



STANDARD OPERATING PROCEDURE

Identification, Referral, Assistance and Protection of Victims of Human Trafficking

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ABBREVIATIONS

	Dutch / Papiamentu	English
-	Actie Team Grensoverschrijdende Criminaliteit	Cross-Border Crime Action Team
BO	Beleidsorganisatie, Ministerie van Justitie	Policy Organization, Ministry of Justice
DBB	Directie Buitenlandse Betrekkingen	Foreign Relations Department
IOM	Internationale Organisatie Voor Migratie	International Organization for Migration
KPC-DGC	Korps Politie Curaçao - Divisie Georganiseerde Criminaliteit	Curaçao Police Force - Organized Crime Division
KPC-UVT	Korps Politie Curaçao – Unit Vreemdelingen en Toezicht	Curaçao Police Force - Aliens Unit
KMar	Koninklijke Marechaussee	Royal Netherlands Marechaussee
LTU	Landsverordening Toelating en Uitzending	National Admission and Deportation Ordinance
MEO	Ministerie van Economische Ontwikkeling	Ministry of Economic Development (Multidisciplinary Team)
NTO	Toelatingsorganisatie	Admission Office
OM	Openbaar Ministerie	Public Prosecutor's Office
SDKK	Sentro di Detenshon i Korekshon Kòrsou	Curaçao Centre for Correction and Detention
SEDA	Fundashon Sentro di Dama	Women's Center Foundation
SMZH	Stichting Maatschappelijke Zorg en Herstel	Care and Recovery Foundation
SOAW	Ministerie van Sociale Ontwikkeling, Arbeid en Welzijn	Ministry of Social Development, Labor and Welfare
SSHC	Stichting Slachtofferhulp Curaçao	Victim Assistance Foundation
RST	Recherche Samenwerkingsteam	Criminal Investigation Cooperation Team
-	Voogdijraad	Guardianship Board

1. INTRODUCTION: About this SOP

Human trafficking is a serious crime and a gross violation of human rights. It is clandestine and complex, extending beyond boundaries and jurisdictions. It is a modern-day form of slavery. It has negative long-term effects on the victims and the society at large, and it is a crime that feeds and is a possible source of other serious criminal activities. Combating and preventing human trafficking requires a holistic, coordinated, and proactive approach by all stakeholders and integrated actions on identification, referral, protection and prosecution.

In Curaçao, both national and foreign nationals, particularly women and girls can be subject to human trafficking for sexual exploitation. Men also can be exploited for forced labor in various sectors. Since the crisis in Venezuela intensified in 2017, Curaçao has been significantly affected by a mass influx of Venezuelan migrants. Criminal groups likely take advantage of the vulnerability of Venezuelan migrants, such as irregular migration status, the worsening situation in Venezuela, and exploit them in various forms. Migrants from various countries - Dominicans, Haitians, Colombians, Jamaicans, Cubans, and Chinese - are also vulnerable to human trafficking in Curaçao. The precarious situation has been further compounded by the global pandemic of the Coronavirus disease 2019.

In January 2020, the human trafficking coordinator organized a training course in collaboration with the International Organization for Migration (IOM) for the stakeholders who are closely involved in combatting human trafficking in Curaçao. The training aimed at enhancing the knowledge about human trafficking, reaching out to victims, and providing them with assistance and protection. The training resulted in the need to develop a new manual that provides the stakeholders with guidance and approach to assist victims of human trafficking. This Standard Operating Procedure (SOP) has been developed with support of the IOM.

1.1. Purpose and scope

This SOP aims to provide guidance for stakeholders responsible for identifying and providing assistance and protection to victims of human trafficking in Curaçao. The SOP describes the steps and process to ensure that all relevant stakeholders act efficiently and effectively in their response to human trafficking. The SOP also aims to set standards to ensure a victim-centered approach throughout the process. The SOP consists of following phases: identification, protection, assistance, referral, investigation, and return to country of origin. The SOP applies to both national and foreign victims of trafficking of all ages and genders.

This SOP will be reviewed every 4 years. Taking into account the evolving situation in Venezuela as well as the problems surrounding human trafficking in the Caribbean region, modifications and adjustments to the procedures may be needed in order to provide adequate services to the victims.

1.2. Audience

Strong coordination among stakeholders is essential to effectively combat human trafficking. While stakeholders must know their respective roles and responsibilities, it is equally important for all of them to understand the entire process. Comprehensive understanding of the process allows for coordinated actions according to operational procedures. Therefore, the audience of this SOP includes government officials - including police officers, immigration officials, investigators, prosecutors, social workers, and service providers - as well as civil society organizations.

1.3. Agencies Responsible for implementing the SOP

A task force has been established to coordinate the efforts to combat human trafficking, develop policies, make referral, collect data, and engage with civil society organizations in Curaçao. The operational arrangements of the SOP are made based on the responsibilities and tasks of each service unit that forms part of this task force (See **Annex: A Flow diagram of process and stakeholders**).

- Action Team Cross-Border Crime
- Admissions Office (NTO)
- Curaçao Police Force (KPC) – Organized Crime Division (DGC)
- Curaçao Police Force (KPC) – Aliens Unit (UV)
- Ministry of Social Development, Labor and Welfare (SOAW)
- Ministry of Justice
- Public Prosecution Service (OM)
- Victim Assistance Foundation (SSHC)

2. WHAT IS HUMAN TRAFFICKING?

Human trafficking is a gross violation of human rights, and has negative impacts on the physical, and mental well-being of a person. It is a modern form of slavery and organized crime that generates enormous financial profits. Driven by demand for sex, cheap labor or services, victims are treated as commodities and forced into exploitation.

2.1. International Law

To determine whether an individual is a victim of trafficking, it is necessary to understand the legal definition of what constitutes human trafficking. The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, Supplementing the UN Convention against Transnational Organized Crime, 2000, provides the international benchmark definition of human trafficking.

Until 2010, Curaçao was part of the Netherlands Antilles within the Kingdom of the Netherlands. Being part of the Kingdom, the Palermo Protocol was signed and ratified by the Kingdom of the Netherlands.

Legal framework and basic principles for combatting human trafficking in Curaçao are guided by the following international conventions;

- International Convention for the Suppression of Traffic of Women of Full Age, as amended by the Protocol of 12 November 1947, New York;
- Convention for the Protection of Human Rights and Fundamental Freedoms, Rome, 4 November 1950;
- International Covenant on Civil and Political Rights, New York, 16 December 1966;
- United Nations Convention against Transnational Organized Crime, New York, 15 November 2000.

In 2010, Curaçao became an autonomous country within the Kingdom of the Netherlands; the above-mentioned conventions remain applicable.

2.2. Domestic law and policy

The Memorandum of Understanding (MOU) on cooperation to prevent and combat human trafficking and smuggling, which was drawn up between Aruba, Curaçao, Sint Maarten, and Netherlands, outlines how to implement the above-mentioned international conventions in each respective country. The Attorney General is responsible for the implementation of the agreements in the area of criminal enforcement of human trafficking. Initially signed in 2008, the MOU has been reviewed and renewed in 2011, 2015, and 2019. In 2017, the Government of Curaçao approved the 2017-2021 National Action Plan to strengthen the coordination among relevant stakeholders in combatting human trafficking.

Human trafficking is punished under the **Article 2:239 of the New Penal Code of Curaçao** (See **Annex B**), which is largely in compliance with international benchmark definition of human trafficking as given in the Palermo Protocol. Under the Article 2:239 Paragraph 1 of the New Penal Code, human trafficking is defined as:

1. *A person is guilty of human trafficking and is punishable by a term of imprisonment of not more than nine (9) years or a fine in the fifth category where he/she:*
 - a. *recruits, transports, transfers, accommodates or admits another person by means of coercion, violence or another act or by threat of violence or threat of another act, or by means of blackmail, fraud, misrepresentation or abuse of authority arising from an existing relationship, or by abuse of a vulnerable position or by giving or receiving payment or benefits in order to gain the agreement of a person who has control over that other person, with the intent of exploiting that other person or removing his organs;*
2. *Exploitation includes, in any event, the exploitation of another person in prostitution, other forms of sexual exploitation, coerced or obligatory work or services, slavery and practices similar to slavery or servitude.*

Whereas forced criminal activities and forced begging are not explicitly mentioned in the New Penal Code, they are included in the Criminal procedure directive on smuggling and trafficking in persons (2019)¹ on the understanding that the public prosecutor has the discretion to prosecute for human trafficking offences. Criminal exploitation is the forced commission of criminal offences, criminal activities or the exploitation of individuals by forcing them to commit offences such as pickpocketing, shoplifting, drug trafficking and similar offences involving financial gain.

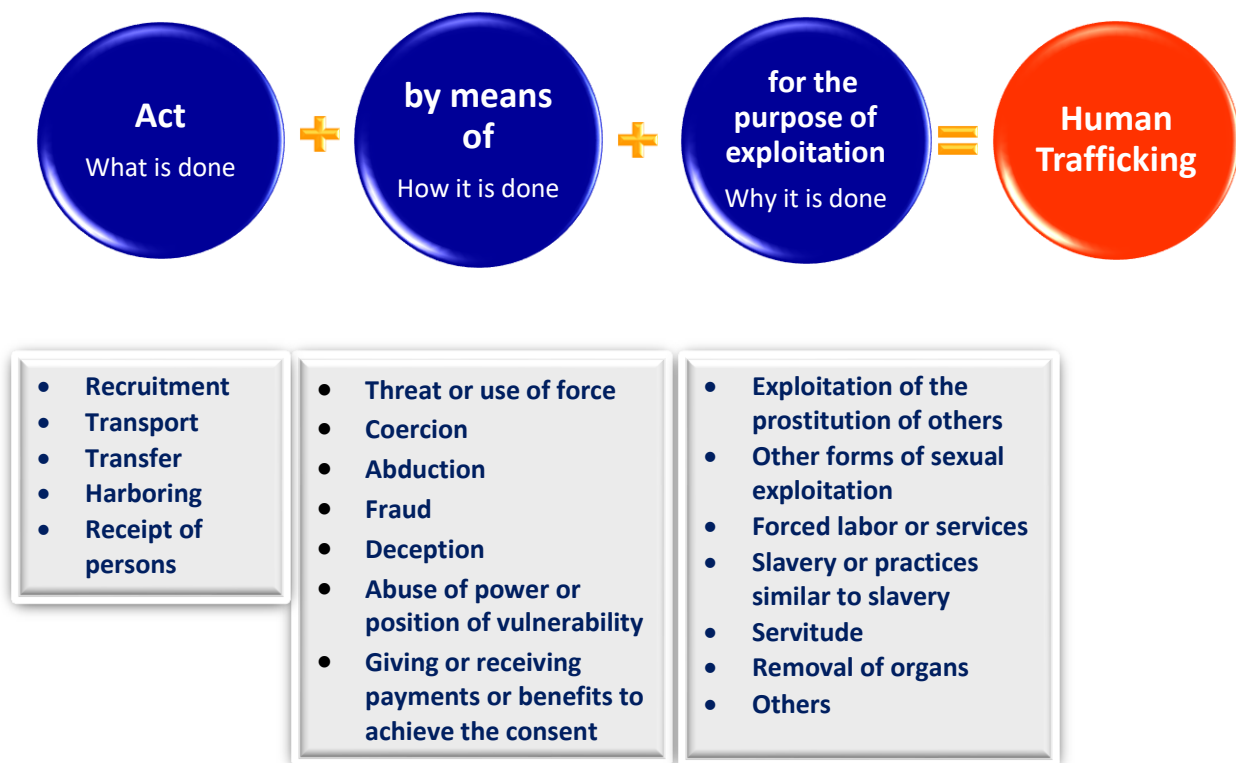
The penalties prescribed for human trafficking for the purpose of sexual exploitation are higher than those imposed for non-sexual exploitation because of the gross infringement of sexual exploitation on the physical integrity of victims.²

¹ Criminal procedure directive on smuggling and trafficking in persons / Openbaar Ministerie, Richtlijn strafvordering mensensmokkel en mensenhandel, 2019. Smuggling of persons is the illegal accompaniment or transportation of people to another country or otherwise assisting in access to, transit through or departure from a country by sea or air. Smuggling of persons in principle involves a voluntary relationship, or an agreement, between the smuggler and the person who wants to leave the country. This does not alter the fact that serious violations of human rights can also occur. Although smuggling is often linked to human trafficking, it is important to note that they are different crimes.

² Idem.

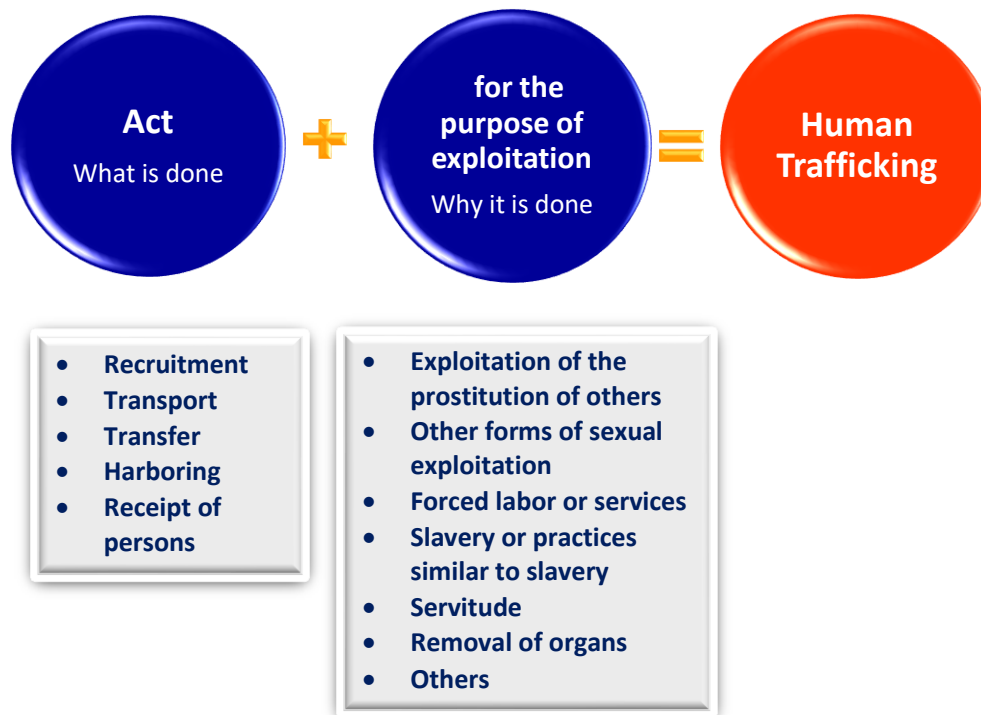
2.3. Elements of human trafficking

Under international law, a person is a victim of human trafficking when the following three constituent elements are cumulatively present, as shown in the diagram below. The act must be realized by at least one of the means, and both must be aimed at achieving the exploitative purpose. If any one of those three elements are missing, it may be another type of crime or human rights violation.



Trafficking of children

Trafficking of children differs from trafficking of adults. The element of 'means' is not required for trafficking of children; only the act and purpose are necessary elements. Thus, any situation of recruiting, transportation, transferal, harboring or reception of someone under 18 years old, for the purpose of exploitation is human trafficking.



In case a victim is under 16 years old, heavier penalty is applied. According to Article 2:239 of the New Penal Code:

Paragraph 3. b: The guilty person is punishable with imprisonment of not more than twelve (12) years or a fifth category fine, if the person against whom the offences are committed has not yet reached sixteen (16) years old.

Paragraph 4: The serious offences, committed by two or more persons in the circumstances the victim has not yet reached sixteen (16) years old, are punishable by imprisonment of not more than fifteen (15) years or a fifth category of fine.

2.4. Victim identification

Victim identification is the process of verifying reported indicators of presumed human trafficking cases and determining whether he/she is a victim of human trafficking as well as victim's needs in order to proceed to the next steps for protection and prosecution. It is normally carried out by competent law enforcement officers or social workers of the Victim Assistance Foundation (SSHC). Identification is essential to ensure that victims have access to assistance and protection. Without access to assistance and protection, victims of trafficking might not have sufficient confidence and safety and security to cooperate with law enforcement officials in criminal investigations.

Identifying victims of trafficking is important because they are victims of a serious crime and may have security concerns not only for themselves but also for their family members. Victims should be supported to get out of exploitative situations as soon as possible and their physical safety and rights should be protected. They may have urgent physical and psychological needs and require specialized treatment and care. They may also have crucial information about criminal groups that they are willing to share. This information will ultimately help in investigation and prosecution of trafficking crimes and initiate a criminal justice process.

2.5. Indicators of human trafficking

In detecting whether whether a person is a victim of trafficking, knowing what indicators or red flags to look for is important.

General indicators of human trafficking:

- **Age** – consider the age of the person in comparison to the age on their identify or travel documents.
- **Gender** – women and girls are generally more vulnerable to human trafficking. Pay attention also to specific vulnerabilities of persons of diverse gender identity or diverse sexual orientation.
- **Signs of physical abuse or violence** – observe any signs of physical abuse or violence. However, officers should not assume a person has not been trafficked if there are no signs of injuries or physical abuse.
- **Signs of trauma or psychological abuse** – uncertainty, insecurity, nervousness, depression.
- **Nationality/ethnicity** – can his/her identity be verified?
- **Documentation** – carefully review the documentation provided such as personal information, point of entry and stay documents (evidence of fraudulent documents).
- **Last location and travel** – the routes travelled and the conditions under which the entry visa/work permit was accured, if a person is traveling under suspicious circumstances.
- **Context/circumstances** – how he/she has been referred or brought to the attention of law enforcement officials or non-governmental organization (NGO), including circumstances of removal.
- **Sector of employment** – where exploitation is known to take place, such as domestic work, construction, bars, nightclubs, entertainment etc.
- Information and observation from referring agency/individual.

The following chart presents a non-exhaustive list of common signs and indicators of human trafficking. Those indicators are often a combination of lack of control over basic decisions in his/her life and conditions of exploitation. In addition to general signs and indicators of human trafficking, which can be common to various forms of human trafficking, specific indicators may be manifested in cases of sexual and/or labor exploitation.

General signs and indicators of human trafficking

- Passport, travel, identity documents withheld.
- No wages or substantial underpayment. No access or control over earnings.
- Restricted or no freedom of movement.
- Cannot leave where they stay or walk away from job or service.
- Excessive working hours/ no days off.
- Poor living conditions. Live with multiple people in a cramped place. Sleep where they work.
- Cannot make or receive calls. Limited contact with family or social contacts.
- Threat to family.
- Cannot access medical care.
- Signs of physical or substance abuse (alcohol or drugs).
- Are subject to verbal, physical, or psychological abuse, violence and threats, high degrees of control and surveillance by their supervisor.
- Debt bondage situation with the employer/supervisor (including deduction from wages and debt clearance) for travels, documents, accommodation, food, etc.
- Cannot access basic needs, food, clothing, and hygiene materials.
- Signs of malnourishment.
- Hired on false promise or job (doing a different service, having different work conditions than what were promised, agreed or expected – may have been tricked or coerced.
- Work for someone other than expected.



Specific indicators for sexual exploitation (forced prostitution, sexual servitude)

- Cannot refuse their clients.
- Cannot refuse certain sexual acts.
- Cannot refuse unprotected sex. Cannot use a condom.
- Cannot end the services or activities on her/his own will.
- Have a pimp or madam.
- Threatened with violence or punishment.
- Forced or coerced to provide sex and sexual services against his/her own will and cannot leave.



Specific indicators for labor exploitation (forced labor or services):

- Have no employment contract or have only a falsified one.
- Have no required work permit.
- Work under hazardous conditions (including physically danger and unsanitary).
- Use dangerous equipment or substances without protective measures.
- Have no required/fundamental training to carry out the work.
- Injuries or impairment of certain jobs.
- Cannot terminate his/her work situation at any time.
- Forced or coerced to work against his/her own will and cannot leave.

It should be noted that, even if a person initially chooses to engage in activities that have been offered, he/she may subsequently fall victim to trafficking for sexual or labor exploitation. The important factors in determining whether a person who initially voluntarily went into an activity is a victim of trafficking are whether he/she received the promised payment and conditions, whether he/she is being coerced to provide services, controlled and exploited by *others*, and whether he/she has the ability to leave on his/her own free will.

2.6. Irrelevance of consent

International law states that the consent of a victim of trafficking to the intended exploitation shall be irrelevant where any of the means have been used (e.g. coercion, threat, deception, or through abuse of power or of position of vulnerability, etc.), as set forth above section. It reflects the fact that no person can consent to being exploited; any initial consent has been negated through the use of improper means. Any expressed consent is defective because it has not been given on the basis of free and fully informed agreement to the intended exploitative work or service. In the case of children, their vulnerable position makes it impossible for them to provide consent in the first place, which is why means are not required. In the same vein, Curaçao's Criminal procedure directive on smuggling and trafficking in persons (2019) 6.1 provides that, in determining a penalty, it should be assumed that a voluntary commencement of sexual services by the victim does not constitute a ground for sentence reduction.

3. PRINCIPLES FOR PROTECTION AND ASSISTANCE

3.1. Victim-centered approach

A victim-centered approach entails treating the victim as an individual and considering their wishes, safety, and well-being as a priority in all matters and procedures. This will help the person regain their self-determination and participation, so they can make decisions for themselves. One must always remember that survivors of trafficking are the victims of a crime; they are not the criminals themselves. Victim should not be treated as an offender and should be made aware that he/she is the victim of a crime.

3.2. Respect for and protection of human rights

Human trafficking is a grave violation of human rights, one that takes away the dignity of a trafficked person. Helping and protecting victims requires **a rights-based approach** to ensure that victims are assisted, and perpetrators prosecuted. All assistance and protection efforts should strive for restoration of a victim's rights and prevent further violations. Officials and service providers who deal with the victims should understand the concerns and issues from the perspective of the victim. To this end, decisions and future plans should be based on a **victim-centered approach** - and in the case of child victims, **the 'best interests of the child'**. Victims have the right to be protected, consulted and informed on all actions being taken on their behalf and ideally should be empowered to participate actively in deciding their own recovery plans.

3.3. Do no harm, non-revictimization

Given the risks associated with human trafficking, the fragile state of many of the victims and the real potential for additional trauma, it is the ethical responsibility of every official and service provider to assess the potential for harm of any proposed action. If there is any reason to believe that carrying out an interview or conducting an examination or procedure will cause the victim to be worse off than before, it should not be undertaken at that time.

Re-victimization happens when the victim is treated without the proper respect for his/her human rights or without the required sensitivity. Victims should never be led to feel responsible for having been trafficked, should never be judged or discriminated against. All relevant stakeholders should receive adequate training to avoid doing no further harm to a victim through their approach, language and attitude.

Victims should be carefully assessed and supported with targeted assistance be it medical care, social support and counselling services before engaging with the criminal justice system. The decision to press charges or testify remains always with the victim and assistance and care should not be conditional upon such cooperation.

3.4. Non-discrimination

Protection and assistance should be provided to all victims of trafficking without discrimination of prejudice on the basis of nationality, gender, age, sexual orientation, race, color, social class, ethnicity, religion, language, disability, political opinion, migration status, or any other status.

3.5. Confidentiality and right to privacy

All information regarding the victim must be treated with due regard for the victim's right to confidentiality and privacy. Only relevant information should be gathered, and the release or disclosure of such information must be with the consent of the victim or the guardian of a child. Any referral must ensure protection of the privacy of the victim and the confidentiality of information.

3.6. Informed consent

The victim's informed consent needs to be obtained for any services, assistance and/ or protection and also before gathering any information or evidence. It will often take time and thoughtful efforts to build trust with the victim. Building trust may also increase the chances of the victim deciding to participate in criminal proceedings.

3.7. Multidisciplinary approach

Protection and assistance to victims of trafficking is not a one-time action but allows victims to access specialized services over time depending on their needs, with full respect to their human rights. Meeting these needs requires holistic and tailor-made solutions that are implemented in the closest possible cooperation between the multidisciplinary team³ of the Ministry of Economic Development (MEO) and stakeholders involved in combating human trafficking, identifying, assisting and providing protection to victims.

3.8. Child-rights approach, best interest of the child

All actions undertaken in relation to child victims shall be guided by applicable human rights standards, in particular, as set out in the Convention on the Rights of the Child (CRC) and its Optional Protocol on the sale of children, child prostitution and child pornography.

In all actions concerning children at risk and child victims, the best interest of the child shall be the primary consideration. A swift and thorough assessment of their best interests shall be carried out in full compliance with Curaçao law ensuring the protection of the child and with the international standards as defined in the CRC.

A social worker shall be appointed by the SSHC to each child victim of trafficking to ensure adherence to special mechanisms required for their protection. If necessary, a separate legal guardian to act on behalf of the child may be appointed by the judge. Such legal guardians shall have the requisite child-care expertise and knowledge of the rights and needs of child victims.

³The multidisciplinary team consists of members: Economic inspection and calibration, Customs, Police force, Police force alien unit, Tax office, Labor inspection, Public health inspection, and Fire brigade.

STANDARD OPERATING PROCEDURE (SOP)

The SOP provides a step-by-step guide to all agencies involved in the identification and provision of protection and assistance to victims of human trafficking in Curaçao. The SOP is composed of four phases:

- Phase I: Victim identification
- Phase II: Protection, assistance, and referral
- Phase III: Investigation
- Phase IV: Return and reintegration

3 VICTIM IDENTIFICATION – PHASE I

4.1. Initial information

Initial information is the first step in detecting crimes of trafficking and rescuing victims. Hence, efforts in this direction need to be streamlined for best results. Presumed cases of human trafficking can be reported by anyone in the community to the relevant competent authorities or NGOs.

Information or a complaint about human trafficking can come from a range of sources: victim, police officer, immigration officer, labor officer, NGO, social worker, health care provider, friend, colleague, neighbor, community member, school teacher, parents or relatives of the victim, or any other person who has knowledge of a presumed case of human trafficking.

Presumed cases of human trafficking can be brought to the attention of the Curaçao Police Force (KPC) through proactive routine police checks/controls, labor inspections, inquiries concerning suspect premises/activities or businesses, and conducting a proactive approach of prevention and detection and intelligence gathering.

Complaints related to human trafficking made in Curaçao may be received by the Victim Assistance Foundation (SSHC) or Curaçao Police Force (KPC). See **Annex A: Flow diagram of process and stakeholders**.

4.2. Hotline

The SSHC manages the hotline for human trafficking (+599 9678 4552), which was set up specifically for the protection of victims of trafficking in Curaçao. The SSHC keeps a record of the number of calls received and their content of calls. This hotline can be called by anyone who has questions about human trafficking or reports a case. It is intended, in particular, as a helpline for victims. Cases of presumed victims⁴ of trafficking are immediately forwarded to the KPC - Organized Crime Division (DGC).

⁴ ‘Presumed victim’ is used to refer a person who already manifests signs or indicators of exploitation but has not been formally identified by the relevant authorities as a victim of trafficking or has declined to be formally identified as trafficked, while ‘potential victim’ is used to denote a person who may become a victim of trafficking among vulnerable groups.

The KPC manages the anonymous TIP line 108, which can be called by anyone who has information about suspected criminal offences in Curaçao, including human trafficking. Cases of presumed victims of trafficking are immediately reported to the SSHC.

If a presumed victim is reported through any other ways than mentioned above, the SSHC and/or the KPC – DGC must be contacted directly by telephone at all times. The SSHC and KPC – DGC will always coordinate with each other immediately. See **Annex D: Contact list of human trafficking stakeholders and service providers**.

4.3. Rescue

The rescue of victims is an important component of a comprehensive strategy to counter trafficking.

The primary objective of the rescue operation is to remove a victim from an exploitative situation and initiate the assistance process.

If a victim or witness contacts the police and files a complaint, either directly or through a guardian, a rescue operation will be conducted. Presumed victims must be rescued as soon as they have been notified, especially if they are children and/or being held against his/her will, and there is an immediate threat to the life of the presumed victim. A rescue operation will be coordinated by KPC and relevant authorities.

4.4. Screening interview

Presumed human trafficking cases should be referred to the SSHC who is responsible for the reception, screening interview, assistance, and registration of victims of trafficking.

The SSHC registers and carries out screening interview with a presumed victim by staff of the same gender if possible, using the **Victim of Trafficking Screening Form (Annex C)**, regardless of the residence / migratory status of the victim and whether he/she is willing to formally report the case to law enforcement.

Only trained and experienced staff can conduct victim of trafficking screening interviews to determine the status of a presumed victim of trafficking and their needs for assistance. The purpose of the screening interview is to gather information about key elements of human trafficking (act, means and purpose). Information collected from the victim will assist the KPC – DGC to make a determination.

The interview can commence only after the informed consent of the presumed victim has been obtained (See, **Annex C: Victim of Trafficking Screening Form, Section B**). If the victim refuses to provide information and / or seek assistance, they should be provided with information on rights and entitlements and contact details of the competent service in case they decide to ask for assistance in the future. The SSHC should then share non-identifying data with the KPC.

For a foreign victim of trafficking, the presence of interpreter shall be requested by the Public Prosecutor's Office for the victim screening interview if necessary. The interpreter should sign a confidentiality agreement, understand their role and be trained on a victim-centered approach so that he/she can provide adequate language services accurately and sensitively without re-traumatizing the victim. As much as possible, it is recommended to maintain the same interpreter throughout the process.

If the victim comes in contact first with the multidisciplinary team and does not wish to make a report, an interview takes place in the presence of the KPC – DGC for the purpose of information gathering for investigation.

Based on the information gathered from various sources (initial information, screening interview with the victim, SSHC, law enforcement, witness), the KPC – DGC determines the status of a person, if the person is officially a victim of human trafficking or not. The case is discussed in the Cross-Border Crime Action Team, who is to decide whether to initiate a criminal investigation.

4.5. Risk assessment

The provision of assistance to a victim of trafficking carries inherent risks. A risk assessment determines threats to the security and safety of the victim, his/her family or community, and other victims, as well as for NGOs and service providers. It should identify who is potentially at risk, what the risk is, and the consequences if it occurs, the level of risk, and the planned response to address the risk(s). In particular, the risk of violent reprisals by traffickers or their associates against the victim and his/her family constitutes the highest priority for consideration in the assessment, as the consequences can involve serious injuries and even fatalities.

The risk assessment shall begin as soon as the SSHC and KPC have been made aware of a presumed victim of trafficking, even prior to a face-to-face interview. Relevant information can be gathered from multiple sources, such as law enforcement, NGOs, other international organizations, as well as from interviewing the victim directly. A trained staff of the SSHC or KPC can gather relevant information during the screening interview (See, **Annex C: Victim of Trafficking Screening Form Section G**).

Ongoing risk assessment should also be conducted with regard to any potential threats to the physical security of the multidisciplinary team members working with the victim. In particular, updates should be made if the victim agrees to cooperate with law enforcement authorities.

According to the Article 17 of the Memorandum of Understanding (MOU) on cooperation to prevent and combat human trafficking and smuggling which was drawn up between Aruba, Curaçao, Sint Maarten, and Netherlands (2019), if the safety of victims cannot be guaranteed on the island where the investigation takes place, the SSHC will initiate the consultation with stakeholders of the other islands of the Kingdom about the possibility of reception in one of the islands within the the Kingdom. This applies only during the investigation period and is intended to protect the victim.

4.6. Identification of needs

In addition to the risk assessment, the SSHC and KPC will identify the victims' needs using the same Victim of Trafficking Screening Form, in particular, immediate needs, such as shelter, food, clothing, medical care, psychosocial support, legal assistance, and other services. Immediate needs should be identified at the same time as the risk assessment, prior to or at the start of the reflection period. (see more details on 5. PROTECTION, ASSISTANCE, AND REFERRAL – PHASE II).

4.7. Reflection period

A reflection period is intended to allow for victims to recover from the trafficking experience and to make an informed decision as to whether to cooperate formally with law enforcement. Both

national and foreign victims of trafficking are granted a reflection period of up to 15 days⁵ in a shelter or alternative accommodation, considering that survivors of human trafficking often can only express their experiences after a certain period of time to recover.

Rules and procedures in granting reflection period is laid down in the policy document on temporary residence permit for victims and witnesses of human trafficking and smuggling (June 2013).

During the reflection period, foreign victims will have to decide whether they wish to report the human trafficking case, cooperate in criminal investigation, prosecution, trial in the actual instance of the accused, or refrain from doing so.

Foreign victims shall be informed that they can make this decision immediately or after a reflection period of up to 15 days. The reflection period is one-off and will not be extended. They should also be informed that they will be assisted during that time regardless.

The application process for a temporary residence permit cannot be initiated while foreign victims have not yet made their decision whether to cooperate with law enforcement during the reflection period (see 5.7.1. Temporary residence permit).

Victim's consent should be based on information about the overall process of assistance and protection including witness protection, which is provided by the competent authorities in advance. The victim cannot be referred to the competent authorities or the case referred to the prosecutor without having been informed in detail about their rights nor without their consent.

During the reflection period, the victim should have access to services and assistance through a multidisciplinary approach. Care should not be conditional upon cooperation with law enforcement.

The reflection period ends:⁶

- a. if the victim left for an unknown destination during the reflection period phase;
- b. if, during the reflection period, the victim indicates to refrain from making a report, cooperating with a criminal investigation, prosecution, or trial of the accused;
- c. if the victim has made a report of human trafficking and has signed the report, and is willing to cooperate in a criminal investigation, prosecution, or trial of the accused.

4.8. Case reporting

After KPC/Public Prosecution Service (OM) have carried out an investigation and have established that there are sufficient hard facts, there may be a case report.

OM will take the case to the Ministry of Justice, where it will be notified in writing. The following details of the victim/case shall be recorded:

- | | |
|-------------------|---------------|
| • Name, last name | • Telephone # |
| • Date of Birth | • Copy of ID |

⁵ Minister van Justitie, Concept beleidstuk inzake vergunning tot tijdelijk verblijf ten aanzien van slachtoffer en getuige-aangever Mensenhandel/mensensmokkel. The policy document on temporary residence permit for victims and witnesses of human trafficking and smuggling (2013).

⁶ Idem.

- Address
- Place of birth
- Profession
- Brief description of the case

4.9. Data collection and management

Data collection and management are crucial components in addressing human trafficking. Personal data and trafficking histories are important information enabling service providers to provide appropriate assistance and protection to the victim of trafficking. Collected data (both quantitative and qualitative) through various methods (hotlines, face-to-face victim of trafficking screening interview, etc.) can inform the Curaçao government to understand the trends and patterns of human trafficking, and design national policies and strategies. Anonymous data can be used in various migration research.

4.9.1. Data protection

Personal data must be treated with the highest levels of data protection, care and confidentiality. It is of the utmost importance that all data collection adheres to data protection principles that recognize both the right of individuals to protect their data and the need of relevant stakeholders to collect and use the data for policy development or appropriate interventions.

Any type of disclosures of personal data should be evaluated on a case-by-case basis, ensuring data security and with measures to control and monitor the access to data. Statistical analysis should be anonymous to avoid the possibility of tracing the individuals or groups of people. It is advisable to use aggregated and anonymized data.

Secure methods of transmission of data should be adopted by applying encryption when using email and limiting written communications to authorized persons on a 'need to know' basis.

4.9.2. Data management

The SSHC and KPC shall coordinate in collecting and sharing the data about trafficking victim. The data collected by the SSHC and KPC through Victim of Trafficking Screening Form shall be centralized in database timely. The KPC provides trafficking victim related data to the SSHC who will manage the data, analyze and produce reports with statistics and findings on a quarterly basis.⁷

4.10. Special considerations for children

In case a presumed victim of trafficking is a child below the age of 18, a child-sensitive approach must be employed, and the Guardianship Board needs to be contacted regardless of whether the child is being accompanied by his/her parent(s). It is sometimes difficult to know whether a person is a child. If there is doubt about the age, the presumption is that the victim is a child.

Parents, caregivers, guardians

A parent/caregiver should also be present, if there is no suspicion or knowledge of involvement in the child's trafficking. An adult accompanying a child may not be the child's parent or

⁷ MOU on cooperation to prevent and combat human trafficking and smuggling which was drawn up between Aruba, Curaçao, Sint Maarten, and Netherlands (2019). Article 16: Organizations responsible for victim support work together in assisting victims of human trafficking, with a view to providing more targeted assistance, including free assistance and medical care. Organizations responsible for victim support report their findings to the respective National Coordinator of Human Trafficking, at least once a year.

caregiver but a trafficker. The relationship between adults and children should be assessed. When there are reasonable grounds of concern for the child's safety, welfare or well-being, the social worker/legal guardian serves the right to request to postpone or terminate the interview.

Unaccompanied child victims

In case there is an unaccompanied child victim below the age of 18, the SSHC contacts the Guardianship Board for any legally required procedures in order to protect the best interest of the child. The Guardianship Board immediately arranges the authority by means of temporary supervision. The interview is carried out in the presence of the social worker/legal guardian. The Guardianship Board arranges a shelter in a boarding school where meals, medical and psychological assistance are provided.

Interviewing child victims

Interviews with child victims should be carried out in a child-friendly space and in an age and gender-sensitive manner, in the language of the child or in a language that the child understands. Particular attention shall be given to understanding the reasons for the child being separated or unaccompanied, as well as to the identification of his/her particular needs and vulnerabilities.

The Guardianship Board has a responsibility to ensure that only specifically trained staff should be allowed to question child victims. As much as possible, interviews should be conducted by staff of the same gender as the child victim, dressed in civilian clothes, trained in conducting child friendly/sensitive interview methods and knowledgeable about the issue of child trafficking. In all cases regarding child victims, the Guardianship Board must be contacted for advices.

4 PROTECTION, ASSISTANCE AND REFERRAL – PHASE II

5.1. Referral

It is the duty of all those who come in contact with victims of trafficking, during the time of first information, rescue, and screening interview, to coordinate and integrate all their activities so that victim's needs and concerns are addressed. A well-coordinated first response ensures that the 'best interests' of the victim are respected and no further harm is caused.

Referral systems are necessary because victims of trafficking have a wide array of needs and it is unlikely that any one government agency or service provider can meet them all. Coordination is thus essential to ensure that victims can access the protection and assistance that they need.

The SSHC, in collaboration with the Ministry of Social Development, Labor and Welfare (SOAW), liaises with various agencies and service providers to make the necessary referrals for victims of trafficking in Curaçao. See **Annex A: Flow diagram of process and stakeholders** and **Annex D: Contact list of human trafficking stakeholders and service providers**.

Assistance needed by each victim will depend on the individual victim's situation and profile. Types of assistance and services may include the following:

- Basic emergency care: food, hygiene materials including pads, clothing, etc.
- Shelter
- Medical care: medical examination, testing, treatment, medication, counselling, etc.
- Psychological support therapy and counselling, etc.

- Child protection: guardianship, best interest determination, family tracing, access to education, etc.
- Temporary residence permit
- Legal assistance: support (by the SSHC) to claim compensation for the damage incurred, etc.
- Interpreter
- Consular assistance
- Livelihood assistance: vocational training, job placement, etc.
- Return and reintegration

5.2. Shelter

According to the decision of the Council of Ministers signed 24 February 2019, the Ministry of Social Development, Labor and Welfare (SOAW) is responsible for housing the victims of trafficking.

The SSHC contacts the shelter to arrange accommodation for a victim of trafficking.

Only adult female victims and their children (girls and boys) up to the age of 12 can stay in the shelter. Children older than 12 years become a case to be discussed. The maximum period of stay in the shelter is three months.

The SSHC is responsible for collecting meals from the Curaçao Centre for Correction and Detention (SDKK) and deliver to the victims in the shelter.

Victims shall be provided with means of communication (phones and access to internet) in order to contact families and access information freely.

If the victim does not wish to be housed in a shelter, the SSHC and KPC - Organized Crime Division makes joint arrangements considering the safety of the victim and risks associated with the specific case. The SSHC will be in charge of transportation of the victim to the shelter.

The SSHC will maintain contact with the victim in case of staying in a private accommodation with family or friends or in a reception center temporarily.

If there is a large group of victims or if there are male victims, alternative accommodation will be arranged. Any adult male victims will be taken care of separately. Victims of trafficking shall not be detained at a police station or held in an immigration detention center.

In case of child victims of trafficking, the KPC, SSHC, and SOAW shall contact and seek advices of the Guardianship Board in accordance with the guideline on the care of children.⁸ Efforts shall be made to house family members together, when it is in the best interests of the child. Children shall not be placed in detention facilities.

5.3 Medical care

Victims may experience particular medical problems due to the ill treatment and exploitation they experienced during the trafficking period. A medical examination is relevant for both victims who look ill and those who seem healthy.

⁸ Internal circular no. 2019/019039

According to the decision of the Council of Ministers on 27 February 2019, the Ministry of Social Development, Labor and Welfare (SOAW) is responsible for the medical costs including the medical insurance.⁹

The SSHC, in collaboration with the SOAW, arranges medical examination for the victim as soon as possible. It must be ensured that informed consent of the victim is obtained before medical examination. However, under circumstance where the person's life is in danger or where the victim is incapable of giving consent due to a compromised state of consciousness or mental status, the medical care providers may provide required medical treatment to save the life.

The SSHC also arranges referral to relevant medical care services (for treatment, etc.) based on the needs of victims. Victims at shelter shall have access to medical care services as required including but not limited to general and chronic or specialized illnesses including treatment for victims with HIV/AIDS.

5.4. Psychological support

The mental health impact of human trafficking is often entrenched and has long-lasting effects. Many victims have experienced traumatic or abusive experiences before they were trafficked, in the process of being trafficked and while they are in the phase of exploitation. Such experiences may be traumatic and may affect the mental well-being of victims.

Psychological support for victims of trafficking must be based on an understanding of the psychologically painful experience of the victims and their resiliency to enable a focus on assisting them to recover fully while re-establishing their lives. Psychosocial support may include general counselling and trauma-focused therapy. Counselling should only be provided by appropriately trained personnel in their own language.

Victims should have access to counselling services as needed, throughout the period they stay at the shelter or alternative accommodation. Victims also should be provided with an interpreter during counselling sessions and medical visits. In case the victim needs psychological support, the SSHC is to refer him/her to the Fundashon Perspektiva I Sostén Integral (PSI-Skuchami).

5.5. Legal assistance

Victims of trafficking need access to justice to make sure their human rights are upheld. They may have limited knowledge or understanding of the law and could be unaware how to seek justice even if they wanted to. Others may simply be too traumatized or frightened of traffickers to press charges. Some victims may simply have no trust in the legal system.

As such, victims should be given information, during the reflection period, about the laws, their rights, obligations, the risks and benefits of cooperating with law enforcement agencies, the possibility of pressing charges against the traffickers, and the possibility of protection during investigation and trial.

Victims testifying against traffickers might require additional counselling and support prior to, during and after their testimony. Service providers should arrange for special counselling sessions to avoid re-traumatization and to ensure effective cooperation and participation of the victims throughout the process.

⁹ Internal circular no. 2018/050333 and 2018/050291

The SSHC can represent the victims during the trial to claim compensation for the damage incurred (physical, emotional, psychological, or financial) during and after the phase of exploitation. The SSHC can also provide emotional support to the victims during the trial.

In case victims wish to receive information about the ongoing investigation, legal assistance, or compensation, the DGC provides those services and facilitates an appointment with a legal case officer or the public prosecutor who handles the case.

5.6. National victims

Those who are registered in Curaçao - including citizens of Curaçao and holders of a long-term /permanent residency permit are referred to as national victims of trafficking in this SOP. After being identified as a victim of trafficking, national victims will be given a reflection period of up to 15 days living in a safe home or shelter receiving medical and psychological assistance and initiating counselling before returning to their families or homes and deciding whether they wish to cooperate in investigation or prosecution.

If the national victim does not wish to be housed in a shelter, the SSHC and KPC - Organized Crime Division makes joint arrangements considering the safety of the victim and risks associated with the specific case. The SSHC will be in charge of transportation of the victim to the shelter or alternative accommodation. The SSHC will maintain contact with the national victim in case of staying home, in a private accommodation with family / friends, or in a reception center temporarily.

Where possible, national victims shall be referred to service providers in their communities. Even though services are provided by other service providers, a social worker shall be appointed to the victim to supervise the coordination of services and provide any necessary follow up to secure legal documents or to initiate legal proceedings.

If the provision of assistance has concluded or victims have declined the receipt of assistance, they will be supported to return to their home community, if their security situation permits.

A risk assessment must be done to identify any potential risk related to safety, isolation, discrimination, re-victimization, or re-exploitation that the victim may face if returned to their home communities. Plans shall be developed with the victim as to how those risks can be mitigated if they still decide to return to their home community.

According to the Article 17 of the Memorandum of Understanding (MOU) on cooperation to prevent and combat human trafficking and smuggling which was drawn up between Aruba, Curaçao, Sint Maarten, and Netherlands (2019), if the safety of victims cannot be guaranteed on the island where the investigation takes place, the SSHC will initiate the consultation with stakeholders of the other islands of the Kingdom about the possibility of reception in one of the islands within the the Kingdom. This applies only during the investigation period and is intended to protect the victim.

Ongoing communication between the SSHC and the referring and receiving service providers in the victims' home community shall be undertaken to coordinate travel and to facilitate arrival assistance, upon the consent of the victim to the receipt of arrival assistance.

The SSHC and other collaborating agencies must ensure that there will be safe accommodation for the victim in the home community. The SSHC case worker/social worker shall accompany the victims return to their home community. The SSHC, in collaboration with the SOAW, will provide follow-up care and support to the victim to ensure their reintegration into their home community.

5.7. Foreign victims and witnesses

International law provides for States to enact legislation to permit victims of trafficking to remain within the country temporarily or permanently, including on the grounds of humanitarian and compassionate factors. In Curaçao, the policy document on temporary residence permit for victims and witnesses-declarant of human trafficking and smuggling (June 2013)¹⁰ lays down the rules, conditions, and procedures for granting a temporary residence permit.

The identified foreign victim of trafficking will have following options:

- a. remain in Curaçao temporarily to cooperate with law enforcement in the investigation or prosecution of the traffickers (see 5.7.1 Temporary residence permit - eligibility);
- b. return to his/her country of origin (see section 8: Return and Reintegration);
- c. seek temporary protection in one of the islands within the Kingdom in the Caribbean, in case there is a risk that the victim may be threatened by the suspect/offender during their temporary stay in Curaçao (the SSHC will initiate the procedure).¹¹

When the decision is to return, ensure safe and voluntary return of trafficked persons by both Curaçao and the country of origin. SSHC will be responsible for assisting the return in collaboration with the International Organization for Migration (IOM). Trafficked persons shall be offered legal alternatives to return in cases where it is reasonable to conclude that such return would pose a serious risk to their safety and/or to the safety of their families.¹²

The victim has the possibility to apply for protection under Article 3 of the the European Convention on Human Rights (ECHR) if he or she can demonstrate that he or she shall be subjected to torture, inhuman, degrading treatment or punishment in their country of origin.¹³ The granted temporary residence permit for the victim of human trafficking will be revoked as soon as the application process for protection under Article 3 of the ECHR has started.

5.7.1. Temporary residence permit

If a foreign national is involved or if there is a related immigration issue; KPC requests confirmation from the Border and Immigration Authority about the individual's immigration status and identity. Embassy, Consular Representative or Interpol may also be contacted.

A foreign victim who cooperates with the criminal investigation is given a temporary residence permit during the investigation. The person is also needed as a witness and could be asked to testify during the trial. The National Coordinator of Human Trafficking will issue an application to the Admission Office.

¹⁰ The policy document on temporary residence permit for victims and witnesses of human trafficking and smuggling (2013).

¹¹ The Memorandum of Understanding on cooperation to prevent and combat human trafficking and smuggling which was drawn up between Aruba, Curaçao, Sint Maarten, and Netherlands (2019). Article 17.

¹² UN Office of the High Commissioner for Human Rights (OHCHR), Recommended Principles and Guidelines on Human Rights and Human Trafficking, 20 May 2002, E/2002/68/Add.1

¹³ Policy concerning the procedure to be followed in case of a request for protection pursuant to article 3 ECHR June 2019 no. 27

Eligibility and conditions

According to the policy document on temporary residence permit for victims and witnesses of human trafficking and smuggling, a foreign victim who does not have a lawful permit to stay in Curaçao may make use of a scheme that allows him/her to be eligible for a temporary residence permit. This arrangement applies as an option on the condition that the victim reports the crime and expresses his/her willingness to cooperate in the criminal investigation or prosecution.

Application process

After the victim made a report and indicated his/her cooperation in the criminal investigation, the National Coordinator of Human Trafficking will issue an application to the Admissions Office (NTO).

NTO examines the application and eligibility in accordance with the rules of the legislation. The Ministry of Justice takes care of the legal costs of a temporary permit. NTO will start the process once the fees are paid and the decision is made whether a temporary residence permit can be granted to a victim of trafficking on the basis of Article 26 of the National Admission and Deportation Ordinance (LTU).¹⁴

Duration of validity

In principle, the temporary residence permit is granted for a maximum period of one (1) year in total.¹⁵ The temporary residence permit is initially granted for a maximum period of six (6) months. Extensions may be granted for up to a maximum duration of another six (6) months. The temporary residence permit is valid as long as there is an ongoing criminal investigation or prosecution into or trial of actual proceedings of the suspect of the criminal offence of which the report has been made or to which cooperation has been otherwise provided.

As soon as the criminal case is dismissed by the Public Prosecution Service (OM) or no appeal has been lodged against the decision of the Court in First Instance of Curaçao in the trial against the accused, or the Joint Court of Justice of Curaçao, Sint Maarten and of Bonaire, Saint Eustatius and Saba has ruled, the ground for the temporary residence permit will lapse. OM will report this to the NTO, as well as the victim of trafficking. NTO will then revoke the temporary residence permit.

5.7.2. Witnesses

A temporary residence permit may be granted to witness-declarant, subject to a restriction related to the prosecution of human trafficking, if:

- a. the foreign national has witnessed human trafficking;
- b. the foreign national has made a report on the matter;
- c. there is a criminal investigation, prosecution, or trial of the accused; and
- d. if the Minister of Justice considers that the stay in Curaçao of the witness-declarant is necessary in the interest of the investigation or prosecution of the accused.

Witnesses are foreign nationals who are not themselves victims of trafficking but who have witnessed it. Witness-declarants may be foreign nationals who are themselves working in the same sector as the victim. They may also be persons who work outside this sector and who have

¹⁴ Article 26 of the National Admission and Deportation Ordinance (LTU). In exercising the powers conferred on him by this national ordinance, the Governor shall observe the general instructions given to him by the Minister of Justice in the interest of safety and the public interest (unofficial translation).

¹⁵ The policy document on temporary residence permit for victims and witnesses of human trafficking and smuggling (2013).

knowledge of human trafficking. Only those witness-declarants who do not have a valid residence permit in Curaçao can apply for a temporary residence permit.

The witness-declarant of human trafficking shall be exempt from paying fees for the submission of a temporary residence permit related to human trafficking. An application for a temporary residence permit is submitted to the Admission Office.

As far as the witness-declarant is concerned, the Public Prosecution Service (OM) has the authority to decide whether a temporary residence permit will be granted or not, taking into account whether the presence of the declarant witness in Curaçao is desirable for the investigation and prosecution of the accused.

Duration of validity

In principle, the temporary residence permit for witness-declarant is granted for a maximum period of one (1) year in total. The temporary residence permit is initially granted for a maximum period of six (6) months. Extensions may be granted for up to a maximum duration of another six (6) months.¹⁶ The temporary residence permit is valid for as long as the Public Prosecutor considers the presence of the foreign national in Curaçao necessary.

As soon as the OM no longer considers the witness-declarant's presence in Curaçao necessary, the ground for the temporary residence permit relating to human trafficking will cease to apply.

The above also applies if: the criminal case is dismissed by the OM; no appeal has been lodged against the decision of the Court of First Instance of Curaçao in the trial against the accused or; the Joint Court of Aruba, Curaçao, Sint Maarten and of Bonaire, Sint Eustatius and Saba has ruled.

The OM will report this to the NTO and the witness-declarant. The NTO will then revoke the temporary residence permit. The SSHC will inform the victim beforehand so he/she is prepared.

5.7.3 Family of victim or witness

The following dependent family members on the island are also eligible for a temporary residence permit, on the ground of family reunification.

- a) biological children of the victim or the witness declarant;
- b) who actually belong to the family of the victim or the witness;
- c) who actually belong to the family of the victim or the witness already in the country of origin;
- d) who are under the legal authority of the victim or the representative and;
- e) dependent spouse, if any.

The valid period of a temporary residence permit issued to the child shall be the same as that of his/her parent who is a victim or witness-declarant.

5.7.4. Trafficking victims who are unable to return to their country of origin

Some victims of trafficking might fear returning to their country of origin where they may face life-threatening danger or persecution, therefore, they are unable to return home. Victims of trafficking and those at risk of trafficking must not be forcibly returned to their country of origin where they fear being re-trafficked or subjected to stigma, threats, intimidation, violence and

¹⁶ The policy document on temporary residence permit for victims and witnesses of human trafficking and smuggling (2013).

retaliation.¹⁷ In case a victim of trafficking wishes to seek protection in Curaçao, he/she may do so pursuant to the policy regarding the procedure to be followed in case of a request for protection under Article 3 of the ECHR (June 2019).¹⁸ The granted temporary residence permit for the victim of human trafficking will be revoked as soon as the application process for protection under Article 3 of the ECHR has started.

6. INVESTIGATION – PHASE III

Investigation seeks to determine evidence of the offence of human trafficking under the law: Act, Means, and Purpose. Investigation should be carried out through a victim centered approach. Interviews and evidence gathering can only be done with the informed consent of the victim. Interpreters should be provided in case of a foreign victim. As a recommended practice, victims will not confront their trafficker in camera. A victim can provide a written statement in advance should the circumstance require. The SSHC/KPC can provide the statement in the court on behalf of the victim.

All material and non-material (corroborating) evidence from the scene(s) of crime need to be collected and linked through investigation to the office of trafficking e.g. other testimonies, supporting documentary evidence, mobile phone records, video, photographs, etc.

6.1. Action Team Cross-Border Crime

Under the leadership of the Public Prosecution Service (OM), KPC - DGC conducts the evidence gathering and criminal investigation. Under the chairmanship of the OM, a further working mechanism is put in place. The Action Team Cross-Border Crime is composed of the KPC, Royal Netherlands Marechaussee (KMar), and Criminal Investigation Cooperation Team (RST).

After the victim of trafficking has been reported to the KPC - DGC and SSHC, they will make arrangements together regarding the date, place, and time for the hearing of witness with due consideration to victim's state of mind. The interrogation will be conducted by the Action Team Cross-Border Crime.

Any further interviews of the victim will also be coordinated between the KPC - DGC and SSHC. Such further questioning of witnesses should not take place in a shelter, but preferably in a (nearby) police station. In order to ensure the safety of victim and not to disclose the location of shelter, the SSHC/KPC will take care of transport to and from the place where the witness will be examined.

As the aggrieved party, the victim has the possibility to appeal for a compensation. The process will commence in consultation with the Public Prosecution Service (OM). The SSHC will contact the OM to sort out whether a victim of trafficking as the aggrieved party can appeal in the criminal case against the suspect(s).

¹⁷ UN Committee on the Elimination of Discrimination Against Women (CEDAW), General recommendation No. 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women, 5 November 2014, CEDAW/C/GC/32

¹⁸ Curaçao is a party to the European Convention on Human Rights (ECHR), and the *non-refoulement* principles resulting from the Article 3 of the ECHR applies to Curaçao. Article 3 of the ECHR provides: “No one shall be subjected to torture or to inhuman or degrading treatment or punishment.” Foreign nationals including the victims who are in need of international protection must not be *refouled* to a territory where they are subject to a treatment prohibited by Article 3 of the ECHR.

Further arrangements will be made regarding the procedures for providing information on the progress of the criminal case, session date, time, and outcome of the criminal case and the possibilities of submitting a claim for compensation.

For the actual payment of a claim for damages awarded by the criminal court, the usual rules of civil law apply.

Following the risk assessment, victims who do not wish to prosecute will be provided with information about return and possible reintegration assistance.

6.2. Special considerations for children

In the interest of the unaccompanied child victim below the age of 18, the Guardianship Board may request foreign representatives (embassies/consulates/honorary consuls) or provide the possibility to be present at the hearing of witnesses for moral support of the victim, insofar as the criminal investigation allows. The SSHC and KPC-DGC will coordinate this on a case-by-case basis, taking all circumstances into account.

If necessary, for the case of child victim under the age of 12, the hearing of witnesses will take place in a child-friendly studio at the Department of Youth of the KPC.

7. RETURN AND REINTEGRATION – PHASE IV

Victims must be provided with enough information about the options, procedures and timelines so that they can make informed decisions about what will best suit their situation. State or other stakeholders shall not return any victim of trafficking to a situation where they would be in danger or face harm but shall make plans for the safe return of victims when possible.

7.1. Return

If a victim of trafficking wishes to return to his/her country of origin or if the temporary residence expires, the Curaçao Police Force - Aliens Unit (UV) will arrange the departure. Foreign Relations Department (DBB) contacts victims' foreign representatives (embassy/consulate) or relevant authorities in victims' country of origin/residency (in case there is no presence of foreign representative in Curaçao), if necessary, to request assistance in arranging travel and safe accommodation in the country of origin.

Authorities in country of origin are consulted on presumed travel arrangements and (any other issues) return procedures are confirmed and date of return is set. The date of departure will be agreed with the KPC-DGC and will be communicated to the victim by the SSHC.

In case the victim does not have travel and/or identity documents, the SSHC, through the Foreign Relations Department (DBB), will arrange a laissez-passer with the foreign representative of the country of origin.

In case it is not possible to arrange the voluntary return through international cooperation between the countries, the SSHC will contact the International Organization for Migration (IOM) to request assistance. The SSHC will complete the forms as requested by IOM.

Reintegration support (e.g. social support, vocational training, income generation) may be provided by relevant authorities or civil society organizations. However, assistance depends on the available resources and the needs of the victim, therefore each case will be assessed. It is essential to give the victim a realistic picture of the options and possibilities available, and not to give rise to unrealistic expectation that could be detrimental to the effective reintegration.

The victim of trafficking will stay in the shelter or in a private accommodation until the day he/she is to return. The SSHC and KPC – UV will escort the victim to the airport.

In coordination with the KPC - UV in the international airport (Hato), the victim is escorted to the airport waiting area until the boarding.

7.2. Special considerations for children

Returning an unaccompanied child victim to his or her parents may not always be in the best interest of the child (the parents could be complicit in trafficking). Where there is a reasonable risk that a return would lead to the violation of fundamental human rights of the child, and when the results of the best interest determination process does not recommend that the child victim returns to his/her family, alternative option needs to be explored.

The best interest of the child is the prevailing factor in any determination related to presumed child victims. All returns must be consistent with respect for the rights of the child victims and arranged in coordination with the country of origin, through international cooperation between countries. The decision to return should be made considering relevant factors: the child the safety, security, health, housing, child's educational and developmental needs, as well as situation of the family and their willingness to be reunited with the child.

To this end, family tracing shall be conducted only after the risk assessment (to determine whether a family member was involved in the trafficking of the child or in other forms of abuse or exploitation), prior to returning the unaccompanied child victim.

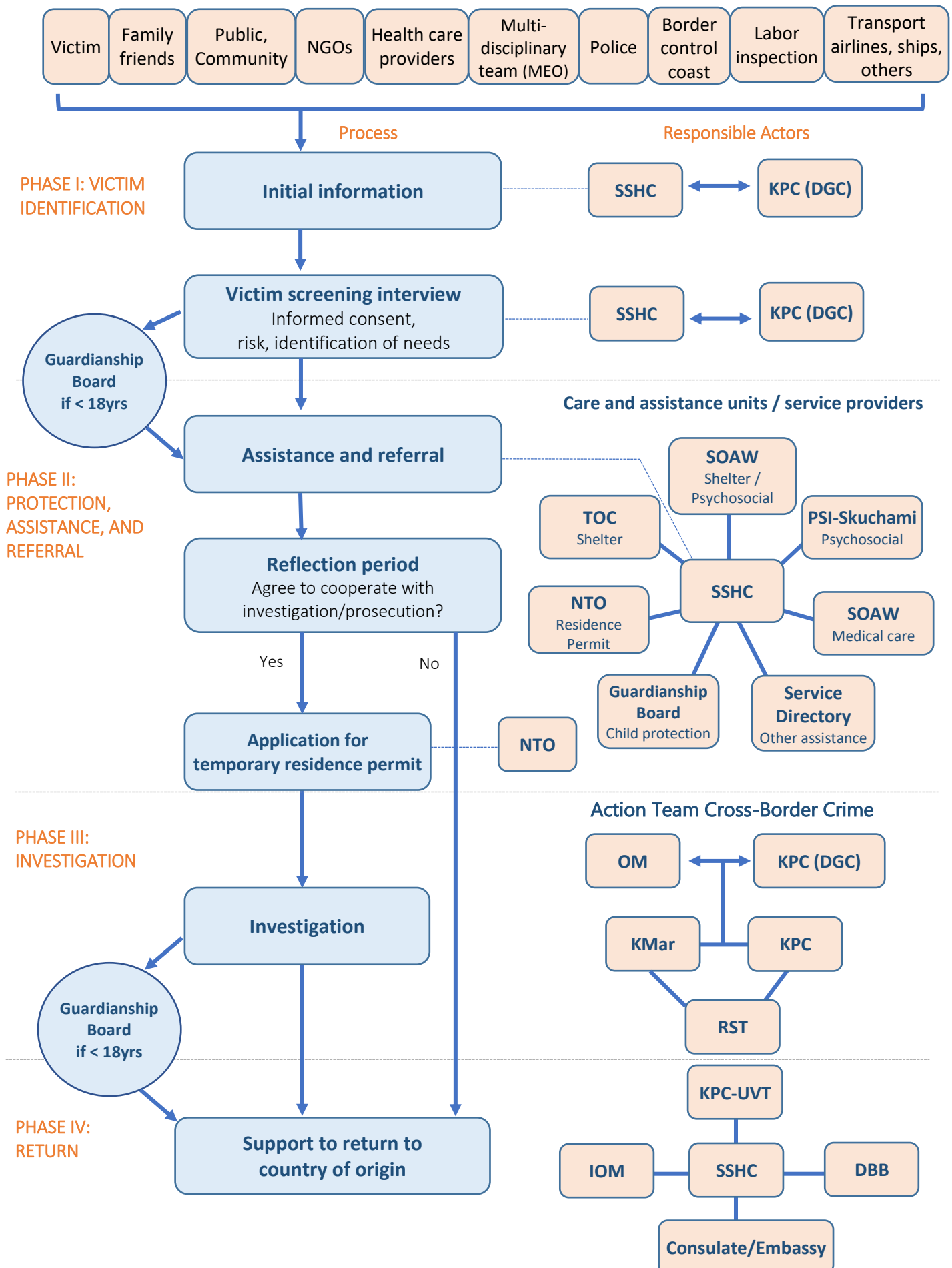
The transport and return of an unaccompanied child victim are arranged by the SSHC in coordination with the Guardianship Board and foreign representatives (embassy/consulate/honorary consul).

7.3. Communication with foreign representatives

If foreign representatives have questions about a national, who is a (presumed) victim, they will contact the DBB. The DBB then contacts the government agencies and reports back to the foreign representatives.

Annex A: Flow diagram of process and stakeholders

Anyone can provide initial information about trafficking case **Hotlines:** SSHC +599 9678 4552 / KPC TIP Line108



Annex B: Article 2:239 of New Penal Code in Curaçao

1. A person is guilty of human trafficking and is punishable by a term of imprisonment of not more than nine years or a fine in the fifth category where he/she:
 - a. recruits, transports, transfers, accommodates or admits another person by means of coercion, violence or another act or by threat of violence or threat of another act, or by means of blackmail, fraud, misrepresentation or abuse of authority arising from an existing relationship, or by abuse of a vulnerable position or by giving or receiving payment or benefits in order to gain the agreement of a person who has control over that other person, with the intent of exploiting that other person or removing his organs; or
 - b. recruits, transports, transfers, accommodates or admits another person with the intent of exploiting that other person or removing his organs, where that other person has not yet reached the age of eighteen; or
 - c. recruits, takes or kidnaps another person with the intent of having that other person make himself available for the performance of sexual activities with or for a third party, in a different country, in return for payment;
 - d. coerces or encourages another person, by one of the means specified in part a, to make himself available for the performance of work or service or to make his organs available or, in the circumstances mentioned in part a, undertakes any act that he knows or reasonably should suspect will result in that other person making himself available for the performance of work or service or making his organs available; or
 - e. causes another person to make himself available for the performance of sexual activities with or for a third party, in return for payment, or to make his organs available in return for payment, or undertakes any action in relation to another person that he knows or should reasonably suspect will result in that other person making himself available for those activities or making his organs available, where that other person has not yet reached the age of eighteen, or
 - f. intentionally derives any benefit from the exploitation of another person; or
 - g. intentionally derives any benefit from the removal of another person's organs, where he knows or should reasonably suspect that that person's organs had been removed in the circumstances specified in part a; or
 - h. intentionally derives any benefit from another person's sexual activities with or for a third party in return for payment or from the removal of that other person's organs in return for payment, whether that other person has not yet reached the age of eighteen; or
 - i. coerces or encourages another person, by one of the means specified in part a, to benefit himself from the proceeds of that other person's sexual activities with or for a third party or from the removal of that other person's organs.
2. Exploitation includes, in any event, the exploitation of another person in prostitution, other forms of sexual exploitation, coerced or obligatory work or services, slavery and practices similar to slavery or servitude.
3. The convicted person is punishable by a term of imprisonment of not more than twelve years or a fine in the fifth category, where:
 - a. the offences described in paragraph 1 are committed by two or more persons in association;
 - b. the person against whom any of the offences described in paragraph 1 is committed has not yet reached the age of sixteen.
4. The serious offences described in paragraph 1, committed by two or more persons in association in the circumstances specified in paragraph 3 at b, are punishable by a term of imprisonment of not more than fifteen years or a fine in the fifth category.
5. Where serious bodily injury ensues from any of the offences described in paragraph 1, or where the offence gives rise to fear for the life of another person, a term of imprisonment of not more than eighteen years or a fine in the fifth category may be imposed.

6. Where the death of a person ensues from any of the offences described in paragraph 1, a term of imprisonment of not more than twenty-four years or a fine in the fifth category may be imposed.

Annex C: Victim of Trafficking Screening Form

A. REGISTRATION

Registration number: _____

Date: dd / mm / yyyy Location: _____

Referring authority / agency/ organization: _____

Name of referrer: _____

Name of interviewer: _____

Name of authority / organization interviewer works for:

Interpreter used? (Yes / No) If yes, name of interpreter: _____

B. INFORMED CONSENT

Has the individual been informed of the purpose of the interview?

- ✓ If yes, go to next question
- ✓ If no, inform of purpose

Has the individual been informed on the actual and potential use of the data that will be gathered during the interview?

- ✓ If yes, go to next question
- ✓ If no, inform of use

Has the individual been informed on use of non-identifying data for statistics and research purposes?

- ✓ If yes, go to next question
- ✓ If no, inform of use

Does the individual consent that collected information will be shared with law enforcement?

- ✓ Yes, full information can be shared
- ✓ Yes, but only non-identifying data can be shared
- ✓ No, the individual does not wish any data to be shared

Does the individual consent to conduct the interview?

- ✓ If yes, complete signature section below
- ✓ If no, terminate interview and provide information about available service.

If the individual is a minor, has the consent of the parent / guardian been obtained? () Yes () No

- ✓ If yes,

Name of guardian / authority: _____

Relationship to child: _____

- ✓ If no, obtain first the permission of legal guardian before proceeding with the interview.

Interviewer Signature: _____	Date: dd / mm / yyyy
------------------------------	----------------------

C. INDIVIDUAL INFORMATION

1. Name	<div style="display: flex; justify-content: space-between; font-size: small; margin-bottom: 5px;"> Given name Family name Middle name </div>		
2. Sex	Male ()	Female ()	Other (write exactly how the person describes themselves):
3. Date of Birth, age, guardian for child	<div style="display: flex; justify-content: space-between; font-size: small; margin-bottom: 5px;"> dd / mm / yyyy Age () </div> <div style="display: flex; justify-content: space-between; font-size: small; margin-bottom: 5px;"> () Minor () Adult </div> <div style="font-size: small; margin-bottom: 5px;">If minor, name of parent or guardian:</div> <div style="display: flex; justify-content: space-between; font-size: small;"> Given name Family name Middle name </div>		
4. Accompanying persons	<div style="font-size: small; margin-bottom: 5px;">4.1. Do you have children under the age of 18? () Yes () No</div> <div style="font-size: small; margin-bottom: 5px;">4.2. Are you staying with your children in Curaçao () Yes () No</div> <div style="font-size: small; margin-bottom: 5px;">4.3. Is there anyone accompanying you? () Yes () No</div> <div style="font-size: small; margin-bottom: 5px;">If yes, what is the relationship, please explain?</div> <div style="font-size: small; margin-bottom: 5px;">4.4. Name(s) and relationship of accompanying family member:</div>		
5. Place of Birth	<div style="display: flex; justify-content: space-between; font-size: small;"> Country: Town/City: </div>		
6. Nationality / Citizenship			
7. Place of habitual residence			
8. Ethnicity			
9. Language	<div style="font-size: small; margin-bottom: 5px;">9.1. What language(s) does he/she speak?</div> <div style="font-size: small; margin-bottom: 5px;">Native language: _____ Others: _____</div> <div style="font-size: small; margin-bottom: 5px;">9.2. What is the language of the interview?</div> <div style="font-size: small; margin-bottom: 5px;">() Papiamentu () Dutch () Spanish</div> <div style="font-size: small; margin-bottom: 5px;">() English () If other, please specify:</div>		
10. Education	<div style="font-size: small; margin-bottom: 5px;">() early childhood education</div> <div style="font-size: small; margin-bottom: 5px;">() primary education</div> <div style="font-size: small; margin-bottom: 5px;">() secondary education</div> <div style="font-size: small; margin-bottom: 5px;">() higher education</div>		
11. Marital status	<div style="display: flex; justify-content: space-between; font-size: small; margin-bottom: 5px;"> () single () widowed </div> <div style="display: flex; justify-content: space-between; font-size: small;"> () married () co-habiting </div>		

	() divorced
12. Identity / travel documents	<p>12.1. Identify or travel documents are with you? () Yes () No</p> <p>Type: _____ Number: _____</p> <p>Issuing country: _____ Expiry: d d / m m / y y y y</p> <p>12.2. If no, why you do not have? () Never had any () Lost () Someone keep</p> <p>12.3. If someone else has them, who? Please specify.</p>
13. Contact details If minor, contact details of parent or guardian	<p>Phone/mobile:</p> <p>WhatsApp:</p> <p>Email:</p> <p>Current address:</p>

D. MIGRATION PROCESS

14. Can you explain what happened and your current situation?

- ✓ What happened to you? When did you leave your hometown / country? When and how did you arrive in Curaçao? Who were involved in this process? Where do you currently stay, who do you stay with, type of accommodation, how do you make living, your migration status?

**In case of Curaçao national, proceed to question 20.*

15. Why did you leave your country and come to Curaçao?

If the answer is obtained from above question, interviewer can mark below.

- | | |
|-----------------------------|---|
| () Work opportunity | () Poverty at home |
| () Visit family or friend | () Flee from ill-treatment, threat to life |
| () Educational opportunity | () Armed conflict |

- () Family reunification () Violence or serious public disorder
() Marriage () If other, please specify:

16. Did you travel with someone to Curaçao?

- () Alone by myself () With unknown persons
() With my family or friends () If other, please specify:

17. Did anyone help you to arrange travel (visa, flight tickets, transport) to Curaçao?

- () Arranged by myself
() My family or friends helped
() Facilitated by brokers. I have to paid fees to them.
() Facilitated by brokers. I did not have to pay any fees to them in my country.
() Facilitated by brokers. I did not have to pay any fees before, but I have to pay them in Curaçao.
() If other, please specify:

18. How did you arrive in Curaçao (mode of transportation)?

- () By boat () By airplane, Airline: _____
() By cruise ship () If other, please specify:

19. Did you spend any time in transit places/islands/countries: () Yes () No

If yes, please specify in chronological order (including airlines):

E. ELEMENTS OF HUMAN TRAFFICKING

ACT

20. How did the person enter into the situation of human trafficking?

() Recruitment	Did you start this process on your own or did someone recruit you? Did they promise you anything?
() Transportation	If you travelled during this process, did you arrange your own travel or did someone else arrange it for you?
() Harboring	Did you arrange your own accommodations or did someone else arrange them for you?
() Transfer	If someone was arranging this process, did they hand you over or sell you to another person?
() Receipt	Did anyone buy you from or take over from another person arranging this process?

Additional observations, remarks, and notes

MEANS (not available for children)

21. During this process, were you controlled or deceived by other people?

() Yes () No

If yes, please explain how?

22. Was any of following means used during this process?

If the answer is obtained from above question, interviewer can mark below.

Threats	() Did anyone make threats against you or your family? Who made threats? _____ What kind of threats? _____
Use of force	() Did anyone physically use force against you or your family? () Did anyone give you drugs or alcohol to get you to do what they wanted?
Coercion	() Did anyone ever make you feel like you had no choice but to do what they said?
Abduction	() Were you abducted or kidnapped at any time during this process?
Fraud	() Did anyone trick you or lie to you in order to get something from you, like money, or your labor, or sex?
Deception	() Did anyone lie to you or give you a false promise, like a job, better life? () Did anyone pretend to be your boy/girlfriend or lover and lie to you or give you a false promise?
Abuse of power	() Was any person of authority, parent, boss, police, immigration officer, government official, etc., involved in this process and abuse their power?
Abuse of a position of vulnerability	() Do you feel that any person took advantage of your situation such as poverty, debts, irregular immigration status, etc.?
Giving or receiving of payments or benefits	() Do you know if there was any improper exchange of money, favors, labor, or sex, related to this process?

Additional observations, remarks, and notes

PURPOSE

23. Can you tell us about your conditions of work and living, how you were treated, whether you were paid or not, what was promised and what really happened, etc.

24. How was the person exploited (modality and form of exploitation)? If he/she experienced both sexual and labor exploitation, mark all that are applicable. If the answer is obtained from above question, interviewer can mark below.

<input type="checkbox"/> Sexual exploitation	Were you forced to provide sex or any other forms of forced sexual services? If yes, what kind of activity or sector? Mark all that are applicable: <input type="checkbox"/> Forced prostitution, sexual services (including sexual massage) <input type="checkbox"/> Entertainment (dancing, night clubs, etc.) <input type="checkbox"/> Forced pornography including online sexual activities <input type="checkbox"/> If other, please specify:
<input type="checkbox"/> Forced labor or services	Were you involved in forced labor or any other forms of forced services? If yes, what kind of activity or sector? Mark all that are applicable: <input type="checkbox"/> Domestic work <input type="checkbox"/> Care for elderly people <input type="checkbox"/> Agricultural / livestock farming <input type="checkbox"/> Construction <input type="checkbox"/> Restaurant, bar <input type="checkbox"/> Hotel <input type="checkbox"/> Factory work (supply chain, etc.) <input type="checkbox"/> Textile <input type="checkbox"/> Fishing <input type="checkbox"/> Oil refinery <input type="checkbox"/> If other, please specify:
<input type="checkbox"/> Slavery or similar practices	Were you involved in slavery or similar practices similar to slavery? If yes, please describe:
<input type="checkbox"/> Organ removal	Did you have any body part removed? Did you agree to this? Were you paid?
<input type="checkbox"/> Other	Did you experience any other form of exploitation? <input type="checkbox"/> Forced begging <input type="checkbox"/> Criminal activities (selling drugs, etc.) <input type="checkbox"/> Illegal adoption of children <input type="checkbox"/> Forced marriage <input type="checkbox"/> If other, please specify:

25. Were you aware that this was the kind of activity/service/work you would be doing?

() Yes, I was aware. () Yes, I was aware but not in details. () No, I was not aware.

INDICATORS OF CONTROL AND CONDITIONS OF EXPLOITATION

26. During this activity, did you experience any of the following? Select all that are applicable.

- | | |
|---|--|
| () Physical abuse or violence | () Excessive working hours, no days off |
| () Psychological abuse | () Denied medical treatment |
| () Sexual abuse | () Denied food |
| () Threats to you or your family | () Poor living conditions |
| () No freedom of movement | |
| () Cannot leave the work and escape | For forced prostitution / sexual exploitation: |
| () Giving of drugs or alcohol | () Cannot refuse client |
| () Withholding of wages | () Cannot refuse certain acts |
| () Withholding of identity or travel documents | () Cannot use a condom |
| () Debt bondage | () If other, please specify: |
| () If other, please specify: | |

F. IDENTIFICATION

Adult: $\begin{matrix} \text{Act} \\ \boxed{} \end{matrix} + \begin{matrix} \text{Means} \\ \boxed{} \end{matrix} + \begin{matrix} \text{Purpose} \\ \boxed{} \end{matrix} = \text{Victim of Trafficking}$

Minor: $\boxed{} + \boxed{} = \text{Victim of Trafficking}$

27. Are three elements (Act, Means, Purpose) present and linked? () Yes () No () Not known

28. Is he/she a victim of trafficking? () Yes () No () Not known

G. RISKS AND PROSPECTS

29. How do you feel about your current security and safety? Is anyone threatening you or your family?
Who do you think are at risk and what kind of risk?

Interviewer's observations and notes for immediate risk and / or further risk assessment.

**In case of Curaçao national, proceed to question 32.*

30. Do you want to return to your country? () Yes () No

If no, please explain why:

31. Would there be any safety or security concerns to you and your family if you return to your country?

Mark all that applies:

- | | |
|--|---|
| () Detention | () Gender-based violence |
| () Prosecution | () Armed conflict situation |
| () Cannot repay debts, security problem | () Violence or serious public disorder |
| () Fear of retaliation. By who? | () If other, please specify: |
| () Physical violence | |

H. NEED FOR ASSISTANCE AND REFERRAL

32. Is he/she in need of assistance and referral to service providers? () Yes () No

If yes, please mark all appropriate below:

- | | |
|---|---|
| () Accommodation, safe shelter | () Food |
| () Immediate medical attention | () NFIs (clothes, hygiene kit, etc.) |
| () Psychosocial support / counselling | () Interpreter |
| () Legal assistance, access to justice | () Consular assistance |
| () Temporary residence permit | () Child protection (guardianship, family tracing) |
| () Protection (asylum process) | () Education and training |
| () Livelihood, income support | () If other, please specify: |

Interviewer's observations and notes for noticed conditions (bruises, injury, confused thinking, hyperactivity, depression, signs of fear, risk of harm to self or others, etc.) **Any urgent action required, by who?**

Interviewer Signature: _____

Date: dd / mm / yyyy

Annex D: Contact list of human trafficking stakeholders and service providers

Government stakeholders (As of December 2020)¹⁹

Organization	Name / Email	Telephone number	Name (Back up) / Email	Telephone number
Victim Assistance Foundation / Stichting Slachtofferhulp Curaçao (SSHC)	Milouska Everitz sshcm.girigoria@gmail.com info@slachtoffer.org sshcm.everitz@gmail.com	561-7575 461-7575 465-7575 6784552	Xavienne Jordan Sshcx.jordan@gmail.com	521-7575 461-7575 465-7575 678-4552
KPC - Organized Crime Division (DGC)	Said Aljadidi maximus_curacao@hotmail.com	527-1011 461-1499	Wigberto Damiana gibidam1970@hotmail.com	527-4388 461-1499
Public Prosecution Service (OM)	Hester Leepel Hester.Leepele@omcarib.org	5130566 434-2186	David Vrutaal	434-2100
Sentro di Dama (SEDA) Womens' Offices		868-4647	Crisanta Martha crisseda@gmail.com	526-9989 510-0539 868-4211
Guardianship Board	Michella Schotborgh m.schotborgh@voogdijraadcur.net	4616166	X	X-X
Admissions Office (NTO) - Immigration	Saresca Nicolaas Saresca.nicolaas@immigrationcur.org	733-2000 # 2033	X X	X-X
Department of Foreign Affairs (DBB)	Darryllin van der Veen darryllin.vanderveen@gobiernu.cw	4630100	X X	X-X
National Coordinator Human Trafficking	Norman Marchena Norman.marchena@minjustcur.com	7332056		
Curaçao Police Force - Aliens Unit	Albert Schoop albert.schoop@polis.cw	8391350(airport)	Luis Curiel Luis.curiel@polis.cw	

¹⁹ The contact list of human trafficking stakeholders and service providers shall be regularly updated and shared.

Service Directory

Hotlines		
Police	Trafficking (anonymous hotline)	108
	Sexual and domestic violence focal point	911 (afd. Zeden)
	Children's focal point	911 (afd. Jeugd- en zedenzaken)
Victim Assistance Foundation (SSHC)	Family violence hotline Trafficking hotline	4657575/ 4617575 (8-5pm); 678 4552 (hotline) info@slachtoffer.org
Kindertelefoon (skuchami)	Child services hotline	918
MEO (Team economic inspection)	Ronny Cornelis	08001515 / 4333123 ronny.cornelis@gobiernu.cw
Shelters & housing		
Stichting Maatschappelijke Zorg en Herstel	Domestic violence shelter Children & adolescent shelter	5188504 (Ms. Hooi, social worker)/ 7373672/ 5139622 (piket)
Ministry of Social Development, Labor and Welfare (SOAW)	Homeless shelter	4340300 (Social development sector – Ms. Frans)
Don Bosco (temp. in case of natural disaster)	Shelters run by religious or community-based organizations	
Medical or health care		
Famia Plania	Sexual and reproductive health clinics Mobile clinics or outreach services	4611323/ 5111323 faplaniacuracao@hotmail.com
FMA	Alcohol or drug clinics	4615977/ 6705544 (whatsApp) Brasami - 4623053
Fundashon Salu pa Tur	Free primary health care for migrants	5295442 info@salupatur.org
Mental health and psychological		
PSI-Skuchami	Mental health, psychiatric clinics	4336100
Legal		
Aliansa	Refugee or immigrant services	6669973
SOAW – Family and youth	Social support services	4340499
Victim support / Return assistance		
International Organization for Migration(IOM)	Migrant/victim support, emergency response, return assistance	Joeri Arion (IOM Curaçao) jarion@iom.int Rosilyne Borland (Regional Office in San Jose) rborland@iom.int