

Republic of Latvia

Cabinet

Regulation No 889

Adopted 31 October 2006

Regulations Regarding the Procedures, by Which Victims of the Traffic in Human Beings Receive Social Rehabilitation Services, and the Criteria for the Recognition of a Person as a Victim of the Traffic in Human Beings

Issued pursuant to Section 3, Paragraph two and

Section 13, Paragraph one, Clause 7

of the Social Services and

Social Assistance Law

I. General Provisions

1. These Regulations prescribe the procedures, by which a person who has been recognised a victim of the traffic in human beings (hereinafter – a person) shall receive social rehabilitation services for the State budget funds (hereinafter – services), and the criteria for the recognition of a person as a victim of the traffic in human beings.
2. The Social Service Board (hereinafter – the Board) shall provide services. The Board shall:
 - 2.1. take a decision regarding the provision of services or the refusal to provide services;
 - 2.2. enter into a contract with a provider of services regarding the provision of services, as well as control the implementation of the referred to contract and the compliance of the amount of the services provided with the contract entered into;
 - 2.3. control the quality of the services provided;
 - 2.4. establish a database of the services provided; and
 - 2.5. inform public organisations, law enforcement institutions, social service offices, medical treatment institutions and other institution involved regarding the possibilities of a person to receive services for the State budget funds.
3. Services shall be provided by a provider of services who is registered with the register of social service providers and complies with the requirements specified in the regulatory enactments regarding providers of social services (hereinafter – a provider of services).
4. A course of services for a person shall not be longer than 6 months.

II. Procedures, by Which Services are Provided to a Person

5. A person may receive services on the basis of the following documents:
 - 5.1. a written submission of the person or the legal representative thereof to the provider of services; and
 - 5.2. a decision of the performer of the criminal procedure, according to which the person is recognised the victim in a criminal matter regarding the traffic in human beings, or a statement of a law enforcement institution that the person has suffered from the traffic in human beings in a foreign state, or a person's assessment report of the provider of services (Annex 1), in which the compliance of the person with the criteria of a victim of the traffic in human beings has been specified.
6. A provider of services, taking into account the status of the relevant person, shall perform the following activities:
 - 6.1. accept a written submission of the person or the legal representative thereof;

6.2. if the person has been issued the decision of the performer of the criminal procedure or the statement of a law enforcement institution referred to in Sub-paragraph 5.2 of these Regulations, such documents and the submission referred to in Sub-paragraph 5.1 of these Regulations shall be sent to the Board within a time period of 1 working day;

6.3. if the person has not been issued the decision of the performer of the criminal procedure or the statement of a law enforcement institution referred to in Sub-paragraph 5.2 of these Regulations, the compliance of the person with the criteria of a victim of the traffic in human beings in accordance with Paragraph 8 of these Regulations, as well as taking into account Annex 2, shall be assessed and the person's assessment report shall be drawn up without delay, but not later than within a time period of 3 working days;

6.4. if the person complies with the criteria of a victim of the traffic in human beings, the person's assessment report, as well as proposals regarding the services the person needs and the submission referred to in Sub-paragraph 5.1 of these Regulations shall be sent to the Board within a time period of 3 working days after the assessment of the person; and

6.5. if the person does not comply with the criteria of a victim of the traffic in human beings, the person's assessment report, the justification of the assessment and the submission referred to in Sub-paragraph 5.1 of these Regulations shall be sent to the Board within a time period of 10 working days after the assessment of the person.

7. In order to assess the compliance of a person with the criteria of a victim of the traffic in human beings, a provider of services shall establish a commission of the specialists (hereinafter – the commission). The commission shall include a social worker, a psychologist, a lawyer, a medical practitioner, an official of the State Police, as well as, where necessary, other specialists.

8. The commission shall recognise a person a victim of the traffic in human beings, if the person:

8.1. was recruited, transported, conveyed or received, kidnapped or sold or, upon arrival in the country of destination, was forced to do other work instead of the work intended or promised beforehand;

8.2. was in debt to his or her employer and a part of the income of such person was collected or the person was not able to quit the occupation or to change work of his or her free will, or such person was deprived of the identification documents, or was forced to provide sexual services as a part of work duties, or was employed against his or her own will, or the person had to work longer hours per week than had been specified, or was supervised in the workplace in order to make the escape impossible, or was dependent on the employer thereof due to the family, kinship, work, rental relationship, indebtedness;

8.3. felt indirect threats seeing that violence was being used against others, or the person was denied the satisfaction of the basic needs of a human being, or signs of physical violence are visible, the person had previously suffered from violence or was intimidated and he or she was threatened with revenge, if he or she would contact the police or turn for help to any other institution, or with revenge, if he or she tried to escape or return to the origin country, or threats were expressed to revenge upon the family and relatives of the person, if the person escapes, or threats of deportation or notification of the relevant institutions were expressed, if the person tries to escape; or

8.4. was held imprisoned and hidden from the surrounding environment and communication with other people or was constantly controlled, or was allowed to stay outside the workplace only in the company of the employer's representative.

9. After the assessment of a person in accordance with Annex 1 to these Regulations the commission shall draw up a report. It shall be justifiably indicated in the report, taking into account the conditions referred to in Paragraph 8 of these Regulations, whether the person complies with the criteria of a victim of the traffic in human beings.

10. The Board shall immediately, but not later than within a time period of 3 working days:

10.1. take a decision regarding the provision of services to the person or the inclusion of the person in the queue of the recipients of services, on the basis of the decision of the performer of the criminal procedure or the statement of a law enforcement institution referred to in Sub-paragraph 5.2 of these Regulations and the person's submission; and

10.2. evaluate the documents submitted by the provider of services – the submission of the person and the person's assessment report – and take a decision regarding the provision of services to the person, inclusion of the person in the queue of the recipients of services or regarding a refusal to provide services to the person.

11. The provision of services shall be refused in the following cases:

11.1. the person does not comply with the criteria of a victim of the traffic in human beings;

11.2. the person has not submitted all the documents necessary for the receipt of the service; or

11.3. the person repeatedly requests services during 1 year.

12. The provision of services shall be terminated in the following cases:

12.1. the person has received services on the basis of false information provided;

12.2. the person or the legal representative thereof submits a written submission regarding the suspension of services;

12.3. the person does not comply with or violates the requirements referred to in Sub-paragraph 14.1 of these Regulations; or

12.4. the course of service specified for the person has ended.

13. The provision of services shall be suspended if the person needs treatment in a medical treatment institution due to the condition of health. The provision of services shall be resumed after the treatment of the person in a medical treatment institution.

14. A person has a duty to:

14.1. co-operate in the implementation of the rehabilitation plan developed by the provider of services, as well as to comply with the procedures specified by the provider of services; and

14.2. reimburse unduly used funds in the case referred to in Sub-paragraph 12.1 of these Regulations.

15. A person or the legal representative thereof has the right to submit to the provider of services and the Board proposals and objections in respect of the quality of the received services in accordance with the procedures specified by law.

16. A person may appeal to a court the decision of the Board regarding the refusal to provide services within a time period of 1 month after coming into effect of the decision.

II. Closing Provisions

17. Cabinet Regulation No. 882 of 22 November 2005, Regulations Regarding Procedures, by Which Victims of the Traffic in Human Beings Receive Social Rehabilitation Services, and Requirements for Providers of Social Rehabilitation Services (*Latvijas Vēstnesis*, 2005, No. 189) is repealed.

18. These Regulations shall come into force on 1 January 2007.

Prime Minister

A. Kalvītis

Acting for the Minister for Welfare,

Minister for Environment

R. Vējonis

Annex 1

Cabinet Regulation No. 889

31 October 2006

Person's Assessment Report

1. Person's

given name

surname

personal identity number

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2. Migration

3. Employment

4. Safety

5. Objective characteristics

6. Social ties

Assessment

Person complies/does not comply (underline the appropriate) with the criteria of a victim of the traffic in human beings.

Commission of the specialists

.....

(signature and full name)

.....

(signature and full name)

.....

(signature and full name)

.....

(signature and full name)

Person/legal representative

.....

(signature and full name)

Date _____

Acting for the Minister for Welfare,

Minister for Environment

R. Vējonis

Annex 2

Cabinet Regulation No. 889

31 October 2006

Criteria for the Recognition of a Person as a Victim of the Traffic in Human Beings

In order to specify the compliance of a person with the criteria of a victim of the traffic in human beings, the commission of specialists shall ascertain the action of the person and assess the activity of the person in the following areas:

1. Migration. The commission shall clarify whether the person (for the person):

- 1.1. went abroad (or to another region) for a definite purpose or work;
- 1.2. was recruited;
- 1.3. was transported;
- 1.4. was conveyed or received;
- 1.5. was kidnapped or sold;
- 1.6. upon arrival in the country of destination, was forced to do other work instead of the work intended or promised beforehand;
- 1.7. has the identification documents;
- 1.8. has false documents;
- 1.9. does not have documents (or they are at the disposal of another person);
- 1.10. knows the address where he or she resided and worked;
- 1.11. knows the name of his or her employer;
- 1.12. had a legal status of immigration;
- 1.13. had a work permit; and
- 1.14. other persons organised the preparation of the trip and drawing up of the documents and who were these persons.

2. Employment. The commission shall clarify whether the person (for the person):

- 2.1. was in debt to his or her employer and a part of the income of such person was collected (for example, for the dwelling, food, transport);
- 2.2. had an employment contract and what was provided for therein;
- 2.3. could quit the occupation or change work of his or her free will;
- 2.4. was deprived of the identification documents;
- 2.5. was forced to provide sexual services as a part of work duties;
- 2.6. was employed against his or her own will;
- 2.6. could freely handle his or her income;
- 2.7. had to work longer hours per week than had been specified and what were the working conditions (including the remuneration and working hours);
- 2.8. was supervised in the workplace (guards, closed circuit television, dogs, closed doors) in order to make the escape impossible; and
- 2.9. was dependent on the employer thereof due to the family, kinship, work, rental relationship, indebtedness.

3. Safety. The commission shall clarify whether the person (for the person):

- 3.1. was intimidated and threatened:
 - 3.1.1. with revenge if he or she contacts the police or turns for help to any other institution;

- 3.1.2. with revenge if he or she tries to escape or return to the origin country;
- 3.1.3. that revenge upon the family and relatives of the person will take place, if the person escapes; and
- 3.1.4. with deportation or notification of the relevant institutions if the person tries to escape;
- 3.2. felt indirect threats seeing that violence was being used against others;
- 3.3. has visible signs of physical violence or the person had previously suffered from violence;
- 3.4. was denied the satisfaction of the basic needs of a human being, that is, the person was held without water, food, sleep, medical care or possibilities to satisfy other basic needs.

4. Social ties. The commission shall clarify whether the person:

- 4.1. was the master of his or her free time;
- 4.2. was held imprisoned and hidden from the surrounding environment, as well as the person was denied the possibilities of communicating with other people;
- 4.3. was constantly controlled;
- 4.4. could freely communicate with his or her relatives and friends (for example, call, write);
- 4.5. could invite friends;
- 4.6. permanently lived at the workplace; and
- 4.7. was allowed to stay outside the workplace only in the company of the employer's representative.

5. Objective characteristics. The commission shall clarify whether the person (for the person):

- 5.1. knows foreign languages;
- 5.2. has his or her own finances;
- 5.3. has convincing consequences of physical load or physical abuse seen on the body; and
- 5.4. reluctantly answers questions and/or uses previously prepared, taught answers.

6. Person's self-appraisal. The commission shall clarify whether the person regards that:

- 6.1. violence was used against him or her;
- 6.2. he or she has become a victim of the traffic in human beings;
- 6.3. he or she needs help and, where needs, - what kind of help;
- 6.4. he or she is ready to co-operate in the implementation of the rehabilitation plan.

Acting for the Minister for Welfare,

Minister for Environment

R. Vējonis