Republic of Latvia

Cabinet

Regulation No. 344

Adopted 16 July 2019

**Regulations Regarding the Procedures by Which the Victims of the Trafficking in Human Beings Receive Social Rehabilitation Service, and the Criteria for the Recognition of a Person as a Victim of the Trafficking in Human Beings**

*Issued pursuant to*

*Section 13, Paragraph one, Clause 7 of the Law on Social Services and Social Assistance*

1. This Regulation prescribes the procedures by which a person who has been recognised a victim of the trafficking in human beings (hereinafter – the person) shall receive social rehabilitation service for the State budget funds (hereinafter – the service), and the criteria for the recognition of the person as a victim of the trafficking in human beings.

2. The provision of the service shall be coordinated by the Social Integration State Agency (hereinafter – the Agency). The Agency shall:

2.1. decide on the provision of the service or refusal to provide the service if the requirements referred to in this Regulation have not been complied with;

2.2. establish a database of the services provided, which shall include the following data on the recipient of the service in order to ensure the accounting of the recipients of the service and the State financing:

2.1.2. given name, surname;

2.2.2. personal identity number or date of birth;

2.2.3. declared place of residence or address for correspondence.

3. The service shall be provided by service providers who are registered in the Register of Social Service Providers and meet the requirements laid down in the laws and regulations regarding social service providers (hereinafter – the service provider).

4. The person can receive the service for up to 180 days. In addition, the person may receive five consultations of the service provider (duration of one consultation – one hour) within two years after the end of the service, if the person does not receive the support referred to in Paragraph 5 of this Regulation during criminal proceedings.

5. If, in the criminal proceedings regarding the trafficking in human beings, the person has been recognised a victim (hereinafter – the victim) by a decision of the person directing the proceedings or, where the respective person does not wish to be recognised as the victim, the status of a witness (hereinafter – the witness) has been assigned thereto and this is confirmed by a statement issued by a law enforcement authority (hereinafter – the statement of a law enforcement authority), after the end of the service the relevant person has the right to additionally receive support in relation to the initiated criminal proceedings – psychosocial assistance (including individual consultations of a lawyer, social worker, psychologist), the service of an interpreter (insofar as this is not provided within the scope of the specific criminal proceedings), assistance in the drawing up of legal documents and, if necessary, representation in court (hereinafter – the support), not exceeding 150 hours per year. The person shall receive the support within the scope of the service. If the person receives State ensured legal aid in accordance with the laws and regulations determining the cases and procedures for the provision of State ensured legal aid, the relevant person has the right to receive consultations of a social worker and psychologist, as well as, if necessary, service of an interpreter in such consultation as the support in accordance with this Regulation.

6. The person may receive the service on the basis of the following documents or information:

6.1. the submission of the person or his or her lawful representative to the service provider with a request to grant the service;

6.2. the statement of a law enforcement authority or the personʼs assessment report (Annex 1) of a specialist commission established by the service provider (hereinafter – the Commission) where the conformity of the person with the criteria of the victim of the trafficking in human beings is specified, or the statement of a foreign law enforcement authority translated into Latvian regarding the commencement of criminal proceedings, or other information at the disposal of the person which may serve as the basis for the Commission to decide that the person meets the criteria of the victim of the trafficking in human beings.

7. The person may receive the support on the basis of the following documents:

7.1. the submission of the person or his or her lawful representative to the service provider with a request to grant the support;

7.2. the statement of a law enforcement authority.

8. The service provider, taking into account the situation of the respective person, shall perform the following activities:

8.1. interview the person and accept the submission of the person or the lawful representative thereof;

8.2. if the statement of a law enforcement authority referred to in Sub-paragraph 6.2 of this Regulation has been issued to the person, send the relevant documents and the submission referred to in Sub-paragraph 6.1 of this Regulation to the Agency within three working days;

8.3. if the statement of a law enforcement authority referred to in Sub-paragraph 6.2 of this Regulation has not been issued to the person, without delay, but not later than within a period of three working days, assess the conformity of the person with the criteria for the victim of the trafficking in human beings in accordance with Paragraph 10 of this Regulation and Annex 2 and draw up the person’s assessment report;

8.4. if the person does meet the criteria of the victim of the trafficking in human beings, send the person’s assessment report, the justification of the assessment and the submission referred to in Sub-paragraph 6.1 of this Regulation to the Agency within three working days after assessment of the person;

8.5. if the person does meet the criteria of the victim of the trafficking in human beings, the person’s assessment report, the justification of the assessment and the submission referred to in Sub-paragraph 6.1 of this Regulation shall be sent to the Agency within 10 working days after assessment of the person.

9. In order to assess the conformity of a person with the criteria of the victim of the trafficking in human beings, the service provider shall establish a commission of specialists. The Commission shall include at least one representative from the service providers referred to in Paragraph 3 of this Regulation, ensuring that the composition of the Commission includes at least one social worker, psychologist and lawyer, as well as, if necessary, invite other specialists.

10. The Commission shall recognise the person as the victim of the trafficking in human beings if an adult person meets at least one of the criteria referred to in Sub-paragraphs 11.1, 11.2 and 11.3 of this Regulation, but a minor person – at least one of the criteria referred to in Sub-paragraphs 11.1 and 11.3 of this Regulation.

11. The person shall meet the criteria of the victim of the trafficking in human beings if he or she:

11.1. was recruited, transferred, handed over or received, hidden, kidnapped or sold, was not allowed to freely choose his or her place of residence;

11.2. has been dependent on traffickers due to family, kinship, work or debt, violence and threats were used against the person, the situation of vulnerability or helplessness of the person was exploited, the person was deceived, was held imprisoned and isolated from the outside world and contact with other people, or was constantly controlled, or could only be outside the workplace accompanied by an employer;

11.3. was involved in prostitution or other forms of sexual exploitation, was employed against his or her own will, could not leave or change his or her occupation, the person was held in slavery, servitude or other similar forms of captivity, tissues or organs were unlawfully removed from the person.

12. After assessment of the person in accordance with Annex 1 to this Regulation the Commission shall draw up a report. The minutes shall indicate the conformity of the person with the criteria of the victim of the trafficking in human beings and justify whether or not the person is recognised as the victim of the trafficking in human beings.

13. The Agency shall without delay, but not later than within three working days after receipt of the documents referred to in Paragraph 6 or 7 of this Regulation:

13.1. on the basis of the submission of the person referred to in Paragraph 6.1 of this Regulation and the statement of a law enforcement authority, take the decision to grant the service to the person or to include the person in the queue for the recipients of the service;

13.2. on the basis of the documents submitted by a service provider – the submission of the person and the person’s assessment report – take the decision to grant the service to the person, to include the person in the queue for the recipients of the service or to refuse to grant the service to the person;

13.3. on the basis of the submission of the person referred to in Paragraph 7 of this Regulation and the statement of a law enforcement authority, take the decision to grant support to a person, to include the person in the queue for the recipients of the support or to refuse to grant the support to the person.

14. If during the provision of the service the service provider has received information that the person has been recognised as the victim or witness in criminal proceedings regarding the trafficking in human beings and he or she needs the support, the service provider shall send the documents referred to in Paragraph 7 of this Regulation to the Agency after the end of the service.

15. The provision of the service shall be refused if the person does not meet the criteria of the victim of the trafficking in human beings.

16. On the initiative of the service provider, the provision of the service may be suspended for a period of up to six months, informing the Agency thereof, in the following cases:

16.1. the person returns under the influence of his or her exploiter;

16.2. the person shall need long-term treatment, which cannot be combined with the receipt of the service.

17. The provision of the service or support shall be terminated in the following cases:

17.1. the person has received the service and support based on the provision of false information;

17.2. the person or his or her lawful representative submits a written submission on the termination of the provision of the service and support;

17.3. the person fails to comply with or infringes the requirements referred to in Sub-paragraph 18.1 of this Regulation;

17.4. the amount of provision of the service specified for the person has expired;

17.5. the service provider has informed the Agency that the service has been provided to the person in the necessary amount;

17.6. criminal proceedings where the person has been recognised the victim or witness, if the person is receiving the support, is terminated;

17.7. the investigating authority or the person directing the proceedings has taken the decision on the refusal to grant a waiting period;

17.8. the waiting period granted to the person has been suspended or expired, and the person directing the proceedings has not requested the Office of Citizenship and Migration Affairs to issue a temporary residence permit to the person.

18. The person has a n obligation to:

18.1. participate in the implementation of the individual social rehabilitation plan developed by the service provider, as well as to comply with the procedures specified by the service provider;

18.2. reimburse the unduly used funds in the case referred to in Sub-paragraph 17.1 of this Regulation;

18.3. to reimburse expenses for organising the arrival of the person from foreign countries to the place where the service is provided, if the person refuses from the granted service after arrival in Latvia.

19. The person or his or her lawful representative has the right to submit objections to the service provider and the Agency regarding the quality of the service received and proposals for the improvement of the service.

20. In accordance with the procedures specified in the Administrative Procedure Law, the person may contest the decision of an official of the Agency on the refusal to provide the service by submitting a relevant submission to the Director of the Agency, but an administrative act issued by the Director, as well as the decision on the contested administrative act may be appealed to a court.

21. Cabinet Regulation No. 889 of 31 October 2006, Regulations Regarding the Procedures by Which Victims of Human Trafficking Shall Receive Rehabilitation Services and the Criteria for the Recognition of a Person as a Victim of Human Trafficking, is repealed (*Latvijas Vēstnesis*, 2006, No. 176; 2009, No. 166; 2011, No. 205; 2012, No 197).

**Informative Reference to European Union Directive**

This Regulation contains legal norms arising from 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.

Prime Minister A. K. Kariņš

Minister for Welfare R. Petraviča

**Annex 1**

Cabinet Regulation No. 344

16 July 2019

**Person’s Assessment Report**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Given name, surname of the person | | |  | | |
|  | | |  | | |
| 1. | **Acts** | | Yes | No |
|  | recruitment | |  |  |
| transportation | |  |  |
| transfer or reception | |  |  |
| concealing | |  |  |
| harbouring | |  |  |
| Description | | | | |
|  | |  | |  |  |
| 2. | | **Means** | | Yes | No |
|  | | violence | |  |  |
| threats | |  |  |
| dependency on the guilty party | |  |  |
| fraud/deception | |  |  |
| control | |  |  |
| exploitation of the position of the person’s helplessness | |  |  |
| exploitation of the position of the person’s vulnerability | |  |  |
| promising materials or other benefits in order to obtain the person’s consent to the exploitation | |  |  |
| Description | | | | | |

|  |  |  |  |
| --- | --- | --- | --- |
| 3. | **Exploitation or Intent to Exploit** | Yes | No |
|  | involvement in prostitution or other type of sexual exploitation |  |  |
| forcing to carry out work, provide services or commit criminal offences |  |  |
| holding in slavery, servitude or other such similar types of captivity |  |  |
| unlawful removal of tissues or organs of the person |  |  |
| other (please, specify): |  |  |
| Description: | | | |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| 4. | **Other Signs/Other Important Information** | | Yes | No |
|  | the physical or mental state of the person during the assessment indicates towards experienced abuse and exploitation | |  |  |
|  | consequences to physical health |  |  |
|  | consequences to mental health |  |  |
| other signs | |  |  |
| Description | | | | |
|  | | | | |
| Assessment –  the Commission recognises/does not recognise (underline as appropriate) the person as the victim of trafficking in human beings. | | | | |

|  |  |  |  |
| --- | --- | --- | --- |
| Commission of the specialists | | | |
|  | |  |  |
| (position, signature, name in full) | |  |  |
|  | |  |  |
| (position, signature, name in full) | |  |  |
|  | |  |  |
| (position, signature, name in full) | |  |  |
| Date, time |  |  | |

Minister for Welfare R. Petraviča

**Annex 2**

Cabinet Regulation No. 344

16 July 2019

**Criteria for the Identification of the Victim of the Trafficking in Human Beings**

1. The Commission shall establish whether any of the following actions were taken against the person:

1.1. recruitment: the involvement of the person in the trafficking of human beings by means of mutual negotiations, the use of third parties, the placing of job offers, advertisements in the media, social networks;

1.2. transportation:

1.2.1. the preparation of the journey and the drawing up of documents was organised by other persons;

1.2.2. during the journey the person was accompanied by a third party or constant contact was maintained with the person;

1.3. transfer or receipt:

1.3.1. the person has information that the supplier or the organiser received payment for the transfer of the person;

1.3.2. the person was transferred to third parties or placed under the control of other persons;

1.4. concealment:

1.4.1. the person was held in captivity and isolated from the outside world;

1.4.2. the person was denied access to opportunities with other people;

1.4.3. the person could not be visited by relatives and friends;

1.4.4. such conditions were created that others could not find the person;

1.5. accommodation:

1.5.1. the person had to live in one place of residence with third parties;

1.5.2. the person was prevented from choosing his or her place of residence freely;

1.5.3. the person was forced to live in a specific room with a person of the opposite sex;

1.5.4. the person had to live in the workplace;

1.5.5. the person was forced to live in unhygienic conditions.

2. The Commission shall establish whether any of the following means were used against the person:

2.1. violence:

2.1.1. the person was kidnapped;

2.1.2. the person suffered from physical, sexual or emotional violence;

2.1.3. the person was denied the satisfaction of the basic needs of a human being (the person was held without water, food, sleep, medical care or possibilities to satisfy other basic needs);

2.1.4. the person was forced to use drugs, alcohol or other intoxicating substances;

2.2. threats:

2.2.1. mental pressuring to gain the submission of the person;

2.2.2. direct threats – threats to deal with the person or his or her relatives, to report to repressive authorities, to take a child away, etc., if the person tries to escape or seek assistance;

2.2.3. indirect threats – the person saw that violence was being used against others;

2.3. dependency on traffickers:

2.3.1. family, relations, employment relations;

2.3.2. material dependency, debt liabilities, the person was under the guardianship of the human trafficker or received substantial material assistance;

2.3.3. psychological or emotional dependence on human traffickers;

2.4. deceit/misleading: false information or concealed information has been intentionally provided to the person (for example, regarding the purpose of the journey, regarding the true nature of the proposed work), as a result of which the person has willingly agreed to the offer;

2.5. control:

2.5.1. the person was supervised in the place of residence or exploitation (guards, video surveillance cameras, dogs, locked doors) in order to make escape impossible;

2.5.2. the person was not the determinant of his or her free time;

2.5.3. the person was unable to contact his or her relatives and friends freely (call, write, otherwise communicate);

2.5.4. the person could only stay outside the place of residence accompanied by other persons;

2.6. the state of helplessness of the person was exploited: the person has been unable to understand, due to his or her physical or mental condition, the nature and meaning of the actions directed against him or her or to resist this;

2.7. the position of the person’s vulnerability has been exploited:

2.7.1. psychological vulnerability – early childhood experience of violence (including abandonment), psychological trauma, sudden crisis, loss in life, addiction to drugs, alcohol or other intoxicating substances, mental or psychological disorders, the influence of family members and relatives;

2.7.2. economic vulnerability – poverty, in particular long-term, long-term unemployment, lack of conversational skills in the language of the country of destination, loss of housing, responsibility for spouse or children, etc.;

2.7.3. social vulnerability – a dysfunctional family, lack of support persons, exclusion, isolation, limited social skills;

2.8. promising material or other benefits in order to obtain the person’s consent to the exploitation: promising or giving the person on whom the victim is dependent money, goods, services or other material valuables, or promising to support the family or relatives of the person, etc., in order to achieve the exploitation of the person.

3. The Commission shall establish whether the person has been exploited and whether there has been the intention to exploit the person:

3.1. involvement in prostitution or other type of sexual exploitation:

3.1.1. the person had to provide sexual services or to participate in the production of materials of a pornographic nature;

3.1.2. the person had to be deal with the involvement of other persons in prostitution;

3.2. forcing to carry out work, provide services or commit criminal offences;

3.2.1. the person was employed against his or her own will;

3.2.2. the person could not leave the occupation or change work of his or her free will;

3.2.3. the person hat to commit criminal offences alone or in a group;

3.3. holding in slavery, servitude or other similar forms of captivity (debt slavery, serfdom or other forms of forced transfer of the person into the dependency of another person):

3.3.1. the person was in debt to a human trafficker or to persons connected thereto or a part of the income of such person was collected (for example, for accommodation, for food, for transport);

3.3.2. the person was unable to act freely with his or her income;

3.3.3. the person was required to carry out works against his or her own will or to a disproportionate extent at the place where he or she was permanently held;

3.4. the unlawful removal of tissues or organs of the person.

4. The Commission shall establish whether there are additional signs which may indicate the trafficking in human beings – the physical or mental state of the person during the assessment indicates towards experienced abuse and exploitation:

4.1. consequences to mental health;

4.1.1. as a result of the violence, disability or long-term incapacity for work has occurred;

4.1.2. the person bears the visible conclusive consequences of physical labour or physical abuse on the body;

4.1.3. the person reports injuries to intimate organs, sexually transmitted diseases, HIV/AIDS, unwanted pregnancy;

4.1.4. the person reports neurological symptoms – regular headaches with no clear cause, nausea, memory and sleep disorders, difficulty concentrating;

4.2. mental disabilities;

4.2.1. signs of depression, low mood;

4.2.2. suicidal thoughts, suicide attempts;

4.2.3. signs of the post-traumatic stress syndrome;

4.2.4. fear, distress;

4.2.5. tendency to self-harm, e.g. cutting parts of the body;

4.2.6. mental health disorders – psychosis, nervous breakdown, etc.;

4.3. other signs:

4.3.1. forced or bogus marriage has taken place;

4.3.2. the identification documents of the person have been taken away or forged;

4.3.3. the person is a third-country national who has violated the conditions of entry or residence, or employment in the Republic of Latvia;

4.3.4. the person continues to receive threats.

Minister for Welfare R. Petraviča