

REGIONAL GUIDELINES FOR THE PRELIMINARY IDENTIFICATION AND REFERRAL MECHANISMS FOR MIGRANT POPULATIONS IN VULNERABLE SITUATIONS



Conferencia Regional sobre Migración
Regional Conference on Migration



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Approved in San Jose, Costa Rica, during the XVIII Vice-Ministerial Meeting of the Regional Conference on Migration (RCM) in June of 2013. See paragraph 4 of the Vice-Ministers' Declaration.



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Regional Conference on Migration

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FOREWORD

Guaranteeing respect and protection for the human rights of migrants has been a constant concern for Member Countries of the Regional Conference on Migration (RCM), as evidenced through multiple conclusions and decisions taken in the framework of RCM throughout the years.

Despite these laudable efforts, there has been a general recognition of RCM Member Countries that the various and multifaceted needs of specific vulnerable migrants in the region are not sufficiently being responded to, leaving many in destitute situations.

Serving as a platform for coordination and exchange of best practices among countries, and with the financial and technical assistance of the International Organization for Migration (IOM), the RCM undertook a consultation process with government officials on how best to address the protection needs of these vulnerable individuals¹, thus promoting a more comprehensive, coordinated, effective and systematic response.

The *Regional Guidelines for the Preliminary Identification and Referral Mechanisms for Migrant Populations in Vulnerable Situations* were born as a result of this consultative and participatory process, in which also the United Nations High Commissioner for Refugees (UNHCR) played a role in providing technical expertise. These Guidelines constitute a one of its kind document because they outline the concrete steps

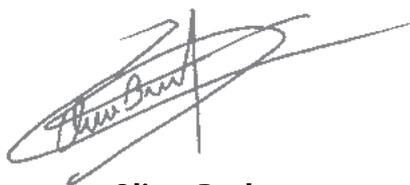
¹ During 2011, four national workshops denominated “Enhancing Capacities for the Identification of Vulnerable Migrants in Mixed Flows, including Asylum-seekers and Refugees” were organized in Nicaragua (Aug 29-31), Honduras (Sep 7-8), El Salvador (Sep 12-14), Costa Rica (Sep 26 -28) to develop: 1) National assessments on the progress and challenges faced with regards to the preliminary identification and referral mechanisms of vulnerable populations; 2) Define vulnerability indicators for different migrant groups; and 3) Validate an instrument for conducting the preliminary identification of vulnerability profiles. Subsequently, on May 22-23, 2012, a regional consultation meeting for the construction of the regional guidelines took place in Costa Rica.

to be taken by each key actor in the referral and counter-referrals assistance route, according to the specific conditions of vulnerability associated with different migrant groups.

As such, this document is an example of multilateral coordination, as a result of ongoing debate and collective thinking at the national and regional levels. It is a concrete tool that seeks to assist Member Countries to identify those migrants or groups of migrants that, due to their particular characteristics and/or conditions, are considered to be in a vulnerable situation, while at the same time encouraging regional collaboration.

Special thanks must also go to the US Government for its financial support to this process within the framework of the “Regional Program to Strengthen Capacities to Protect and Assist Vulnerable Migrants in Mesoamerica” funded by the Bureau of Population, Refugees and Migration (PRM) and implemented by the IOM.

With this publication Member Countries are encouraged to use these guidelines and keep advancing towards practical, consensual and comprehensive solutions to address the complex challenges posed by migration and thus contribute to a more humane migration management.

A handwritten signature in black ink, appearing to read "Oliver Bush", is written over a large, stylized, light-colored scribble or graphic element.

Oliver Bush
Coordinator of the Technical Secretariat
RCM

I. INTRODUCTION

The concern of guaranteeing respect for the human rights of migrants irrespective of their migration status has been a constant topic for Member States of the Regional Conference on Migration (RCM), as evidenced through multiple resolutions and initiatives implemented throughout the years.

States recognize migrants as the holders of human rights that should be respected and, in addition, recognize their obligation to guarantee the enjoyment of these rights, in compliance with international regulations and without detriment to the sovereign right of each State to apply its own migratory regulations.

Historically, the above-mentioned concern has evolved in response to the increasing complexity of migration flows in the region, posing new challenges in terms of protection and assistance. Thus, Member States of RCM not only have recognized the urgent need to guarantee the required protection for migrants that are victims of transnational crimes such as trafficking in persons but in addition, for other groups of migrants in vulnerable situations, such as unaccompanied and/or separated boys, girls, and adolescents, victims of theft, rape, abuse, or abduction along the migration route, asylum seekers or refugees, as well as trans-continental migrants.

For all the above-mentioned cases, the existence of internal and external conditions has been established which place them at risk of suffering human rights violations, including risks affecting their physical integrity (or some migrants have already suffered such violations). And even more so when it is recognized that *“alarming rates exist of violence against migrants while in transit through third countries, such as death, trafficking in persons, abuse of authority, and abduction, among others, in an environment of impunity”*².

2 RCM: Aide-mémoire: Seminar/workshop on the human rights of migrant populations, February 10-11, 2011, Tegucigalpa, Honduras.

Therefore, protecting the human rights of migrants is an unavoidable challenge for countries in the region which – to a greater or lesser extent – are countries of origin, transit, or destination of these migration flows. In addition, the volume and diversity of the migration flows increase the complexity of the situation.

The above-mentioned migration flows should be addressed within the context of a global approach of migration management and State protection, considering the sovereignty of States and safeguarding the basic human rights of migrants and refugees, including integrity, safety, dignity, and wellbeing³.

In order to ensure both approaches, actions should be established at a national and regional level to ensure that each State provides regulatory and operative responses considering the different profiles of persons involved in migration processes⁴.

The first step toward effective protection is identifying those persons or groups of persons that, due to their characteristics and/or conditions, are considered to be in a vulnerable situation. Once they have been identified, it is possible to activate procedures to provide protection and assistance. However, usually persons in especially vulnerable situations are not identified as such and therefore, do not receive differentiated treatment. On the contrary, they tend to be re-victimized as a result of the indiscriminate implementation of procedures such as detention, rejection, *refoulement*, or deportation.

Within this context, mechanisms to identify the profiles of migrants will facilitate providing assistance and managing migration movements, especially the arrival of large groups of migrants⁵. In addition, this will enable rapidly identifying persons with specific needs and providing the required assistance (health, safety, protection, etc.).

³ *Diálogo Internacional sobre la Migración de 2008. Los retos de la migración irregular: Encarar los flujos migratorios mixtos. Note for discussions. MC/INF/294. Op. Cit., p. 1.*

⁴ *Ibid.*

⁵ *UNHCR. La protección de los refugiados y la migración mixta. El Plan de los 10 puntos en acción. Mecanismos para identificar perfiles y referir casos Chapter 5. Introduction, p. 136.*

The Guidelines are a tool to help Member States of RCM implement processes of preliminary identification of profiles and referral of migrants and refugees in vulnerable situations within migration processes. This is the first step in the critical route of providing protection and assistance. The preliminary identification is conducted strictly for this purpose and is not valid for determining the migration status of each person or limiting applications or rights in subsequent processes.

The applicable regional legal framework guides the contents and principles of these Guidelines, which do not affect the rights, obligations, or responsibilities of States in accordance with international human rights law⁶ and international refugee law.

II. OBJECTIVE

The Regional Guidelines have been designed to provide Member States with general guidance for the development and implementation of preliminary identification and referral of migrants in vulnerable situations.

⁶ With a special emphasis on international instruments relating to migrants.

III. DEFINITIONS

Preliminary Identification of Profiles:

This is a process to determine – through the use of indicators – the profiles of migrants, with the purpose of identifying the immediate need for protection and assistance and facilitating referral to relevant programmes and services.

Indicators:

Internal and external characteristics and conditions (emotional and/or health-related) of some individuals in a specific vulnerable situation which enable differentiating them from other persons included in migrant population groups in the region.

Referral Mechanisms:

An established procedure of intra- and inter-institutional derivation enabling migrants to receive assistance and protection from relevant institutions, according to each individual's specific needs.

Critical Route of Protection and Assistance:

A process which includes detection, emergency care, preliminary identification of profiles, referral and comprehensive assistance and protection, including a lasting solution⁷.

Risk Assessment:

A process which enables assessing the probability of a person suffering harm to his/her integrity (life, health, safety, and/or exercise of rights).

Vulnerable Situations:

Refers to social, cultural, economic, political, and personal situations placing a person at greater risk of suffering human rights violations.

⁷ The Guidelines only describe the first stage of this route, which begins with detection and finishes with referral.

For the purposes of these Guidelines, the following populations are considered to be particularly vulnerable (this list is not comprehensive):

- Unaccompanied and/or separated boys, girls, and adolescents;
- Boys, girls, and adolescents in other vulnerable situations (victims of sexual violence, pregnant adolescents, subject to exploitation);
- Victims of trafficking in persons;
- Refugees and refugee status applicants;
- Extra-continental migrants and refugees;
- Victims of violence and crimes along the migration route;
- Female victims of sexual or gender-based violence, pregnant women travelling alone, especially adolescents.

IV. IMPLEMENTATION SPHERE OF THE GUIDELINES

The Guidelines orient the procedures of relevant institutions with direct or indirect competencies in the matter. Each country shall implement the efforts required for national and regional coordination to ensure effective compliance with the Guidelines.

Furthermore, this instrument shall be used in all those contexts where migrants in vulnerable situations can be identified.

V. GUIDING PRINCIPLES OF THE INTERVENTION

The principles guiding the preliminary identification of profiles and referral mechanisms are included below:

- Principles of International Human Rights Law⁸, International Refugee Law, and International Humanitarian Law;
- Principle of equality and non-discrimination, especially non-discrimination based on gender, nationality, ethnic group, sexual orientation;
- Principle of special protection for boys, girls, and adolescents and the Child's Best Interest;
- Principle of confidentiality;
- Principle of non-re-victimization;
- Principle of respect for diversity and multiculturalism.

VI. PRELIMINARY IDENTIFICATION OF PROFILES

Detection:

Detection initiates during the first encounter of the relevant officer with the migrant.

- Expressly request help or protection;
- Boys, girls, and adolescents, especially those that are unaccompanied or separated;
- Are physically or mentally disabled and are unaccompanied;

⁸ Especially international instruments relating to the protection of the human rights of migrants.

- Show evident physical health problems (dehydration, malnutrition, extreme weakness, bruises, injuries, fractures, mutilations, etc.);
- Are upset or in shock: disorientation, fear, extreme anxiety, tears;
- Are suspected to be under the effects of a drug or medication;
- Extra-continental migrants in obviously vulnerable situations or with whom it is not possible to communicate fluently;
- Are suspected to be controlled or watched by the person accompanying them, including situations where communication is mediated through a third person;
- Show signs or express that they do not know in which country they are.

If a person has one or several of the above-mentioned characteristics, the **principle of non-refoulement** applies (even in cases of holders of false or forged travel documents, lack of travel documents, or when another person has their travel documents). This principle includes non-rejection at air, land, or sea borders, non-return or deportation to the country of origin or residence or the prior country of transit and until it has been established if the person in question matches the profile of a person requiring protection and assistance.

Immediate Assistance to Meet Urgent Needs:

Health needs and other needs requiring immediate assistance should be addressed prior to requesting information. In addition, persons should be referred to emergency medical services, if required.

In this regard, the first contact should begin with the following question:

“Do you have any urgent health condition or any other type of condition that needs to be addressed immediately?”

If a migrant requires emergency medical care, the priority is to refer this person to an appropriate health facility. Once the urgent needs have been met, the identification process may be continued.

Requirements for the Interview:

The following aspects should be considered prior to the identification interview:

- The use of an interpreter when the interviewed person does not understand what he/she is being asked or is unable to appropriately express his/her responses. In such cases, the interviewing process should not continue until an interpreter is present. While this occurs, the person should receive assistance and protection in an appropriate place.
- An appropriate space to conduct the interview in an individual manner, ensuring privacy.
- Preferably, the officer conducting the interview should have been trained on implementation of identification and referral procedures and protocols.

Providing Information to the Interviewed Person:

The following is recommended with the aim of generating trust and in order to encourage the migrant to participate in the interviewing process:

- Interviewers should introduce themselves by their full names and inform the interviewed person about the purpose of the questions that will be asked.
- Clarifying any doubts or questions of the interviewed person in regard to his/her situation.
- Formulating questions based on the Guide for Conducting Preliminary Identification Interviews, included as an appendix to this document.

Assessing Imminent Danger:

If a migrant is in a situation of imminent danger (that is, a real threat against his/her life, integrity, and/or freedom) the interviewing process should not continue.

In order to establish if imminent danger exists, ask the following question:

*Are you being persecuted and/or under vigilance at this moment?
By whom?*

If the answer is “Yes” or if the interviewer suspects the existence of such danger, the person should immediately be referred to a relevant institution guaranteeing protection (police force, office for victim protection, or another relevant institution – for women or boys, girls, and adolescents, if appropriate). From this moment, that institution takes on the responsibility of continuing the identification process.

If no imminent danger is detected the identification process can be continued.

Using the identification interview guide to determine the profile:

In order to determine the existence of a profile of vulnerability, the next step is to conduct an individual interview. The questionnaire included as an appendix could be used to this end.

When determining profiles, it should be considered that different profiles do not exclude each other. A person could match several profiles at the same time and, therefore, have multiple needs.

[The Profile of Victim or Potential Victim of Trafficking in Persons](#)

The following basic indicators should be considered in determining the profile of victim or potential victim of the crime of trafficking in persons:

- Received an employment or education offer but does not know where he/she will work or study or who hired or made the offer;
- The person who made the offer facilitated the means for transfer, including travel documents;
- The person transferring or receiving the migrant withheld the identity and travel documents of the migrant;
- Has been subject to control and/or surveillance;
- Has been under constant threat to him- or herself or his/her family;

- Has been forced to work in an activity other than the employment that was promised or under different conditions than those offered and against his/her will;
- Has been forced to work to pay a debt;
- Has been subject to a situation of exploitation;
- Has been coerced to participate in illegal activities;
- Has been subject to physical, sexual and/or psychological abuse with the purpose of keeping the migrant subjected and coercing him/her;
- Was abducted in the place of origin and then transferred and exploited;
- A situation of vulnerability was taken advantage of by a third person (poverty, marginalization, lack of opportunities, or unemployment).

The Profile of an Unaccompanied and/or Separated Migrant Boy, Girl, and Adolescent

The following basic indicators should be considered in determining the profile of an unaccompanied and/or separated boy, girl, and adolescent:

- Travels alone or separated;
- Travels with or is accompanied by an adult who is not entitled to be the caretaker or guardian;
- Has been victim of rights violations (theft, rape, mistreatment, exploitation, or others).

The Profile of a Potential Refugee /Refuge Seeker

The following basic indicators should be considered in determining the profile of a potential refugee or refuge seeker:

- Was forced to leave the country of origin due to persecution based on race, religion, nationality, belonging to a certain social group or political opinion or because this person's life, safety, or freedom have been threatened by generalized violence, foreign aggression, internal conflict, massive human rights violations, or other circumstances that have seriously

- disturbed public order;
- Applies for refugee status;
- Expresses a fear of returning to the country of origin or of being persecuted.

The Profile of a Migrant in a Situation of Risk

The following basic indicators should be considered in determining the profile of a migrant in a situation of risk:

- The journey has been long and has placed the physical and emotional integrity of the migrant at risk;
- The migrant has been subject to assault, theft, sexual violence, mistreatment, abduction, extortion, etc.;
- Does not speak the local language or know the local customs;
- Is stranded, uprooted, without any possibility of communicating, and without any resources;
- Has been subject to forced displacement due to natural catastrophes or climatic factors;
- A woman travelling alone, pregnant, and without any resources to support her – especially adolescents;
- Suffers from malnutrition, sunstroke, serious injuries due to the risky conditions of the journey;
- Has been subject to a migrant smuggling network;
- Is ill or has suffered injuries, is disabled, or elderly, travelling alone and requiring protection.

If the interview reveals that the person does not match any of the profiles, this person should be referred to relevant governmental migration authorities.

VII. REFERRAL FOR SPECIFIC PROTECTION AND ASSISTANCE

The following actions should be implemented in all cases when one or several profiles are identified:

- Provide some type of migratory protection or personal status preventing rejection, refoulement, or deportation;
- Meet immediate basic needs, if necessary: food, clothes, shelter, personal hygiene, etc.

Specific Referral Routes According to Profile:

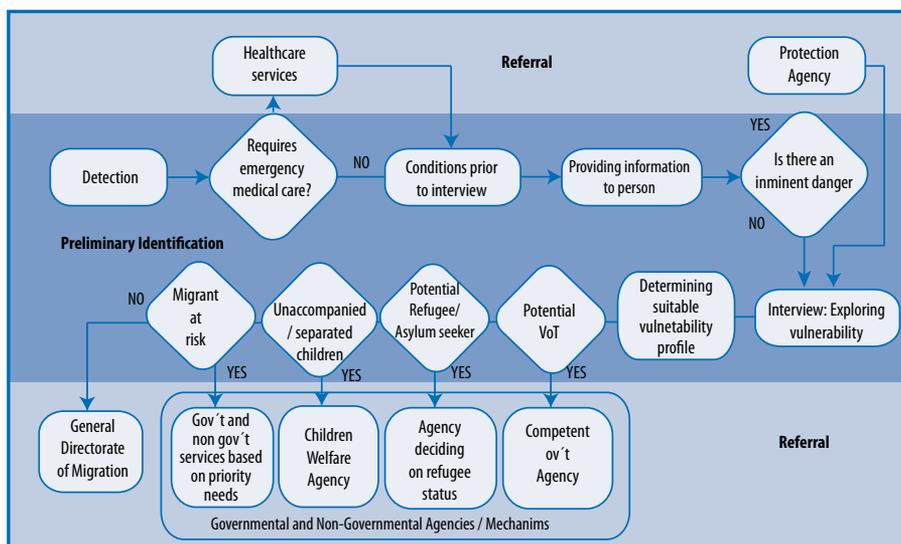
- An unaccompanied or separated boy, girl, or adolescent should be referred to the relevant government institution in charge or providing protection and assistance. If the boy, girl, or adolescent is a refugee or refuge seeker, the relevant institution in charge of determining refugee status should be notified as well.
- If a person is suspected to be a victim of the crime of trafficking in persons, the relevant government institution should be notified immediately. In such cases, protection should be prioritized above the risk of realization of threat or re-victimization by trafficking networks. If, in addition, the person is a refugee or refuge seeker, the relevant institution in charge of determining refugee status should be notified.
- For boys, girls, and adolescents travelling with their parents or any other adult accompanying them – authorized or not – that are at risk or in danger (bruises, severe malnutrition, fear, drug addiction or sedation, without any documents, etc.), the relevant government institution in charge of child protection in the country should be notified as well.
- For women at risk, the government institution in charge of protecting women's rights in the country should be notified as well. If an institution of this nature does not exist or does not operate around the clock, efforts should be coordinated

with the relevant emergency services in each country, and/or with an NGO or international organization specializing in the matter.

- Refugees or refugee status applicants should be directly referred to the institution in charge of determining refugee status in the country. In addition, the person should be informed about the existence of UNHCR or its implementing agency.

Note: In all cases, irregular migrants in vulnerable situations should not be transferred to detention centers. This is a last resort and extreme action. If this is the only alternative, the stay should be as short as possible and the protection and assistance provided at such facility should be differentiated

**DIAGRAM:
PRELIMINARY IDENTIFICATION OF PROFILES AND REFERRAL**



VIII. FOLLOWING UP ON REFERRALS

Every officer that has carried out the identification process and activated the referral mechanisms should follow up on each situation. The following actions are required:

- To submit the information to the relevant unit within the institution;
- To communicate immediately after referral to verify that the migrant has arrived at the place of referral;
- To provide any additional information requested by the institutions in charge of the migrant.

IX. BASIC REQUIREMENTS FOR IMPLEMENTATION

In order to effectively implement these Guidelines, States are urged to take the following actions:

- To develop protocols or procedures for inter-institutional coordination required to ensure effective implementation of these Guidelines, including the availability of the resources that are necessary for implementation.
- To provide specialized training and dissemination for staff from different institutions establishing initial contact with migrants and refugees;
- To maintain an updated directory of relevant public and non-governmental institutions including: name of institution, a general description of the services provided, contact information, and location according to territory;

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- To promote binational and regional agreements facilitating assistance and protection for migrant populations in vulnerable situations that travel in the region;
- To establish practical mechanisms to follow up on referred cases in order to ensure effective protection and assistance.

3) Determining the Profile and Specific Protection and Assistance Needs¹²

15. When did you leave your country of origin or residence?

16. Where did your journey begin?

17. Specify the places or countries through where you have been since your departure:

Country	Days	Means of Transportation

18. Do you know in which country you are now? When did you arrive and where did you enter?

19. Why did you leave your country of origin? Circle the appropriate answer (or answers).

Education opportunity / Seeking employment and better living conditions / An employment promise or offer by a third person† / Visiting family or friends / Family reunification / Marriage / Deception† / A promise of a third person linked to the country of destination†/ Persecution* / Your life, freedom, or personal integrity are at risk* / Generalized violence* / Domestic violence* / Armed conflict* / Disturbance of public order* / Natural catastrophe or climatic situation / Discrimination* / Other¹³

Specify:

20. How did your leave your country of origin or residence? Circle the appropriate answer (or answers):

Through your own means / With help from another person† / You paid someone† / In an involuntary manner (abduction, coercion, sold by someone†) / Other

Specify:

¹² For victims of trafficking in persons, consider that the victim could be accompanied by traffickers and therefore, could be more afraid of being asked, very anxious or even express anger, distrust, or resistance.

¹³ *Indicates that the person could be a refugee or refuge seeker and therefore, should be referred to the relevant national process and should be informed about the existence of UNHCR.

†Indicates that this could be a victim of trafficking and therefore, the national protection mechanism should be implemented

21. Have you been subject to threats, mistreatment, physical violence, extortion, or psychological or sexual violence by the person that contacted, helped, transferred, or sheltered you?

22. Did you have any documents at the beginning of your journey? Specify if a person or authority has taken them or withheld them.

23. Have you suffered abuse or mistreatment by any national authority?

24. Have you submitted a complaint or made a denouncement?

25. Was this country your final destination when you began your journey?

Yes No

If not, specify which your final country of destination is and why:

26. Do you wish to return to your country of origin or residence?

Yes No Why:

Detention * / Prosecution / Physical violence† * / Sexual violence or gender-based reasons†* / Fear of reprisal† / Persecution * / Discrimination* / Other (please specify)

General comments

4) Using Indicators to Determine a Profile:

The profile should be determined based on identified indicators. It should be considered that profiles (for example: victims of trafficking, unaccompanied or separated boys, girls, and adolescents, etc.) do not exclude each other. A person may match several profiles at the same time and therefore, have multiple needs.

Check each indicator that applies.

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Profile	Indicator of Vulnerability	
1) Potential victim of ¹⁴ trafficking	Received an offer for employment or education but does not know where he/she will work or study or who hired or made the offer.	
	The person who made the offer facilitated the means for transfer, including travel documents.	
	The person transferring or sheltering the migrant took away the migrant's identity and travel documents.	
	The migrant has been subject to control and/or surveillance.	
	Has been subject to constant threats against him/herself or his/her family.	
	Has been forced to engage in an activity that is different to the employment that was promised or under different conditions to those offered and against his/her will.	
	Has been forced to work to pay a debt.	
	Has been subject to a situation of exploitation.	
	Has been coerced to participate in illegal actions.	
	Has suffered physical, sexual, and/or psychological mistreatment with the purpose of keeping him/her subjected and coercing him/her.	
	A third person has taken advantage of a situation of vulnerability (poverty, marginalization, lack of opportunities, or unemployment).	
	Has been abducted in the place of origin and then transferred and exploited.	
	2) Potential refugee / refugee seeker	Was forced to leave the country of origin due to persecution based on race, religion, nationality, belonging to a certain social group or political opinion, or because the migrant's life, safety, or freedom have been threatened due to generalized violence, foreign aggression, internal conflict, massive human rights violations, or other circumstances that have seriously disturbed public order.
Is applying for refugee status.		
Expresses a fear of returning to the country of origin or of being persecuted.		

¹⁴ Based on the crime components considered in Palermo Protocol: actions, means and ends.

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Perfil	Indicadores de vulnerabilidad	
3) Migrant in a situation of risk	The migrant's journey has been long and placed his/her physical and emotional integrity at risk.	
	Has suffered assault, theft, sexual violence, mistreatment, abduction, extortion, etc.	
	Does not speak the local language or know the local customs.	
	Is stranded, uprooted, without the possibility to communicate, and without any resources.	
	Has been displaced by force due to natural catastrophes or climatic factors.	
	A woman travelling alone, pregnant, and without any support resource – especially adolescents.	
	Suffers from malnutrition, sunstroke, and serious injuries due to the risky conditions of the journey.	
	Is ill or has suffered injuries, is disabled or a senior citizen travelling unaccompanied and requiring protection.	
	Has been subject to a migrant smuggling network.	
4) Unaccompanied or separated boy, girl, or adolescent or with other situations of risk	Travels alone or separated.	
	Travels or is accompanied by an adult that is not entitled to be the caretaker or guardian.	
	Has been victim of rights violations (theft, sexual violence, mistreatment, exploitation, etc.).	

**REGIONAL GUIDELINES FOR THE PRELIMINARY IDENTIFICATION AND REFERRAL MECHANISMS
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Based on the use of indicators it is concluded that the interviewed person has the following profile(s):

- 1) Potential victim of trafficking in persons;
- 2) Potential refugee/refugee seeker;
- 3) Migrant or refugee in a situation of risk;
- 4) Unaccompanied or separated boy, girl, or adolescent, or with other situations of risk.

5) Recording Implemented Actions

Situation(s) Affecting the Person (check all the options that apply)		Assistance Provided (A brief description of implemented actions)	Referral Institution
Potential victim of trafficking in persons	<input type="checkbox"/>		Name of institution:
Refugee status applicant	<input type="checkbox"/>		Person who received the referral:
Unaccompanied or separated boy, girl, or adolescent, or with other situations of risk	<input type="checkbox"/>		Telephone and e-mail address:
Migrant in a situation of risk	<input type="checkbox"/>		Date:

Signature or fingerprint of the interviewed person

Signature of the interviewing officer



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