

FRAMEWORK PROTOCOL FOR PROTECTION OF VICTIMS OF HUMAN TRAFFICKING

I.- OBJECT OF THE PROTOCOL

1. The object of his protocol is to establish operational guidelines for the detection, identification, support and protection of victims of human trafficking, to foster coordination among the institutions involved in these processes and to define the mechanisms for the relationship among authorities with responsibilities in the field, along with the processes for communication and cooperation with organisations and bodies with proven experience in attending to victims of trafficking, in particular those which provide comprehensive support and are involved in public administration programmes for victim support and protection.

This Framework Protocol aims in particular to:

- a) Define the procedure for the identification of victims of human trafficking and to coordinate action by authorities and institutions with responsibilities in this process.
- b) Establish guidelines for the evaluation of the alleged risks to which victims are prey and to establish protection measures.
- c) Set out aspects regarding the reporting of alleged offences and/or notification of the judicial authorities.
- d) Define the elements required to provide victims with appropriate information about their rights, services and resources.
- e) Establish criteria for the proper evaluation of victim needs, allowing for appropriate support.
- f) Provide for the inclusion of foreign victims of trafficking in voluntary return programmes.
- g) Detail, in the case of foreign victims without the necessary legal papers, the procedure for granting the rehabilitation and reflection period and, where applicable, exemption from liability and granting of the corresponding residency and work permits, or the assisted return procedure.
- h) Establish specific actions in the case of victims who are legal minors.
- i) Define the involvement of organisations and bodies with proven experience in attending to victims of trafficking, in particular those providing comprehensive assistance and which are involved in public administration programmes for victim support and protection.

2. This protocol likewise develops the provisions set out in Article 140 of the Regulation for Organic Act 4/2000, on the rights and liberties of foreigners in Spain and their social integration, following the reform thereof by Organic Act 2/2009 and Organic Act 10/2011.

II.- GENERAL OPERATIONAL PRINCIPLES

1. The actions conforming the object of this Framework Protocol are focused on promoting and protecting human rights, giving priority to victim support and protection, avoiding secondary victimisation and encouraging victims to cooperate in criminal proceedings against traffickers.

Such actions will be approached from a gender perspective, furthermore guaranteeing that the measures implemented comply with an integrated approach and are appropriate to the gender, age and other situations of vulnerability of possible victims of trafficking, such as their state of gestation, state of health and disability.

Individuals with no other real or acceptable alternative except to accept abuse will likewise be considered as particularly vulnerable.

2. The institutions and public administrations with responsibilities in this field shall safeguard respect for the following principles:

- a) Guarantee that victims are familiar with their rights and receive appropriate specialist information.
- b) Adapting the support and protection mechanisms in accordance with the age, gender and needs of the victim of trafficking, guaranteeing consideration for the particular vulnerability of victims.
- c) Multidisciplinary support, provided by agents with appropriate training and the involvement of civilian organisations.
- d) Access to all victims to support and protection systems, irrespective of their cooperation in investigation of the offence.
- e) Avoid secondary victimisation, ensuring the limitation of the suffering and damage caused to victims, establishing measures to support their recovery and prevent traumatic experiences, in particular during criminal proceedings.
- f) Guarantee their recovery and physical, psychological and social rehabilitation.
- g) Protection for the privacy and identity of victims.

III.- DEFINITION OF HUMAN TRAFFICKING

1. For the purposes of this Protocol, human trafficking is defined in accordance with the terms of Article 177 bis of the Penal Code as the recruitment , transportation, transfer, harbouring, reception or housing of persons by means of the use of violence, intimidation or deceit, or abusing a situation of superiority, need or vulnerability on the part of a victim, whether Spanish or foreign, for any of the following purposes:

- a) The imposition of enforced services or labour, slavery or practices similar to slavery, servitude or begging.
- b) Sexual exploitation, including pornography.
- c) The removal of bodily organs.

2. The consent of a victim of human trafficking shall be deemed irrelevant if any of the means listed in the above paragraph have been employed.

3. If the conduct refers to a person who is a legal minor, the action shall be classified as trafficking even if none of the stated means has been employed.

4. For the purposes of this Protocol a victim of trafficking shall be understood as any person revealing reasonable evidence that he or she has been subjected to the conduct described in the above paragraphs, even if the exploitation has not been consummated, and irrespective of whether or not the presumed victim has presented an allegation.

IV.- SCOPE OF APPLICATION

1. This Protocol shall apply to any persons who could be victims of the crime of human trafficking, subject to no form of discrimination on the basis of gender, nationality or legal status in the case of presumed foreign victims.

2. The territorial scope of application applies to the entire State, notwithstanding the approval of any regional and local protocols in furtherance thereof.

V.- DETECTION OF POSSIBLE VICTIMS OF HUMAN TRAFFICKING AND INITIAL ACTIONS

V.A.- DETECTION OF POSSIBLE VICTIMS OF HUMAN TRAFFICKING

1. In most cases the detection of possible victims of human trafficking is as a result of investigations undertaken by the Law Enforcement Agencies.

2. Nonetheless, detection may also occur as a result of an employment inspection, upon entry into the country, or otherwise when a suspected victim comes into contact with a public or private organisation as a result of accessing a health, social or education service, or otherwise following contact with an information resource (mobile or telephone response units).

3. Likewise, it may be the victim him or herself who reports the situation to other persons or organisations, or otherwise the latter may uncover such a situation by some other means.

4. Any individual learning by any means of the existence of a possible offence of

trafficking or a possible victim thereof, must present the corresponding allegation before the Public Prosecution Office, the competent court body or police authority, pursuant to the terms of Title I of Book II of the Criminal Proceedings Act.

V.B.- DETECTION BY THE STATE LAW ENFORCEMENT AGENCIES

1. When the law enforcement agencies responsible for the investigation of an offence of human trafficking or those responsible for supervision of immigration learn of the existence of a presumed victim, they shall inform the Public Prosecution Office thereof, notwithstanding a subsequent formal police statement.
2. Notification of the detection of a presumed victim must be sent to the Public Prosecution Office immediately, and wherever possible via electronic channels.

V.C.- DETECTION BY THE EMPLOYMENT AND SOCIAL SECURITY INSPECTORATE

1. The Employment and Social Security Inspectorate or any other competent regional body shall, within the scope of its functions, undertake all investigation procedures deemed necessary and within the remit of its competencies for the purpose of detecting situations of exploitation at work.

In particular, the actions performed by the Employment and Social Security Inspectorate or any other competent regional body on a scheduled basis in cases of offences of trafficking for exploitation at work shall be conducted in coordination with the State Law Enforcement Agencies, and preferably on a joint basis.

2. If during the course of a non-scheduled inspection the acting public servant should detect evidence of human trafficking, he or she shall immediately notify the Provincial Inspectorate Head thereof, who, pursuant to the terms of Article 10.3 of Employment and Social Security Inspectorate Regulatory Act 42/1997, of 14 November 1997, shall immediately, by means of the structural channels established in the regulations, inform the Public Prosecution Office which shall in all cases be in charge of coordination, and shall also inform the State Law Enforcement Agencies with regional responsibility.

3. With regard to the working conditions of victims of trafficking, public servants shall, while practicing their duties, perform all tasks incumbent on them under the terms of Employment and Social Security Inspectorate Regulatory Act 42/1997, of 14 November 1997, in terms both of supervision and the demand for compliance with social regulations, along with technical support. The public servants of the Senior Body of Employment and Social Security Inspectors, or the competent regional body, shall extend their functions to employment regulations, workplace risk prevention, Social Security and employment and immigration.

4. A report on the actions performed and the outcome thereof shall be presented, via the Provincial Inspectorate Head, to the Public Prosecution Service,

together with the evidence obtained, notwithstanding notification to the competent court body. All the above notwithstanding any violation notice which may be served, if the conduct detected likewise constitutes a violation of employment regulations, and of the terms of Article 3 of the Revised Text of the Social Offences and Penalties Act, approved by Royal Legislative Decree 5/2000, of 4 August 2000, if criminal proceedings are instigated.

V.D.- DETECTION BY OTHER SERVICES OR BODIES

1. If detection of a presumed victim of human trafficking occurs at any of the migration centres administered by the General State Authorities, within a service in the field of health, care or social support of any of the authorities covered by this Protocol, or by organisations and bodies with proven experience in attending to victims of trafficking, they must notify the competent State Law Enforcement Agencies thereof in order for the circumstances to be investigated, along with the duty Court for the location where the situation was detected, or the Public Prosecution Office.

2. If detection occurs at a protection centre for legal minors, the procedure to be followed shall be that set out in Section XIV of this Protocol and in all other regulations applicable to legal minors.

3. If in the investigation of an application for international protection evidence is uncovered that the applicant could be a victim of human trafficking, the Asylum and Refuge Office shall notify the Asylum Section of the General Immigration and Borders Policing Office, in order for it to inform the competent police unit for the identification thereof, in case the circumstances could be subject to the terms of Article 59 bis of Organic Act 4/2000.

V.E.- DETECTION AT THE BORDER OR IN FOREIGN INTERNMENT CENTRES

1. If the presumed victim of human trafficking has been detected at the border, the police unit responsible for immigration control shall serve immediate notice of the circumstances to the corresponding Provincial Immigration Brigade which shall, with all possible haste, adopt the relevant measures for the victim to be identified by agents with specific training, and if applicable, initiate process of the rehabilitation and reflection period. Likewise, if the appropriate procedure is repatriation, this shall not be applied until the victim identification procedure concludes, pursuant to the terms of Article 59 bis of Organic Act 4/2000.

2. If detection occurs during internment at a Foreigner Internment Centre, the Public Prosecution Office and the Centre Management shall immediately be notified, and shall undertake the relevant proceedings with the competent immigration unit in order to proceed to identify the victim in accordance with the terms of this Protocol. Notice of the circumstances detected shall likewise be immediately served to the immigration unit of the National Police Force which requested internment and the General Immigration and Borders Policing Office, in order to prevent implementation

of expulsion until such time as the victim has been identified, in accordance with the terms of Article 59 bis of Organic Act 4/2000.

VI.- IDENTIFICATION OF PRESUMED VICTIMS OF HUMAN TRAFFICKING

VI.A.- POLICE UNITS RESPONSIBLE FOR IDENTIFICATION

1. The identification of victims of human trafficking shall be performed by police units with specific training in the prevention and combating of trafficking and victim identification and support.
2. From the point at which these units consider that there is reasonable evidence to believe that a person is a victim of human trafficking, and throughout the entire identification process, they must adopt the necessary measures in order to guarantee protection of the victim's rights, the absence of individuals associated with the presumed traffickers, medical and social care and, to the extent possible, the necessary legal support.
3. If the presumed victim is a foreigner and does not have the appropriate legal papers, the competent immigration unit shall not instigate penalty proceedings based on a violation of Article 53.1(a) of Organic Act 4/2000, following the reform thereof by Organic Acts 2/2009 and 10/2011, in accordance with the terms of Article 59 bis (2) thereof. Penalty proceedings or implementation of expulsion or repatriation measures shall be suspended if these were ruled prior to the aforementioned evidence coming to light.
4. If there is evidence that the possible victim of trafficking is a legal minor, the police unit responsible for identification shall inform the Public Prosecution Office, and shall act in accordance with the terms of Section XIV of this Protocol.

VI.B. INTERVIEW PROCESS

1. The interview shall be conducted by personnel of the Law Enforcement Agencies responsible for investigation of these crimes , with specific training in the identification of victims of human trafficking, notwithstanding any cooperation which may be offered by the regional and local authorities and organisations and bodies with proven experience in attending to victims of trafficking, throughout the identification process.
2. The identification of the presumed victim of human trafficking requires an evaluation of different elements, beyond simply obtaining information about aspects connected with the crime of human trafficking and the perpetrators thereof.
3. Interviews shall be conducted on a private and confidential basis, in a language comprehensible to the victim and in the presence of an interpreter if necessary. As far as possible, the interview shall be conducted within a context appropriate to the gender, age and other personal circumstances of the interviewee. The necessary measures shall be taken in order to avoid contact with the presumed traffickers and

with persons directly or indirectly associated with them, the guidelines to be followed being those hereto attached in Annex 1 to this Protocol.

4. Upon conclusion of the interview, the presumed victim shall be informed of his or her right to free legal assistance in the absence of sufficient economic resources in accordance with the criteria set out in the regulations governing this right, notwithstanding the possibility of legal advice which may be offered by organisations and bodies with proven experience in attending to victims of trafficking. Interviewees shall likewise be informed of the possibility of contacting such specialist organisations for assistance and/or support.

VI.C.- DETERMINATION OF THE EXISTENCE OF REASONABLE GROUNDS OR EVIDENCE

1. In order to determine the existence of reasonable grounds to believe that a person is a victim of human trafficking, consideration should be given to the indicators set out in Annex 2 to this Protocol.

2. During the identification process all information available about the personal circumstances of the presumed victim shall be gathered. The organisations and bodies working in the territory and with proven experience in attending to victims of trafficking, and in particular those which provide comprehensive support and are involved in public administration programmes for victim support and protection, may offer any information they may deem relevant.

If the presumed victim declares familiarity with a specific body within the territory, the police unit responsible for identification shall contact this body in order to request that information be provided about the former.

Likewise, consideration shall be given to information provided by qualified professionals to evaluate aspects connected with the state of health of the presumed victim and his or her social circumstances.

3. Evaluation of the existing evidence shall be performed in accordance with the principle of utmost protection for the presumed victim, in order to guarantee their comprehensive support and safety and to further the investigation, in particular in the case of foreign victims who do not have the necessary legal papers, so as to guarantee that penalty proceedings will not be instigated, pursuant to the terms of Article 59 bis of Organic Act 4/2000.

4. The evaluation performed by the police unit responsible for identification must include a reference to the risks faced by the presumed victim and a proposal regarding the protection, safety and privacy measures required, along with family circumstances.

5. Upon conclusion of the identification process the police unit responsible for

identification shall draw up the corresponding report, to be attached to all remaining information gathered during the identification process. This information may be obtained by the aforementioned unit either in writing or verbally, and in the latter case a written record of the identity of the source and the contents of the information must be drawn up.

6. A record of all actions taken shall be set out in the corresponding police statement.

VII.- INFORMATION FOR VICTIMS

1. Following identification of the presumed victim, the police unit shall provide him or her with the following information in a clear manner and in a language which he or she understands:

- a) Regarding the rights set out in Articles 109 and 110 of the Criminal Proceedings Act.
- b) Regarding the right to benefit from any of the protection measures laid down in Protection of Witnesses and Expert Witnesses in Criminal Cases Act 19/1994, and specifically the right to be granted protected witness status.
- c) In the event that the individual is also the victim of a violent crime or a crime against sexual liberty, information regarding the rights set out in Support and Assistance for Victims of Violent Crimes and Crimes against Sexual Liberty Act 35/1995, and if the trafficker is the partner or ex-partner of the victim, the rights set out in the Organic Comprehensive Protection Measures against Gender Violence Act 1/2004, of 28 December, as a victim of gender violence.
- d) In the case of foreign citizens without the necessary legal papers, information regarding the right to a period of rehabilitation and reflection and the possibility of obtaining a residency and work permit or assisted repatriation, in accordance with the terms laid down in Article 59 bis of Organic Act 4/2000, of 11 January, and Article 142 and following the corresponding Regulation.
- e) In the case of a foreign citizen who has the necessary legal papers but whose temporary stay or residency permit is close to expiry, information regarding the possibility of applying for the rehabilitation and reflection period without delay, immediately upon expiry thereof.
- f) Regarding protection measures in accordance with the victim's risk status, as assessed by the police.
- g) Regarding the possibility of referral to any of the support resources provided by the regional or local public authorities or organisations and bodies with proven experience in attending to victims of trafficking, in particular those which provide comprehensive support and are involved in public administration programmes for the support and protection of victims, included within the contents of Annex 4 to this Protocol.

VIII.- PROTECTION AND SECURITY MEASURES

1. Following an evaluation of the existing risks, the police unit shall inform the victim of the possible risks and of the protection and security measures which must be adopted. In the event that the victim expressly rejects all or any of the proposed protection and security measures, this refusal must be placed on record in an official document, to be signed by the acting public servant and by the victim, also recording where applicable if the victim's signature could be obtained.

2. Protection and security measures may involve providing a permanent contact telephone number for the personnel responsible for the investigation, informing the victim about self-protection measures, including the need to remain in secure accommodation or to move to another Autonomous Region, and advising that any change of address should be notified, along with any other measures deemed appropriate to the risk situation in question. Notwithstanding the above, the Law Enforcement Agencies shall, with regard to protection measures, comply with the terms dictated by the Public Prosecution Office.

3. Protection and security measures shall likewise be applied to under aged or disabled children of victims if they are located in Spain, and also, on an extraordinary basis, to any other persons located in Spain with whom the victim may have family or other ties, when it can be demonstrated that if they were to be left unprotected from the presumed traffickers, this would constitute an insuperable barrier preventing the victim from cooperating.

IX.- REFERRAL TO SUPPORT RESOURCES

1. The victim shall likewise be informed of the support resources available, in order to guarantee him or her appropriate and secure accommodation, where necessary, along with material assistance, psychological support, medical support, interpretation services and legal advice.

2. If the victim so agrees, he or she shall be provided with a referral to the competent regional or local authorities dealing with social support or the services of organisations and bodies with proven experience in attending to victims of trafficking, in particular those which provide a comprehensive support service and are involved in public administration programmes for victim support and protection.

4. All bodies involved must guarantee the confidentiality and informed consent of the victim.

X.- PREPARATION OF THE POLICE STATEMENT

1. The police unit responsible for the investigation shall inform the Public Prosecution Office for the region where the circumstances are uncovered, and send a

copy of the initial statement and any supplements thereto, notwithstanding referral thereof to the court body responsible for examination of the case.

2. The police statement must be delivered by the fastest means, either by hand or, where possible, via electronic channels, pursuant to Act 18/2011, of 5 July, governing the use of information and communication technologies in the Justice Administration, and must include information on the interviews, statements and other official records that provide evidence of the existence of an offence of human trafficking, along with the forms recording that the victim was informed on rights and offered the possibility of legal action. It shall likewise, where applicable, include the existence of any prior police interventions and/or allegations regarding the victim or the presumed trafficker, as well as the criminal record of the latter and any possible medical reports on injuries suffered by the victim submitted by the medical services.

If the presumed victim is a foreign citizen without the necessary legal papers, the police statement shall likewise include the official proceedings pursued under the terms of Article 59 bis of Organic Act 4/2000.

3. When the investigations undertaken by the Law Enforcement Agencies are pursued in locations where there may be employees in conditions involving exploitation at work, immediate notice of the investigation shall likewise be served on the Provincial Employment and Social Security Inspectorate or the equivalent regional body for the relevant purpose, and the cooperation thereof may in all cases be requested.

XI.- ACTION BY THE PUBLIC PROSECUTION OFFICE

XI.A.- LEGAL SAFEGUARD ACTIONS

The Public Prosecution Office, complying with its legal duty to safeguard victims, and in accordance with the regulatory instruments drawn up by the General State Attorney's Office in this regard, shall ensure that victims of human trafficking are regularly informed as to their rights, in a clear and accessible manner so that they understand, also offering them legal action under Articles 109 and 110 of the Criminal Proceedings Act, being obliged to inform them of any legal proceedings which could affect their safety (Articles 109 and 544 ter (9) of the Criminal Proceedings Act), and of the terms of Articles 59 bis of Organic Act 4/2000 and Article 140 and following articles in this Regulation.

XI.B.- COORDINATION ACTIONS

The Public Prosecution Office shall, through its bodies, maintain the institutional contact required with court, police, healthcare and support agencies, along with associations of lawyers and court agents and organisations and bodies with proven experience in attending to victims of trafficking, in order to enable effective

cooperation in the response given to human trafficking.

XI.C.- PROCEDURAL PROTECTION ACTIONS

1. The Clerk of the Court shall take particular care in ensuring that representatives of the Public Prosecution Office are duly summoned, sufficiently in advance, to attend statements given by detainees, defendants and witnesses as scheduled during the pursuit of criminal proceedings as a result of an offence of human trafficking.

2. The Public Prosecutors shall ensure that the statements given by victims during examination of the case are properly conducted so that they can be deemed valid as pre-constituted court evidence during the oral hearing, in cases where there are reasonable doubts on the person's future appearance at the oral hearing itself.

Likewise, Public Prosecutors shall where appropriate apply for the adoption of any of the remedies provided in Protection of Witnesses and Expert Witnesses in Criminal Cases Act 19/1994, and the use of any other resources which would help protect the victim in the oral hearing, such as the use of videoconferencing for statements.

XII.- ACTION BY FORENSIC DOCTORS

Within the sphere of their operations, forensic doctors shall ensure that the interview and examination of the victim is completed in full on one single occasion, avoiding secondary victimisation and repeat interviews, tests or additional examinations.

XIII.- SPECIFIC ACTIONS WITH VICTIMS WHO ARE ILLEGAL FOREIGNERS

XIII.A.- REHABILITATION AND REFLECTION PERIOD

1. In the event that the individual identified as a victim is a foreigner and does not have the necessary legal papers, he or she shall be informed of the possibility of being granted a rehabilitation and reflection period, as laid down in Article 59 bis of Organic Act 4/2000 and Article 142 of the corresponding Regulation. Such victims shall expressly be informed that during this period they will be provided with the resources required for their physical, psychological and emotional recovery, and will be removed from the influence of the presumed traffickers, allowing them to take a considered and balanced decision on whether to cooperate or not with the authorities in the investigation and prosecution of the perpetrators of the offence.

2. Where identification has been performed by the police unit responsible for Immigration, it must, within a maximum period of 48 hours and with the victim's agreement, transfer the proposal to grant the period to the Government's Regional Delegation Office or Deputy Office in the province where identification was performed.

3. If identification was performed by other police bodies or units, they shall immediately notify the Immigration unit of the location where identification was performed, presenting a reasoned report stating the evidence of trafficking observed in accordance with this Protocol, together with any other information and documentation of interest, as well as, with the consent of the victim, the proposal for the rehabilitation and reflection period. The Immigration unit shall proceed to pass this proposal on to the Government's Regional Delegation Office or Deputy Office within a maximum period of 48 hours of receipt thereof.

4. The official notice of referral and proposal must also include:

- a) A copy of all documentation containing all information to which the police unit may have had access, and in particular that provided by organisations or bodies with proven experience in attending to victims of trafficking.
- b) Information on any statements which the victim may have given in response to the information on rights referred to in Annex 3 to this Protocol.
- c) Information on the victim's legal status in Spain.
- d) Information on the victim's personal circumstances.
- e) Any other information deemed relevant for the ruling.

5. A proposal to grant the rehabilitation and reflection period may not under any circumstances be dependent on the victim giving a statement or cooperating with the police or court authorities involved in the investigation and prosecution of the offence. It must likewise expressly state the proposed duration deemed necessary in order to achieve the purpose of the period in question, which must be at least 30 days.

XIII.B.- IDENTIFICATION AT THE BORDER OR IN FOREIGNER INTERNMENT CENTRES

1. If identification of the presumed victim takes place at the border, the police unit responsible for this must immediately notify the Public Prosecution Office, the individual responsible for the border post and the General Immigration and Borders Policing Office, in order to guarantee that no repatriation procedures are applied until a ruling has been given regarding the granting of the rehabilitation and reflection period. This circumstance shall also be notified to the Judges authorising internment and supervising stay.

2. If identification takes place during the internment of the presumed victim at a Foreigner Internment Centre, the police unit responsible for this shall immediately notify the Public Prosecution Office, the Centre Management, the Immigration unit which requested internment and the General Immigration and Borders Policing Office in order to guarantee that expulsion is not implemented until a ruling has been

issued as to the granting of the rehabilitation and reflection period. This circumstance shall also be notified to the Judges authorising internment and supervising stay.

XIII.C.- RULING ON THE REHABILITATION AND REFLECTION PERIOD

1. Pursuant to the terms of the Regulation for Organic Act 4/2000, the competent Government Delegate or Deputy Delegate shall rule as to the proposed granting of the rehabilitation and reflection period and the duration thereof within a maximum of five days. Upon expiry thereof the period shall be understood to have been granted for the duration indicated in the proposal. Nonetheless, if at the time when the proposal in favour is presented before the Government's Regional Delegation Office or Deputy Office the victim was held at a Foreigner Internment Centre, the ruling must be issued within a period of 24 hours.

The periods set out in this paragraph shall be calculated from the date of receipt of the proposal at the competent Government's Regional Delegation Office or Deputy Office.

2. The ruling as to the rehabilitation and reflection period must be reasoned, with notice thereof being given to the person concerned immediately and by the fastest possible means, directly by the Government's Regional Delegation Office or Deputy Office or via the police unit responsible for identification and investigation, which shall in all cases be informed of the ruling. If this police unit is not the same as that which began the investigation, notice of the ruling shall likewise be given to the latter, and to that unit which has the victim in its custody.

3. If the ruling is favourable, among other particulars, express mention shall be made of the decision to not instigate penalty proceedings or, in the event that they have already been instigated, to temporarily suspend the penalty proceedings which may have begun or the expulsion or repatriation orders which may have been issued according to infringement detailed in Article 53.1(a) of Organic Act 4/2000.

In the event that the suspended penalty proceedings or the expulsion or repatriation orders lie within the remit of another Government Regional Delegation Office or Deputy Office, notice of the ruling granting the rehabilitation and reflection period shall be served thereof, in order for the terms of the above paragraph to take effect.

4. The ruling granting the rehabilitation and reflection period shall authorise a temporary stay to the victim and any disabled or legally minor children who are in Spain, for the duration established for the victim.

XIII.D.- CONCLUSION AND POSSIBLE EXTENSION OF THE REHABILITATION AND REFLECTION PERIOD

1. Following conclusion of the rehabilitation and reflection period, the police unit performing identification shall contact the victim in order to establish whether or not he or she wishes to cooperate in the investigation and prosecution of the offence.

If the victim decides to cooperate, notice of this circumstance shall be served to the Public Prosecution Office and the competent court body, enclosing a copy of any statement given.

Should the victim decide not to cooperate, he or she shall be informed in a comprehensible manner of the possibility of applying to the competent Government's Regional Delegation Office or Deputy Office for exemption from official liability in accordance with his or her personal circumstances.

2. If the victim states the need for an additional period for rehabilitation and reflection, or if the police unit itself considers this to be the case, the possibility of a one-off extension to the period initially granted shall be offered.

For this purpose the police unit shall present the relevant proposal to the Government's Regional Delegation Office or Deputy Office which granted the initial period, including where applicable the duration of the extension period deemed necessary, to be accompanied by the available documentation and reports.

3. In ruling as to the granting of such an extension, the competent Government's Regional Delegation Office or Deputy Office shall take into consideration the personal circumstances of the victim and the information provided by those public authorities and bodies and organisations with proven experience in attending to victims of trafficking who are attending to the victim.

4. During the processing of the extension to the rehabilitation and reflection period, the victim's stay in Spain shall be understood to be extended, along with that of any children who are legal minors or have a disability.

Granting of an extension to the period in question shall constitute an extension to the temporary authorisation to stay for the time established therein.

5. Following conclusion of the extension to the rehabilitation and reflection period, the police unit shall proceed to act in accordance with paragraph 1 of this subsection.

6. Following conclusion of the rehabilitation and reflection period or the extension thereto, if a residency permit has not been requested or has been refused, and as long as there are any legal impediments, the applicable terms shall be those governing stays and residency as laid down in Organic Act 4/2000 and the Regulation developing this.

XIII.E.- EXEMPTION FROM LIABILITY AND RESIDENCY AND WORK PERMIT GRANTED UNDER EXCEPTIONAL CIRCUMSTANCES

1. Any authority with which the victim may be cooperating within the context of the investigation of an offence or in criminal proceedings may propose to the competent Government Delegate or Deputy Delegate exemption from the liability thereof with

regard to infringement of Article 53.1(a) of Organic Act 4/2000, all the above notwithstanding the entitlement of the Delegate or Deputy Delegate him or herself to rule such exemption from liability ex officio in accordance with the personal circumstances of the victim.

2. In the event that the penalty proceedings or the expulsion or return order suspended lie within the remit of another Government Regional Delegation Office or Deputy Office, this shall be informed of the decision adopted regarding the exemption from liability.

3. If exemption from liability is ruled, the Government Delegate or Deputy Delegate issuing the ruling shall inform the victim that he or she is entitled to lodge an application for a residency and work permit based on exceptional circumstances, addressed to the head of the Department of Security or the Department of Immigration and Emigration, in accordance with the reasoning based, respectively, on the victim's cooperation in investigation of the crime or his or her personal circumstances.

4. The application for authorisation shall be presented by the victim or his or her representative before the Government's Regional Delegation Office or Deputy Office which ruled on the exemption from liability.

5. The Government's Regional Delegation Office or Deputy Office shall immediately pass the application on to the Government Department responsible for the ruling, enclosing a report as to the legal and personal status of the victim and the proposed ruling which, if favourable, shall involve the granting of a provisional residency and work permit both for the victim and for any children who are legal minors or have a disability and are in Spain (residency and work permit in the case of those aged over 16).

6. Within a period of one month of the authorisation being granted, the holder of the provisional authorisation must apply for a Foreign Citizen Identity Card at the corresponding Immigration Office or Police Station.

7. Following a favourable ruling in the proceedings regarding definitive authorisation by the head of the competent Government Department, the residency and work permit granted shall remain in force for 5 years, both for the victim and for any children thereof who are under the age of legal majority or are disabled and who are located in Spain (residency and work permit in the case of children aged over 16 years), notwithstanding the entitlement of the holder to gain long-term residency status.

XIII.F.- VOLUNTARY REPATRIATION

1. When it has been established that there are reasonable grounds to believe that a foreign person is the victim of human trafficking in accordance with the terms of this Protocol, the person in question may apply for assisted return to his or her country of

origin, both for him or herself and for any children who are legal minors or disabled, notwithstanding the possibility that repatriation may be postponed in order for the victim to remain in Spain for the period required to investigate the offence or for criminal proceedings.

2. The Department of Immigration and Emigration shall manage and provide support for the voluntary repatriation of the victim and any children who are legal minors or have a disability and who are in Spain, in accordance with the terms of Article 16 of the Council of Europe Convention. In all cases assisted return shall include an evaluation, prior to departure, of risks and security, transportation, and support at the points of departure, transit and destination.

3. Organisations and bodies with proven experience in attending to victims of trafficking may, in those cases where they may deem appropriate, propose inclusion of the victim under the social support voluntary return programme for immigrants in a situation of vulnerability because they are at risk of social exclusion, funded by the Integration of Immigrants Department of the Ministry of Employment and Immigration, with the support of the European Return Fund.

XIV.- SPECIFIC ACTIONS IN CASES OF VICTIMS OF HUMAN TRAFFICKING WHO ARE LEGAL MINORS.

XIV.A.- SUPPORT FOR VICTIMS WHO ARE LEGAL MINORS

1. Victims who are legal minors shall immediately be provided with assistance, support and protection. All measures adopted shall address their safety, physical and psycho-social recovery, education and the search for a lasting solution to their situation.

These measures must be based on the particularly vulnerable condition of victims of trafficking who are legal minors, and shall be pursued following an individual evaluation of the specific circumstances of the victim, taking into consideration his or her opinion, needs and interests.

2. The measures to assist victims who are legal minors must likewise establish support mechanisms guaranteeing accompanied return to the place of origin, including the return of victims who are legal minors arriving from EU countries, with the greater interest of the minor prevailing, and an evaluating among other conditions for return the benefits of recovering in a family context.

3. The public institution responsible for legal protection of a victim who is a legal minor, or the Public Prosecution Office, may propose referral to specific resources for victims of human trafficking for reasons of protection or specialist care. These resources must guarantee the due separation of those who are below and above legal age.

XIV.B.- UNACCOMPANIED FOREIGN VICTIMS WHO ARE LEGAL MINORS

1. The necessary measures shall be adopted in order to establish the identity, nationality and/or place of origin of the legal minor and, in the case of those who are not accompanied, the necessary resources shall be deployed in order to locate their families, and to guarantee they are represented.
2. In the case of victims of trafficking who are unaccompanied foreign legal minors, they must be given particular attention as they are especially vulnerable, and until such time as a permanent solution is found, appropriate fostering measures shall be applied in accordance with the minor's needs.
3. The lasting solution as to their future must be adopted at the earliest possible opportunity, and may comprise repatriation and reintegration in the country of origin, the granting of international protection status or the granting of a residency or residency and work permit, where applicable.
4. Notwithstanding the issues covered by this Protocol, victims of human trafficking who are unaccompanied foreign legal minors shall be subject to the terms of the Protocol referred to in Article 190.2 of the Regulation for Organic Act 4/2000.

XIV.C.- PROTECTION IN ACTIONS WITH VICTIMS WHO ARE LEGAL MINORS

1. Over the course of police investigations and criminal proceedings involving possible victims of human trafficking who are legal minors, the necessary measures shall be adopted in order to avoid secondary victimisation. A single interview protocol shall in all cases be adopted.

The interview shall be conducted immediately, under appropriate conditions, in the presence of the Public Prosecution Office, guaranteeing the presumption of legal minority in cases of doubt, and the adoption of the mechanisms required for the pre-constitution of evidence, if necessary.

2. Given the particular vulnerability of legal minor victims of trafficking, additional protection measures must be adopted during any interviews and examinations conducted in investigations and court proceedings, among others as follows:
 - a) Such procedures shall be performed without any unjustified delay as soon as notice of the circumstances has been served to the competent authorities.
 - b) They shall as far as possible take place on premises which have been prepared or allocated for this purpose.
 - c) All interviews shall, when necessary, involve professionals with the appropriate training.

- d) The minimum number shall be performed, and only where strictly necessary. The legal minor's statements shall be recorded using technical means allowing for audiovisual reproduction wherever possible.
- e) They shall be conducted in the presence of a legal representative, unless this individual has been excluded on reasoned grounds.

XV.- ACTION BY ORGANISATIONS AND BODIES SPECIALISING IN ATTENDING TO VICTIMS OF HUMAN TRAFFICKING

XV.A.- RESOURCES PROVIDED BY ORGANISATIONS AND BODIES SPECIALISING IN ATTENDING TO VICTIMS OF HUMAN TRAFFICKING

1. This Framework Protocol acknowledges the contribution of organisations and bodies with proven experience in attending to victims of trafficking, in particular those which provide comprehensive support and are involved in public administration programmes for victim support and protection.
2. Such organisations and bodies provide victims of trafficking with a network of specialist services supplementing the care provided by the existing public resources. Provision is therefore made for the involvement of such organisations and bodies in all processes described throughout this Protocol, in particular with regard to accommodation, protection and support for victims.

XV.B.- DETECTION OF PRESUMED VICTIMS BY ORGANISATIONS AND BODIES SPECIALISING IN ATTENDING TO VICTIMS OF HUMAN TRAFFICKING

Specialist organisations and bodies may detect situations of trafficking through their victim-attention resources, such as mobile units, telephone helplines and their support services.

Such detection is fundamental in allowing the competent authorities to instigate the procedure for identification of the presumed victim.

XV.C.- PROVISION OF INFORMATION ABOUT PRESUMED VICTIMS

Organisations and bodies with proven experience in attending to victims have access to relevant information for the identification of a presumed victim, both because of their knowledge of the trafficking situation in the region where the individual was located, and through an evaluation of their personal and social circumstances, based on the direct support they offer.

XV.D.- SUPPORT AND ASSISTANCE FOR PRESUMED VICTIMS

1. Bodies and organisations with proven experience in attending to victims of trafficking may accompany the presumed victim, wherever the circumstances should

make this advisable, in proceedings affecting the victim, and in particular in order to guarantee that victims properly understand their rights. To this end a request shall be lodged with the authorities responsible for the specific action in question.

2. These organisations and bodies shall provide any information they may deem relevant in all processes covered by this Protocol.

3. When victims are referred to them, they shall provide comprehensive support, including secure accommodation, healthcare, psychological care, psychiatric care, other social, educational and training resources, along with assistance for their social and professional inclusion, legal advice, interpreters or support to facilitate voluntary return.

XVI. INTER-INSTITUTIONAL RELATIONS

XVI.A.- COMMUNICATIONS

1. The Judicial Police units shall at all times provide information to the judicial body, the Public Prosecution Office and, where applicable, to Crime Victims Support Offices, regarding any incidents of which they may learn and which could affect the content or scope of the protection measures adopted.

2. The court body shall notify the Law Enforcement Agencies responsible for the region or, as applicable, the centralised reception points designated in each region, along with the Public Prosecution Office, of any rulings ordering interim remedies or other protection or security measures for victims, and the lifting and modification thereof.

XVI.B.- COORDINATION MEETINGS

1. A working meeting must be held in each province at least twice per year in order to monitor actions related to detected situations of trafficking, so as to ensure appropriate inter-institutional coordination.

The effectiveness of the measures adopted for the support, protection and safety of victims shall likewise be analysed.

2. The Public Prosecution Office shall be responsible for calling and organising the meeting.

3. The meeting shall be attended by the Public Prosecution Office, and the following will likewise be called upon: senior police officers specialising in the investigation of the offence of human trafficking, an individual on behalf of the Employment and Social Security Inspectorate or an equivalent regional body, and another representing the corresponding Government's Regional Delegation Office or Deputy Office. This

meeting may, by prior invitation, be attended by the Presidents of the Supreme Courts of Justice, the Presidents of the corresponding Provincial High Courts and any Senior Judges deemed appropriate.

The corresponding regional public administration shall likewise be called.

4. Depending on the issues to be discussed, the Public Prosecution Office may call on organisations and bodies with proven experience in attending to victims of trafficking, in particular those providing comprehensive support with an established presence in the region.