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Pro Victims Justice through an Enhanced Rights Protection and Stakeholders Cooperation

THE REFERRAL ASSISTANCE MECHANISM TOOL IN DOMESTIC AND CROSS-BORDER CASES

SILVIA BERBEC, LEGAL EXPERT, LAWYER

ASSOCIATION PRO REFUGIU

OFFICE@PROREFUGIU.ORG

WWW.PROREFUGIU.ORG

The referral assistance mechanism tool in domestic and cross-border cases

- ▶ A maximum 60 pages document
- ▶ TimesNew Roman, 12 single space. English written and translated in Romanian, Bulgarian, German, Swedish languages. *No other type of Font and Font Size.*
- ▶ Each partner will provide its part of contribution to the publication. *Before sending the text to coordinator, each partner to consult a translator to correct any potential mistakes / legal terminology.*
- ▶ The publication to be elaborated in a neutral manner. *Avoid expressions such as “ I think...” We think....*
- ▶ Some chapters to contain general information, that can easily be adapted by other EU countries (ensure the take over of the information). *Chapter 2, Chapter 3, Chapter 4.* It should not be written strictly from the legal perspective of the project countries. In these chapters will be provided certain guidelines, how procedures should take place, regardless of country.
- ▶ Some chapters will incorporate more concrete information based on each country context (Romania, Bulgaria, Germany, Sweden). *Chapter 1, Chapter 5, Chapter 6.*

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- ▶ **The partners from Bulgaria, Germany and Sweden will transmit their contribution to this publication, until 15 May 2018 (by email to Pro Refugiu)**

- Chapter 1 -half-page / partner
- Chapter 2 -3 pages / section 1 / partner
- Chapter 3 - 0 pages
- Chapter 4 -3 pages / section 1 / partner
- Chapter 5 -4 pages / partner
- Chapter 6 -2 pages/partner

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► CHAPTER 1 Overview of EU and national legal framework concerning victims rights

-the chapter should be limited to 3 pages.

-each partner will transmit, for this chapter, the list with the most relevant national laws (Romania, Bulgaria, Germany, Sweden). Laws containing provisions on victims rights, assistance, judicial procedures in domestic and cross-border cases. *Indicate the most important laws based on different types of victims of crimes (e.g. victims of human trafficking, victims of domestic violence/gender based violence, victims of sexual assaults, victims of hate crimes etc..)*

-how to elaborate the list / each partner. *Indicate the name of the law in English and write only 1-2 phrases brief description about each law.* **Example** Law no. 682/2002 concerning witness protection. The law regulates the protection and assistance of witnesses whose life, physical integrity or freedom is threatened as a result of having information or data on serious crimes and due to the fact that they agreed to provide the information and cooperate with the judiciary authorities.

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► CHAPTER 1 Overview of EU and national legal framework concerning victims rights

- If the Law is available on internet in the partner's language: the partner to insert in the List the name of the law in English and to use footnotes. **Example how to write:**

Law no. 682/2002 concerning witness protection¹

Footnote Available in Romanian at <http://www.anitp.mai.gov.ro/>

The Footnotes are to be written in the publication with Times NewRoman 11 font size (not 12 font size)

-The coordinator will elaborate the list with EU legislation.

-Partners will elaborate only the lists with national legislation (RO, BG, DE, SE)

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▶ CHAPTER 2 THE LEGAL PROCEDURES FOR IDENTIFYING VICTIMS OF CRIMES

It will contain 2 Sections. The Chapter 2 will have maximum 13 pages.

- ▶ Section 1: a brief overview / each partner country on how identification of victims is performed (by whom, how, through which means). Each partner (RO, BG, DE, SE) to develop this section on the basis of the legislation and judicial practice existing in its country.

-Each partner to develop a presentation of 3 pages / section 1. Try to develop the presentation connecting it to the legislation, judicial procedures. Present the information in a concise manner, do not enter in a lot of details. If there are particularities in identifying certain types of victims, briefly state about this.

-Refer to the Criminal Code and Criminal Procedural Code legal provisions, special laws/certain types of victims. How victims are identified: the victim makes a complaint, the authorities start the investigations when there are suspicions of committing illegal acts, other methods to identify should be specified...what authorities are responsible to start the investigations/to receive the complaints, are these authorities responsible to transmit the files to other authorities and more exactly to which.....).

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► Chapter 2

- present how identification of victims takes place based on legislation provisions & practice.
- present if the prosecutor has to investigate do not matter the type of crime (in cases in which the prosecutor can close the case, if the victim withdraw her/his complaint, briefly refer in relation with which illegal acts such approach would be accepted).
- how long it takes to conclude an investigation, any legal term specified or not in the legislation that has to be respected in order to finalize an investigation ?
- in cases of THB victims, foreign citizens, what is the role of the immigration office in the identification process and how it cooperates with other legal entities on this matter.
 - as part of the identification process, all victims of crimes receive in general basic information on the next procedures to be followed, from police officers?
- are taken place any individual assessments of the victims needs once she/he is identified?
- chapter 2 is covering all types of victims /identification process (special situations/certain types of victims should be also underlined)

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▶ Section 2 **General model of identification**

-This section will be developed by the coordinator(Pro Refugiu Association). 1 page

-Elaborate in the form of a scheme, a general model, that can be easily replicated from one country to another.

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► CHAPTER 3 INDICATORS FOR DETERMINING VICTIMS

4 pages document/ chapter 3, elaborated by Pro Refugiu Association

- incorporates the best indicators to assess if a person is a victim of a certain illegal act
- special focus on THB victims, gender based violence/domestic violence victims, victims of sexual assaults, victims of hate crimes.
- present the indicators and make a brief description about them.

Indicators for identifying victims of human trafficking:

- sex
- age
- social characteristics
- lack of documents
- the circumstances in which the victim was found
- signs that may indicate the presence of a physical abuse.

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► CHAPTER 3 INDICATORS FOR DETERMINING VICTIMS

Indicators of domestic violence:

- physical lesions on the person's body
- psychological trauma (anxiety, self-harming, somatic disorder etc)
- social/financial background (homeless, unemployment, family isolation)
- demeanour (unconvincing explanations of injuries, anxiety in the presence of partner, recent separation/divorce, reluctance to follow advice).

Indicators of hate crimes:

- the victim is a member of a group outnumbered by the members of another group in the area where the incident occurred.
- the victim is a prominent rights activist/public spokesperson, religious leader etc.
- the victim had received previous harassing /threatening by email, by phone.

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► *Indicators of hate crimes:*

- a previous incident or crime had sparked a retaliatory hate crime against the member of the group presumed responsible.
- race, religion, ethnicity, disability status, gender, sexual orientation of the victim differs from that of the offender.
- the previous conduct of the offender that has a history of previous crimes with a similar modus operandi.

► *Indicators of sexual violence:*

- physical signs of the sexual assault
- self-harming behavior
- emotional trauma

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- ▶ Partners to search if other additional indicators are to be added. Provide a feedback with rest of their contribution/publication until 15 May 2018.

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► CHAPTER 4 THE LEGAL ASSISTANCE REFERRAL PROCESS

15 pages / Chapter 4

Section 1

-Each partner (RO, BG, DE, SE) will develop a 3 pages presentation on how victims of crimes receive free legal assistance. Base the description on legislation & practice.

Example: after identification, the judiciary authority is referring or not for legal assistance the victims to which entities...in order to have access to a lawyer from an early investigation phase until end of the trial. Each partner to describe how it takes place the referral for legal assistance (e.g. the police/prosecutor/court is contacting the local bars, other entities...) . To underline if there is a common process to have access to legal aid regardless the type of victims or there are special situations/certain victims(brief describe these special situations). The referral for free legal assistance in domestic and cross-border cases (from institutions in charge to investigate/prosecute - lawyers). Who makes (when and how) the assessment for legal assistance

Section 2

-This section will be developed by the coordinator(Pro Refugiu Association). 1 page

-Elaborate in the form of a scheme, a general model, that can be easily replicated from one country to another.

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► Chapter 4 / Section 1

Partners to describe based on legislation & practice how a lawyer is appointed to a victim of crime.

Same lawyer or not from the start of the investigations until end of the criminal trial ?

It is or not mandatory to receive previous training as lawyer to deal with certain types of victims ? (e.g. THB victims / domestic violence victims) or any type of criminal lawyer can provide legal aid.

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- ▶ Section 3 **Avoid re-victimisation in the criminal proceedings**

- Presentation made by Coordinator (Pro Refugiu Association)

- Lawyers, police, prosecutors, court approaches when coming into contact with the victims as part of the criminal procedures.

- 2 pages document.

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► CHAPTER 5 CRIMINAL PROCEDURES IN DOMESTIC AND CROSS-BORDER CASES

16 pages / Chapter 5

-Refer to prosecution and court phases based on legislation & practice.

-Each partner (RO, BG, DE, SE) will make a presentation of 4 pages. *Describe the procedural phases that occur in the criminal trial (prosecution and court), include also the financial compensation aspects. Should be a general presentation regardless of the type of victim involved in each case. If there are special procedures in some cases, the partner should briefly refer to that also.*

If there are procedures that are different in domestic and cross-border cases, the partner should emphasize this aspect. If a certain procedure is encountered only in cross-border cases / according with the national legislation & practice.

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► CHAPTER 6 COMPETENT STAKEHOLDERS IN ENSURING THE PROTECTION OF VICTIMS RIGHTS

8 pages / chapter 6

-Each partner (RO, BG, DE, SE) to develop a list (2 pages/country) with the most relevant judicial authorities with competencies in ensuring the identification of victims, the provision of legal assistance, the prosecution, the court procedures. *Do not use tables.*

Example: name of the institution in English and 1-2 phrases of the competences description.

In the footnotes indicate also the available website (*the footnote TimesNew Roman, 11 font size*)

1. Institution.....competencies.....
2. Institution.....competencies.....
3. Institution.....competencies.....

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- ▶ Dissemination of the publication (referral assistance mechanism tool in domestic and cross border cases)
 - institutions (police units, local courts, prosecutor offices, law faculties, local bars, lawyers associations) NGOs, shelters that have a direct contact with victims of crimes.
 - the amounts from the budget under Heading E (printing costs) to be used to print copies / this publication .
 - partners to keep information on the exact stakeholders who will receive this publication .
 - focus on stakeholders from several regions/cities of each partner's country.
- Printed copies / partners budgets:
- 50 copies / Germany; 100 copies / Sweden; 100 copies/ Bulgaria.
- For printing costs (as well as for translation costs) to exist Contract, Invoice and Proof of the payment (bank statement)