

Internal protocol for the repatriation of child and adolescent victims of human trafficking

of the General Directorate of Migration and
Foreigners' Affairs



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ABBREVIATIONS

CNA:	Childhood and Adolescence Code.
CNCTIMTP:	National Coalition against the Smuggling of Migrants and Trafficking in Persons.
PENAL CODE:	Penal Code
CPC:	Code of Criminal Procedure
DGME:	Directorate General of Migration and Aliens
ERI:	Immediate Response Team
ESME	Special Migration Situations Team
CSEC:	Commercial Sexual Exploitation of Children and Adolescents.
TWG:	Management of Human Trafficking and

V

INTERPOL:	International Police
LGME:	General Law on Migration and Aliens
MP:	Public Prosecutor's Office
MSP:	Ministry of Public Security
NNA:	Children and Adolescents
IOM:	International Organization for Migration
PANI:	National Child Welfare Agency
PME:	Minor Person
PPM	Professional Migration Police
TIM:	Child Identification Card
UNICEF:	United Nations Children's Fund
UNODC:	United Nations Office on Drugs and Crime

PRESENTATION

With the Costa Rican government's ratification of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, our country assumes the responsibility of developing clear guidelines, compiling and disseminating satisfactory administrative and operational practices to facilitate the identification of victims, the investigation of crimes, and the assistance and repatriation of victims.

The main purpose of this protocol is to improve the professionalization of the different police forces that make up the Public Force and the Professional Migration Police,

The police are a necessary condition for the effectiveness and firmness of any effort aimed at improving citizen security, comprehensive care for the victims of this form of crime and the promotion of social peace in the defense of the very important role of the police officer in addressing this crime.

The implementation of this regulation for our Ministry will be of great value to promote joint work both within and outside the institutions, since it systematizes and supports the efforts made in the coordination of the different sectors involved in the prevention, care and referral of detected cases. It is important to

to indicate that this effort is one more pillar of the many that remain to be built within the National Coalition against the Smuggling of Migrants and Trafficking in Persons, which requires will, commitment and perseverance in its implementation, since our police forces must be solid and clear to continue fighting the growing onslaught of trafficking networks protected and promoted by Transnational Organized Crime.



Mr. Mario Zamora Cordero
Minister of Public Security and
Minister of Government and
Police

INTRODUCTION

In 2007, the "Protocol for the Repatriation of Child and Adolescent Victims of Trafficking" (hereinafter "Inter-institutional Protocol") was approved as a result of the coordination efforts of public institutions of the Costa Rican State, together with civil society organizations and with the support of the United Nations Children's Fund (UNICEF) and the International Organization for Migration (IOM)¹. The objective of this Protocol is:

"to define the general procedures to be followed by the different institutions to repatriate child and adolescent victims of trafficking, when such repatriation is in their best interest, either from foreign countries to Costa Rica or from Costa Rica to foreign countries, based on the principles enshrined in the international and national legal framework and from the guiding approaches contemplated in this Protocol".

The Interinstitutional Protocol establishes, in a transitory article, that the public institutions involved in the repatriation procedure must prepare internal repatriation protocols.

¹ The institutions that participated in the preparation of the Inter-institutional Protocol were: General Directorate of Migration and Alien Affairs, Ministry of Foreign Affairs, Ministry of the Interior, Ministry of Health, Public Ministry, Costa Rican Social Security Fund (CCSS), Ombudsman's Office, National Children's Trust, National Women's Institute, IOM, UNHCR, ILO IPEC Program, Paniamor Foundation, Defense for Children International. Technical coordination was the responsibility of the Regional Unit on Trafficking and Smuggling of Migrants of the IOM Regional Office.

The General Directorate of Migration and Alien Affairs has not only participated and actively contributed to the development of the Inter-institutional Protocol, but has also conducted a series of training and awareness-raising processes for its staff, in order to prepare them to deal with situations of trafficking in minors, in the context of respect for the rights of children and adolescents. In addition, Article 48 of the "Rules for the authorization of exit permits for minors" (Executive Decree No. 35070-MG of July 8, 2008) gives the inter-institutional Protocol a binding character, establishing that the exit permit of a minor victim of trafficking shall be processed in accordance with the Protocol for the Repatriation of Children and Adolescents. At the same time, the new General Law on Migration and Foreigners (Law No. 8764 of August 19, 2009) expressly establishes the principles of respect for human life, cultural diversity and the rights of children and adolescents.

In this context, the new law guarantees the protection, care and defense of persons who are victims of human trafficking and the rights of children and adolescents, as well as the human rights guaranteed in the Political Constitution, treaties and international conventions duly signed, ratified and in force in the country. In this context, the new law guarantees the protection, attention and defense of the victims of human trafficking and the rights of children and adolescents.

The present "Internal Protocol for the Repatriation of Child and Adolescent Victims of Human Trafficking of the General Directorate of Migration and Foreign Affairs" is part of this framework of reference. Its objective is to detail the competencies of the DGME in the process of repatriation of trafficked children and adolescents, which are listed in the inter-institutional protocol.

This Protocol is a complement to the "Protocol for action by Migration officials in relation to minors in vulnerable situations" (2009) by

the DGME. It also takes into account the "Model of Comprehensive Care for Survivors-Victims of Trafficking in Persons" of the National Coalition against the Smuggling of Migrants and Trafficking in Persons (2009), which seeks to ensure an agile and timely inter-institutional and intersectoral response for the comprehensive care of survivors-victims of trafficking.

This Protocol is intended to be a tool for Migration officials to provide them with precise guidance on how to proceed in the detection of a minor victim of trafficking, how to provide protection in the event of danger and how to collaborate with the competent institutions in the comprehensive care of the victim, in the process of determining whether to repatriate or to enter or leave the country.





What is trafficking in children and adolescents?

1. Definition

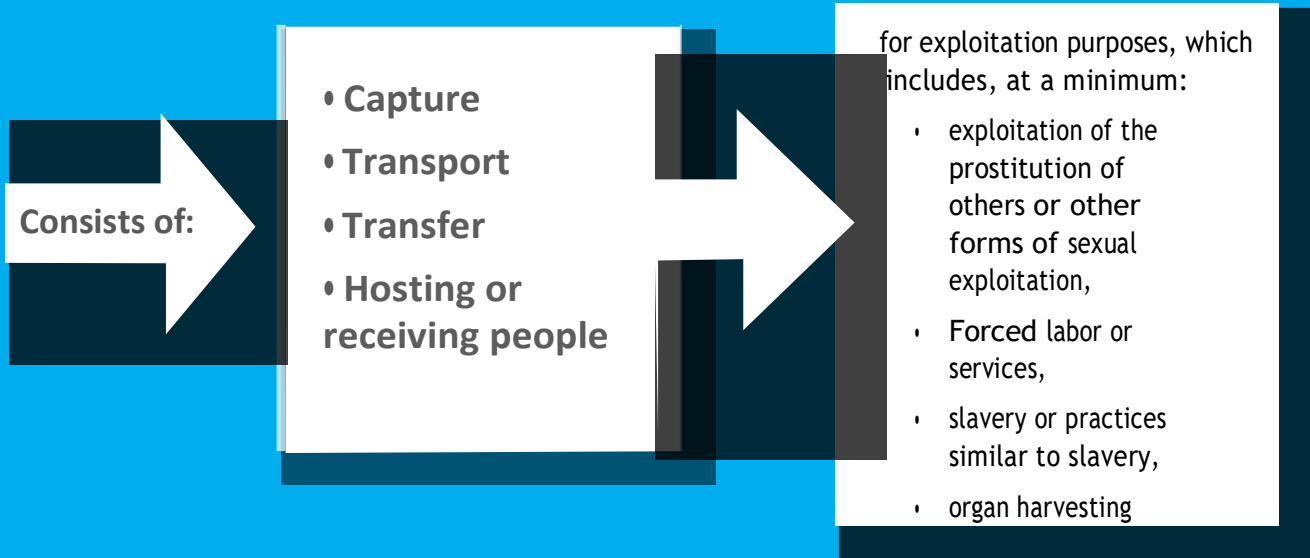
The most modern and comprehensive definition of trafficking in persons is contained in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, also known as the Palermo Protocol² :

The recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over other persons, for the purpose of exploitation. Such exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs. (Trafficking Protocol, Art. 3 (a)).

However, when the victims are "children" (i.e., persons under 18 years of age), the coercive means (threat, use of force or other forms of coercion, abduction, fraud, deception, etc.) are not relevant and the crime is configured with the actions (recruiting, transporting, harboring or receiving persons) and the purposes of exploitation. The following chart lists the elements of trafficking in children and adolescents, according to the Palermo Protocol.

Box 1.

Trafficking in children and adolescents according to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children



2. The crime of trafficking in persons in the Penal Code

In Costa Rica, human trafficking is a crime duly typified in Article 172 of the Penal Code:

Collection 2. The crime of trafficking in persons in the Criminal Code

Article 172.- Crime of trafficking in persons.

Whoever promotes, facilitates or favors the entry or exit of the country, or the displacement within the national territory, of persons of any sex to perform one or several acts of prostitution or to subject them to exploitation, sexual or labor servitude, slavery or practices similar to slavery, forced labor or services, servile marriage, mendicancy, illicit extraction of organs or irregular adoption, shall be punished with a prison sentence of six to ten years.

members.

The penalty of imprisonment shall be from eight to sixteen years, if any of the following circumstances apply:

a) The victim is under eighteen years of age or is in a situation of vulnerability or disability.

b) Deception, violence or any means of intimidation or coercion.

c) The perpetrator is the spouse, cohabitant or relative of the victim up to the third degree of consanguinity or affinity.

d) The perpetrator takes advantage of a relationship of authority or trust with the victim or the victim's family, whether or not there is a family relationship.

e) The perpetrator takes advantage of the exercise of his profession or the function he performs.

f) The victim suffers serious damage to his or her health.

g) The punishable act was committed by a criminal group composed of two or more

The elements of the criminal offense are as follows:

- 0 **Verbs: to** promote, facilitate, favor the entry into or exit from the country or the movement within the national territory of persons of any sex. These actions include the different stages of trafficking in persons, which are the following:
 - 0 **To capture or recruit.** Consists of attracting victims. The methods are diverse: kidnapping; deceitful offers of work, study, better living conditions, deceitful dating relationships, etc. It can even be partially deceptive in the sense of stating the activity to which the person will be dedicated, but not the conditions under which this activity will be developed.
 - 0 **Transport.** The victim is taken to the place where the exploitation will take place. The transport may be forced or under

deception. It may or may not include crossing borders, the significant thing is to uproot the victim from the place where he/she lives, where he/she has family and support networks. Many victims are beaten, raped, confined in confined spaces and subjected to multiple cruel treatments in order to break their will. If border crossing occurs, it may be legal or illegal.

- 0 **Receive.** This occurs upon arrival at the place of destination, where the exploitation will take place. It can be brothels, private homes, farms, among others.

According to the above points, trafficking is a process that can involve three different places: the place of origin, the place of transit and the place of destination. In transnational trafficking, each of these places can be

Box 3.

Who are the victims of human trafficking?

What are the main purposes of trafficking?

According to information compiled by the United Nations Office on Drugs and Crime (UNDOC) at the global level, the profile of the trafficked person has the following characteristics:

- ☐ 77% are women
- ☐ 48% are girls (females under 18 years of age)
- ☐ 12% are children (men under 18 years of age)
- ☐ 9% are men AND

the purposes of
trafficking:

- ☐ 87% is sexual exploitation
- ☐ 28% is forced labor (or labor exploitation).

Source: UNODC, 2006.

can correspond to three or more different countries.

0 **Passive subject.** It is the person or persons on whom the criminal action falls, they are also called "offended" in our environment. According to Art. 172 of the Penal Code, they can be persons of either sex.

Since 2009, Costa Rica, through the operation of the National Coalition's Immediate Response Team, has recorded each of the reported situations, although the estimates and data detected underestimate the real dimension of the phenomenon, since there are still few cases reported, or such situations are confused with other licit or illicit activities. At the global level, the United Nations Office on Drugs and Crime (UNODC) has made some estimates based on police and judicial reports. According to these estimates, the main victims of trafficking in persons are

are women and girls, and the purpose of trafficking is mainly sexual exploitation. In light of this information, it is important to take into account that trafficking is a manifestation of violence against women because they are women and that it is rooted in the social tolerance of such violence. Women are seen as objects of the sex trade and, through human trafficking, are transported from one place to another, "sold" and "bought" over and over again, while unscrupulous people profit from this terrible trade.

Children and men are also victims of human trafficking, mainly those who are in situations of greater vulnerability, for example, living in situations of extreme poverty, unemployed, seeking better living conditions, displaced from rural areas to the city, etc. In the case of men, although trafficking in persons also occurs with

In the case of commercial sexual exploitation, the reasons for economic exploitation prevail, i.e., to profit from their work in conditions of slavery (in captivity, with exhausting working hours, without payment, with retention of their documents, etc.).

As can be deduced, human trafficking is associated with other forms of violence: intra-family violence, sexual violence, economic violence, etc. It is part of a sad cycle of violence that must be broken. Many of its victims do not survive or are left with physical and psychological sequelae that last a lifetime, so it is imperative to rescue the victims, that is the priority.

- 0 **Active subject.** The person or persons who commit the illicit act. In the case of the crime of trafficking, active subjects are those who carry out the actions contained in the governing verbs: promote, facilitate, favor. In view of

In the stages of trafficking in persons mentioned above, the active subjects are those who recruit, transport, receive and exploit the victims. The active subjects of the crime of trafficking are called "traffickers".

0 The purposes of trafficking in persons. According to Art.

172 of the Penal Code are as follows:

- Performing one or more acts of prostitution
- Subjecting to exploitation, sexual or labor servitude
- Slavery or practices similar to slavery
- Forced labor or services
- Servile marriage
- Mendicity
- Illegal organ harvesting

0 **Penalty.** The sanction is a prison sentence of 6 to 10 years, however, when the victim is a person under eighteen years of age or is in a situation of vulnerability or disability, the prison sentence is 8 to 16 years.

3. Some myths and realities about human trafficking

Because human trafficking is often associated with sexual exploitation and migration, there are some misconceptions that need to be clarified:

Table 1. Myths and realities about human trafficking

Myth or belief	Reality
Trafficking is the same as smuggling or coyotaje	They are two different crimes. Trafficking in persons is the recruitment, transportation and reception of persons for the purpose of exploitation. Smuggling of migrants is the facilitation of illegal entry into a country of which a person is not a national, this facilitation can occur through the falsification of immigration documents or by entering the country through "blind spots" so that they cannot be detected by the country's authorities.
Trafficking is the same as commercial sexual exploitation.	Trafficking in persons is the recruitment, transportation, and receipt of persons for the purpose of exploitation. Commercial sexual exploitation is the use of minors in sexual activities in exchange for payment, which may be economic or otherwise. For the crime of trafficking in persons to be committed, the victim must be transferred (within or outside the country) to be subjected to commercial sexual exploitation (or another type of exploitation), while commercial sexual exploitation does not require such transfer.
Trafficking victims are always taken out of the country with false documents, if you have a passport and all documents in order, you are not a victim of trafficking.	FALSE. Trafficked persons may have entered the country regularly or irregularly. Sometimes they themselves have arranged their travel documents (passports, visas) or the traffickers have provided them with documents. There are also cases in which they enter the country with false documents.

Myth or belief	Reality
<p>The foreign girls who come to the country to work as prostitutes are there because they want to, no one forces them and they like that kind of life.</p>	<p>FALSE. In the case of persons under 18 years of age, we cannot speak of "prostitution", but of commercial sexual exploitation. Bringing children and adolescents into the country to sexually exploit them is human trafficking and is a crime. The exploited person is the victim, never the offender. The consent of the victim is not relevant. Moreover, no one can consent to be enslaved, to be subjected to violence, humiliation and violation of their rights. It is not true that no one likes that kind of life.</p>
<p>People from upper economic classes and with high levels of education are never trafficked.</p>	<p>Any person can be a victim of human trafficking, depending on several factors. There are people who are more vulnerable to trafficking, such as those who live in conditions of poverty, with few alternatives for study and work, victims of domestic violence, etc. However, victims who do not necessarily fit this profile have also been rescued.</p>
<p>A victim of trafficking is always forced to engage in exploitative activity through physical violence and kidnapping.</p>	<p>Traffickers use different mechanisms to force trafficked persons to continue working against their will. Sometimes victims are locked up and beaten. However, there are other pressure mechanisms used by traffickers, such as threats against their lives or those of their families; psychological pressure to pay the debt for the trip, among others. Or they simply take advantage of the fact that many victims do not know the country's legislation and are threatened with being handed over to the authorities.</p>

Myth or belief	Reality
<p>The way women are recruited for human trafficking is by kidnapping them as they walk down the street.</p>	<p>There are various mechanisms by which traffickers recruit victims. Violence is one of them, but there are others. It can be through job offers from family members or friends of the victims, who may be acting knowingly or unknowingly collaborating with the traffickers, through newspapers or Internet pages, and through casual encounters in the street or public establishments, among others.</p>
<p>The first thing to always do with a victim of human trafficking is to deport them to their country of origin.</p>	<p>No, especially in the case of children and adolescents, who are not subject to deportation in accordance with the Convention on the Rights of the Child and national legislation. What is appropriate is to determine whether repatriation (not deportation) is the best way to restore their rights, which implies ensuring that they will not be re-trafficked and that there will be conditions for their recovery and social reintegration.</p>
<p>Victims do not feel that they are victims and therefore do not want to be rescued and there is no obligation to do so.</p>	<p>The experience of a victim of trafficking is so complex and difficult that traffickers often convince them that they are not victims and that they are doing them a favor and even induce them to recruit others or commit crimes. Being rescued is a right and an inescapable duty of the State and society. It will be necessary to apply specialized treatment so that they can break the cycle of violence.</p>
<p>Partially taken from IOM, quoted by: www.cipacdh.org/trata_de_personas.pdf</p>	

It is necessary to be aware of these and other myths or beliefs, in order to clearly identify human trafficking and strip it of all the prejudices that can lead us to ignore or tolerate this type of complex form of rights violation.

4. The response of the Costa Rican State

- **Code of Childhood and Adolescence** (Law No. 7739 of January 6, 1998). It is based on the United Nations Convention on the Rights of the Child. It establishes the duty of the State to guarantee the full effectiveness of the fundamental rights of minors and their right to be protected by the State against any form of abandonment or intentional or negligent abuse of a cruel, inhuman, degrading or humiliating nature that affects their integral development. In addition, the CNA regulates the special process of protection in administrative proceedings, in charge of the National Child Welfare Agency (PANI), which will be applicable when the rights of minors are threatened or violated.

- **The Penal Code.** As mentioned above, Article 172 of the Penal Code provides for the crime of trafficking in persons.
- **The Law for the Protection of Victims and Witnesses and Other Subjects Involved in Criminal Proceedings** (Law No. 8720 of March 4, 2009), which establishes, in its Article 15, the following specific rules for the protection of victims of the crime of trafficking in persons:
 - a) Receive information about their rights, in a language they understand and in a form accessible to their age and maturity.
 - b) To remain in the country, in accordance with the immigration legislation in force, and to receive the documentation that accredits such circumstance.
 - c) Not to have your name included in any special registry.
- In addition, this law states that the **Office of Attention to Victims of Crime of the Public Prosecutor's Office** will be responsible for organizing and administering a protection program to guarantee the life, physical integrity, liberty and security of the person under protection.
- **General Law on Migration and Alien Affairs** (Law 8764 of August 19, 2009)³, which establishes the duty of the professional migration and alien police to act with due diligence to assist and protect victims of the crime of human trafficking and to notify and coordinate with PANI the attention of cases involving a child or adolescent. It also establishes some measures for the protection of victims and creates the special migratory category of victim of human trafficking. It is important to emphasize that this law stipulates that the

Minors shall not be subject to deportation or expulsion from the national territory, except in their own interest.

- **National Coalition Against the Smuggling of Migrants and Trafficking in Persons** (Executive Decree 32824 of November 8, 2005, amended by Executive Decree 34199 of March 12, 2007). It is made up of representatives of various ministries, PANI and other state agencies, under the coordination of the Ministry of the Interior, Police and Public Security through the General Directorate of Migration and Alien Affairs. Among its functions is to promote the development of services and programs, both public and private, aimed at providing direct assistance to trafficked persons.

- **Creation of the Immediate Response Team for situations of human trafficking** (Executive Decree 35144 of March 4, 2009). PANI will participate as a coordinating body for actions related to the defense, guarantee, care and protection of presumed victims of trafficking in minors. Among its functions are: to receive and respond to all possible situations of human trafficking that are referred to it and in the case of underage victims, the situation will be immediately communicated to the PANI Orientation and Information Center, in order to activate the necessary actions by this institution to ensure the comprehensive care and protection of this population.



Guiding approaches and principles:

Its practical application
to the area of competence
of the General Directorate
of Migration and Aliens.

The guiding approaches and principles guide the institution and its actions. The guiding approaches are intended to direct institutional actions. This means that in all matters concerning minors, policies, programs and all types of actions carried out by officials must take into account the guiding approaches: rights, gender, generational and contextual.

Based on the Inter-institutional Protocol and the Model of Comprehensive Care for Survivors-Victims of Human Trafficking, the guiding approaches can be defined as follows:

- **Rights-based approach**, which views all children and adolescents as subjects of rights and not as objects of protection.
- The **gender approach** makes it possible to understand the social conditioning according to which men and women are viewed differently. This difference has implied

inequality. It is essential to take into account that trafficking in persons has women as its main victims, making it a form of gender-based violence.

- The **generational approach** takes into consideration the moment of development of the person in his or her life cycle. It also implies the conception of new relationships between adults and minors, based on the recognition of and respect for the rights of children and adolescents.
- The **contextual approach** takes into account that people's characteristics, as well as their possibilities and needs, vary according to the historical, socio-cultural and economic conditions of a particular society and that, even within that society, the heterogeneity of realities and living conditions create demands that must be addressed from their specificities.

Principles are imperatives that must guide institutional actions, and are of a general and universal nature, as opposed to the rules contained in laws and regulations, which are concrete. The principles are interconnected and are very useful for:

- ☐ interpreting the different standards,
- ☐ closing legal loopholes
- ☐ to resolve specific situations that do not fall under any rule or procedure.

The principles of this protocol are:

- **Best interests.** It establishes that in each particular situation, consideration must be given to that which best favors the fulfillment of the rights of the child or adolescent in particular. Some parameters to determine the best interest are given in the Code of Children and Adolescents in its Art. 5: their condition of subject of rights and responsibilities,

age, degree of maturity, capacity for discernment and other personal conditions, the socioeconomic conditions in which he/she lives, the correspondence between individual and social interest.

- **Confidentiality.** The safety of the minor must be monitored at all times, which depends on the discretion and confidentiality with which the situation is handled. It is known that behind every case of human trafficking there are organized criminal networks that endanger the victim, her family members and even the officials who protect her. In addition, the right to the image of the minor must be protected, preventing his or her identity (image, name, etc.) from being publicly disclosed, since the stigma attached to being a victim of a crime of this kind can make it difficult - and even impossible - for him or her to reintegrate into society.

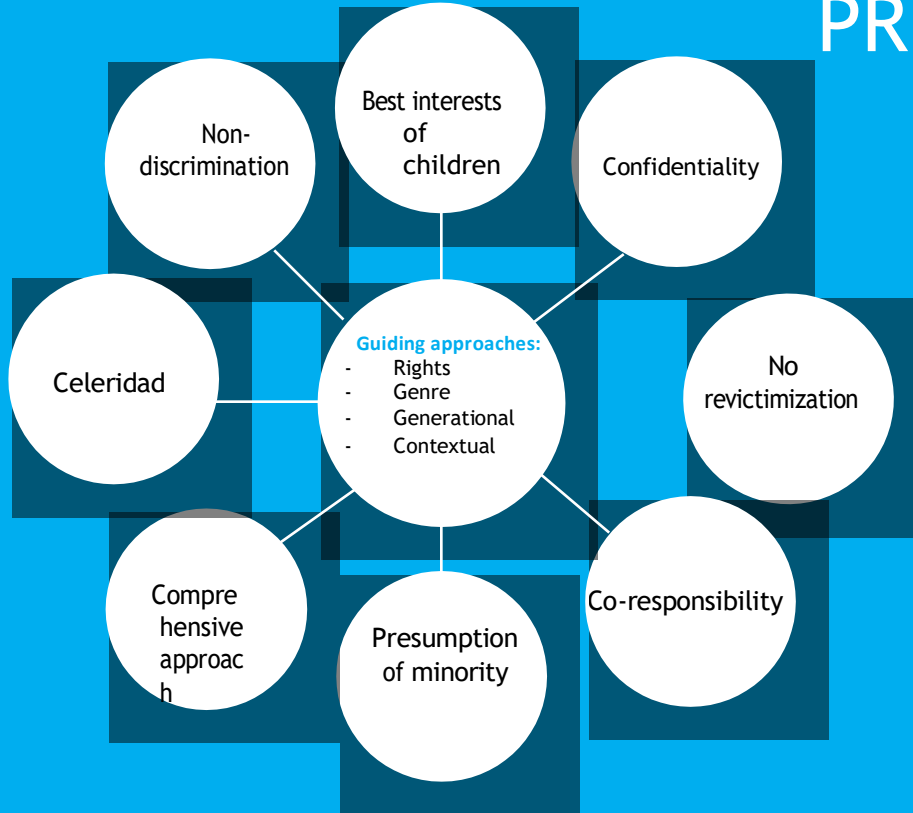
whole.

- **No revictimization.** It shall be ensured that the minor is not revictimized, avoiding that he/she is subjected to multiple interrogations or statements, mistreatment or examinations that may affect his/her integrity, self-esteem or mental health.
- **Responsibility.** It is the responsibility of both the State and society as a whole to protect children and adolescents who are victims of human trafficking and to ensure the restitution of the exercise of their rights.
- **Presumption of minority.** In case of doubt, it shall be presumed that the adolescent is under 18 years of age and all the protection provided for in this Protocol, in the National Legislation and in international instruments shall be provided.
- **Comprehensive approach.** Any institutional

- **Speed.** For children and adolescents, every minute counts and the longer the process of restitution of their rights is prolonged, the greater the damage caused, therefore, detection, protection from danger and the other steps of the repatriation process must be carried out without undue delay.
- **Non-discrimination.** Care for child and adolescent victims of trafficking should be provided without discrimination and should take into account the particularities and special needs due to gender, physical and/or mental condition, or any other condition.

Approaches and principles are interrelated and can be illustrated in the following chart:

PRINCIPLES



Box 4.

PRACTICAL APPLICATION OF GUIDING APPROACHES AND SOME PRINCIPLES

Approaches and principles are interrelated and, together, provide us with the tools to ensure that our actions - as public officials - guarantee the rights of children and adolescents.



FOCUSES. *These are the "glasses" through which we "look" at the situation of minors.*



PRINCIPLES. *They are like the "keys"-that allow us to resolve situations, interpret rules, fill legal gaps and, in short, solve each specific case.*

- **Rights-based approach:** In the application of this approach, in conjunction with the **principle of the best interests** of minors, Immigration authorities must weigh in each specific case how to

protect the rights of minors, interpreting the rights in a systematic manner: the right to life, to personal integrity, to liberty, to protection from grave danger, to image, to access to justice, to expression of opinions, to health, etc. For example, all persons have the right not to be separated from their parents, however, if it is proven that the parents are assaulting their children, or selling them to a trafficker, or exploiting them in any way, the best interest of the minor dictates that in order to protect their rights, they should be protected from their parents and placed in safe places, preferably not in institutions.

- **Gender focus.** The main victims of human trafficking are girls and adolescent women, who are often recruited and transported for commercial sexual exploitation, among other purposes. Migration officials must be alert to this reality. They must also be aware of the myths and stereotypes that promote the view of women as sexual objects and that in one way or another lead to tolerance of situations of violence against women. They should always act in a professional manner, eliminating any form of discrimination and should record and bring to the attention of higher authorities any situation of discriminatory or unequal treatment based on sex or gender: the principle of non-discrimination and best interest should be alert to this reality. They must also be aware of the myths and stereotypes that encourage discrimination.

The company should always act in a professional manner, eliminating any form of discrimination and should record and bring to the attention of higher authorities any situation of discriminatory or unequal treatment based on sex or gender. Any situation of discriminatory or unequal treatment based on sex or gender must be recorded and brought to the attention of higher authorities: the *principle of non-discrimination and best interest*.

- **Generational approach.** Attending to the needs of an 8-year-old child is not the same as attending to the needs of a 16-year-old adolescent. In the process of detecting victims and providing immediate protection, officials must consider these different needs, also when analyzing the dangerous situations to which they are exposed, depending on the age and maturity of each particular case.

- **Contextual approach.** Closely related to the generational approach, the contextual approach must take into account the historical, family and community conditions of the minor. That is to say, whether the person is from a rural area, indigenous, from an urban neighborhood, from a large family, or whose parents are deceased, all these factors establish a particular context that determines the specific needs of each minor.
- **Principles of responsibility and comprehensive approach.** It is the duty of the State and, therefore, of all public officials, to protect the rights of minors, especially when they are at risk. Although immigration procedures must be carried out expeditiously, in the case of minors, the duty of diligence prevails, which obliges officials and public officials to protect the rights of minors, especially when they are at risk.

The officials should carefully verify that all these procedures are carried out in such a way as to detect irregular situations (such as forged or altered documents), which are likely to hide violations of rights, such as human trafficking, which is a crime duly typified in the national legislation.



Procedure

1. Situations in which a migration official may detect child and adolescent victims of human trafficking:

- a. When carrying out immigration control of nationals or foreign nationals
- b. In the immigration and foreigner services

The General Directorate of Migration and Alien Affairs is responsible for:

- Authorize, deny, control the entry, stay and legal exit of foreigners to the country, through the issuance of entry visas (Art. 13 clause 1 LGME).
- Grant immigration documents to nationals and foreigners (Art. 13 paragraph 23 LGME).
- Consuls abroad issue immigration documents for Costa Ricans when requested to do so. In the case of minors, the LGME establishes that consuls must previously consult with the General Directorate to determine if the minor is indeed Costa Rican, as well as the date, the migratory post through which the departure was made and the legality or illegality of the departure, the relationship or interest that links the accompanying person with the minor and if he/she left the country with the person authorized by the General Directorate (Art. 24 LGME).

- Authorize exit permits for minors, following the steps established in the Regulations for the authorization of exit permits for minors.

The "Protocol of Action for Migration Officials in relation to Minors in Situations of Vulnerability" establishes that the following steps must be followed when a minor is involved in immigration proceedings:

- **Keep** a vigilant attitude and remember that people who exploit children and adolescents do not have a profile that allows us to identify them easily, but can be of any nationality, profession or social condition.
- **Remember** that through an effective control of immigration and immigration procedures we are not harming the human rights of adults, foreigners and nationals, but rather we are defending the image of Costa Rica and most importantly, we are protecting the children and adolescents who are going to be transferred to or from our country or who live in it.
- **Review** all records and information systems of entry and exit of the national or foreign adult person, who manages an immigration process of a minor, to prevent the entry or exit of pimps, exploiters, traffickers and traffickers.
- **Verify** the records of lost children and adolescents, in order to make it possible for them to be found.
- **Ensure** the quality of travel or identity documents issued so that they cannot be easily misused, falsified, altered, reproduced or issued illegally.
- **Interview**, if necessary, any adult person processing an immigration or alien service for a minor. Verify who he/she is, what he/she does, where he/she lives, and his/her reasons for visiting or leaving the country.
- **Demand** all the requirements that the Law establishes, such as certifications, certificates, photographs, passports, etc. In case you have any kind of suspicion about the person, or if you doubt the veracity of the information presented, ask for other data, names, telephone numbers of some people who can give reference about the applicant, contact them and verify the information.
- **Check** Interpol records if possible and verify if the person is wanted.



By virtue of the principles of responsibility and comprehensive approach, the DGME must deploy all due diligence to ensure that migration procedures are carried out by thoroughly verifying the authenticity and veracity of the same, so that they do not hide situations of violation of the rights of children and adolescents.

As stated in the above-mentioned Action Protocol, there is no precise profile of trafficker or exploiter and it is not possible to list all the alert situations, so the most important thing is to thoroughly review each specific case and be vigilant in the presence of some indicators that may lead you to suspect the presence of a situation such as human trafficking. In carrying out this evaluation of indicators, you can take into account some alert situations such as the following:

Box 5.

SOME ALERT SITUATIONS

- Conflicts between the parents or representatives of the minor are situations that cause alarm when granting immigration documents. These conflicts may be due to multiple reasons and immigration officials should pay special attention to ensure that they do not hide situations that violate the rights of minors, such as human trafficking, through the strict application of the procedures established in the legislation.
- The adolescent presents himself/herself unaccompanied by his/her parents or guardians. If an adolescent (between 12 and 18 years of age) presents himself/herself at the immigration offices to carry out any of the above-mentioned procedures, even if he/she has his/her identification as a minor, the presence of his/her parents or guardians must be required, since he/she may be being recruited by a human trafficker.
- That immigration procedures are carried out by persons other than the parents or representatives. In the event that third parties (lawyers or paralegals, family members, friends) carry out immigration procedures, officials should verify in detail the authorization of these persons to carry out the procedure.
- Suspicion about the veracity or authenticity of the documentation. Any suspicion about the veracity or authenticity of the documentation to carry out the immigration procedure (proof of birth, passport, identity document of the parents or guardians, etc.) should cause immediate alert, since it may be a trick to get the minor out of the country.
- That the underage person appears to be of a different age than that shown on his or her identification documents. This could be an indication that the identification documents have been falsified or that they correspond to another person.

Table # 2. Screening: Illustrative, non-exclusive case studies

Supposed	Procedure	Legal basis
<p><i>Pamela, 16 years old, went to the DGME to pick up her passport, whose renewal she had requested a few days earlier, with her Minors' Identification Card (TIM), her school card and her expired passport.</i></p>	<p><i>The official must require that the minor be accompanied by her parents. The adolescent may be the victim of a trafficker who is trying to take her out of the country. Although minors are subjects of law and may perform certain legal acts, the processing of a passport and the withdrawal of this document is not one of them, since the best interest of the minor, which guarantees her the right not to be a victim of human trafficking, is paramount. Likewise, the official who does not comply with this requirement incurs in liability.</i></p>	<ul style="list-style-type: none"> - - Arts. 13, 4, 5, 17 CNA - Arts. 13, 76 inc. 4 LGME - Art. 39 Civil Code - Jurisprudence of the Constitutional Chamber: "...minors cannot manage legal acts such as the delivery of their passport, a public document that although the identification of the interested party is fully extracted, it is also true that the consequences that this could generate would be unpredictable, since an inadvertent or careless use by any national or foreign authority could put at risk the integrity of Costa Rican minors abroad" (Constitutional Chamber, Res. 2000-04373 of 12:54 p.m. of 19 December 2000, Res. 2000-04373 of 12:54 p.m. of 19 December 2000). May 2000).

<p><i>Agency representative for Travel goes to the DGME to apply for a permanent exit permit for a 10-year-old daughter of his clients. She presents the parents' authorization and alleges that they are unable to go to the Migration offices for work reasons.</i></p>	<p><i>The official</i> <i>The respective agency denies the request, since the permission to leave the country permanently can only be applied for personally by those who exercise parental authority. Travel agencies are aware of this procedure, so if it is suspected that the alleged representative of the agency may have an interest in the minor's departure from the country for exploitation purposes, the authorities should be informed so that they can proceed with the respective investigation.</i></p>	<ul style="list-style-type: none"> - Arts. 16, 13, 4, 5 CNA - Arts. 3, 4, 7, 8 Regulations for the authorization of leave of absence of a minor.
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In the entry or exit of persons to or from the national territory

The entry or exit of a trafficked person into a country may be by illegal or legal means, and traffickers may use real, forged or altered documents. For this reason, it is particularly important to

The purpose of the immigration control is to detect irregular situations in order to provide protection to the victims and to apprehend the offenders. Officials in charge of immigration control of a minor entering or leaving the country should follow the following procedures

steps (also review, as appropriate, the Protocol of Action for Migration Officials in relation to minors in vulnerable situations):

- a. Refer to the special window for minors and their companions.
- b. Make eye contact (and verbal contact, if necessary) with the underage person traveling or entering the country.
- c. Check in detail that the passport photograph corresponds to the minor being attended.
- d. Check in equal detail the documentation of the adults accompanying the minor.
- e. Check the validity of the exit permit and verify that there are no impediments to exit.
- f. Check for activated alerts (these may be DGME alerts requested by those exercising legal representation of the minor or international alerts activated by INTERPOL in the case of missing persons, for example).
- g. If the person or persons accompanying the minor are not his or her parents, be more thorough in verifying identities and respective permits.
- h. Report any suspicion and immediately take protective measures to protect the minor, the Protocol for Special Migratory Situations, ESME, established by the General Directorate of Migration and Alien Affairs and the provisions on children and adolescents will be activated.

Box 6.

ARTICLE 18 GENERAL MIGRATION AND ALIENS LAW

"Persons members of the Professional Migration and Alien Police, duly identified, shall:

15) Act with due diligence to assist and protect the victims of the crime of trafficking in persons, as well as persons whose life or safety is or has been endangered as a result of having used the routes of smuggling of migrants. For such purpose, it shall coordinate its actions with the corresponding authorities determined by this Law and its Regulations and other related regulations".

Situations of alert:

In alert situations such as the above examples or in the presence of particularly vulnerable persons, it is the responsibility of immigration officials to take the necessary steps to verify whether a situation of trafficking in persons is likely to arise. This requires, as mentioned above:

- Thoroughly verify the immigration documentation provided by adults and minors.
- Review existing alerts, at INTERPOL level, related to missing children, fugitive criminals, etc.
- Interview the **ADULT PERSON** accompanying the minor, inquiring, at least, the following:

- ☐ Who is it?
- ☐ What is your occupation?
- ☐ Where do you live?
- ☐ With whom do you live?
- ☐ What are your reasons for visiting or staying in the country, what regions will you visit and for how long, do you have relatives or acquaintances in the country?
- ☐ What is your relationship with the minor, where did you meet her, where are the father and mother, why are you traveling with her?
- ☐ Any other that you consider relevant
- Always keep in mind that **the minor should not be interviewed in depth**, so an immediate referral to PANI should be made, this will be done at another time and will be in charge of

by persons specially trained for this purpose, either from PANI or from the respective judicial body. Migration officials must activate the ESME protocol and in the event that a well-founded suspicion of human trafficking is activated, report it to the DGME's Human Trafficking and Smuggling of Migrants Management. They should only ask questions for identification and registration purposes and not for investigation, ensuring that the minor is not re-victimized (see Box 7) and that respect and consideration for the best interests of the child or adolescent prevails above all else. Ideally, the migration official should protect and accompany the victim until he or she is referred to PANI.

The following box presents some recommendations for carrying out this task, as well as a reminder that

in order to carry out the following tasks

The "Official form for informational interview of minors" of the "Protocol for the actions of immigration officials in relation to minors in vulnerable situations", which is a guide that includes the questions that should be asked in the informational interview, should be used for the informational interview.

Remember...

When conducting the informational interview you should keep in mind:

- *Principle of non-revictimization: avoid subjecting the victim to different interviews, do not blame, humiliate or offend.*
- *Gender approach: take into account the differentiated needs of men and women, make sure that the person you interview is of the same sex as the minor, but most importantly that he/she is trained and sensitized. Do not judge the way the victim dresses or speaks.*
- *In the case of young children who are presumed to have been assaulted by men, it may be preferable for them to be interviewed by women.*
- *Principle of non-discrimination. All persons, regardless of nationality, sex, religion, disability, etc., have the right to be protected.*

Box 7.

SOME ALERT SITUATIONS

Groups particularly vulnerable to being victims of human trafficking

- A minor traveling unaccompanied is exposed to multiple dangers because he/she does not have a trusted adult to guide and protect him/her.
- A minor, especially females, traveling without their parents, in the company of family members, alleged or real, or other third parties.
- A minor who enters the country to work.
- Underage person coming in an excursion group, accompanied by foreign tourists.
- Pregnant girls or adolescents.

Special alert situations

- A minor who does not know exactly where he/she is going and what he/she is going to do there.
- A minor who cries constantly and the older persons accompanying her are not able to console her.
- Underage person who is nervous.
- A minor accompanied by an adult who is nervous.
- A minor accompanied by an adult who does not adequately answer where he/she is being taken and for what purpose.
- Minor person who does not make eye contact and does not speak.
- Minor accompanied by an adult who appears to be her "partner" and who is also much older than she is.
- Minor person with a blow or injury.

Partially taken from: ECPAT International (2005): Normas y procedimientos para funcionarios de Migración y Policía de Frontera en Centroamérica: la intervención con niñas, niños y adolescentes en situación de trata con fines sexuales, San José.

Box 8.

CONDITIONS FOR THE INFORMATIVE INTERVIEW OF THE MINOR PERSON

It is important that the person conducting this interview has received training beforehand in order to take all the necessary precautions to avoid re-victimizing the minor and to ensure that his or her rights are respected. Some key aspects are the following:

- The minor should be interviewed without the accompanying person present. Make sure that there are no individuals nearby who may be coercing the minor. In human trafficking cases, victims are often watched and controlled by the traffickers.
- Find an office or room with some privacy, where the minor can feel comfortable talking.
- Ensure, as far as possible, that the official accompanying the minor is present at the time of the informational interview.
- Introduce yourself as an official in charge of protecting children and adolescents visiting Costa Rica.
- Keep in mind that the minor may be frightened, distrustful and do not rule out that he/she may be under threat, which will make communication difficult and not very fluid. Remember, at all times, that the minor is a victim.
- Speak in language that is understandable to the child's age and cognitive ability and constantly check to see if the child or adolescent is understanding your words.
- At the time of the interview it is necessary to determine if the minor understands Spanish, otherwise an interpreter should be contacted.

- Look directly at the person as you talk to him or her and openly and clearly answer questions and concerns.
- Make it clear to him that he should not be frightened, that you are concerned about his safety and that your only interest is to help him, and that you will ask him some questions.
- Listen carefully and avoid interrupting when the minor is speaking. Avoid interruptions from third parties and do not answer telephone calls.
- Avoid scolding, complaining or blaming the child or adolescent and, again, remember that if a situation of human trafficking is detected, that person is a victim and is not to blame for what is happening to him/her.
- Mention the child's name as it appears on the passport or other identification document and find out if he/she responds naturally to it when called.
- The interviewer should NOT judge, threaten, make value judgments or gestures of approval or disapproval to the minor. These attitudes can aggravate the situation of the minor and make the recovery process even more difficult.
- Thank you for your cooperation in providing the information.

Sources: Dirección General de Migración y Extranjería (2009): Protocolo de actuación de funcionarios y funcionarias de Migración con relación a personas menores de edad en situaciones de vulnerabilidad, San José. IPEC, Ministry of Foreign Affairs and Worship (2005): Prevención, detección y atención de situaciones de explotación sexual comercial de personas menores de edad y trata con esos fines. Manual de procedimientos dirigido al Servicio Exterior, ILO, San José.

Table # 2. Screening: Illustrative, non-exclusive case studies

Supposed	Procedure	Legal basis
16-year-old female adolescent travels with an uncle, who is nervous and evasive when going through the immigration process.	<p>Immigration Officer verifies the passport and the immigration permit. output. Check the computer system to find out if there are any impediment or alert. Thoroughly check the uncle's identity and documents to verify the relationship. Observe both the adolescent and the uncle to determine if any alertness is present (nervousness, crying, confusion, etc.). Verify the uncle's nervousness. Separate interviews of the uncle and the underage person. (see question guide)</p>	<ul style="list-style-type: none"> - Art. 4, 5, 7, 16, 17 CNA - Art. 18 inc. 15 and 23; 35, 65, 76 inc. 4, 185 LGME.
Bus transporter (position border land) carries the passports from all your passengers for control and collects them for deliver them to their passengers	<p>It is the duty of the immigration officer to carry out the control procedure with the physical presence of each traveler. The haste of the carrier or the number of passengers are not reasons for not carrying out rigorous controls. If there are minors, it should be more rigorous and take into account people in vulnerable conditions and alert situations.</p>	<ul style="list-style-type: none"> - Art. 4, 5, 7, 16, 17 CNA - Arts. 3, 4, 7, 8 Regulations for the authorization of exit permits for minors

Source: ECPAT International (2005): Normas y procedimientos para funcionarios de Migración y Policía de Frontera en
Guatemala, Honduras, México y Nicaragua: Adolescentes en situación de trata con fines sexuales, San José.

In the operations carried out by the immigration police or when receiving complaints

The Professional Migration Police is also responsible for carrying out operations that may consist of:

- To carry out immigration control of foreigners anywhere in the country and in national, international and private means of transportation, in order to verify their immigration status.
- Conduct inspections in hotels, boarding houses, lodging houses, guest houses, motels or similar establishments and workplaces.
- To carry out immigration control of foreigners not residing in the country who perform public shows, with the purpose of verifying the express authorization to perform such activity, as well as their immigration status.
- Investigate the immigration status of foreign workers, for which purpose they may enter work centers during working hours, check passports, residence cards, work permits and any other identification document, to verify violations of the LGME and its Regulations.

Box 9.

SOME ALERT SITUATIONS

- **Underage persons working.** The Migration ~~is~~ is in a position to detect underage persons who could be victims of trafficking for labor exploitation. Therefore, it is important to pay attention to the following situations:

- It is absolutely forbidden to work with children under 15 years of age.
- Adolescents between 15 and 18 years of age may work, as long as the work activity does not involve risk, danger to development, physical, mental and emotional health or when it disturbs regular school attendance. In addition, the following regime must be observed:
 - The workday must not exceed six hours a day or thirty-six hours a week.
 - Night work (between 7:00 p.m. and 7:00 a.m. the following day) is prohibited.
 - Adolescents are prohibited from working in mines and quarries, unhealthy and dangerous places, alcoholic beverage outlets, activities in which their own safety or that of others is at risk.

subject to the responsibility of the minor; also where work with dangerous machinery, polluting substances and excessive noise is required. The Regulation for labor hiring and occupational health conditions of adolescents (Decree No. 29220-MTSS of January 2001) contains a list of the work absolutely prohibited for adolescents and those allowed with restrictions.


- **Minors in brothels and places of entertainment.** The presence of minors in places such as brothels, cabarets, night clubs, bars, is cause for maximum alert, since they are places where they are exposed to be victims of violence, abuse or other situations that violate their rights. If, in addition, the underage person is a foreigner, it could be presumed that there is a possible situation of human trafficking.
- **Unaccompanied minors  public transportation.**
- **Foreign minors accompanied by adults** who are not their parents in public or private transportation, in places of lodging (hotels, pensions, etc.).

Table # 3. Detection in operations carried out by the Migration Police: Illustrative Case Studies

Supposed	Procedure	Legal basis
<p><i>A large group of foreign temporary workers are working at a hotel complex construction site, all of whom have their immigration papers in order. However, there is also a young man who appears to be under 18 years of age, although he is carrying documents from his country proving that he is of legal age.</i></p>	<ul style="list-style-type: none"> <i>Immigration officials thoroughly verify the authenticity of the immigration documents. If in doubt, the person is presumed to be a minor until the contrary can be proven.</i> <i>PANI and the Ministry of Labor and Social Security (MTSS) were notified to verify the working conditions of the alleged minor, through the National Directorate and General Labor Inspection and the Office for the Attention and Eradication of Child Labor and Protection of Adolescent Labor (OATIA).</i> <i>It should not be forgotten that a minor shall not be subject to rejection in any case except in his or her own interest.</i> 	<ul style="list-style-type: none"> - Arts. 4, 5, 7, 9, 17, 78, 82, 86, 92, 97 CNA. - Arts. 18 inc. 2, 20, 23; Art. 185. LGME.

2. What should the staff of the company do? Migración y Extranjería when it detects a minor victim of trafficking?

Protection against danger

Once a minor presumed to be a victim of human trafficking has been detected, it is up to Migration to temporarily protect the victim. Applying the ESME Protocol and reporting to and coordinating with the DGME's Human Trafficking and Smuggling of Migrants Management while contact is made with the National Children's Trust (PANI), which is the

competent institution to provide comprehensive care. Protection from danger includes at least the following aspects:

- a. **Take the victim to a safe place.** This may be an office, the Migration car or any other that is considered safe, depending on the circumstances in which the trafficking victim is detected.
- b. **Appointment of a person in charge.** Within the Migration team that is present at the time of detection of the victim, an official shall be appointed to accompany him/her while the transfer of competence to the PANI representative takes place. It is important that this person:

- c. Hazard protection
 - o Has been previously trained
 - o Be able to empathize with the victim
- Preferably of the same sex as the victim. In the case of young children, a female may be preferable.
- In appointing the caregiver, take into account the views of the child.
- Ensure the safety and well-being of the victim while under the protection of Immigration.

Penal Code

Article 144. Omission of assistance: Whoever finds a minor under ten years of age or an injured or threatened person lost or helpless shall

of any danger and omits to render the necessary assistance according to the circumstances, when he can do so without personal risk, shall be punished with a fine equal to the amount of the fine.

to half of the minimum wage established by Law No. 7337 of May 5, 1993. The judge may increase this sanction up to double, taking into consideration the

personal conditions of the perpetrator, his economic

Box 10.

PERSON IN CHARGE

International instruments recommend the appointment of a special person to accompany, represent and defend the child victim from the moment he or she is identified. The United Nations Committee on the Rights of the Child considers that agencies or individuals whose interests may conflict with those of the child cannot be chosen for this function.

Its functions are as follows:

- Accompany the victim until it is resolved whether or not to return to their country of origin or residence and find a comprehensive solution to their situation.
- Ensure that the best interests of the child or adolescent prevail at all times and be the link between the victim and other institutions.

- Keep the victim informed of his/her rights and ask his/her opinion, according to his/her age and degree of maturity.
- You should be present at the informational identification and registration interview (see Box 7) and ensure that the minor is not revictimized during the interview.
- Also, it must be ensured that the victim's urgent basic needs are met.

In Costa Rica, PANI is the competent entity to assume these functions. However, when the DGME has detected a victim, it must appoint a person in charge who will ensure compliance with the rights of the minor while the competence can be transferred to PANI.

Meet the victim's urgent basic needs .

These could be:

- **Medical Attention.** If it is an emergency, contact 911 for medical assistance.
- **Food.** If the victim has been deprived of food, he/she will be provided with basic food that is within the reach of Migration officials.
- **Clothing.** In extreme cases, the victim may have no or insufficient clothing. Immigration officials will provide the basics.
- **The person in charge** who is taking care of the victim will inform him/her in simple language about his/her situation, taking into account the following recommendations:

a. Contact your local PANI office.

While providing protection from danger to the minor who has been detected, the person in charge will immediately liaise with 911 or the appropriate PANI Local Office to coordinate the transfer of the minor to the appropriate PANI person.

- Upon transferring the minor to PANI, the immigration official will submit the corresponding report, according to the form for the registration and referral of cases contained in the Protocol for action by immigration officials in relation to minors in situations of vulnerability and the provisions of the ESME protocol.

Box 11.

PLATFORM OF SERVICES OF THE PATRONATO NACIONAL DE LA INFANCIA (NATI)

❖ **Guidance and Information Center (COI)**

- Role: liaison with local and regional PANI
- Schedule: 7:30 a.m. to 4:00 p.m.
- Contact: Licda. Tatiana Mejía Ramírez
- Telephone numbers: 8919-0756, 2523-0830

❖ **911: Emergency hotline**

- Function: reception of complaints and channeling to local offices.
 - Integral Care Department (DAI)
- Hours of operation: 24 hours

❖ **Comprehensive Care Department (DAI)**

- Function: immediate attention to situations that arise in the metropolitan area (San José).
- Hours of operation: 24 hours
- Contact: Licda. Marita Vargas
- Telephone numbers: 8886-2726 / 2221-9728/2222-8905

Immediate Response Team for Human Trafficking Situations (ERI)

- Contact: Sandra Chaves/ Silvia Artavia
- Telephone: 2299-8037/2290-2779 Fax: 2290-2777

In the event that, for any reason, optimal coordination with PANI is not achieved (either via the 911 System or the Local Office), an official letter must be sent immediately informing the corresponding headquarters and activating the ESME protocol in order to expedite and facilitate coordination.

Under no circumstances may the immigration official delegate communication with PANI to another public agency.

b. Risk assessment

At all stages of the detection of the victim of human trafficking and during the time that Migration is providing protection from danger, while the transfer to PANI takes place, the risks present must be assessed in order to ensure the safety of the victim, since in many cases of human trafficking, the threat to the victim's integrity and safety must be assessed in order to ensure the safety of the victim.

The physical and/or emotional integrity of the victim and/or the victim's family members is a reality. The objective of the risk assessment is "the identification of situations that may endanger the physical or emotional integrity of the victim and his or her family environment in order to adopt appropriate measures to prevent the danger from materializing"⁴:

- Threats to the physical and emotional integrity of the victim.
- Threats to the physical and emotional integrity of family members or other persons close to the trafficked person.
- Threats by the person to his or her own physical integrity.
- Threats to the physical and emotional integrity of the police officers who have rescued the victim and provide her with

4 Coalición Nacional contra el Tráfico Ilícito de Migrantes y la Trata de Personas: Modelo de atención integral para sobrevivientes - víctimas de trata de personas, Ministerio de Gobernación y Policía, San José, 2009, p. 127 et seq.

protection from danger, while the transfer to PANI takes place.

- Revictimization or risk of being recruited again by the traffickers' network
- Dependence on licit or illicit substances

c. Filing of the complaint.

Human trafficking is a crime of public action that must be brought to the attention of the competent authorities, i.e. the Public Prosecutor's Office or the Judicial Investigation Agency (OIJ), so that they can carry out the relevant investigations to prosecute those responsible for the commission of the crime. The denunciation is an obligation foreseen in the National Legislation, if the person who denounces fears for his life or safety, he can request extraprocedural protection measures to the Office of Attention to the Victim of the Crime of the Public Ministry (Ley

No. 8720 of March 4, 2009). Send a copy of the complaint to the Executive Presidency of PANI for the corresponding follow-up. The above in full coordination with PANI and the Professional Migration Police.

- d. Registration in internal controls and confidentiality declarations.** Once it has been ensured that the minor is duly protected, the responsible officials will proceed to register in the internal controls of Immigration, the data of the minor (see the respective form in the Protocol of Action of Immigration Officials in relation to Minors in Situations of Vulnerability). At all times it will be ensured that this record has a confidential nature, in order not to jeopardize the safety of the victim or the course of the judicial investigation to be conducted by the competent authorities.

Box 12.

THE OBLIGATION TO REPORT: LEGAL BASIS

- **Code of Criminal Procedure:**

"Article 281. Obligation to report: The obligation to report offenses prosecuted ex officio shall be incumbent upon them:

a) Public officials or employees who become aware of them in the performance of their duties.

(...)

In all these cases, the denunciation shall not be obligatory if it reasonably risks the criminal prosecution of oneself, one's spouse, or relatives up to the third degree by consanguinity or affinity, or of a person who lives with the denouncer and is bound to him/her by special ties of affection".

- **Childhood and Adolescence Code:**

"Article 134. Criminal complaints: Once the existence of signs of mistreatment or abuse of a minor has been proven in administrative proceedings, the criminal complaint shall be filed immediately. The person or institution acting in the protection of minors may not be demanded, even if the accused is not convicted in this venue. If the person denounced has any direct relationship of care or representation with the offended minor, the pertinent action shall be brought at the same time before the family judicial authority".

- **Penal Code:**

"Article 322.- Personal favoring. It shall be punished with imprisonment from six months to four years whoever, without a promise prior to the crime, helps someone to evade the investigations of the authority or to evade the action of the authority or omits to report the fact when obliged to do so".

- **General Police Law**

"Article 10.- In the performance of their duties, members of the police forces shall respect the following rules:

i) (...) They shall report any publicly actionable crime of which they are aware and shall not commit any act of corruption or tolerate it in their presence. They are also obliged to reject such acts and to denounce those who commit them.

- **Law for the protection of victims, witnesses and other parties involved in criminal proceedings:**

"Article 11.- Types of protection measures (...)

b) Extra-procedural protection: the victim, witnesses and other parties involved in the criminal proceeding shall have the right to request and obtain special protection in the event of serious risks or threats to their life or physical integrity, that of their relatives or other persons related to the person intervening in the proceeding, on the occasion of their denunciation or intervention in the proceeding

(...)".

Table # 4. Detection in operations carried out by the Migration Police: Illustrative case studies

Supposed	Procedure	Legal basis
<p><i>Migration Police intercepted a vehicle that had entered the national territory through an irregular immigration post during the night. Three individuals with false documents were traveling inside the vehicle. They are also carrying two children (a girl and a boy) who are not their relatives and who are undocumented.</i></p>	<ul style="list-style-type: none"> - Police detain the subjects. - Immediately file a report. - Children are protected from danger, they are sheltered in a safe place, under the temporary care of a trained person. This person checks on the condition of the children: if they are injured, hungry or cold, talks to them and tries to reassure them. If they are injured, the children are immediately taken to the nearest hospital. - Through the 911 Emergency System, the local PANI office is contacted so that they can come as soon as possible to provide comprehensive care to the minor. 	<ul style="list-style-type: none"> - Art. 281 CPP; 117, 134 CNA; 172, 374

Supposed	Procedure	Legal basis
<p><i>At the Paso Canoas immigration post, a 42 year-old Dominican woman, accompanied by a 23 year-old Honduran woman and a 17 year-old Panamanian woman, showed up. They state that they are on their way to San José and that they will be staying at a hotel owned by the Dominican woman, whom they will "help" with the hotel's work. Their travel documents are in order.</i></p>	<ul style="list-style-type: none"> - <i>Each person is interviewed separately according to the ESME protocol.</i> - <i>The police and judicial authorities are informed so that they may proceed to investigate the situation.</i> - <i>The 17-year-old girl is informed that she will not be able to continue her journey and that Migration will provide her with protection while the PANI representative is present. It is foreseeable that the adolescent does not feel like a victim and may even reject the protection provided to her.</i> - <i>A previously trained person provides temporary custody to the adolescent.</i> - <i>An attempt is made to find out what the adolescent's situation is; whether she is injured, hungry, cold or any other relevant situation.</i> - <i>Communicates with the local PANI office.</i> 	

e. Referral of case information

The competent officials shall immediately submit to the Management of Human Trafficking and Smuggling of Migrants the completed information of the cases dealt with.



IV. Collaboration with the competent institutions

The Directorate of Migration and Alien Affairs (Dirección de Migración y Extranjería) must co-work in the process of special protection of the minor victim of trafficking. This process is coordinated by PANI, an institution that will request the support of the DGME in the following specific or other related areas:

1. Include exit impediments and process alerts requested by PANI or other competent authorities.

The exit impediment is a measure to protect the victim of trafficking in persons and prevent traffickers from being able to get them out of the country. This measure is processed by the corresponding judicial or administrative authority and must be included in the corresponding system by the DGME immediately, given the urgency of the case.

While the impediment to leave the country is being processed, PANI may request the filing of an alert for permission to leave the country, which must be registered by the DGME as soon as possible.





2. Granting of special migratory category

While PANI attends to the minor, the DGME, through the Management of Human Trafficking and Smuggling of Migrants, will activate the ERI to formulate the corresponding accreditation as a victim of human trafficking and thus formulate the recommendation to the DGME to proceed with the respective documentation, as established in Articles 93, 94 and 107 of the LGME.

The General Directorate of Migration and Alien Affairs will grant temporary stay to victims of human trafficking, following a technical recommendation made by the commission created for this purpose. It is important to observe the principle of celerity, in order to guarantee the rights of the minor.

3. Facilitating the entry or exit of the victim

Issuance of immigration documents for foreign SME victims of trafficking in persons

Once the PANI has issued the decision to repatriate the victim of human trafficking and once the option of documenting him/her through the Consulate of his/her country of origin has been exhausted, the DGME may issue a "Travel Identity Document for a minor" so that he/she may leave the country. (art 138 LGME)

In the event that the victim of human trafficking is a PME resident in Costa Rica, the DGME may authorize Costa Rican consuls abroad to grant a travel identity document for entry into the country (Art. 22 LGME).

Issuance of immigration documents for Costa Rican PME victims of human trafficking

Once an institution in charge of the protection of children and adolescents abroad, in coordination with PANI, has issued a decision to repatriate the Costa Rican PME victim of human trafficking, the DGME or its Migration agents abroad must document the PME's entry into the national territory (Arts. 22 and 138 LGME).

These procedures must be carried out promptly.

Attention by immigration officials at the respective posts

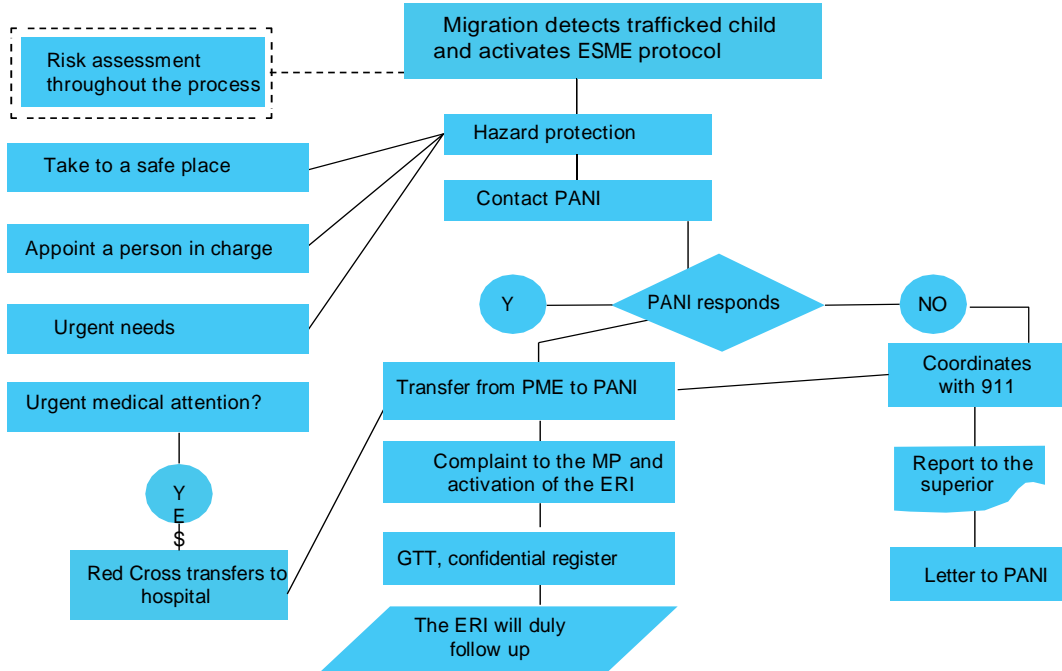
At the respective immigration posts through which the victim leaves or enters the country, immigration officials must guarantee preferential attention, in accordance with the following steps:

- PANI notifies the DGME of the date of departure, or entry, of the victim and the migratory post.
- Coordinate with GTT of the DGME so that a monitoring of the exit or entry situation is generated.
- The victim, accompanied by a PANI representative, goes to the immigration post.

- The DMGE official accompanies the PANI representative and the minor, supporting the completion of migration controls in a safe and smooth manner.
- In the case of receiving a minor victim of human trafficking, the DGME official will accompany the PANI representative who will receive the victim, providing preferential attention.

FLOWCHART

DETECTION OF A MINOR VICTIM OF TRAFFICKING IN PERSONS





GLOSSARY

Adolescent: Person over the age of 12 and under the age of 18.

Alert: Situation of vigilance or attention.

Uprooting: To separate someone from the place or environment where he/she has been raised or where he/she lives and has his/her affective and safety networks.

Exploitation: Using a person for one's own benefit, usually in an abusive manner, because of his or her characteristics (e.g. youth, labor force, etc.).

Commercial sexual exploitation of children and adolescents:

It is the use of minors in sexual activities in exchange for payment, which may be economic or otherwise. The Penal Code includes the following crimes of CSEC: sexual acts with minors, pornography, aggravated pimping, aggravated pimping and corruption.

Myth: A lie, half-truth or prejudice that many believe and do not question.

Child: A person between 0 and 12 years of age.

Minor: Person between 0 and 17 years of age.

Protocol: Has several meanings, the following are of interest in this document: 1) *International protocol:* is an agreement of wills between two or more states that modify international charters or treaties, for example, the Protocol to prevent, suppress and punish trafficking in persons,

especially women and children. 2) A set of rules or steps that specify a particular procedure, e.g., Police Protocol for the Repatriation of Child Victims of Trafficking.

Trafficking in children and adolescents: The recruitment, transportation, transfer, harboring or receipt of persons for the purpose of exploitation.

Trafficker: Active subject of the crime of trafficking in persons.

Victim: Is the person directly offended by a crime; this is the definition of interest for the purposes of this Protocol. The Victims Protection Law also considers other natural and legal persons as victims.

Vulnerability: Presence of factors that impede or may impede the adequate development of children and adolescents and increase the possibilities of suffering harm, being abused or exploited.

MATERIALS SUPPORT

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Laws, decrees and protocols

Childhood and Adolescence Code, Law No. 7739 of January 6, 1998.

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General Law on Migration and Foreigners, Law No. 8764 of August 19, 2009.

Protocol for Migration Officials in relation to Minors in Situations of Vulnerability, 2009.

Protocol for the Repatriation of Child and Adolescent Victims of Trafficking, 2007.

Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children, supplementing the United Nations Convention against Transnational Organized Crime, ratified by Costa Rica through Law No. 8315 of September 26, 2002, published in La Gaceta No. 212 of November 4, 2002.

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