trafficking, the assigned Budapest or County Victim Assistance and Damage Relief Provider Unit (hereinafter referred to as Regional Victim Assistance Service) is notified through the online system operated by the Ministry of Justice (hereinafter referred to as the System). The Regional Victim Assistance Service registers identification forms filled out offline or received not through the System. The identification forms are registered after the written consent of the victim.

(3) In the occasion the body that performs the identification conversation assesses that the victim does not have a safe accommodation at disposal, besides the provision assessed in section (2), with the consent of the victim, and the transmission of the identification data sheet, immediately notifies the Family-friendly Country Non-profit Ltd. (From now: OKIT).

(4) If on the grounds of the identification conversation it is presumable that the person who was identified as victim of human trafficking is in need of health service, and there is no need for the provision assessed in section (3), the body that performs the identification besides the

provision assessed in section (2), with the written consent signed by the victim, addresses the victim to the basic health service provider.

(5) In the occasion it is presumable, that on the grounds of the identification conversation, the person who was identified as a victim of human trafficking is a child, according to Article 5 a.) of Act XXXI of 1997 on Child Protection and Guardianship Administration, the body that performs the identification immediately initiates the official procedures according to 17 § section (2) b.) of Act XXXI of 1997 on Child Protection and Guardianship Administration.

3. § The OKIT following its notification informs the person who was identified as a victim of human trafficking about the conditions of placement in a protected shelter. If the person who was identified as a victim of human trafficking requests the placement in a protected shelter, OKIT addresses the victim to the protected shelter.

4. § (1) The protected shelter accommodates the person who was identified as a victim of human trafficking.

(2) For the person who was identified as a victim of human trafficking, the protected shelter a.) Provides safe accommodation for the time of the necessary provisions during the inception of the social reintegration of the victim of human trafficking, but maximum for 90 days and free of charge. If necessary the protected shelter provides food, clothing, hygienic supplies and mental hygienic service for free of charge. The protected shelter b.) Contributes to the interest enforcement of the person who was identified as a victim of human trafficking, and the protected shelter contributes to the organization of the needed provisions for the social reintegration of the person.

(3) The period of time determined in section (2), can be at the most extended with 90 days.

(4) The state supports the operation of the protected shelter with the financially contracted providers that were chosen in this section. The financial contract has to be concluded for three years, unless the Law does command differently. The financial contract shall be concluded with an institution, which was chosen following a public tender. The institution shall possess experience in providing personal care for people in crisis situation, and the institution shall be able to secure the services defined in section (2) in respect of the social reintegration of the victims in a sufficient location.

5.§ (1) The regional victim protection service provider informs the minister responsible for victim support quarterly for statistical purposes, by sending data on the detected cases, without the personal details that are fit to identify the person.

(2) The minister responsible for victim support on the grounds of the information received in section (1) prepares a statistically comprehensive registry.

2. Special rules concerning the procedures of Hungarian citizens identified as victims of human trafficking abroad

6. § (1) In the procedure for the identification of Hungarian citizens as victims of human trafficking abroad, the consulate official, as well as the institution that voluntarily participates in the identification procedure of the victims of human trafficking, besides the provisions

assessed in 2. §, informs the person identified as victim of human trafficking about the conditions of placement in a protected shelter.

(2) OKIT accepts claim notices for accommodation, related to Hungarian citizen identified as victim of human trafficking abroad from consulate official, Police and the institution that voluntarily participates in the identification procedure of the victims.

(3) Following the notice claim OKIT informs the person identified as victim of human trafficking, through the institutions defined in section (2) on the accessibility of the accommodation. If the person identified as victim of human trafficking requests placement in a protected shelter, OKIT addresses the person with the cooperation of the institution defined in section (2) to the protected shelter.

3. Final clause

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

Viktor Orbán
Prime Minister of Hungary

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

Identification data sheet for the identification of victims of human trafficking

Instruction to the identification data sheet for the use of the data collector

The purpose of the identification data sheet is to assess, if the person involved in the identification procedure is a victim of human trafficking. Before initiating the identification conversation, the person involved in the identification process has to be informed about the purpose of the identification discussion. Before initiating the identification conversation, the person involved in the identification process has to be informed, that in case he/she is presumable victim of human trafficking, or he/she is not victim of human trafficking and does not wish to give its consent to further proceeding, the identification data sheet will only be used for statistical purposes without using any personal data that is fit for identification.

During the identification conversation screening questions shall be asked based on the indicators of the identification data sheet. Based on the answers it can be determined whether the identified person is probably a victim of trafficking in human beings. In all cases all questions shall be asked by each category. Based on the indicators and answers it shall be determined in each category whether the identified person is probably a victim. The identified person is most probably a victim of trafficking in human beings, in the following cases:

- two signs of high probability
- one sign of high probability and one sign of medium/low probability
- two signs of medium probability and one sign of low probability was identified and the probability of being a victim is identified in each categories.

A. Statement of consent

I, the undersigned (name of the identified person) consent to the identification conversation and to the use of my personal data by the body carrying out the identification: the body carrying out the identification shall use my personal data exclusively under the identification process and shall not disclose it to any third party. I acknowledge that the identification data sheet might be used for statistical purposes.

B. Common data of the identified person

Name:

Gender:

Place and date of birth:

Place of residence, accommodation:

Nationality:

Native language:

Can he/she speak Hungarian? Yes/No

Number of children:

Type and number of identification documents:

Name of the organization implementing the identification conversation:

Name and job title of the person implementing the identification conversation:

Place and date of filling in the data sheet:

C. Signs of victimization

Appearance

High probability

1. The person is probably underage
2. The person has visible injuries (bruises, burns, cuts, scars, etc.)
3. The person has signs of untreated infections
4. The person is visibly undernourished
5. The person has physical disability
6. The person is pregnant

Medium probability

1. The person shows signs of exhaustion
2. The person has 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. The person shows signs of fear and anxiety

Personal circumstances

High probability

1. The person does not possess ID documents
2. The person has limited freedom, the free movement is restricted or controlled

Medium probability

1. The person lives, sleeps and works at the same place
2. The person does not know his or her location or address
3. Continuously changing accommodation
4. The sleeping area is poor, inappropriate for living

Working conditions

High probability

1. Extensive working hours
2. The person cannot keep the money earned
3. The person does not know the address of the workplace
4. Excessive fees for transportation, accommodation, food
5. In case the person is female and is identified abroad: the person has 3 years old or younger child(ren) left in Hungary

Medium probability

1. The person has no employment contract or the 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. The workplace is not appropriately equipped for accidents
5. Continuously changing workplace

Other conditions

D. Summarization, further measures to be taken

The identified person is most probably victim of trafficking in human beings therefore the Victim Assistance Service shall be informed.

Confirmed by..... (signature of the identified person)

The identified person has no safe accommodation therefore OKIT shall be informed in order to refer him/her to a shelter.

Confirmed by..... (signature of the identified person)

The identified person needs health care.

I hereby confirm the measures to be taken for my health care.....
(signature of the identified person)

The identified person is probably not victim of trafficking in human beings. Further measures shall not be taken / shall be taken, namely:

.....
.....

Date:

.....
Signature of the date recorder

.....
Signature of the identified person