

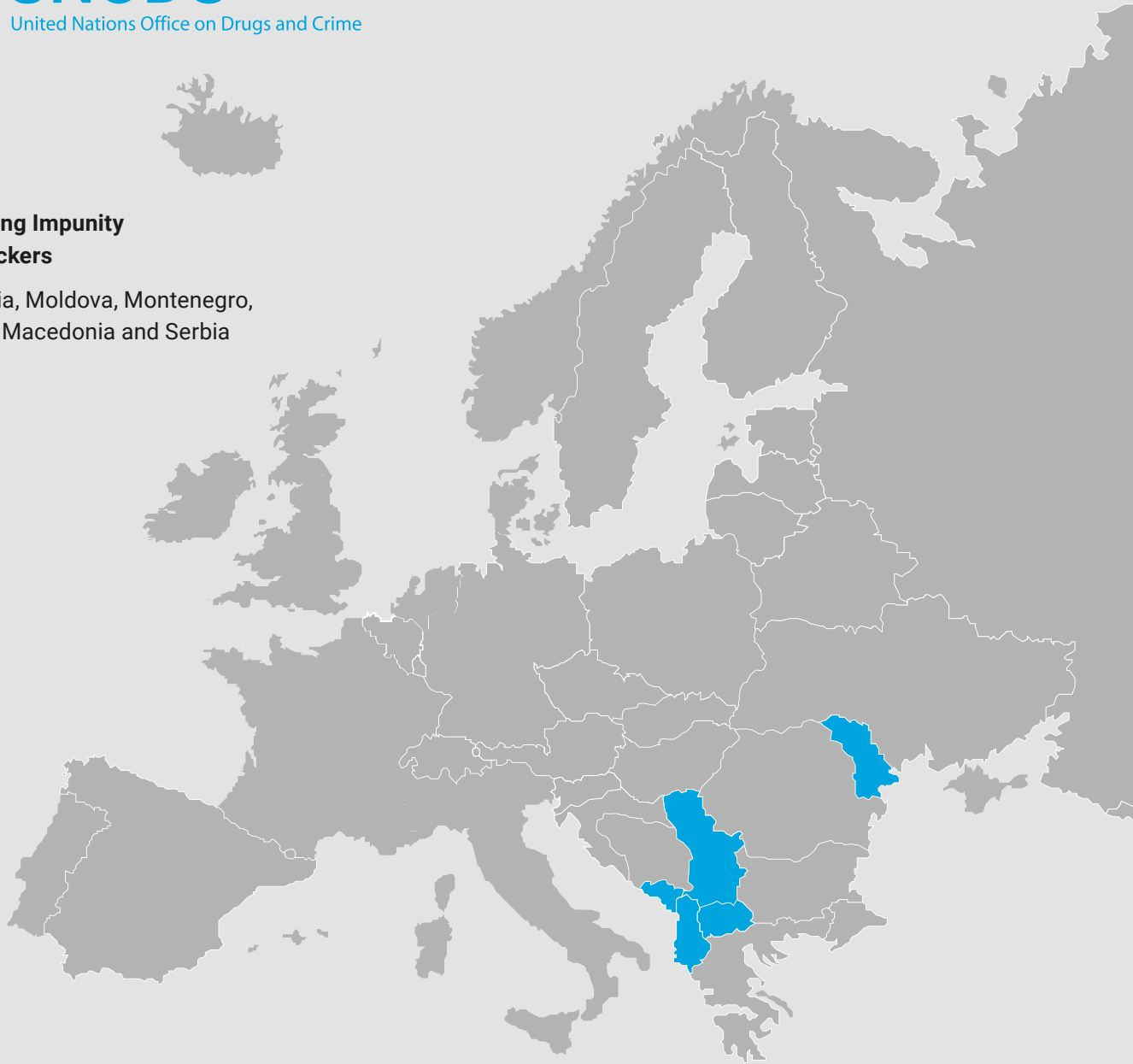


UNODC

United Nations Office on Drugs and Crime

**UN.Locking Impunity
for Traffickers**

■ Albania, Moldova, Montenegro,
North Macedonia and Serbia



Standard Operating Procedures (SOPs)
for investigating national and transnational trafficking
in persons cases among project countries, making use
of international cooperation tools and techniques

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LIST OF ACRONYMS

UN	United Nations
UNODC	United Nations Office on Drugs and Crime
SEE	South-Eastern Europe
TIP	Trafficking in Persons
SOPs	Standard Operating Procedures
UNTOC	United Nations Convention against Transnational Organized Crime
Palermo Protocol	Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children
UNCAC	United Nations Convention against Corruption
USOPs	Terre des hommes' Unified Standard Operating Procedures
NGO	Non-Governmental Organization
MLA	Mutual Legal Assistance
LoR	Letter of Request
JIT	Joint Investigation Team
JPI	Joint Parallel Investigation
EU	European Union
CoE	Council of Europe
JHA	Justice and Home Affairs
EUROJUST	European Union Agency for Criminal Justice Cooperation
EJN	European Judicial Network
SELEC	South-Eastern European Law Enforcement Centre
SEEPAG	South-Eastern European Prosecutors Advisory Group
OLAF	European Anti-Fraud Office
LP	Liaison Prosecutor
Budapest Convention	CoE Convention on Cybercrime
COO	Country of Origin
COD/T	Country of Destination or Transit
NRM	National Referral Mechanism

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PREFACE

Human trafficking is a serious crime that involves the exploitation and violation of human rights and dignity. Organized crime, including trafficking in persons (TIP), is prevalent in Southeastern Europe (SEE) countries such as Albania, Moldova, Montenegro, North Macedonia, and Serbia (Project Countries). This provides traffickers with significant opportunities to profit from the exploitation of victims both in the region and abroad, especially among socially marginalized groups. As indicated by assessments conducted by the United Nations Office on Drugs and Crime (UNODC) in all project countries at initial stage of the project, human trafficking is deeply rooted in the socio-economic challenges, fragile security, and destabilizing tendencies prevalent in SEE. Its cross-border nature highlights the urgent need for increased international collaboration, as this criminal activity goes beyond geographical limits and calls for joint, collaborative efforts among nations to combat effectively.

Despite having adopted concrete legal frameworks that criminalize TIP, largely in accordance with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, all countries in the region face challenges in successfully investigating and prosecuting human trafficking cases.

Namely, the analysis of the situation in the project countries shows that while legislative and institutional frameworks on addressing TIP, including for international cooperation, are in place and in line with international standards, however there are gaps in their adequate implementation and operationalization. In many cases, these gaps result from the lack of ability of first responders and criminal justice practitioners, including specialized law enforcement units, as well as localized police and prosecutors' offices, to apply victim-centered approaches and substantiate cases by collecting adequate evidence, operationalizing existing cooperation agreements and arrangements with other countries of the region and the European Union (EU) consistently.

Furthermore, adequate understanding the definitions and characteristics of human trafficking is crucial for stakeholders to recognize and address this complex issue. The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children establishes a unified framework across the international community. It provides a comprehensive definition that forms the basis for the criminal laws in the region. Along with United Nations Convention against Transnational Organized Crime, it enables countries to work collaboratively, share information, and coordinate efforts to dismantle transnational trafficking networks. Additionally, this unified approach is crucial for accurately identifying and protecting victims, ensuring that they receive the support and assistance they need to recover and rebuild their lives.

Overall, the common approach is needed to succeed in preventing, fighting, and dealing with human trafficking. This means working collaboratively, using the same standards, and helping each other in prevention, protection, and prosecution efforts.

In response to this pressing need, the development of Standard Operating Procedures (SOPs) stands as a significant step forward. These SOPs outline the roles and responsibilities of various stakeholders involved in detecting, investigating, and prosecuting human trafficking cases while providing effective assistance to trafficking victims and support using a victim-centered approach.

The SOPs provide practical guidance on identifying potential victims, managing and sharing information, obtaining evidence, and offering support to victims among participating project nations. They clarify the allocation of resources, the responsible parties, and the stages at which these resources are required and outline the main procedures involved. By setting these standards, the SOPs establish a framework for coordinated action, aiming to curtail human trafficking effectively.

The SOPs consist of the following chapters:

1. RELEVANT PROVISIONS OF THE CRIMINAL CODES OF THE REGION THAT DEAL WITH THE CRIMINAL OFFENSE OF HUMAN TRAFFICKING
2. IDENTIFICATION, SUPPORT AND ASSISTANCE TO VICTIMS OF HUMAN TRAFFICKING
3. INTERNATIONAL COOPERATION (INFORMAL POLICE COOPERATION, MUTUAL LEGAL ASSISTANCE: JIT, EXTRADITION, PARALLEL INVESTIGATIONS)
4. CROSS-BORDER OBTAINING OF ELECTRONIC EVIDENCE
5. FREEZING, SEIZURE AND CONFISCATION OF ASSETS

1. RELEVANT PROVISIONS OF THE CRIMINAL CODES OF THE REGION CRIMINALIZING HUMAN TRAFFICKING

The core international legal instruments addressing trafficking in persons are United Nations Convention against Transnational Organized Crime (UNTOC) and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol). As of September 2023, UNTOC has 191 State parties, and the Palermo Protocol has 181 State parties.¹ The objective of the Palermo Protocol, supplementing the UNTOC, under article 1, is to promote [international] cooperation to prevent and combat transnational organized crime more “effectively”. The UNTOC treaty marks significant progress in the global effort to fight transnational organized crime and reflects the awareness by the international community of the gravity of the issue and the necessity for tight cooperation among states. The use of the UNTOC treaty is important for the global fight against transnational organized crime, as it provides a common framework and platform for countries to work together and share information, experiences, best practices, and challenges. The use of the treaty also helps countries to strengthen their national capacities and policies to prevent and combat transnational organized crime, and to protect and assist the victims. Furthermore, the Palermo Protocol reflects the first international consensus on the definition of trafficking, and obligates State Parties to criminalize trafficking, attempted trafficking, participating as an accomplice, and organizing and directing trafficking.

“Trafficking in persons” as defined in Article 3 of the “Palermo Protocol” means; “recruiting, transporting, transferring, harboring and receiving persons, through the threat of force or the use of force or other forms of coercion, kidnapping, fraud, deception, abuse of power or difficult position or giving or receiving money or benefits to obtain the consent of the person in control over another person, for the purpose of exploitation. Exploitation includes, as a minimum, the exploitation of prostitution of other persons or other forms of sexual exploitation, forced labour or service, slavery or a relationship similar to slavery, servitude or removal of organs (...)”

According to the conducted national analysis, the definitions of human trafficking in Project Countries are largely consistent with the Palermo Protocol. The overview of relevant provisions criminalizing human trafficking in the criminal codes of the region is as follows:

1.1. Republic of Albania

Criminal Code of the Republic of Albania

[Article 110/a](#)

[Trafficking in adult persons](#)

(1) The recruitment, transport, transfer, hiding or reception of persons through threat or the use of force or other forms of compulsion, kidnapping, fraud, abuse of office or taking advantage of social, physical or psychological condition or the giving or receipt of payments or benefits in order to get the consent of a person who controls another person, with the purpose of exploitation of prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or forms similar to slavery, putting in use or transplanting organs, as well as other forms of exploitation, both within

1 https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-a&chapter=18&clang=_en

and beyond the territory of the Republic of Albania, shall be punishable by imprisonment from eight to fifteen years.

(2) When such offence is committed against an adult female person, it shall be punishable by imprisonment of from ten to fifteen years. The organization, management, and financing of the trafficking of persons is punished with imprisonment of from seven to fifteen years.

(3) When such offence is committed in collaboration, more than once, accompanied with maltreatment and forcing the victim to commit various actions through the use of physical or psychological violence, causing serious consequences to the health or threatening his life, is punishable by imprisonment of no less than fifteen years

(4) When the offence as a consequence has caused the death of the victim, it is punished by imprisonment of no less than twenty years or with life imprisonment.

(5) When the criminal offence is committed through the utilization of a state function or public service, the punishment of imprisonment is increased by ($\frac{1}{4}$) one fourth of the punishment given.

Article 110/b

Benefit from or use of services provided by trafficked persons

(1) The benefit from or use of services provided by trafficked persons, or services which are subject to exploitation by trafficking, being aware that the person is trafficked, shall be punishable by imprisonment of from two to five years.

(2) When this offence is committed against a minor, it shall be punishable by imprisonment of from three to seven years.

Article 110/c

Actions facilitating trafficking

(1) Forgery, possession, or provision of identity cards, passports, visas or other travel documents, or their retaining, removal, hiding, damaging or destruction which have served for the trafficking of adult persons, but having no knowledge of this fact, shall constitute criminal offence and shall be punishable by two to five years of imprisonment.

(2) The same offence, when committed in complicity, more than once, or is committed by the person who has the task to issue the ID card, passport, visa, or the travel document, or has enabled trafficking of children, shall be punishable by four to eight years of imprisonment.

(3) The same offence, when it results in serious consequences, shall be punishable by not less than five years of imprisonment.

Article 128/b

Trafficking of Minors

(1) Recruitment, sale, transport, transfer, hiding or reception of minors with the purpose of exploitation for prostitution or other forms of sexual exploitation, forced labor of service, slavery or forms similar to slavery, putting in use or transplanting organs, as well as other forms of exploitation, shall be punishable by ten to twenty years of imprisonment.

(2) Organization, management and financing of the trafficking of minors is punished with imprisonment of from ten to twenty years.

(3) When this crime is committed in collaboration or more than once, or is accompanied with the maltreatment and forcing of the victim through physical or psychological violence to commit various

actions, or bring serious consequences to health, it is punished with imprisonment of no less than fifteen years.

(4) When the offence as a consequence has brought about the death of the victim it is punished with imprisonment of no less than twenty years or with life imprisonment.

(5) When the criminal offence is committed through the utilization of a state function or public service, the punishment of imprisonment is increased by one fourth of the punishment given.

1.2. Republic of Moldova

Criminal Code of Moldova

[Article 165](#)

[Human trafficking](#)

(1) Recruiting, transporting, transferring, harboring or receiving an adult person, with or without their consent, for the purpose of commercial or non-commercial sexual exploitation, exploitation through forced labour or services, begging, appropriation of aid, allowances or social benefits, of illegal use in medical or scientific tests or experiments, of exploitation in slavery or in conditions similar to slavery, of use in armed conflicts or in criminal activities, of taking human organs, tissues and/or cells, as well as of using women as a surrogate mother or for the purpose of reproduction, carried out by:

- a) the application of violence that is not dangerous for the life or health of the person or with the threat of violence;
- b) kidnapping;
- c) evasion, concealment, degradation or destruction of documents;
- d) holding in servitude, for the purpose of returning a debt;
- e) threatening to disclose confidential information to the victim's family or other natural or legal persons;
- f) deception;
- g) abuse of a position of vulnerability or abuse of power, giving or receiving payments or benefits to obtain the consent of a person who has control over another person,

is punished with imprisonment from 6 to 12 years, with the deprivation of the right to hold certain positions or to exercise a certain activity for a period of 2 to 5 years, and the legal person is punished with a fine in the amount of 4000 to 6000 conventional units, with the deprivation of the right to carry out a certain activity, or with the liquidation of the legal entity.

(2) The same actions performed:

- a) by a person who previously committed an act provided for in paragraph (1);
- b) on two or more people;
- c) on a pregnant woman;
- d) by two or more people;
- e) by a public person, a person with a position of responsibility, a person with a position of public dignity, a foreign public person or an international official;
- f) with the application of violence dangerous to the life, physical or mental health of the person;
- g) with particular cruelty to ensure the subordination of the person or through the use of rape, physical dependence, weapons;
- h) for reasons of prejudice,

are punished with imprisonment from 7 to 15 years, with the deprivation of the right to hold certain positions or to exercise a certain activity for a period of 2 to 5 years, and the legal person is punished with a fine in the amount of 6000 to 8000 conventional units, with the deprivation of the right to carry out a certain activity, or with the liquidation of the legal entity.

(3) The actions provided for in paragraph (1) or (2):

- a) committed by an organized criminal group or a criminal organization;
- a1) accompanied by contamination with a venereal disease or AIDS;
- b) resulting in serious bodily injury or mental illness of the person, death or suicide,

are punished with imprisonment from 10 to 20 years, with the deprivation of the right to hold certain positions or to exercise a certain activity for a period of 3 to 5 years, and the legal person is punished with a fine in the amount of 8000 to 10,000 conventional units, with the deprivation of the right to carry out a certain activity, or with the liquidation of the legal entity.

(4) The victim of human trafficking is absolved of criminal liability for the crimes committed by him in connection with this procedural quality.

Article 165

Use of the results of the work or services of a person who is a victim of trafficking in human beings and smuggling of migrants

(1) The use of products and/or services which are the result of exploitation in human trafficking or migrant smuggling offences provided by a person known to the recipient to be a victim of such offences, if this does not meet the elements of human trafficking or smuggling of migrants, is punishable by imprisonment for a term of two to five years, with a fine imposed on the legal person in the amount of 2 000 to 4 000 conventional units and deprivation of the right to engage in a specific activity.

(2) The person who has committed the act referred to in para. (1) shall be released from penal liability if he or she has voluntarily reported the commission by other persons of the offences of trafficking in human beings or smuggling of migrants has helped to uncover the respective offences or has actively contributed to the investigation of such cases."

Article 206

Child trafficking

(1) Recruiting, transporting, transferring, harboring or receiving a child, as well as giving or receiving payments or benefits for obtaining the consent of a person who has control over the child, in order to:

- a) commercial or non-commercial sexual exploitation;
- b) exploitation through forced labour or services;
- b1) practicing begging or for other vile purposes;
- b2) the appropriation of aids, allowances or social benefits;
- b3) illegal use in medical or scientific tests or experiments;
- c) exploitation in slavery or in conditions similar to slavery;
- d) use in armed conflicts;
- e) use in criminal activity;
- f) sampling of human organs, tissues and/or cells;
- h) sale or purchase;
- i) use as a surrogate mother or for reproductive purposes;
- j) illegal adoption,

shall be punished with imprisonment from 10 to 12 years, with the deprivation of the right to hold certain positions or to exercise a certain activity for a period of 2 to 5 years, and the legal person shall be punished with a fine in the amount of 4000 to 6000 conventional units, with the deprivation of the right to carry out a certain activity, or with the liquidation of the legal entity.

(2) The same actions accompanied:

- a) physical and/or mental violence, using a firearm or threatening to use it;
- b) abuse and/or sexual violence;
- c) taking advantage of abuse of authority or the child's vulnerable situation, threatening to disclose confidential information to the child's family or other persons;
- f) sampling of human tissue organs and/or cells;
- g) for reasons of prejudice,

are punished with imprisonment from 10 to 15 years, with the deprivation of the right to occupy certain positions or to exercise a certain activity for a period of 2 to 5 years, and the legal person is punished with a fine in the amount of 6000 to 8000 conventional units, with the deprivation of the right to carry out a certain activity, or with the liquidation of the legal entity.

(3) The actions provided for in paragraph (1) or (2):

- a) committed by a person who previously committed the same actions;
- b) committed against two or more children;
- b1) committed by two or more persons;
- c) committed by a public person, a person with a position of responsibility, a person with a position of public dignity, a foreign public person or an international official;
- d) committed by an organized criminal group or a criminal organization;
- d1) accompanied by contamination of the child with a venereal disease or AIDS;
- e) resulting in serious bodily injury or a mental illness of the child, with the child's death or suicide;
- e1) committed against the child who is in the care, protection, protection, education or treatment of the perpetrator;
- f) committed against a child under the age of 14.

are punished with imprisonment from 15 to 20 years, with the deprivation of the right to hold certain positions or to exercise a certain activity for a period of 3 to 5 years or with life imprisonment, and the legal person is punished with a fine in size from 8000 to 10000 conventional units, with the deprivation of the right to carry out a certain activity, or with the liquidation of the legal entity.

(4) The victim of child trafficking is absolved from criminal liability for the crimes committed by him in connection with this procedural quality.

1.3. Montenegro

Criminal Code of Montenegro

[Article 444](#) [Trafficking in Persons](#)

(1) Whoever, by means of the threat or use of force, fraud or deception, of the abuse of power, trust, dependence, a position of vulnerability, withholding, taking away or destroying personal documents, counterfeiting personal documents, procuring or manufacturing of counterfeit documents or of the giving or receiving of payments or benefits to achieve the consent of a person

having control over another person, commits any of the following: recruits, transports, transfers, surrenders, sells, buys, negotiates the sale of, harbours or receipts another person for the purpose of exploitation of his labour, forced labour, submission to servitude, slavery or practices similar to slavery, commission of criminal activity, prostitution or other forms of sexual exploitation, beggary, exploitation for pornographic purposes, for conclusion of an unlawful marriage, removal of organs for transplantation, or for exploitation in armed conflicts, shall be punished by a prison sentence for a term from one to ten years.

(2) The offence set forth in paragraph 1 of this Article shall be deemed committed against a minor even where the perpetrator did not use force, threat or any other of the foregoing methods of commission.

(3) Where the offence set forth in paragraph 1 of this Article is committed against a minor, or where the offence set forth in paragraph 1 of this Article is committed by a public official while discharging his official duty or where the life of one or more persons is endangered with criminal intent, the perpetrator shall be punished by a prison sentence for a minimum term of three years.

(4) Where the offence set forth in paragraphs 1 to 3 of this Article resulted in a serious bodily injury of a person, the perpetrator shall be punished by a prison sentence for a term from one to twelve years.

(5) Where the offence set forth in paragraphs 1 and 3 of this Article results in the death of one or more persons, the perpetrator shall be punished by a prison sentence for a minimum term of ten years.

(6) Whoever commits the criminal offence set forth in paragraphs 1 to 3 of this Article on a regular basis, or where the offence was committed in an organised manner by several persons, shall be punished by a prison sentence for a minimum term of ten years.

(7) Whoever uses the services of a person knowing that the person was the subject of the offence set forth in paragraph 1 of this Article shall be punished by a prison sentence for a term from six months to five years.

(8) Where the offence set forth in paragraph 7 of this Article is committed against a minor, the perpetrator shall be punished by a prison sentence for a term from three to fifteen years.

(9) The consent of victim who was the subject of the offence set forth in paragraphs 1 to 3 of this Article shall have no impact on the qualification of that criminal offence.

[Article 445](#)

[Trafficking in Minors for Adoption](#)

(1) Whoever abducts a minor for adoption contrary to valid regulations or whoever adopts such a person or mediates in such an adoption or whoever for that purpose buys, sells or surrenders another person who has not reached the age of fourteen or who transports, provides accommodation for or conceals such a person, shall be punished by a prison sentence for a term from one to five years.

(2) Whoever commits the activity set forth in paragraph 1 of this Article on a regular basis, or where the offence was committed in an organised manner by several persons, shall be punished by a prison sentence for a minimum term of three years.

[Article 446](#)

[Submission to Slavery and Transportation of Persons Held in Slavery](#)

(1) Whoever, in violation of rules of international law, places another into slavery or other similar position or keeps him in such a position, buys, sells, surrenders to another or negotiates the buying,

selling or surrendering of such person or who incites another person to sell his own freedom or the freedom of his dependents or care-receivers, shall be punished by a prison sentence for a term from one to ten years.

(2) Whoever transports persons held in slavery or similar position from one country to another shall be punished by a prison sentence for a term from six months to five years.

(3) Whoever commits the offence set forth in paragraphs 1 and 2 of this Article against a minor shall be punished by a prison sentence for a term from five to fifteen years.

1.4. Republic of North Macedonia

Criminal Code of the Republic of North Macedonia

[Article 418a](#)

[Human trafficking Article](#)

(1) Whosoever by force, serious threat causes delusions or other forms of coercion, by kidnapping, by deceit and abuse of his own position and abusing the pregnancy or the position of weakness of somebody else, or the physical or mental disability of another, or by giving or receiving money or other benefits in order to obtain agreement of the person that has control over another person, or in any other manner turns, transports, transfers, buys, sells, harbors or accepts persons for the purpose of exploitation through prostitution or other forms of sexual exploitation, pornography, forced labour or servitude, slavery, forced marriages, forced pregnancy, unlawful adoption or similar relations to it, begging or exploitation for purposes forbidden by law, or illicit transplantation of human organs, shall be sentenced to imprisonment of at least four years.

(2) Whosoever seizes or destroys the ID, passport or other identification document in order to commit the crime from paragraph (1) of this Article, shall be sentenced to imprisonment of at least four years.

(3) Whosoever uses or makes it available for another to use sexual services or other type of exploitation of persons knowing that they are victims of human trafficking, shall be sentenced to imprisonment from six months to five years.

(4) If the crime referred to in paragraphs (1), (2) and (3) of this Article is committed by an official person while performing his service, he shall be sentenced to imprisonment of at least five year s.

(5) The consent of the human trafficking with the intent to exploit them, as anticipated in paragraph 1, is not significant to the presence of the crime from paragraph 1.

(6) If the crime referred to in this Article is committed by a legal entity, shall be fined.

(7) The victim of human trafficking forced to commit a crime or any other punishable crime in the period during which he was a victim and which is directly connected to his position of a victim, shall not be punished

(8) The immovables and objects and transport means used for the commission of the crime, shall be seized

[Article 418-c](#)

[Organizing a group and instigating performance of crimes of human trafficking, trafficking in juveniles and migrants Article](#)

(1) Whosoever organizes a group, gang or other association for committing the crimes from

Articles 418-a, 418-b, 418-d and 418-e, shall be sentenced to imprisonment of at least eight years.

(2) Whosoever becomes member of the group, gang or other association from paragraph 1, or in some other way helps the group, the gang or the association, shall be sentenced to imprisonment of at least one year.

(3) A member of the group from paragraph 1, who reveals the group before it commits the crime within it or on its behalf, shall be acquitted from the sentence.

(4) Whosoever calls for, instigates or supports the commission of the crimes referred to in Articles 418-a, 418-b, 418-d and 418-e, shall be sentenced to imprisonment of one to ten years.

Article 418-d Trafficking a child

(1) Whosoever induces a child to sexual activities or enables sexual activities with a child or persuades, transports, transfers, buys, sells or offers for sale, obtains, supplies, harbors or accepts a child for the purpose of exploiting him in sexual activities for money or other forms of compensation or other forms of sexual exploitation, pornography, forced work or servicing, begging or exploitation for an activity prohibited by law, slavery, forced marriages, forced fertilization, illegal adoption, or forces consent as a mediator for child adoption, illegally transplants human organs, shall be sentenced to imprisonment of at least eight years.

(2) Whosoever commits the crime of paragraph 1 by use of force, serious threat, delusion or other form of forcing, kidnapping, defraud, abuse of the position or pregnancy, powerlessness or physical or mental disability of another, or by giving and receiving money of other benefit for the purpose of obtaining consent of a person controlling another person, or the act is committed over a child younger than 14 years shall be sentenced to imprisonment of minimum ten years.

(3) Whosoever uses or enables another to use sexual services or other type of exploitation of a child knowing, or being obliged to know that he is a victim of human trafficking, shall be sentenced to minimum imprisonment of eight years.

(4) The user of sexual services given by a child younger than 14 years shall be sentenced to imprisonment of at least 12 years.

(5) Whosoever seizes or destroys an ID, passport or another's personal identification document, for the purpose of committing the crime referred to in paragraphs 1 and 2, shall be sentenced to imprisonment of minimum four years.

(6) If the crime referred to in paragraphs (1), (2), (3) and (4) of this Article is committed by an official person while performing his service, he shall be sentenced to at least ten years of imprisonment.

(7) The consent of the child for the actions anticipated in paragraph 1 is not significant to the existence of the crime of paragraph 1.

(8) A child - victim of human trafficking shall not be punished in the cases where the law foresees punishment of a child, when the offender forced him to commit a crime, if such action is a direct consequence of his position of a victim.

(9) If the crime referred to in this Article is committed by a legal entity, it shall be fined.

(10) The immovables, objects and means of transport used for the commission of the crime, shall be seized.

1.5. Republic of Serbia

Criminal Code of the Republic of Serbia

Article 388

Human Trafficking

(1) Whoever by force or threat, deception or maintaining deception, abuse of authority, trust, dependency relationship, difficult circumstances of another, retaining identity papers or by giving or accepting money or other benefit, recruits, transports, transfers, sells, buys, acts as intermediary in sale, hides or holds another person with intent to exploit such person's labour, forced labour, commission of offences, prostitution, mendacity, pornography, removal of organs or body parts or service in armed conflicts,, shall be punished with imprisonment of three to twelve years.

(2) When the offence specified in paragraph 1 of this Article is committed against a minor, the offender shall be punished by the penalty prescribed for that offence even if there was no use of force, threat or any of the other mentioned methods of perpetration.

(3) If the offence specified in paragraph 1 of this Article is committed against a minor, the offender shall be punished with imprisonment of minimum five years.

(4) If the offence specified in paragraphs 1 and 2 of this Article resulted in grave bodily injury of a person, the offender shall be punished with imprisonment of five to fifteen years, and if a grave bodily injury of a minor had resulted from the offence referred to in paragraph 3 of this Article, the perpetrator shall be punished with imprisonment of at least five years.

(5) If the offence specified in paragraphs 1 and 3 of this Article resulted in death of one or more persons, the offender shall be punished with imprisonment of minimum ten years.

(6) Whoever habitually engages in offences specified in paragraphs 1 and 3 of this Article or if the offence is committed by a group, shall be punished with imprisonment of minimum five years.

(7) If the offence specified in paragraphs 1 to 3 of this Article, is committed by an organized group, the offender shall be punished with imprisonment of minimum ten years.

(8) Whoever knows or should know that the person is a victim of trafficking and abuse its position or allow to another to abuse its position for the exploitation envisaged in paragraph 1 this Article, shall be punished with imprisonment of six months to five years.

(9) If the offence specified in paragraph 8 of this Article is committed against a person for whom an offender knew or could have known to be a minor, the offender shall be punished with imprisonment of one to eight years.

(10) Endorsement of persons to exploitation or establishing slavery or similar relation to it specified in paragraph 1 this Article, shall not affect the existence of crime specified in paragraphs 1, 2 and 6 of this Article.

Article 389


Trafficking in Minors for Adoption



(1) Whoever abducts a child under sixteen years of age for the purpose of adoption contrary to laws in force or whoever adopts such a child or mediates in such adoption or whoever for that purpose buys, sells or hands over another person under sixteen years of age or transports such a person, provides accommodation or conceals such a person, shall be punished with imprisonment of one to five years.

(2) Whoever habitually engages in activities specified in paragraph 1 of this Article or if the offence is committed by a group, shall be punished with imprisonment of minimum three years.

(3) If the offence specified in paragraph 1 of this Article, is committed by an organized group, the offender shall be punished with imprisonment of minimum five years.

Annex 1. Comparative Analysis

Trafficking in persons consists of		
An ACT such as	committed by MEANS of...	for the PURPOSE OF EXPLOITATION, including...
Recruitment 	Threat / Serious Threat 	The exploitation of prostitution of others 
Transportation 	Use of force 	Other forms of sexual exploitation 
Transfer 	Coercion 	Labour / forced labour or services 
Harbouring 	Fraud 	Slavery or practices similar to slavery 
Receipt 	Abuse of power 	Servitude 
Hiding 	Giving or receipt of payments or benefits in order to get the consent of a person who controls another person 	Removing of organs 
Selling 	Abduction 	Commission of criminal activity / Commission of offences / exploitation for purposes forbidden by law 
Surrendering 	Abuse of power 	Begging 
Turning 	Deception 	Exploitation for pornographic purposes 
Buying 	Abuse of vulnerability 	Unlawful marriage 
Keeping 	Compulsion 	Exploitation in armed conflicts 
Concealing 	Giving or receipt of payments or benefits to controlling parties 	Forced pregnancy 
Accepting 	Abuse of office 	Unlawful adoption 
Acting as an intermediary in sale 	Taking advantage of social, physical, or psychological condition 	
Holding 	The application of violence that is not dangerous for the life or health of the person or with the threat of violence 	

Trafficking in persons consists of		
An ACT such as	committed by MEANS of...	for the PURPOSE OF EXPLOITATION, including...
Negotiate the sell of 	Evasion, concealment, degradation, or destruction of documents 	
	Keeping back personal documents/ Withholding, taking away or destroying 	
	Abuse of difficult position of another person 	
	Abuse of relation of dependency 	
	Abuse of trust 	
	Abuse of dependence 	
	Abuse of authorizations 	
	Misleading or keeping mislead 	
	Abuse of position 	
	Threatening to disclose confidential information to the victim's family or other natural or legal person 	
	Holding in servitude for the purpose of returning a debt 	
	Abuse of pregnancy 	
	Abusing the physical or mental disability 	

2. IDENTIFICATION, SUPPORT AND ASSISTANCE TO VICTIMS OF HUMAN TRAFFICKING

2.1. IDENTIFICATION OF VICTIMS OF HUMAN TRAFFICKING




The identification of victims of human trafficking is of vital importance in order to ensure adequate and effective prosecution of perpetrators and to enable victims to access protection and support services. An important step towards adequate prosecution and protection of victims is determining whether an individual is actually a victim of human trafficking.

There are several sources of information available to officials for identification of victim of human trafficking: knowledge derived from police reports, witness statements, information available in the databases of other law enforcement agencies, reports of border officials and non-governmental organizations and international organizations, labour inspectors etc. Identification can be done through an integrated evaluation of information obtained by observing indicators and listening.

Human trafficking, a grave violation of human rights, poses a significant challenge in Albania, Moldova, Montenegro, North Macedonia and Serbia, and many factors make people vulnerable to it. As revealed by the conducted national analysis, these include poor living conditions, lack of jobs, social marginalization, corruption, weak law enforcement, lack of awareness, and high demand for cheap labour and sexual services. The governments of these countries have taken some steps in terms of improving early and accurate victim identification. However, they still face many difficulties such as lack of resources, poor coordination among agencies, lack of protection for victims and witnesses, and limited prevention and reintegration programs.

Officially identifying victims of trafficking is the crucial first step towards initiating the provision of appropriate, individualized support and assistance tailored to their needs. In project countries, governments designated competent authorities to officially identify victims of trafficking. These authorities are not usually part of the criminal justice system.

Annex 2. Competent Authorities for Identification of Victims of Trafficking in Persons

COUNTRY	COMPETENT AUTHORITY	ADDRESS/TELEPHONE/E-MAIL
	Ministry of Interior	Alma Mele – Director at the Directorate for the Anti-trafficking and Migration Policies in MOI alma.mele@mb.gov.al Secretariat of the Responsible Authority Mimoza Qyra – Coordinator mimoza.qyra@mb.gov.al
	National Social Assistance Agency	Vasile Alecsandri str., 1 MD-2009, Chisinau Telephone: +373 22/ 822-088; https://www.anas.md , info@anas.md
	Center for Combating Trafficking in Persons (CCTP), Ministry of Interior	Vasile Alecsandri str., 1 MD-2009, Chisinau Telephone: +373(22) 254-998 https://www.igp.gov.md/ , cctp_ini@igp.gov.md
	Team for Formal Identification of Trafficking Victims	Tijana Šuković President of Team for Formal Identification of Trafficking Victims Mihaila Lalica br.2, Podgorica, Montenegro Mob. +382 67 634 246 Tel. +382 20 225 845 tijana.sukovic@mup.gov.me

COUNTRY	COMPETENT AUTHORITY	ADDRESS/TELEPHONE/E-MAIL
	National Commission for Combating Trafficking in Human Beings and Illegal Migration	
	Center for Protection of Human Trafficking Victims	Nemanjina 22-26, 11000 Beograd Telephone: +381 63 610 590 https://centarzztlj.rs/

Similar to Terre des hommes' Unified Standard Operating Procedures (USOPs) for Transnational Case Management,² this SOPs aims to strengthen cooperation between the competent state authorities as well as those of civil society, involved in the response to protection of victims and potential victims of trafficking in Albania, Moldova, Montenegro, North Macedonia and Serbia, with a special focus on intensifying exchange of information, cooperation and mutual assistance regarding identification, referral, protection and cooperation in proceedings.

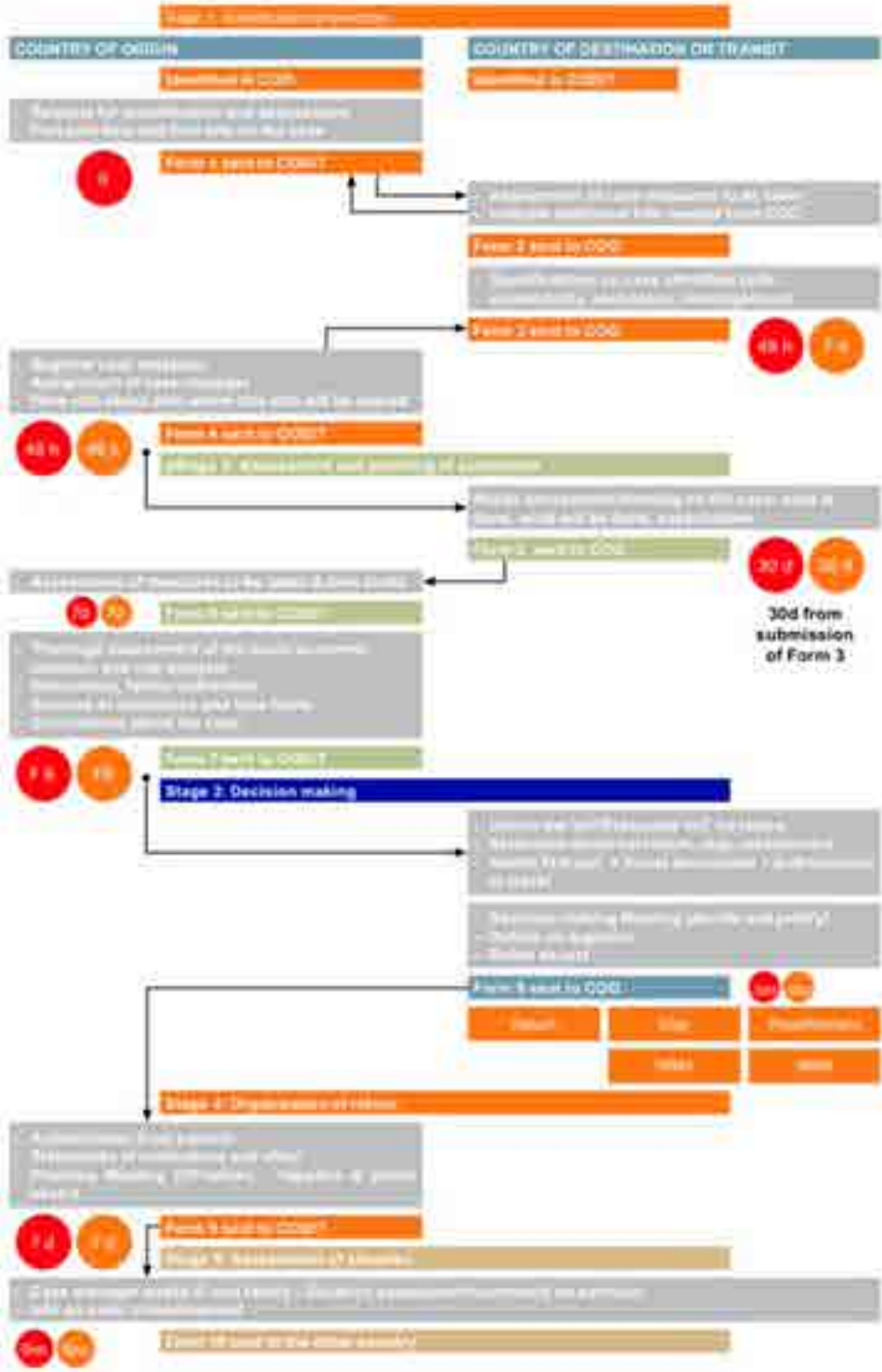
During the identification phase, the country of origin and the country of destination or transit, exchange information in order to identify and/or prevent a situation of trafficking, presumed trafficking or at risk of trafficking.

As a good practice example, we highlight the Unified Standard Operating Procedures (USOPs)³ for Transnational Case Management forms related to requests/responses for the identification and assessment of the situation of targeted categories.

² Terre des hommes, 2018, Unified Standard Operating Procedures (USOPs) for Transnational Case Management

³ Ibid

Annex 3. Unified Standard Operating Procedures (USOPs) for Transnational Case Management⁴



4 Ibid

Form 1

Title:	<i>"Request for the identification and assessment of the situation of persons from targeted categories who are considered to be in the destination or transit country"</i>
To be sent by:	<i>Contact point of the country of origin</i>
Deadline:	<i>Immediately.</i>

The goals of this communication form are as follows:

- a) To prevent any possible exploitation of the person in the country of destination or transit;
- b) To help the identification of the person in the destination or transit country;
- c) To increase active response in the system/National Referral Mechanisms the parties have for the identification of trafficking cases.

As established in the endorsed USOPs, "Form 1 in particular is intended as a preventive measure. Countries of origin have the responsibility to prevent movements for trafficking purposes or that might end up as trafficking while countries of destination or transit have the responsibility to proactively identify the individuals regardless whether they get or do not get indications from country of origin

This Form No. 1 should be submitted by the Contact Point of the country of origin to the Contact Point of the country of destination/transit.

Given that personal and confidential information is provided in this form, it is highlighted that all forms and communication between countries shall be submitted through the contact points assigned responsible for completing, sending and receiving the forms.

As soon as the Contact Point in the country of origin, gets information from the structures that the adult person or minor is in the other party's territory and might belong to the target groups of the signed Protocols, the Contact Point, shall complete and send Form 1 to the Contact Point in the country of destination/transit. No documents attached have been required.

In this Form, the Contact Point shall indicate the reason for submitting a request (there is a case of victim of trafficking, potential victim of trafficking or other at risk of trafficking). If available, it shall also include information on the possible residence of the person in the destination country, the persons who (it is considered that), accompany him/her and relationships with them, the border crossing point/zone and the approximate border crossing time and finally, supposed information on person's situation and health conditions.

According to the USOPs, Form no. 1 shall be submitted as soon as the responsible authority or the Contact Point gets information from the structures that the adult or minor is in the other party's territory and might belong to the categories in focus of protocols.

Once the Form has been sent, an answer of the receiving country is expected. If the case refers to a minor, the answer shall be sent within 48 hours and if the case is an adult, within seven (7) working days. Response shall be made using Form no. 2.

Remember

- Once informed on the case, the Contact Point or the responsible authority shall act immediately and pro-actively in order to gather all information available
- Form 1 serves to alert on situation of trafficking or at risk of trafficking.
- If no feedback has been received as per the deadlines, a reminder shall be sent to the respective Contact Point and to the Office of the National Anti-Trafficking Coordinator.

Goals: a) To prevent any possible exploitation of the person in the COO/T; b) To help the identification of the person in the COO/T; c) To increase active responses in the system/ National Referral Mechanisms the parties have for the identification of trafficking cases.
To be submitted by: Contact Point of the COO

Form no 1

Deadline: as soon as the Contact Point receives information from the structures that adult or minor is in the other party's territory and might belong to the categories in focus of protocols

Request for the identification and assessment of the situation of persons from targeted categories who are considered to be in the destination or transit country

The date of the submission of request _____ This is the working date in which the information is sent by the Contact Point of COO to the COO/T.

Register no given to the request _____ Number of Form 3 as an official document. Each country has its own system for that - this is not the case register number

Name and surname of the person for whom the request is made _____

Provide complete names. When information is unknown, it's "unknown"

Person is presumed victim of trafficking or at risk of trafficking

Person's age (date of birth) _____ Specify if data is proven by a valid identification document

Gender _____ Specify if data is proven by a valid identification document

Place of birth _____ Specify if data is proven by a valid identification document

Citizenship _____ Specify if data is proven by a valid identification document

The last place of residence in the country of origin _____

The reason for submitting a request		
The person is not in the country of origin but it is considered to be in the destination country as:	Victim of trafficking <input type="checkbox"/>	Specifiers: "ne razik" Adults: 1. Have mental and physical disabilities/different abilities; or 2. Have been previously identified as victims of trafficking. Children who live outside their COO and who: 1. Are unaccompanied or separated minors; 2. Have mental and physical disabilities/different abilities; 3. Are living in the streets with or without their parents; 4. Are presumed kidnapped or are reported kidnapped children; 5. Are gone missing; 6. Are married - cohabitate under the legal age for marriage; 7. Are children of victims of trafficking; 8. Have history of abuse and/or neglect; 9. Children whose parents' whereabouts and stay is irregular.
	Potential Victim of trafficking <input type="checkbox"/>	
	OTHER AT RISK <input type="checkbox"/> Terms are explained in section "Definitions" Mark by checking the boxes.	

The possible residence of the person in the destination country (if there are available information) _____ Provide available information on location of the person of concern.

The persons who, it is considered that, accompany him/her and relationships with them _____ Personal data, information on relationships, any additional information that facilitates identification and location of the person.

The border crossing point/ zone and the approximate border crossing time _____ Available information on the time and name of the border crossing point/zone; information shall be confirmed with border police

Supposed _____ Health condition includes physical and mental health. This information is important in order to indicate any urgent measures that shall be taken.

Form 2

Title:	<i>"Reply to the request for identification/ Reply to Form no 1"</i>
To be sent by:	<i>Contact point of the country of destination/transit</i>
Deadline:	<i>48 hours for minors; up to 7 working days for adults.</i>

The goals of this communication form are as follows:

- a) To confirm that Form No. 1 has been received;
- b) To inform the Contact Point of the COO that measures will be taken to verify/ensure that the person is not in the situation he/she is suspected to be.

This Form will also provide the tool for the COD/T to request additional specific information needed in order to initiate the procedures for the case.

Form no. 2 shall be completed and sent by the Contact Point of the destination or transit country.

In order to fulfil the goals for which Form no. 2 is needed, the Contact Point of the COD/T will present available additional information obtained by the national structures in COD/T.

Additionally, the Contact Point shall explain the measures that will be taken in order to verify the situation and ensure that the person is not in the situation he/she is suspected to be. Such measures could be for risk assessment, identification, prevention, rescue, protection, assistance, legal custodian and others. The work for such measures will be organized and carried out in line with the national formal systems and mechanisms for the identification of victims, presumed victims of trafficking and persons at risk, as stipulated in the respective legislations of each country. If additional information from the country of origin is necessary, these needs will be explained in point 2 of the Form 2.

When the case referred is that of a minor, submission of Form no. 2 shall be made within 48 hours. When the case is that of an adult, the Contact Point in the COD/T, shall send Form no. 2 within seven (7) working days from the receipt of Form No. 1. No attachments have been required.

In case the person is not found, information on measures or action taken and the results shall be informed to the country of origin through Form 2. As soon as the person is identified/detected (including cases when such identification is done past deadlines), the USOPs shall be re-activated and the Contact Point shall proceed with Form 3.

Once the form has been sent, the Contact Point of the COO needs no reply. It is still the authorities in the COD/T that will continue working on the case and reflect progress in Form no. 3 (please see below).

Remember

- Once you receive Form 1, National Referral Mechanism shall be immediately activated. The respective structures are expected to take measures to investigate and proactively prevent the situation in which the person of concern is supposed to be: trafficking or at risk of trafficking.
- Immediate measures shall be taken; these measures will be summarized and informed through Form 2 to the COO.

Goals: 1) To confirm that Form No. 1 has been received; 2) To inform the Contact Point of the COO that measures will be taken to verify/ensure that the person is not in the situation he/she is suspected to be.
To be submitted by Contact Point of the COO/T

Deadline:
48 hours for minors; up to 7 working days for adults

Form no 2

Reply to the request for identification/ Reply to Form no 1

Name and surname of the person for whom the reply is made _____

Name and family name of the case: victim/presumed victim of trafficking or at risk of trafficking

Register no given to the reply _____ Number of Form 3 as an official document. Each country has its own system for that. – this is not the case register number.

Referred to Form no 1 with register no _____ Date _____ Data provided in Form 1

Date when the response was made _____ Data when Form 2 is sent

1. Summary of the information obtained by the destination or transit country on the case

In this section information is required in two parts:

Part one: summary of the information obtained by the destination or Transit country on the case.

Part two: indicate measures taken in COD/T in order to verify the situation and ensure that the person is not in the situation he/she is suspected to be. For example: verification of border crossing of the person of concern to COD/T, identification of the person reported as victim/presumed victim or at risk of trafficking, rescue operations, etc.

The need for additional information from the country of origin/the country that has made the request

In this section, the Contact Point of the COD/T indicates the type of information needed from the COO. For instance, additional personal data of the person concerned or the trafficker(s), pictures of the person(s), information on health conditions, etc. Such measures could be for risk assessment, identification, prevention, rescue, protection, assistance, legal custodian and others.

Type of risk / Source	Describe
<p>Indicate the type of risk (such as health, safety, etc.), the source for such risk.</p>	<p>This information is relevant because it allows the COO to evaluate the conditions and the procedures in case voluntary return takes place, given that some of those risks may constitute a direct threat to the life of the person. Moreover, there might be a need for continuous medical assistance or other need for support upon return, or other joint actions for providing for the safety and well-being of the trafficked person or presumed victim of trafficking or person at risk of trafficking, particularly the possibility of contact by the recruiter or the trafficker. Sources of information might be indicated, providing a first assessment on probability and level of risk.</p>

Investigation of criminal acts: YES NO Check the box if "yes" or "no"

Specifications

The specifics of information shall be provided in accordance with the national legislative and institutional framework, provided that there might be sensitive information which should not be shared without the authorization of the respective responsible authorities for that

2.2. SUPPORT AND ASSISTANCE TO VICTIMS

The victim-centered approach is crucial in human trafficking investigations, prosecutions, and adjudications. It involves a systematic focus on the individual's needs and concerns to ensure comprehensive support and assistance to victims. This approach is essential to guarantee that survivors of human trafficking are treated with dignity and respect, and that their rights are protected throughout the criminal justice process and beyond. Victims of human trafficking require support and assistance to recover from the physical, psychological, and social trauma they have experienced. The SOPs provide information on national actors competent in delivering the necessary support to effectively assist victims of trafficking from the point of initial contact and screening up to the successful social reintegration of the individuals concerned.

Republic of Albania

NGO-run shelters operated under financial constraints and relied on outside sources for operating costs; government financial mechanisms intended to partially fund these shelters remained complicated. The four shelters comprised the National Coalition of Anti-trafficking Shelters (NCATS) and victims who required services not available in one shelter were referred to another shelter within the coalition. The NCATS provided assistance to trafficking victims, including food, counselling, legal assistance, medical care, educational services, employment services, assistance to victims' children, financial support, long-term accommodation, social activities, vocational training, and post-reintegration follow-up. The government provided free vocational training, textbooks for child victims, and health cards that provided free access to health care; however, the government offered limited reintegration support and did not provide funding for reintegration services.

Republic of Moldova

The Center for Assistance and Protection of Victims and Potential Victims of Trafficking in Human Beings provides specialized services for adults - mostly women, including women with children, as well as unaccompanied children. Accommodation in the Assistance and Protection Center for Victims and Potential Victims of Human Trafficking is provided for a period of up to 30 days, which, in certain cases, can be extended up to 6 months or more. People housed at the center receive free food, bedding and personal care products. In addition, an individual assessment of needs and risks is made for each beneficiary and, as necessary, specialized services are offered: psychosocial counseling; legal assistance (legal advice, assistance in restoring documents, qualified legal assistance in criminal and civil cases, etc.); medical services (medical supervision, emergency medical assistance, promotion of a healthy lifestyle, child education and care, etc.); assistance for consolidating knowledge regarding the acquisition of independent life skills; other services. These services are provided not only by the Center for Assistance and Protection of Victims and Potential Victims of Trafficking in Human Beings (Chisinau), but also by other specialists from the national social protection system at the beneficiary's place of residence.

Montenegro

The Ministry of Labour and Social Welfare (MLSW) operated local and social welfare centers and two regional institutions, which provided general services for victims of abuse, including trafficking victims. Although MLSW did not provide specialized services for trafficking victims, MLSW could provide separate facilities for males and females.

Republic of North Macedonia

The government and NGOs provided potential victims and officially recognized victims with protection and assistance, including food, clothing, medical assistance, psycho-social support, rehabilitation, and reintegration services. MLSP-run social service centers also employed specialized staff and provided psycho-social support and reintegration assistance, including education and job placement. However, potential trafficking victims did not have access to the government-run shelter and its support services until officially recognized by the government and GRETA reported officially recognized victims did not receive any formal notification, which hindered their entitlement to free medical and legal assistance. Specialized assistance was not available for male victims and observers reported only one forced victim ever received reintegration support. The government operated a shelter for trafficking victims and a transit center for irregular migrants that offered separate facilities for foreign potential victims of trafficking; both facilities could house male, female, and child victims. [...] The government did not award grants to NGOs in 2016 or 2017; NGOs reported their reliance on these grants forced them to reduce services to victims. Observers reported the government relied heavily on funding from the international community and on NGOs to provide assistance.

Republic of Serbia

In Serbia, a specialized social care institution – the Center for Human Trafficking Victims Protection, established by the Government of the Republic of Serbia is responsible for formally identifying victims of human trafficking independently of the law enforcement system, allowing victims to receive assistance and support without the condition of cooperation with the police and the judiciary. This applies even in situations where the judicial authorities cannot find sufficient evidence to bring charges.

The Center informs victims about their rights, represents them before other authorities, provides counseling services, and legal assistance, and offers urgent accommodation services for female victims of human trafficking. Center provides support both for domestic and foreign nationals. For each victim, the Center develops a protection plan that includes all relevant stakeholders from various systems, creating a support network involving specialized non-governmental organizations, healthcare institutions, educational institutions, the police, social welfare institutions, and other organizations, according to the needs and preferences of the beneficiaries.

At the end of 2016, services for information and support for victims and witnesses were established in higher public prosecutor's offices and prosecutors' offices of special jurisdiction in the Republic of Serbia, with the aim of enabling victims and witnesses to effectively exercise their right to receive information and access to services during criminal proceedings. support, in order to facilitate their participation in the procedure and greater efficiency of the procedure.

	State Social Service Ermira Gjata – Specialist/Member of Responsible Authority ermira_gjata@sherbimissocial.gov.al
	National Reception Center for Victims of Trafficking Suela Asllani - Director suelaasllani@gmail.com
	NGO Different & Equal Mariana Meshi – Executive Director mmeshi@yahoo.co.uk
	Psycho-social Center Vatra Brikena Puka – Executive Director brikena_puka@yahoo.com
	Another Vision Arian Cala – Executive Director aricala@gmail.com , tjetervision@gmail.com
	National Social Assistance Agency Address: Vasile Alecsandri str., 1 MD-2009, Chisinau Telephone: +373 22/ 822-088 https://www.anas.md , info@anas.md
	The Center for Assistance and Protection of Victims of Human Trafficking (CAP) https://www.cap.md/ , shelter_team@cap.md
	La Strada Moldova Address: C.P. 259, Chisinau MD-2012 Telephone: + 3732223496 https://lastrada.md/ , office@lastrada.md
	Public Service Social Welfare Centers Address: IV Proleterske br. 18, 81000 Podgorica Telephone: +38220230570 https://www.csrcg.me/ , podgorica@czsr.me
	National mechanism for referral of victims of human trafficking, Ministry of and Social Policy, Republic of North Macedonia Svetlana Cvetkovska, Coordinator +38976456795 scvetkovska@mtsp.gov.mk
	Open Gate – La Strada Macedonia Jasmina Dimishkovska Rajkovska, Executive director, +38922700107; +389 70222 412 jasmina@lastrada.org.mk , lastrada@lastrada.org.mk
	State Social Service Address: Terazije 34, 11000 Beograd Telephone: +381 11 36 21 563 http://www.zavodsz.gov.rs/sr/
	The Center for Human Trafficking Victims Protection Address: Nemanjina 22-26, 11000, Belgrade Telephone: +381 63 610 590 http://www.centarzztlj.rs/ , centar@centarzztlj.rs
	NGO “ATINA” Address: Šajkaška 27, 11000, Belgrade Telephone: +381616384071 http://www.atina.org.rs/ , office@atina.org.rs
	NGO “ASTRA” Belgrade Tel: 381117850001 https://astra.rs/ , astra@astra.rs

3. INTERNATIONAL COOPERATION IN CRIMINAL MATTERS

Human trafficking is a complex and multilayered problem which demands a coordinated response from various actors and institutions. While legislative and institutional frameworks on addressing TIP, including for international cooperation, are in place and in line with international standards, there are gaps in their adequate implementation and operationalization. To effectively combat this crime and assist its victims, it is essential to enhance international cooperation, and align the efforts across a broad range of sectors.

Some key concepts and principles that govern international cooperation in criminal matters are:

- ✓ The widest possible cooperation, which means that states should cooperate with each other to the fullest extent possible, consistent with their domestic laws and international obligations;
- ✓ Double (dual) criminality, which means that states should only cooperate if the conduct in question is a criminal offense in both the requesting and the requested state;
- ✓ Non bis in idem (prohibition of double trial), which means that states should not prosecute or punish a person for the same offense for which he or she has already been finally convicted or acquitted by another state;
- ✓ Principle of specialty, which means that states should only use the information or evidence obtained through cooperation for the specific purpose for which it was requested and not for any other purpose without the consent of the providing state;
- ✓ Principle of proportionality, which means that states should balance the benefits and costs of cooperation and avoid imposing excessive burdens on each other;
- ✓ Mutual trust and mutual recognition, which means that states should respect and accept each other's legal systems and decisions as equivalent and valid.

Cooperation refers to exchanging information and assistance between countries or jurisdictions in order to combat crime. There are two ways of cooperation in criminal cases - INFORMAL and FORMAL.

Before asking for formal help, practitioners should think about these questions:

- ❓ IS IT POSSIBLE TO GET THE SAME OUTCOME BY WORKING TOGETHER INFORMALLY (FOR EXAMPLE, BY CALLING SOMEONE IN ANOTHER COUNTRY'S POLICE OR FINANCIAL UNIT)?
- ❓ IS THERE A WAY TO FIND INFORMATION FROM PUBLIC SOURCES OR OTHER PLACES THAT ARE EASY TO ACCESS?
- ❓ WILL THE COURT ACCEPT THE INFORMATION OR EVIDENCE IF IT IS NOT OBTAINED THROUGH FORMAL CHANNELS?
- ❓ WILL GETTING SOME INFORMATION INFORMALLY HELP TO MAKE A BETTER FORMAL REQUEST LATER?
- ❓ ARE THERE OTHER WAYS TO GET THE SAME OUTCOME, WITHOUT RISKING THE QUALITY OR RESULTS, SUCH AS INVITING THE WITNESS TO COME TO THE REQUESTING STATE AND TESTIFY?

3.1. INFORMAL POLICE COOPERATION

Informal cooperation is a separate, less rule-bound international crime cooperation tool, which is available outside the formal mutual legal assistance (MLA) regime. Informal cooperation enables law enforcement and regulatory agencies (such as taxation and revenue authorities; companies and financial service regulators) to directly share information and intelligence with their foreign counterparts without any requirement to make a formal MLA request. In this sense, informal cooperation complements MLA regimes. This international cooperation tool can be used prior to an investigation becoming official and prior to the commencement of court proceedings, for example to conduct surveillance, take voluntary witness statements or check intelligence databases. In circumstances where coercive measures are not required, it is usually faster, cheaper and easier to obtain information or intelligence on an informal basis than via formal MLA channels.

Informal cooperation is based on direct contacts and communication between law enforcement or prosecution authorities, such as liaison officers, networks, or hotlines, which allow faster and easier exchange of information or intelligence, without the need of formal requests or legal formalities.

Law Enforcement Cooperation and Information Exchange are further regulated in detail by UNTOC Article 27 and the Palermo Protocol Article 10.

Article 27. Law enforcement cooperation – UNTOC

States Parties shall cooperate closely with one another, consistent with their respective domestic legal and administrative systems, to enhance the effectiveness of law enforcement action to combat the offences covered by this Convention (...)

Article 10. Information exchange and training – Palermo Protocol

Law enforcement, immigration or other relevant authorities of States Parties shall, as appropriate, cooperate with one another by exchanging information (...)

Informal cooperation though has some limitations:

1) **The possible inadmissibility of informally obtained evidence in court** – many countries describe limitations on the use of information received informally as a major challenge. These restrictions can affect both the initial disclosure of information by the requested state and its later admissibility as evidence in the requesting jurisdiction. Inadmissibility of informally obtained evidence in many jurisdictions, their legal frameworks do not allow them to use this information as evidence in court, even if the providing jurisdiction does not impose any restrictions on its use. In any case, the requesting state can always use the information obtained informally as a starting point for gathering evidence.

2) **The need to respect confidentiality and data protection rules** – this kind of information might be meant as a support material to help find more evidence. So, the information obtained informally, might be subject to confidentiality and data protection rules that might restrict its further use.

3) **The lack of enforceability or accountability of informal requests** – informal cooperation is often used as a complement to formal cooperation, rather than a substitute.





Informal cooperation is a type of international cooperation tool which allows law enforcement and regulatory agencies to exchange information and intelligence with their foreign counterparts without following the formal MLA regime. Informal cooperation can be used in a police investigation, for example to conduct surveillance, take voluntary witness statements or check intelligence databases. In

circumstances where coercive measures (such as search warrants, arrest warrants or freezing orders) are not required, it is usually faster, cheaper, and easier to obtain information or intelligence on an informal basis than via formal MLA channels.

Some of the risks that may happen when using informal cooperation are:

- ❗ unnecessary, frivolous or time-consuming informal requests could be perceived as time wasting and this might limit the willingness of counterparts to assist in future requests;
- ❗ informal requests could lead to imprecise, unreliable facts and elements of proof if the most appropriate or highly trained person to access reliable information was not properly identified (as they presumably would have been, if identified through formal channels);
- ❗ informal requests could inadvertently compromise other ongoing, or larger scale, investigations if they are not handled with the requisite level of confidentiality.

Annex 5. Contact Points for Informal Police Cooperation

COUNTRY	COMPETENT AUTHORITY	ADDRESS/TELEPHONE/E-MAIL
	Ministry of Interior, National Coordinator for Combating Trafficking in Human Beings and The General Directory of State Police	National coordinator Romina Kuko romina.kuko@mb.gov.al Specialist in the Sector Against Illicit Trafficking: Rudina Braha rudina.braha@asp.gov.al
	Ministry of Interior – Center for Combating Trafficking in Persons (CCTP), and State Chancellery of Moldova, Human rights and cooperation with Civil society directorate	Mr. Vitalie Psenicinii Acting Head of office, tel: +37369259509 vitalie.psenicinii@igp.gov.md Mr. Vasile Harea Head of office tel: +37368058158 vasile.harea@mai.gov.md Ms. Diana Doros, National Coordinator tel: +373 79189489 diana.doros@gov.md
	Ministry of Interior Department for Fight against Trafficking in Human Beings	Ms. Tijana Šuković Head of Department for Fight against Trafficking in Human Beings, Ministry of Interior Mihaila Lalica br.2, Podgorica, Montenegro Mob. +382 67 634 246, Tel. +382 20 225 845 tijana.sukovic@mup.gov.me
	Ministry of Interior National Commission for Combating Trafficking in Human Beings and illegal migration and National Unit for Combating Migrant Smuggling and Human Trafficking Department for suppression organized and serious crime	National coordinator Magdalena Nestorovska +389 2 3238-595; +389 2 3143-241 magdalena_nestorovska@moi.gov.mk , Biljana Lalova, chief inspector, +38970242 623 biljana_lalova@moi.gov.mk
	Ministry of Interior, Office for Coordination of Activities in Combating Trafficking in Human Beings	National coordinator Nenad Simić +381 64 892 0445 nenad.simic@mup.gov.rs , natco@mup.gov.rs

3.2. MUTUAL LEGAL ASSISTANCE (MLA)

Formal cooperation is based on legal agreements or treaties, such as MLA and extradition, that establish the rules and procedures for requesting and providing evidence, witnesses, suspects, or other forms of cooperation.

MLA is a formal procedure which involves the exchange of legal assistance between countries in criminal matters. The primary purpose of MLA is to collect evidence which is located in one country for the purpose of providing assistance in criminal investigations or proceedings in another country.

It can be used at various stages of criminal proceedings, from investigation to trial, but also at the end of the proceedings, for example to enforce a judgment or confiscate assets. MLA implies issuing an official request from a judicial authority of one country (the requesting state) to a judicial authority of another country (the requested state) to carry out one or more requested actions, such as taking statements, obtaining documents, conducting searches and seizures, serving documents, etc. The official request is usually conveyed through diplomatic channels and can be based on treaties (both multi- and bilateral) or agreements on MLA in criminal matters, or domestic laws.

Alternatively, MLA can be granted on the basis of an international courtesy with a guarantee of reciprocity (also known as “comity” in common law legal systems), which means that one country agrees to assist another country on the condition that the other country would do the same in a similar situation.

3.2.1. Multilateral treaties

Multilateral treaties are the most formal and coherent tool that can be used by states to address a certain common issue of international concern. Multilateral instruments can be specifically focused on a certain form of international cooperation in criminal matters, such as extradition or mutual legal assistance, or they can be comprehensive instruments that cover a range of criminal issues, such as transnational organized crime or human trafficking, with specific provisions that regulate how international cooperation between member states of the agreement should be conducted.

A treaty is an international agreement concluded between states in written form and regulated by international law, regardless of its particular designation. Although in some cases, treaties may be referred to as “conventions”, “agreements”, “charters” or other names, all of these legal instruments are treaties as defined by the Vienna Convention on the Law of Treaties, which is the main source of international treaty law.






Multilateral treaties are concluded between more than two countries, usually with the aim of creating a universal or regional regime for a certain issue. They often result from international conferences or gatherings of nations under the auspices of international organizations, such as the United Nations (UN), Council of Europe (CoE), or the EU, which may also act as depositaries or guardians of the treaties.

The MLA regime established by the UNTOC is intended to complement rather than replace any MLA regimes that already exist by virtue of any other treaty, whether bilateral or multilateral. At the same time, becoming a State Party to the UNTOC gives rise to separate obligations that States Parties must comply with amongst themselves. Where the UNTOC requires the provision of a higher level of assistance than is required under other MLA treaties that may already exist between States Parties, then its provisions will prevail. Conversely, where another treaty provides for a higher level of assistance from a requested state then the provisions of that treaty will determine the extent of the requested state’s obligations. Article 18 of the UNTOC provides that where there is no MLA treaty already in force between a States Party seeking cooperation and the States Party from whom cooperation is sought, the rules of MLA set forth in Article 18, paragraphs 9-29 will apply. These rules, which, taken together,






can usefully be considered as forming a “mini MLA treaty”, address issues such as the content and form of MLA requests, and grounds of refusal. Article 18 of the UNTOC provides that State Parties can request MLA from one another, in relation to offences established by the Convention, for any of the following purposes:

- ➔ Taking evidence or statements from persons.
- ➔ Effecting service of judicial documents.
- ➔ Executing searches and seizures, and freezing.
- ➔ Examining objects and sites.
- ➔ Providing information, evidentiary items and expert evaluations.
- ➔ Providing originals or certified copies of relevant documents and records, including government, bank, financial, corporate or business records.
- ➔ Identifying or tracing proceeds of crime, property, instrumentalities or other things for evidentiary purposes.
- ➔ Facilitating the voluntary appearance of persons in the Requesting State Party.
- ➔ Any other type of assistance that is not contrary to the domestic law of the requested State Party.




Annex 6. Most relevant multilateral treaties – State of play



TREATY	STATE (Date Ratified / Entry into Force Date)				
					
United Nations Convention against Transnational Organized Crime	21 Aug 2002	16 Sep 2005	23 Oct 2006	12 Jan 2005	6 Sep 2001
Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime	21 Aug 2002	16 Sep 2005	23 Oct 2006	12 Jan 2005	6 Sep 2001
Council of Europe Convention on Combating Trafficking in Human Beings	01 Feb 2008	01 Feb 2008	01 Nov 2008	01 Sep 2009	01 Aug 2009
Council of Europe European Convention on Mutual Assistance in Criminal Matters	03 Jul 2000	05 May 1998	06 Jun 2006	26 Oct 1999	29 Dec 2002
Second Additional Protocol to the Council of Europe European Convention on Mutual Assistance in Criminal Matters	01 Feb 2004	01 Dec 2013	01 Feb 2009	01 Apr 2009	01 Aug 2007
Council of Europe European Convention on Extradition	17 Aug 1998	31 Dec 1997	06 Jun 2006	26 Oct 1999	29 Dec 2002
Council of Europe European Convention on the Transfer of Proceedings in Criminal Matters	05 Jul 2000	24 Apr 2007	06 Jun 2006	01 Mar 2005	31 Dec 2002


Annex 7. Language and Channel of Communication for Letter of Request (LoR) for Mutual Assistance in Criminal Matters

Country	Council of Europe European Convention on Mutual Assistance in Criminal Matters and it's Second Additional Protocol
	<p>In accordance with Article 16, paragraph 2, Albania declared that requests and annexed documents shall be accompanied by an official translation into one of the official languages of the Council of Europe (English or French), unless agreements concluded on the basis of reciprocity provide otherwise.</p> <p>As the Republic of Albania has not made any reservation to the provisions of the Second Additional Protocol, communication between judicial authorities may take place directly in accordance with the provisions of Art. 4.</p>
	<p>Under Article 16, paragraph 2, of the Convention, the Republic of Moldova declared that requests for assistance and annexed documents shall be drawn up in Moldovan or in one of the official languages of the Council of Europe (English or French) or accompanied by a translation into one of these languages.</p> <p>In accordance with the declaration of the competent authorities of the Republic of Moldova addressed to the Secretary General of the Council of Europe on 01.12.2013. all requests must be addressed to the Ministry of Justice of the Republic of Moldova and the Office of the Office of the General Prosecutor.</p>
	<p>Montenegro has not made any declarations on the Article 16, so no translation of the request is needed.</p> <p>As Montenegro has not made any reservations to the provisions of Art. 4 of the Second Additional Protocol, communication between judicial authorities may take place directly.</p>
	<p>Republic of North Macedonia has not made any declarations on the Article 16, so no translation of the request is needed.</p> <p>As North Macedonia has not made any reservations to the provisions of Art. 4 of the Second Additional Protocol, communication between judicial authorities may take place directly.</p>
	<p>Republic of Serbia has not made any declarations on the Article 16, so no translation of the request is needed.</p> <p>As Republic of Serbia has not made any reservations to the provisions of Art. 4 of the Second Additional Protocol, communication between judicial authorities may take place directly.</p>

Annex 8. Language and Channel of Communication for Letter of Request (LoR) for Transfer of Proceedings in Criminal Matters

Country	Council of Europe European Convention on the Transfer of Proceedings in Criminal Matters
	<p>In accordance with Article 18, paragraph 2 of the Convention, the Republic of Albania declared that requests and any other documents related to them which are not drawn up in one of the official languages of the Council of Europe (English or French) shall be accompanied by a translation into the Albanian language or into one of those languages.</p> <p>As the Republic of Albania has not designated another competent authority, the request for transfer of a criminal proceeding, in accordance with Art. 13. should be submitted through the Ministry of Justice - and in urgent cases also through INTERPOL</p>
	<p>In accordance with Article 18, paragraph 2, the Republic of Moldova declared that the requests formulated pursuant to this Convention and the supporting documents shall be transmitted to the authorities of the Republic of Moldova accompanied by a translation into the Moldavian language or into one of the official languages of the Council of Europe (English or French)</p> <p>In accordance with the declaration of the competent authorities of the Republic of Moldova of 24.04.2007. addressed to the Secretary General of the Council of Europe, the request for of a criminal proceeding which is in the pre-trial stage should be delivered to the office of the General Prosecutor of the Republic of Moldova, while in the trial stage to the Ministry of Justice of the Republic of Moldova</p>
	<p>As Montenegro has not made any declarations to the Article 18, no translation of the documents relating to the application shall be required</p> <p>As Montenegro has not designated another competent authority, the request for transfer of a criminal proceeding, in accordance with Art. 13. should be submitted through the Ministry of Justice - and in urgent cases also through INTERPOL</p>

Country	Council of Europe European Convention on the Transfer of Proceedings in Criminal Matters
	<p>As North Macedonia has not designated another competent authority, the request for transfer of a criminal proceeding, in accordance with Art. 13. should be submitted through the Ministry of Justice - and in urgent cases also through INTERPOL</p> <p>In accordance with Article 18, paragraph 2, of the Convention, North Macedonia declared that requests and any other documents related to them which are not drawn up in one of the official languages of the Council of Europe shall be accompanied by a translation into the English or French language</p>
	<p>As the Republic of Serbia has not designated another competent authority, the request for transfer of a criminal proceeding, in accordance with Art. 13. should be submitted through the Ministry of Justice - and in urgent cases also through INTERPOL</p> <p>As the Republic of Serbia has not made any declarations to the Article 18, no translation of the documents relating to the application shall be required</p>

 Article 21 of the Council of Europe European Convention on the Transfer of Proceedings in Criminal Matters emphasizes that States Parties shall consider the possibility of transferring to one another proceedings for the prosecution of an offence covered by this Convention in cases where such transfer is considered to be in the interests of the proper administration of justice, in particular in cases where several jurisdictions are involved, with a view to concentrating the prosecution.

3.2.2. Bilateral treaties

Bilateral treaties in criminal matters are legal agreements between two countries or jurisdictions that set the rules and procedures for requesting and providing cooperation in criminal matters, such as evidence, witnesses, suspects, or other forms of assistance. Bilateral treaties can help in making judicial assistance easier and faster and dealing with legal or practical problems that may come from different legal systems or practices. Bilateral treaties can also improve mutual trust and respect between the parties and support the rule of law and human rights.

Annex 9. List of bilateral treaties by countries

Republic of Albania

- Convention on extradition of criminals between the Kingdom of Serbs, Croats and Slovenes and the Albanian Republic of June 22, 1926
- Treaty between Republic of Albania and Republic of Macedonia on Extradition, 1998
- Treaty between Republic of Albania and Republic of Macedonia on the execution of criminal decisions, 1998
- Treaty between Republic of Albania and Republic of Macedonia on Legal Aid, 1998

Republic of Moldova

- Police Cooperation Convention for Southeast Europe (PCC SEE) in Vienna, signed by Moldova on 5th May 2006 with intention to address organized and serious cross-border crime issues affecting their region in more comprehensive and effective manner, as well as with their desire to align their policing standards with those in the European Union and Schengen area. During the Austrian Presidency of the Council of the EU, the ministers responsible for home affairs from Republic of Albania, Bosnia and Herzegovina, the Republic of North Macedonia, the Republic of Moldova, Montenegro, Romania, and the Republic of Serbia.

- PCC Prum Agreement signed on 13 September 2018 by 9 countries: Albania, Austria, Bulgaria, Hungary, Moldova, Montenegro, North Macedonia, Romania and Serbia regarding automated exchange of DNA data, dactyloscopic data and vehicle registration data between the Parties to the Police Cooperation.
- Memorandum of Understanding between the Center for Combating Economic Crimes and Corruption of the Republic of Moldova and Administrative Unit for the Prevention of Money Laundering in the Ministry of Finance of the Republic of Serbia on cooperation in exchanging information on money laundering and financing terrorism: Signed in Chisinau on 12.10.2010.
- Memorandum of Understanding between the Center for Combating Economic Crimes and Corruption of the Republic of Moldova and the Unit for the Prevention of Money Laundering and Terrorist Financing in Montenegro on cooperation in exchanging information on money laundering and financing terrorism: Signed in Chisinau on 12.10.2010;
- Memorandum of Understanding between the Center for Combating Economic Crimes and Corruption of the Republic of Moldova and the Directorate General for the Prevention of Money Laundering of the Republic of Albania in combating legalization (laundering) of income from the illegal activity: Signed in Tirana on 13.12.2006.
- Memorandum of understanding B01451 between the Center for Combating Economic Crimes and Corruption of the Republic of Moldova and the Directorate for the Prevention of Money Laundering of the Republic of Macedonia in the field of combating legalization (“laundering”) of income from illicit activities: Signed in Skopje on 21.02.2006.

Montenegro

- Treaty between Montenegro and the Republic of Serbia on extradition dated May 29, 2009
- Treaty between the Republic of Serbia and Montenegro on Amendments to the Treaty between the Republic of Serbia and Montenegro on Extradition dated October 29, 2010
- Treaty between Montenegro and the Republic of Serbia on mutual enforcement of court decisions in criminal matters dated May 29, 2009
- Treaty between Montenegro and the Republic of Serbia on legal assistance in civil and criminal matters dated May 29, 2009
- Convention on extradition of criminals between the Kingdom of Serbs, Croats and Slovenes and the Albanian Republic of June 22, 1926
- Treaty between Montenegro and Republic of Macedonia on Extradition, 2011
- Treaty between Montenegro and the Republic of Macedonia on legal assistance and civil and criminal matters, 2005

Republic of North Macedonia

- Treaty between the Republic of Macedonia and the Republic of Serbia on extradition dated November 29, 2011
- Treaty between the Republic of Macedonia and the Republic of Serbia on legal assistance in civil and criminal matters dated November 29, 2011
- Treaty between the Republic of Macedonia and Republic of Serbia on mutual enforcement of court decisions in criminal matters dated November 29, 2011
- Treaty on Extradition with Montenegro, 2011

- Treaty between the Republic of Macedonia and Montenegro on legal assistance and civil and criminal matters, 2005
- Treaty with Macedonia on Extradition, 1998
- Treaty with Macedonia on the execution of criminal decisions, 1998
- Treaty with Macedonia on Legal Aid, 1998

Republic of Serbia

- Treaty between the Republic of Macedonia and the Republic of Serbia on extradition dated November 29, 2011
- Treaty between the Republic of Macedonia and the Republic of Serbia on legal assistance in civil and criminal matters dated November 29, 2011
- Treaty between the Republic of Macedonia and Republic of Serbia on mutual enforcement of court decisions in criminal matters dated November 29, 2011
- Treaty between Montenegro and the Republic of Serbia on Extradition dated May 29, 2009
- Treaty between the Republic of Serbia and Montenegro on Amendments to the Treaty between the Republic of Serbia and Montenegro on Extradition dated October 29, 2010
- Treaty between Montenegro and the Republic of Serbia on mutual enforcement of court decisions in criminal matters dated May 29, 2009
- Treaty between Montenegro and the Republic of Serbia on legal assistance in civil and criminal matters dated May 29, 2009
- Convention on extradition of criminals between the Kingdom of Serbs, Croats and Slovenes and the Albanian Republic of June 22, 1926

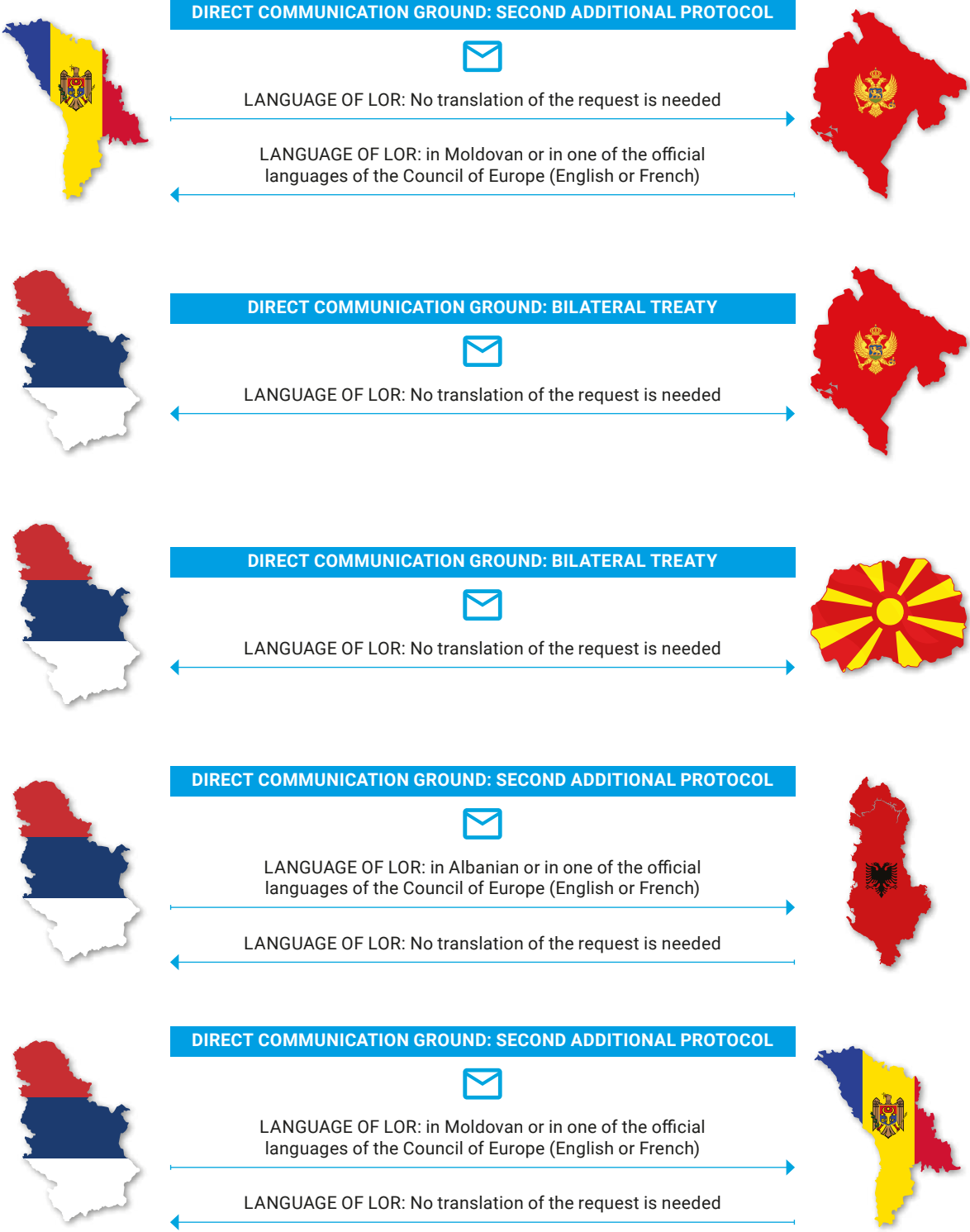
3.2.3. How to select the most applicable treaty?

If there is more than one treaty ratified of which some are bilateral and the others multilateral, the question will raise – which one to apply?

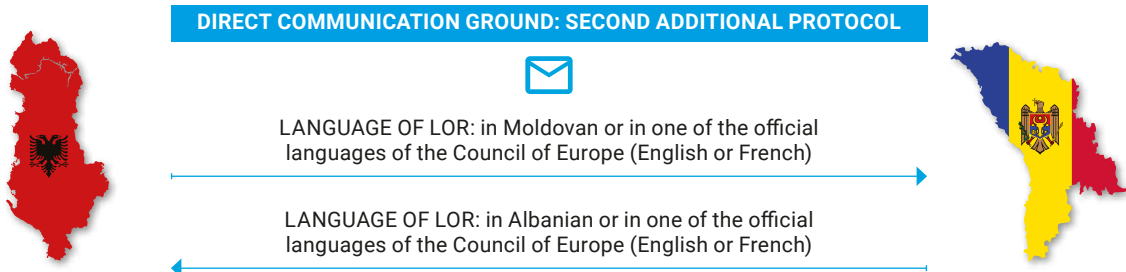
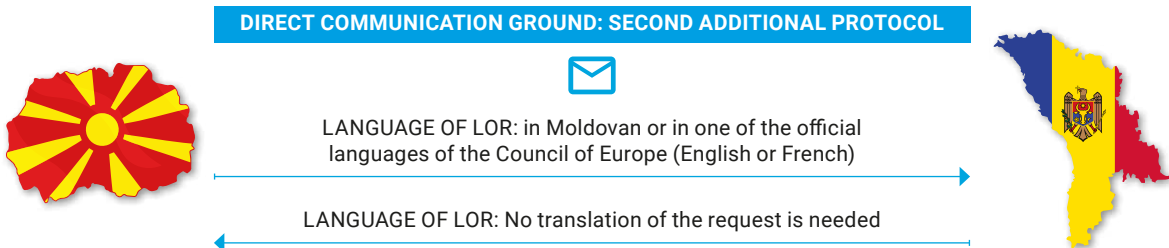
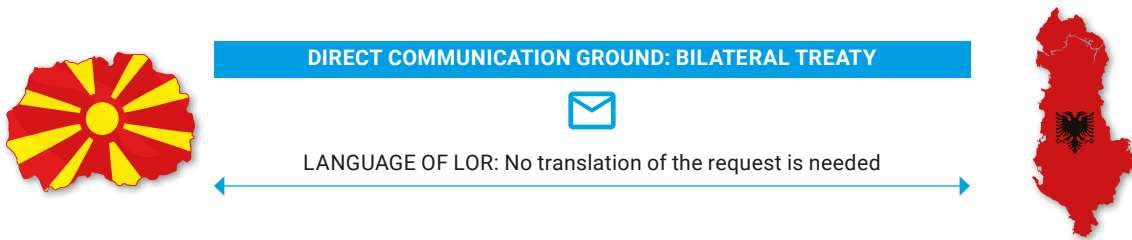
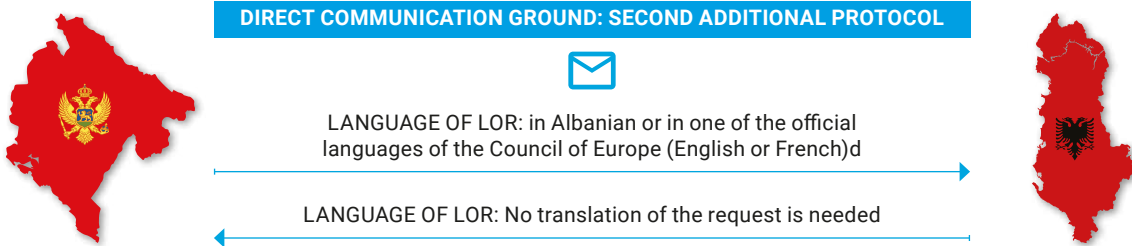
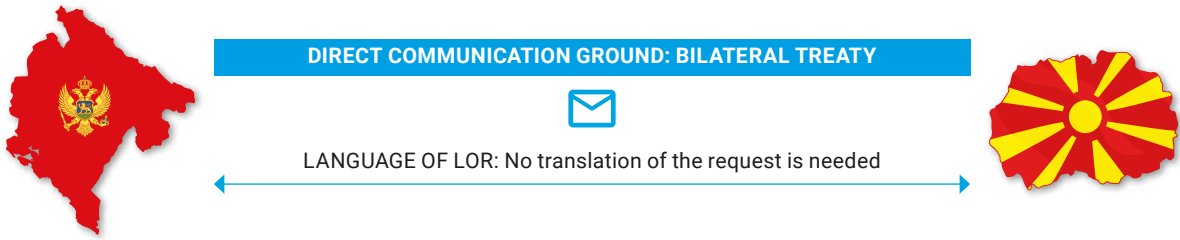
- ✔ **Check the scope and coverage of the agreements:** Some agreements may be more comprehensive and detailed than others and may cover more issues and sectors that are relevant to the trade between the two countries.
- ✔ **Check the compatibility and consistency of the agreements:** Some agreements may be compatible and consistent with each other, meaning that they do not contradict or conflict with each other, and that they allow for the application of both agreements without preference.
- ✔ **Check the preferences and interests of the parties:** Some agreements may reflect the preferences and interests of the parties better than others and may offer more benefits or advantages to them. Ultimately, the choice of which agreement to use may depend on a case-by-case analysis of the advantages and disadvantages of each agreement, as well as the objectives and expectations of the parties involved.

In selecting the legal basis to include in the formal MLA request, many practitioners have found it most helpful to list all relevant treaties, agreements or legislation that apply, in order of preference. This practice increases the opportunity for applicability: since the types of assistance and potential reasons for refusal vary from treaty to treaty, the request may be acceptable under one legal basis and not under another. The list should be in order of preference and a bilateral treaty is generally the

best option, followed by a multilateral treaty (both jurisdictions must be states parties) as it fits better the legal traditions and options of the two contracting jurisdictions, as opposed to a “one size fits all” approach of the multilateral treaties. The relevant treaties would then be followed by any domestic legislation (if available) and the promise of reciprocity.⁵



5 World Bank, Handbook for Practitioners on Asset Recovery under StAR Initiative (2010), p. 139, available at: star.worldbank.org/sites/star/files/asset_recovery_handbook_0.pdf



3.3. Joint investigations team (JIT) and joint parallel investigations (JPIs)

A JIT is a special team which can consist of investigative judges, prosecutors and other law enforcement authorities from different states who agree to work together on a criminal case that has a cross-border dimension. JITs are useful for investigating serious crimes such as human trafficking, where the state which conducts the investigation can benefit from the cooperation with other states that have links to the crime or where coordination is needed. A JIT can be established when a criminal case is difficult or demanding and involves other states, or when several states are investigating the same crime and need to act in a concerted way. A JIT allows the team members to collect and exchange information and evidence directly among themselves, without using the traditional channels of MLA for each request. All members of the JIT, including those from other countries than the ones where the JIT operates, have the right to be present and participate in the investigative activities in the host state.

They can be formed on the basis of international, regional and bilateral treaties and instruments on MLA in criminal matters. Some of the main legal instruments that provide a framework for the establishment of joint teams have been adopted within the framework of the UN, CoE, and the EU.

The most relevant international instruments defining joint investigations or joint investigation teams are the following:

- ➔ Article 19 of the United Nations Convention against Transnational Organised Crime;
- ➔ Article 49 of the United Nations Convention against Corruption
- ➔ Article 20 of the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters
- ➔ Article 27 of the Police Cooperation Convention for Southeast Europe


Article 19. Joint investigations – UNTOC

States Parties shall consider concluding bilateral or multilateral agreements or arrangements whereby, in relation to matters that are the subject of investigations, prosecutions or judicial proceedings in one or more States, the competent authorities concerned may establish joint investigative bodies. In the absence of such agreements or arrangements, joint investigations may be undertaken by agreement on a case-by-case basis. The States Parties involved shall ensure that the sovereignty of the State Party in whose territory such investigation is to take place is fully respected.


JPIs are two separate investigations in two different states with the same goal. The officials involved work together based on existing cooperation practices and/or laws. The evidence collected is exchanged through formal procedures for two separate trials. JPIs are usually supported by liaison officers.

The main differences between JITs and JPIs are the following:


Nature and Purpose:

<p>A JIT is a formal, long-term cooperative arrangement between multiple law enforcement agencies from different countries. Its primary objective is to investigate and combat serious cross-border crimes, such as organized crime, terrorism, drug trafficking, or human trafficking. JITs are established under the framework of the European Union (EU) and other international agreements.</p>		<p>In contrast, JPIs adopt a more flexible and informal approach to cross-border cooperation. They involve two or more law enforcement agencies collaborating on a specific case or operation. JPIs are typically ad-hoc and short-term collaborations designed to address a particular criminal activity.</p>
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Formality:

<p>JITs have a formal legal basis and framework, often established by international treaties or agreements. They involve dedicated personnel, resources, and procedures to facilitate cooperation and information-sharing among participating agencies.</p>		<p>JPIs are less formal and often emerge on a case-by-case basis. They may not have a predefined legal framework or structure and can vary in terms of the depth of cooperation and information sharing, depending on the specific needs of the investigation.</p>
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Duration:

<p>JITs are intended for long-term, ongoing collaboration, and they can remain in operation for extended periods, even years, as they focus on addressing complex and persistent criminal networks.</p>		<p>JPIs are typically short-term initiatives focused on a specific investigation or operation. Once the case is concluded, the JPI may dissolve or be replaced by a new collaborative effort.</p>
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Annex 10. Model Agreement on the Establishment of a JIT⁶

MODEL AGREEMENT ON THE ESTABLISHMENT OF A JOINT INVESTIGATION TEAM

In accordance with:

[Please indicate here the applicable legal bases, which may be taken from – but not limited to – the instruments listed below:

- Article 13 of the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union of 29 May 2000 (1);
- Council Framework Decision of 13 June 2002 on joint investigation teams (2);
- Article 1 of the Agreement between the European Union and the Republic of Iceland and the Kingdom of Norway on the application of certain provisions of the Convention of 29 May 2000 on Mutual Assistance in Criminal Matters between the Member States of the European Union and the 2001 Protocol thereto of 29 December 2003 (3);
- Article 5 of the Agreement on Mutual Legal Assistance between the European Union and the United States of America (4);
- Article 20 of the second additional protocol to the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959 (5);
- Article 9(1)(c) of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988) (6);
- Article 19 of the United Nations Convention against Transnational Organized Crime (2000) (7);
- Article 49 of the United Nations Convention against Corruption (2003) (8);
- Article 27 of the Police Cooperation Convention for South East Europe (2006) (9).]

1. Parties to the Agreement

The following parties have concluded an agreement on the setting up of a joint investigation team, hereafter referred to as 'JIT':

1. *[Insert name of the first competent agency/administration of a State as a Party to the agreement]*

And

2. *[Insert name of second competent agency/administration of a State as a party to the agreement]*

The parties to this agreement may decide, by common consent, to invite other States' agencies or administrations to become parties to this agreement.

2. Purpose of the JIT

This agreement shall cover the setting up of a JIT for the following purpose:

[Please provide a description of the specific purpose of the JIT.

This description should include the circumstances of the crime(s) being investigated in the States involved (date, place and nature) and, if applicable, reference to the ongoing domestic procedures. References to case-related personal data are to be kept to a minimum.

6 Model from the European Union Agency for Criminal Justice Cooperation (EUROJUST) - <https://www.EUROJUST.europa.eu/publication/model-agreement-setting-joint-investigation-team-ms-word-version>

This section should also briefly describe the objectives of the JIT (including e.g. collection of evidence, coordinated arrest of suspects, asset freezing ...). In this context, Parties should consider including the initiation and completion of a financial investigation as one of the JIT objectives (10).]

3. Period covered by this agreement

The parties agree that the JIT will operate for [please indicate specific duration], starting from the entry into force of this agreement.

This agreement shall enter into force when the last party to the JIT has signed it. This period may be extended by mutual consent.

4. States in which the JIT will operate

The JIT will operate in the States of the parties to this agreement.

The team shall carry out its operations in accordance with the law of the States in which it operates at any particular time.

5. JIT Leader(s)

The leaders of the team shall be representatives of the competent authorities participating in criminal investigations from the States in which the team operates at any particular time, under whose leadership the members of the JIT shall carry out their tasks.

The parties have designated the following persons to act as leaders of the JIT:

Name	Position/Rank	Authority/Agency	State
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Should any of the abovementioned persons be unable to carry out their duties, a replacement will be designated without delay. Written notification of such replacement shall be provided to all concerned parties and annexed to this agreement.

6. Members of the JIT

In addition to the persons referred to in point 5, a list of JIT members shall be provided by the parties in a dedicated annex to this agreement (11).

Should any of the JIT members be unable to carry out their duties, a replacement will be designated without delay by written notification sent by the competent leader of the JIT.

7. Participants in the JIT

Parties to the JIT agree to involve [Insert here e.g., Eurojust, Europol, OLAF...] as participants in the JIT. Specific arrangements related to the participation of [Insert name] are to be dealt with in the relevant appendix to this agreement.

8. Gathering of information and evidence

The JIT leaders may agree on specific procedures to be followed regarding the gathering of information and evidence by the JIT in the States in which it operates.

The parties entrust the JIT leaders with the task of giving advice on the obtaining of evidence.

9. Access to information and evidence

The JIT leaders shall specify the processes and procedures to be followed regarding the sharing between them of information and evidence obtained pursuant to the JIT in each Member State.

[In addition, parties may agree on a clause containing more specific rules on access, handling and use of information and evidence. Such clause may in particular be deemed appropriate when the JIT is based neither on the EU Convention nor on the Framework Decision (which already include specific provisions in this respect – see Article 13(10) of the Convention).]

10. Exchange of information and evidence obtained prior to the JIT

Information or evidence already available at the time of the entry into force of this agreement, and which pertains to the investigation described in this agreement, may be shared between the parties in the framework of this agreement.

11. Information and evidence obtained from States not participating in the JIT

Should a need arise for a mutual legal assistance request to be sent to a State that does not participate in the JIT, the requesting State shall consider seeking the agreement of the requested State to share with the other JIT party/parties the information or evidence obtained as a result of the execution of the request.

12. Specific arrangements related to seconded members

[When deemed appropriate, parties may, under this clause, agree on the specific conditions under which seconded members may:

- carry out investigations – including in particular coercive measures – in the State of operation (if deemed appropriate, domestic legislations may be quoted here or, alternatively, annexed to this agreement)*
- request measures to be carried out in the State of secondment*
- share information collected by the team*
- carry/use weapons]*

13. Amendments to the agreement

This agreement may be amended by mutual consent of the parties. Unless otherwise stated in this agreement, amendments can be made in any written form agreed upon by the parties (12).

14. Consultation and coordination

The parties will ensure they consult with each other whenever needed for the coordination of the activities of the team, including, but not limited to:

- the review of the progress achieved and the performance of the team
- the timing and method of intervention by the investigators
- the best manner in which to undertake eventual legal proceedings, consideration of appropriate trial venue, and confiscation.

15. Communication with the media

If envisaged, timing and content of communication with the media shall be agreed upon by the parties and followed by the participants.

16. Evaluation

The parties may consider evaluating the performance of the JIT, the best practice used and lessons learned. A dedicated meeting may be arranged to carry out the evaluation.

[In this context, parties may refer to the specific [JITs evaluation form](#) developed by the EU Network of JITs experts. EU funding may be sought to support the evaluation meeting.]

17. Specific arrangements

[Please insert, if applicable. The following sub-chapters are intended to highlight possible areas that may be specifically described.]

17.1. Rules of disclosure

[Parties may wish to clarify here applicable national rules on communication to the defence and/or annex a copy or a summary of them.]

17.2. Management of assets/asset recovery arrangements

17.3. Liability

[Parties may wish to regulate this aspect, particularly when the JIT is based neither on the EU Convention nor on the Framework Decision (which already include specific provisions in this respect – see Articles 15 and 16 of the Convention).]

18. Organisational arrangements

[Please insert, if applicable. The following sub-chapters are intended to highlight possible areas that may be specifically described.]

18.1. Facilities (office accommodation, vehicles, other technical equipment)

18.2. Costs/expenditures/insurance

18.3. Financial support to JITs

[Under this clause, Parties may agree on specific arrangements concerning roles and responsibilities within the team concerning the submission of applications for EU funding.]

18.4. Language of communication

Done at [place of signature], [date]

[Signatures of all parties]

(1) [OJ C 197, 12.7.2000, p. 3.](#)

(2) [OJ L 162, 20.6.2002, p. 1.](#)

(3) [OJ L 26, 29.1.2004, p. 3.](#)

(4) [OJ L 181, 19.7.2003, p. 34.](#)

(5) CET No 182.

(6) United Nations, Treaty Series, vol. 1582, p. 95.

(7) United Nations, Treaty Series, vol. 2225, p. 209 Doc. A/RES/55/25.

(8) United Nations, Treaty Series, vol. 2349, p. 41; Doc. A/58/422.

(9) Registration with the Secretariat of the United Nations: Albania, 3 June 2009, No 46240.

(10) Parties should refer in this context to the Council Conclusions and Action Plan on the way forward with regard to financial investigation (Council document 10125/16 + COR1)

(11) When needed, the JIT may include national asset recovery experts.

(12) Examples of wordings can be found in Appendices 2 and 3.

Appendix I

TO THE MODEL AGREEMENT ON THE ESTABLISHMENT OF A JOINT INVESTIGATION TEAM (2017/C 18/01)

Participants in a JIT

I. Arrangement with Eurojust/Europol/the Commission (OLAF):

Eurojust's participation in the JIT

The following persons shall participate in the JIT:

Name	Position
------	----------

According to point [insert relevant point] of the JIT Agreement, [insert name of Member State] has decided that its National Member of Eurojust (Deputy/Assistant to the National Member of Eurojust*) shall participate in the joint investigation team.

Eurojust shall support the JIT's activities by providing its expertise and facilities for the coordination of the investigations and prosecutions in line with the applicable legal framework.

[insert name of third country] has decided that its Liaison Prosecutor posted at Eurojust shall participate in the joint investigation team as a formal representative of [insert name of third country] in accordance with a cooperation agreement signed between Eurojust and [insert name of third country].

Should any of the abovementioned persons be unable to carry out their duties, a replacement shall be designated. Written notification of the replacement shall be provided to all parties concerned, and annexed to this agreement.

Date/signature* (* if applicable)

Europol's participation in the JIT

Parties to the JIT (ISO codes preferred):

Date JIT signed by parties:

References (optional):

1. Europol participants in the JIT

The following persons (identified by staff number) shall participate in the JIT:

Europol Staff number	Position	Team/Unit
----------------------	----------	-----------

Should any of the abovementioned persons be unable to carry out their duties, a replacement shall be designated. Written notification of the replacement shall be provided to all parties concerned, and annexed to this agreement.

2. Conditions of participation for Europol staff

2.1. Europol staff participating in the joint investigation team shall assist all the members of the team and provide the full range of Europol's support services to the joint investigation as provided for and in accordance with the Europol Regulation. They shall not apply any coercive measures. However, participating Europol staff may, if instructed and under the guidance of the leader(s) of the team, be present during operational activities of the joint investigation team, in order to render

on-the-spot advice and assistance to the members of the team who execute coercive measures, provided that no legal constraints exist at national level where the team operates.

2.2. Article 11(a) of the Protocol on the Privileges and Immunities of the European Union shall not apply to Europol staff during their participation in the JIT(1). During the operations of the JIT, Europol staff shall, with respect to offences committed against or by them, be subject to the national law of the Member State of operation applicable to persons with comparable functions.

2.3. Europol staff may liaise directly with members of the JIT and provide all members of the JIT with all necessary information in accordance with the Europol Regulation

Date/signature

(1) Protocol on the Privileges and Immunities of the European Union (consolidated version) (OJ C 326, 26.10.2012, p. 266).

OLAF's participation in the JIT

agreed between the competent judicial authorities of [Member States] on [date]

OLAF(1) shall participate in an assistance, expertise and coordination capacity (if agreed) in the JIT. This participation shall take place under the conditions laid down in this arrangement and as provided for in the applicable EU instruments.

Participants

The following persons from OLAF shall participate in the JIT:

Name	Function
-------------	-----------------

OLAF shall notify the other parties of the JIT in writing of any addition to or removal from the above list of persons.

Specific arrangements related to the participation of OLAF

1. Principles of participation

1.1. OLAF staff participating in the JIT shall assist with gathering evidence and provide expertise to the members of the team in accordance with the OLAF legislation and in accordance with the national law of the Member State where the team operates.

1.2. The OLAF staff participating in the JIT shall work under the guidance of the leader(s) of the team as identified in point [insert relevant point] of the agreement, 'JIT leaders', and shall provide any assistance and expertise necessary to achieve the objectives and purpose of the JIT, as identified by the leader(s) of the team.

1.3. OLAF staff have the right not to perform tasks which they consider to be in breach of their obligations under the OLAF legislation. In such cases, the OLAF staff member shall inform the Director-General of OLAF or a representative thereof. OLAF shall consult with the leader(s) of the team with a view to finding a mutually satisfactory solution.

1.4. OLAF staff participating in the JIT shall not take any coercive measures. However, participating OLAF staff may, under the guidance of the leader(s) of the team, be present during operational activities of the JIT, in order to render on-the-spot advice and assistance to the members of the team who execute coercive measures, provided that no legal constraints exist at national level where the team operates.

2. Type of assistance

2.1. Participating OLAF staff shall provide the full range of OLAF's assistance services, in accordance with the OLAF legislation, as far as required or requested. This includes providing operational and technical assistance and expertise to the criminal investigations, and providing and verifying information, including forensic data and analytical reports.

2.2. OLAF staff participating in the JIT may assist in all activities, in particular by providing administrative, documentary and logistical support, strategic, technical and forensic support, and tactical and operational expertise and advice to the members of the JIT, as required by the leader(s) of the team.

3. Access to OLAF's information processing systems

3.1. OLAF staff may liaise directly with members of the JIT and provide members and seconded members of the JIT, in accordance with the OLAF legislation, with information from relevant files in the OLAF Case Management System. The conditions and restrictions on the use of this information must be respected.

3.2. Information obtained by OLAF staff members while part of the JIT may, with the consent and under the responsibility of the Member State which provided the information, be included in the relevant files of the OLAF Case Management System.

4. Costs and equipment

4.1. The Member State in which investigative measures are being undertaken shall be responsible for providing the technical equipment (office equipment, accommodation, telecommunications, etc.) necessary for the accomplishment of the tasks and shall pay the costs incurred. That Member State shall also provide office communication equipment and other technical equipment necessary for the (encrypted) exchange of data. The costs shall be paid by that Member State.

4.2. OLAF shall cover the costs incurred as a result of the participation of OLAF staff in the JIT.

Date/signature

(1) As set up by Commission Decision 1999/352/EC, ECSC, Euratom of 28 April 1999 establishing the European Anti-Fraud Office (OLAF), last amended by Commission Decision (EU) 2015/512 of 25 March 2015, and as mandated by Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (referred to herein as 'the OLAF legislation').

II. Arrangement with bodies competent by virtue of provisions adopted within the framework of the Treaties, and other international bodies:

1. The following persons shall participate in the JIT:

Name	Position/Rank	Organisation
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Should any of the abovementioned persons be unable to carry out their duties, a replacement shall be designated. Written notification of such replacement shall be provided to all parties concerned, and annexed to this agreement.

2. Specific arrangements:

2.1. *First participant in the agreement*

2.1.1. Purpose of participation

2.1.2. Rights conferred (if any)

2.1.3. Provisions concerning costs

2.1.4. Purpose and scope of participation

Appendix II

TO THE MODEL AGREEMENT ON THE ESTABLISHMENT OF A JOINT INVESTIGATION TEAM

Agreement to extend a joint investigation team

The parties have agreed to extend the joint investigation team (hereinafter 'JIT') set up by agreement of **[insert date]**, done at **[insert place of signature]**, a copy of which is attached hereto.

The parties consider that the JIT should be extended beyond the period for which it was set up [insert date on which period ends], since its purpose as established in Article **[insert article on purpose of JIT here]** has not yet been achieved.

The circumstances requiring the JIT to be extended have been carefully examined by all parties. The extension of the JIT is considered essential to the achievement of the purpose for which the JIT was set up.

The JIT will therefore remain in operation for an additional period of **[please indicate specific duration]** from the entry into force of this agreement. The above period may be extended further by the parties by mutual consent.

Date/signature

Appendix III

TO THE MODEL AGREEMENT ON THE ESTABLISHMENT OF A JOINT INVESTIGATION TEAM

The parties have agreed to amend the written agreement setting up a joint investigation team (hereinafter 'JIT') of **[insert date]**, done at **[insert place]**, a copy of which is attached hereto.

The signatories have agreed that the following articles shall be amended as follows:

1.(Amendment ...)

2.(Amendment ...)

The circumstances requiring the JIT agreement to be amended have been carefully examined by all parties. The amendment(s) to the JIT agreement is/are deemed essential to achieve the purpose for which the JIT was set up.

Date/signature



EUROJUST provides financial support to the cross-border activities of JITs, as part of its efforts to facilitate the use of this judicial cooperation tool. EUROJUST provides targeted reimbursement for costs incurred during JIT operational activities within several common areas of expenditure:

- 1) travel and accommodation;
- 2) interpretation and translation;
- 3) transportation costs for transferring items;
- 4) specialist expertise costs.

Since 2016, EUROJUST can also reimburse costs incurred by practitioners from non-EU States who are parties to the JIT. The condition is that at least one EU Member State should be involved in the JIT, and that that Member State submits the application on behalf of the JIT via the JITs Funding Portal.⁷

3.4. JUSTICE AND HOME AFFAIRS (JHA) AGENCIES

JHA agencies are established to ensure efficient joint response to a wide range of important areas, including migration and border management, drug trafficking, combating organized crime, human trafficking, and gender equality.

The below mentioned play a crucial role in the SEE in addressing issues related to justice, security, and fundamental victim rights. These agencies are established to facilitate cooperation and coordination among member states in areas such as law enforcement, judicial cooperation, migration, and border management:

3.4.1. EUROJUST and list of Liaison Prosecutors

EUROJUST is a European Union agency that was established in 2002 to enhance and improve judicial cooperation and coordination between the national authorities of the EU member states in investigations and prosecutions of serious cross-border and organized crime. EUROJUST works with national authorities to combat a wide range of crimes, such as terrorism, cybercrime, human trafficking, drug trafficking, fraud, money laundering, and environmental crime. EUROJUST offers tailor-made operational support throughout the different stages of cross-border criminal investigations, providing prompt responses, links to key counterparts, assistance with the preparation of judicial cooperation requests, and complex forms of assistance and coordination mechanisms. EUROJUST also participates in bilateral and multilateral meetings and negotiations on international legal cooperation. EUROJUST is based in The Hague, the Netherlands, and has 27 national members who are prosecutors, judges, or police officers from each EU member state. Eleven third countries have seconded LPs to EUROJUST: Albania, Georgia, Moldova, Montenegro, North Macedonia, Norway, Serbia, Switzerland, Ukraine, the United Kingdom, and the United States of America. LPs and their assistants may also participate in operational and strategic meetings, at the invitation of the President of the College and with the approval of the National Members concerned. National Members, their deputies, and assistants, and EUROJUST staff may also attend meetings organised by the LP or other competent authorities from the involved country.⁸

Liaison Prosecutors				
				
Ms Fatjona Memicaj	Mr Mihail Ivanov	Ms Jelena Đaletić	Ms Lenche Ristoska	Ms Gordana Janićijević

7 JITs Network Secretariat, Third JIT Evaluation Report - Evaluations received between: November 2017 and November 2019, p. 22, available at: https://www.EUROJUST.europa.eu/sites/default/files/assets/2020_03_3rd_jits_evaluation_report_en.pdf






8 Liaison Prosecutors | EUROJUST | European Union Agency for Criminal Justice Cooperation (europa.eu)

3.4.2. EJN and List of EJN Contact points

The European Judicial Network (EJN) is a network of national contact points that help with judicial cooperation in criminal matters. The EJN was established by a Joint Action in 1998 to implement one of the recommendations of the Action Plan to Combat Organised Crime adopted by the Council in 1997.

In 2008, a new legal basis came into force, the Council Decision 2008/976/JHA, which strengthened the legal status of the EJN, while keeping its original spirit.

The EJN consists of Contact Points in the Member States chosen by each Member State from central authorities responsible for international judicial cooperation and the judicial authorities or other competent authorities with specific roles in the field of international judicial cooperation. The main function of the EJN Contact Points, described by the EJN Decision as “active intermediaries”, is to make judicial cooperation in criminal matters easier between the EU Member States, especially in actions against serious forms of crime. For this purpose, they help with making direct contacts between competent authorities and by giving legal and practical information needed to prepare an effective request for judicial cooperation or to improve judicial cooperation in general. Furthermore, the EJN Contact Points take part in and support the organisation of training sessions on judicial cooperation. Among the EJN Contact Points, each Member State has appointed a National Correspondent, who has a coordinating role. In each Member State there is also a Tool Correspondent who ensures that the information on the EJN website is provided and updated, including the electronic tools of the EJN.⁹

COUNTRY	EJN Contact Points
	Prosecutor General Office Ms Pranvera Pustina
	General Prosecutor's Office Ms Diana Rotundu
	Basic State Prosecutors Office Herceg Novi Nikola Samardžić and State prosecutor Veljko Rutović
	Public Prosecutors Office – Bodan Lazarevski bodan.lazarevski@gmail.com Public Prosecutors Office – Ferat Elez ferat.elezi@jporm.mk Basic Public Prosecutor's Office for Prosecuting Organised Crime and Corruption – Ivana Trajceva ivana.trajceva@jorm.mk Basic Public Prosecutors Office Skopje – Marija Dzabirova marija.dzabirova@jorm.mk Basic Criminal Court Skopje – Marija Kletnicka marija.kletnicka.markovska@osskopje1.mk Ministry of Justice – Ratko Ajcev rajcev@mjustice.gov.mk
	Supreme Public Prosecutor's Office Mr Branko Stamenković




9 <https://www.ejn-crimjust.europa.eu/ejn2021/ContentDetail/EN/2/63>

3.4.3. SELEC

South-Eastern European Law Enforcement Centre SELEC, former South-Eastern European Cooperative Initiative – Regional Centre for Combating Trans-border Crime (SECI Centre) - SELEC is a law enforcement organisation bringing together police and customs authorities from 11 countries – Republic of Albania, Bosnia and Herzegovina, Republic of Bulgaria, Republic of Greece, Hungary, Montenegro, Republic of Moldova, Republic of North Macedonia, Romania, Republic of Serbia and Republic of Turkey. Each of them has liaison officers posted at the SELEC Center Headquarter in Bucharest that work together in direct cooperation to coordinate joint investigations and facilitate information exchange. It is an intergovernmental organisation established under the Agreement and Charter signed in 1999 (SECI). In December 2009 in Bucharest, the *Convention on South-Eastern European Law Enforcement Centre* was signed and SECI officially became SELEC after ratification of the Convention by the parliaments of 9 of its members on 7th of October 2011. The objective of SELEC is to provide support for Member States and enhance coordination in preventing and combating crime (e.g. JIT), including serious and organized crime, where such crime involves or appears to involve an element of trans-border activity. There are eight ongoing Task Forces at SELEC Center, each of them targeting different types of crimes. One of these eight taskforces is the Trafficking in Human Beings and Migrant Smuggling Taskforce (“Mirage” T.F.). It is founded in 2000 and coordinated by Romania and provides a forum for discussions among the national experts, who meet regularly in order to share experience and develop strategies for fighting TIP in the region.¹⁰

3.4.4. SEEPAG and list of SEEPAG Contact Points

South-Eastern European Prosecutors Advisory Group (SEEPAG) – SEEPAG is a network of Prosecutorial Contact Points (PPF) functioning under the 2003 Declaration and 2005 General Guidelines signed by General Prosecutors from 11 countries (Republic of Albania, Bosnia and Herzegovina, Republic of Bulgaria, Republic of Greece, Hungary, Montenegro, Republic of Moldova, Republic of North Macedonia, Romania, Republic of Serbia and Republic of Turkey). SEEPAG serves as a regional operational network that facilitates prosecutors’ cooperation and mutual legal assistance. Regional Cooperation Council (RCC) Secretariat supports the increase of SEEPAG competences, as a network of prosecutors able to provide real operational support, legal assistance, advice, and guidance to SELEC liaisons officers in the investigation of trans-border organised crime.¹¹

COUNTRY	SEEPAG Contact Points
	Mrs. Suela SALAVACI Prosecutor, District Prosecution Office of Tirana suela.salavaci@pp.gov.al
	Mrs. Diana ROTUNDU Chief-Prosecutor, Protocol, international cooperation and European integration Unit, General Prosecution Office of Republic of Moldova d.rotundu@procuratura.md
	Ms. Jelena Đaletić State Prosecutor, Supreme State Prosecutor’s Office of Montenegro jelena.djaletic@tuzilastvo.me
	Mrs. Spasenka ANDONOVA Public Prosecutor, Public Prosecutor’s Office in Skopje spasenka.andnova@live.com

¹⁰ <https://www.selec.org/about-selec/>

¹¹ <https://www.selec.org/about-seepag/>

COUNTRY	SEEPAG Contact Points
	Mr. Tomislav KILIBARDA Public Prosecutor, Head of Appellate Public Prosecutor's Office, Appellate Public Prosecutor's Office in Belgrade tomislav.kilibarda@apjt.rs

4. CROSS-BORDER OBTAINING OF ELECTRONIC EVIDENCE

Technology has fundamentally changed the way people function. Communication, as the basis of interpersonal relations, is increasingly taking place online, and this is also reflected in the criminal justice sphere, including human trafficking. Technology can play a role by facilitating the identification, location, and contact of potential victims, as well as their control and offering victims' services. Moreover, technology can be used to organize and coordinate activities, which is a very important segment in the process of criminal justice response to human trafficking. Finally, the dark web potentially has a significant impact on human trafficking, as well as the existence of the possibility of data encryption and the use of crypto-currencies. These factors highlight the increasing need for a increasingly effective international cooperation, as well as cooperation with the private sector. With this in mind, service providers could play a crucial role in identifying victims and providing them with support and resources, but also in gathering strong evidence. The collaboration between the private sector and service providers is essential for combating human trafficking effectively.

The use of online technologies in trafficking in persons is increasingly mentioned as a challenge in all aspects of the fight against trafficking in persons. Online technologies used in trafficking activities can include any online website, application or platform used to exchange money, images and/or text. Online technologies are used by traffickers in order to advertise, recruit and exploit victims. In some non-emergency cases, a service provider may share e-evidence with a foreign authority that requests it, such as a police officer, a prosecutor, or a judge. These cases are: Recruiting activities can take place on social media platforms, especially as traffickers draw on the personal information provided by platform users for profiling, so they know how to target those users who are most vulnerable or most susceptible to answer proposals for friendship, relationships or employment. Children and teenagers are particularly vulnerable as they increasingly become users of such platforms and disclose information about their social situation, such as family and education status. Traffickers also use regular websites or the dark web to advertise for services offered by trafficked and exploited persons to potential customers. Victims, including children, are increasingly exploited sexually with the aid of webcams and live streaming. Traffickers also use online platforms in order to send or receive money, including for the services offered as a result of victims' exploitation, or to transfer it among members of the trafficking network. The online elements of trafficking and exploitation activities give rise to additional challenges for their detection, investigation and prosecution. Besides the lack of specialised training, law enforcement and criminal systems lag behind as certain activities committed online are not recognized as crimes or what could be digital evidence is not considered to be legally valid.¹²

- ✓ When the user agrees to share the data
- ✓ When the user has died and their closest relative agrees to share the data, and the foreign authority has a court order from their country






12 UNODC, 2022, Exploitation and Abuse: The Scale and Scope of Human Trafficking in South Eastern Europe, p. 60-61, available at: https://www.unodc.org/documents/human-trafficking/Exploitation_and_Abuse.pdf

- ✓ When the foreign authority directly asks the service provider for basic subscriber information or traffic data

Different service providers have different ways of handling these requests, or they may not have any way at all. Service providers may review the requests and see if they follow the laws of the country where they operate. The service providers may also have their own rules for law enforcement requests, based on the laws and regulations that apply to them, human rights standards, and the features of their services and products. Service providers may also consider how does the foreign country respect the rule of law, due process, basic freedoms, and corruption. They may also limit what kind of data they share depending on the type of crime involved, and they may have different criteria for sharing data or removing accounts.

The Convention on Cybercrime of the Council of Europe (“Budapest Convention”) was opened for signature in Budapest in November 2001. More than twenty years later, it remains the most relevant international agreement on cybercrime and electronic evidence. Membership keeps growing, while both the quality of implementation and the level of cooperation between Parties keep improving, and the treaty itself is evolving to meet new challenges. The Budapest Convention is complemented by an effective follow-up mechanism and by capacity-building programmes, which are fed back into the Committee, contributing towards the Convention’s evolution. The leitmotif of this approach is “to protect you and your rights in cyberspace”.




Annex 11. The Convention on Cybercrime of the Council of Europe Contact Points

Article 27 Multilateral or Bilateral Treaties Contact Points		
	Entry into force 01 Jul 2004	The Ministry of Justice, Bulevardi Zog. I., Tirana National Central Office of Interpol, Bulevardi Deshmoret e Kombit, Tirana
	Entry into force 01 Sept 2009	a) Office of the Prosecutor General – for the requests for mutual assistance, extradition or provisional arrest formulated in the phase of penal prosecution. Address: 26, Banulescu – Bodoni str., MD-2012 Chisinau, Republic of Moldova. Tel: (+37322) 221 470; Fax (+373 22) 212 032. b) The Ministry of Justice – for the requests for mutual assistance, extradition or provisional arrest formulated in the judiciary phase of the execution of punishment. Address: 82, 31 August 1989 str., MD-2012 Chisinau, Republic of Moldova. Tel: (+37322) 234 795; Fax (+373 22) 234 797.
	Entry into force 01 Sept 2010	For making and receiving requests for extradition in the absence of an agreement is the Ministry of Justice of Montenegro, address: Vuka Karadžica 3, 81 000 Podgorica, while the authority responsible for making and receiving requests for provisional arrest in the absence of an agreement is the NCB Interpol in Podgorica, address: Bulevar Svetog Petra Cetinjskog 22, 81 000 Podgorica
	Entry into force 01 Jan 2005	The Ministry of Justice of the Republic of Macedonia
	Entry into force 01 Aug 2009	The Ministry of Interior of the Republic of Serbia Directorate of Crime Police Department for the fight against organized crime Bulevar Mihajla Pupina 2 11070 Novi Beograd

Annex 12. The Convention on Cybercrime of the Council of Europe Extradition Contact Points

Article 24 – Extradition		
	Entry into force 01 Jul 2004	The Ministry of Justice, Bulevardi Zog. I., Tirana
	Entry into force 01 Sept 2009	All the requests formulated in the phase of penal prosecution are to be addressed to the Office of the Prosecutor General, whilst those formulated in the judiciary phase or in the phase of the execution of punishment are to be addressed to the Ministry of Justice
	Entry into force 01 Sept 2010	The Ministry of Justice of Montenegro, address: Vuka Karadžica 3, 81 000 Podgorica
	Entry into force 01 Jan 2005	The Ministry of Justice of the Republic of Macedonia
	Entry into force 01 Aug 2009	The Ministry of Interior of the Republic of Serbia Directorate of Crime Police Department for the fight against organized crime Bulevar Mihajla Pupina 2 11070 Novi Beograd

Annex 13. 24/7 Network Contact Points According to the Convention on Cybercrime of the Council of Europe

	MOI CONTACT POINT	PROSECUTION OFFICE CONTACT POINT
	Chief Commissar Jica Hergis Chief of Sector "C" Unit for Investigating Computer Crimes - Criminal Police Department Bulevardi Bajram Curri, no. 3, Tirana, Albania Tel: +355 694102728 247CC@asp.gov.al	/
	Lurie Roșca, Head of the Directorate of Cybercrime Investigations Mobile : +37379581583 iurii.rosca@igp.gov.md Irina Sorbala, Senior investigator (Alternative point of contact) irina.sorbala@igp.gov.md Chisinau, Republic of Moldova Tel: +37378773555 Fax: +373577265 diii.ini@igp.gov.md	Mr Veaceslav Soltan Prosecutor, in the General Prosecutor's Office Chisinau, 73 Stefan cel Mare Street Republic of Moldova (During working hours) Tel: +37369999020, +37322828320 Fax: +37322828320 (Outside working hours) Tel: +37369999020 Fax: +3732228320 v.soltan@procuratura.md
	Nikola Rovcanin, Police inspector, Unit for Combating Cybercrime, Police Directorate of Montenegro, Ministry of Interior Bulevar Sv. Petra Cetinjskog 22, 81000 Podgorica, Montenegro Tel: +382 67 189 480 Fax: +382 20 202 875 cybercrimeunit@up.gov.me (primary e-mail) vtk@policija.me (secondary e-mail) nikola.rovcanin@up.gov.me (emergency e-mail)	/

	MOI CONTACT POINT	PROSECUTION OFFICE CONTACT POINT
	/	<p>General Prosecutor's Office Ljubomir Joveski Public Prosecutor of North Macedonia Tatjana Filipova Kej Dimitar Vlahov, Skopje, North Macedonia (During working hours) Tel: + 389 2 329 8288 Fax: + 389 2 321 9866 (Outside working hours) Tel: +389 70 397 895 jorm@jorm.org.mk</p>
	<p>Vladimir Vujic Police Inspector Service for Combating Organized Crime, Ministry of Interior, Belgrade, Republic of Serbia Tel: +381648927500 Fax: +381113117208 (during working hours from Monday to Friday 0830 – 1630) 24-7serbia@mup.gov.rs, vladimir.vujic@mup.gov.rs</p>	<p>Branko Stameković Special Prosecutor for High-Tech Crime of Serbia; Special Prosecutors Office for High-Tech Crime of Serbia, Nemanjina 22-26, 11000, Belgrade, Republic of Serbia Tel: + 381648324057, +381648324067 Fax: +381112645286 branko.stamenkovic@vrhovnojt.gov.rs</p>

Annex 14. Contacts of some of the biggest Service Providers

Service Provider	Contact
Apple	Privacy and Law Enforcement Compliance, 1 Infinite Loop, Cupertino, CA 95014, United States of America
Facebook, WhatsApp and Instagram (Meta Platforms Inc.)	1 Meta Way, Menlo Park, CA 94025 United States of America or via the online platform https://www.facebook.com/records/login/
Google, Gmail, Youtube	Google Inc., 1600 Amphitheatre Parkway, Mountain View, CA 94043, USA
Signal	Signal Messenger, LLC, 650 Castro Street, Suite 120-223, Mountain View, CA 94041, United States of America
Snapchat	Snap Inc., 2772 Donald Douglas Loop North, Santa Monica, CA 90405, United States of America
Telegram	Telegram UK Holdings Limited (71–75 Shelton Street, Covent Garden, London, WC2H 9JQ)
TikTok	TikTok Pte. Limited, 1 Raffles Quay, #19-11, South Tower, Singapore 048583
Tinder	Match Group, LLC, 8750 North Central Expressway, Suite 1400, Dallas, TX 75231, United States of America
Twitter	Twitter, Inc., 1355 Market Street, Suite 900, San Francisco, CA 94103, United States of America
Viber	Viber Media S.à.r.l. 2, Rue des Fossés, L-1536, Luxembourg
Yahoo	5–7 Point Square, North Wall Quay, Dublin 1, Republic of Ireland

5. FREEZING, SEIZURE AND CONFISCATION OF ASSETS

Human trafficking is a profit-driven crime, making it crucial for competent national authorities to effectively trace and identify assets during criminal investigations. In relation to trafficking crimes, 'proceeds' of crime could potentially include:

- ➔ Profits derived from the exploitation of the victim;
- ➔ Costs paid by victims – for example, fees paid for obtaining employment, passports, visas, transportation and accommodation;
- ➔ Profits from the 'sale' of a person from one trafficker to another and
- ➔ Corrupt payments (typically to government officials) to facilitate trafficking and/or protect traffickers.

Article 2 - UNTOC

'Proceeds of crime' are defined as any property that is derived from or obtained, directly or indirectly, through the commission of an offence

Once proceeds of crime have been traced and identified, prompt preservation of identified proceeds of crime is essential. Given the speed with which assets can be transferred from one State to another, the importance of taking steps to quickly seize and freeze assets, prior to the finalisation of any final forfeiture orders, cannot be overemphasized.

Confiscation and seizure of assets are crucial mechanisms for effectively combatting TIP. This procedure is supported by the UNTOC in Article 12-14.

The purpose of freezing and seizing assets is to preserve those assets and their value for possible forfeiture. It is vital to:

- ✔ restrain/seize the target assets early as this limits their dissipation;
- ✔ limit the judicial tendency to postpone making such orders until after disposition of the related criminal case as this may be too late – the assets may have disappeared by that time;
- ✔ consider appointing experienced private receivers to take control and manage the assets to ensure their value is preserved. For example, particular expertise will be required to keep the value of the asset where this is a company or share portfolio and
- ✔ prevent criminals from simply recovering their assets by, for example, prohibiting them and their nominees from taking part in auctions of confiscated property.¹³

While national laws vary, there are typically two major forms of orders relevant to the preservation of proceeds of crime:

Restraining orders: these enable law enforcement authorities to temporarily seize, control and preserve property pending the outcome of any final court proceedings, to prevent its disposal by the criminal or the reduction of its value by other means.






Freezing orders: these are similar to restraining orders, but the term is usually used in relation to assets and monies held by financial institutions. These orders temporarily block accounts

13 Candice Welsch, International Cooperation for the Purposes of Confiscation, presentation delivered at the ASEAN Workshop on International Cooperation in Trafficking in Persons Cases, Bangkok, November 2009 [hereinafter Welsch, International Cooperation for the Purposes of Confiscation].

and prohibit the transfer, conversion, disposition or movement of property or funds pending the finalisation of investigations and confiscation proceedings.

Under some national laws, courts will allow applications for orders to freeze to be dealt with *ex parte* (in the absence of the party against whom the order is sought) to ensure that the account holder does not know and cannot remove the asset prior to the order being made. The account holder will then be notified that the freezing order has been made and the substantive confiscation proceedings may begin after that.

The next step in the process of recovering proceeds of crime is the confiscation of the property. While national laws vary, there are several key types of orders that may be relevant to the confiscation of proceeds of crime:

-  Confiscation or forfeiture orders: these provide for the permanent deprivation of property deemed to be proceeds of crime.
-  Automatic or statutory forfeiture orders: these are statutory provisions that allow for the automatic forfeiture of restrained property where a person is unable to prove that the restrained property is not proceeds of crime.
-  Exclusion orders: these exclude certain property from a restraining or forfeiture order on the basis that the property or part of it was not proceeds of crime. These orders are particularly important if, for example, a third party has a legitimate claim to part of proceeds of crime. For example, a jointly owned house might be partially paid for with legitimate funds from an innocent third party who did not know about and was not associated with the criminal activity.
-  Seizure orders: these orders empower investigators to take possession and restrain property for use as evidence during investigations and criminal proceedings.
-  Pecuniary penalty orders: these are orders against a defendant in respect of benefits derived from the commission of a crime.

Proceeds assessment orders: these are orders requiring persons to pay to the court (or other specified body) an amount assessed by the court as the value of proceeds of crimes derived from illegal activity. In trafficking cases, the calculated value of proceeds would likely be determined with reference to the profit made by the trafficker from trafficking-related exploitation. National regimes for confiscation of proceeds of crime tend to be either conviction based (the assets are only confiscated after a conviction) or non-conviction based (the assets can be confiscated independent of a conviction being recorded).

Conviction based regimes require a criminal trial and conviction. The standard of proof for proving the principal offence is, of course, the criminal standard, of 'beyond a reasonable doubt'. It should be noted, however, that in some jurisdictions, once a conviction has been entered the determination of whether or not something is proceeds of crime and thus subject to forfeiture may be made on a standard of balance of probabilities. However, a finding of guilt is still necessary.¹⁴

Conviction based regimes can be object based – that is, the prosecutor must prove that the assets are proceeds or instrumentalities of the crime; or value based – that is, the criminal will forfeit the value of the benefit of the crime. In the latter case, there is no need to prove that the actual property being confiscated is tainted.¹⁵

Non-conviction based confiscation follows a judicial determination that the property which is the subject of the proceeding is proceeds of crime. Such proceedings are not criminal proceedings. Generally, the standard of proof is lower than the criminal standard – for example, 'the balance of






14 Ibid.

15 Ibid.






probabilities. The owner of the property is a third party to the proceedings, who has the right to defend their property in the action.

It is important to be aware that confiscation actions may affect the interests of third parties who may have a legitimate interest in any property that has been identified as proceeds of crime. For example, the owner of motor vehicle that is used to transport trafficking victims may not know that his or her vehicle has been used in this way. The owner of a factory building may not know that the lessee is a trafficker who is exploiting workers in the business conducted in that factory. National law will generally provide the procedures for how the merits of claims by third parties will ultimately be determined.

To conclude, funds generated from asset confiscation may be used to support anti-trafficking efforts, victim support services, and other relevant programs.

TREATY	STATE (Date Ratified / Entry into Force Date)				
					
United Nations Convention against Corruption (UNCAC)	25 May 2006	01 Oct 2007	23 Oct 2006	13 Apr 2007	20 Dec 2005
Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime	01 Feb 2002	01 Sep 2002	06 Jun 2006	01 Sep 2000	01 Feb 2004
Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism	01 May 2008	01 May 2008	01 Feb 2009	01 Sep 2009	01 Aug 2009

Annex 15. Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime - Contact Points – All the central authorities communicate directly according to the Article 24

COUNTRY	Article 23 and 25	
	Directory for the co-ordination of the fight against money laundering, Ministry of finance of Albania Rruga « Dëshmoret e Kombit » Tirana – Albania Phone: + 355 42 486 40, Fax: + 355 42 486 40 info@minfin.gov.al	Translations of the requests or supporting documents shall not be required
	Office of Prosecutor General Str. Mitropolit Banulescu-Bodoni, 26, MD 2005, Chisinau - Republic of Moldova Tel/fax 22 86 35	Translations of the requests or supporting documents shall not be required
	No central authority appointed	Translations of the requests or supporting documents shall not be required
	Ministry of Justice of the Republic of Macedonia "Dimitrie Cuposki" N° 9, 1000 Skopje	Translations of the requests or supporting documents shall not be required
	Ministry of Justice of the Republic of Serbia Nemanjina St. No. 22-24, 11000 Belgrade Republic of Serbia	Republic of Serbia declared that requests made to it and documents supporting such requests shall be accompanied by a translation into Serbian or English

Annex 16. Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism - Contact Points – All the central authorities communicate directly according to the Article 34

COUNTRY	Article 33 and 35	
	<p>Ministry of Justice Department of Foreign Jurisdictional Relations Address: BLV. "Zog I" Postal Code: 256, Tirana Albania Tel: 00355 4 222 15 54 foreigndepart@drejtesia.gov.al</p>	<p>Translations of the requests or supporting documents shall not be required</p>
	<p>National Anticorruption Center bld Ștefan cel Mare 198, MD-2004, Chișinău, Republic of Moldova Ministry of Justice str. 31 August 1989, nr. 82, MD-2012, Chișinău, Republic of Moldova General Prosecutor's Office str. Bănulescu Bodoni 26, MD-2012, Chișinău, Republic of Moldova</p>	<p>Republic of Moldova declared that acceptable languages for the requests for legal assistance and for the documents supporting such requests are: Moldavian, English or Russian</p>
	<p>Ministry of Justice Vuka Karadzica 3, 81000 Podgorica Tel. +382 20 407 501; Fax +382 20 407 515 Directorate Against Money Laundering and Against the Financing of Terrorism Novaka Miloševa bb, 81000 Podgorica Tel. +382 20 210 025; Fax +382 20 210 086</p>	<p>Translations of the requests or supporting documents shall not be required</p>
	<p>Ministry of Justice of the Republic of Macedonia "Dimitrie Cuposki" N° 9, 1000 Skopje Tel. +389 (0)2 3117-277; Fax. +389 (0)2 3226-975 Office for Prevention of Money Laundering and Financing of Terrorism at the Ministry of Finance of the Republic of Macedonia "Veljko Vlahovic" N° 1, 1000 Skopje Tel. +389 (0)2 3297-540; Fax. +389 (0)2 3224-824</p>	<p>Republic of North Macedonia declared that requests and annexed documents supporting such requests should be accompanied by a translation into the Macedonian language, or if this is not possible, they can be sent with a translation into the English language</p>
	<p>Ministry of Interior of the Republic of Serbia Directorate of Crime Police, Department for the fight against organized crime Bulevar Mihajla Pupina 2, 11070 Novi Beograd Tel./Fax: +381 11 31 48 66 Ministry of Finances of the Republic of Serbia Directorate for the prevention of money laundering Masarikova 2, 11000 Beograd Tel.: +381 11 20 60 151; Fax: +381 11 20 60 150 uprava@apml.org.rs</p>	<p>Translations of the requests or supporting documents shall not be required</p>

