

Administrative Immigration Arrangements for the Protection of Victims of Human Trafficking

This Statement does not purport to be a legal interpretation of immigration legislation.



General

1. This notice provides information on the administrative arrangements which apply where a foreign national is identified as a person suspected of being a victim of human trafficking and the Minister for Justice, Equality and Law Reform is required to consider that person's immigration status in the State. In particular, this document sets out the administrative arrangements whereby such a person may be granted a period of recovery and reflection in the State and may also, in certain circumstances, be granted one or more periods of temporary residence in the State.
2. This notice came into operation on 7 June 2008 (the date of commencement of the Criminal Law (Human Trafficking) Act 2008) and may be amended from time to time having regard to the work of the High Level Group on Combating Trafficking in Human Beings and the development of a National Action Plan to Prevent and Combat Human Trafficking.
3. This notice applies to a foreign national who is identified as a suspected victim of human trafficking, that is, where there are reasonable grounds for believing that he or she is a victim of an offence under sections 2 or 4 of the Criminal Law (Human Trafficking) Act 2008 or section 3 (other than subsections (2A) and (2B)) of the Child Trafficking and Pornography Act 1998. Whether there are reasonable grounds for that belief in any particular case is determined by a member of the Garda Síochána not below the rank of Superintendent at the Office of the Garda National Immigration Bureau (GNIB) at 13-14 Burgh Quay, Dublin 2.
4. For the purpose of this notice a 'foreign national' means a person from outside the European Economic Area. However, a person from the European Economic Area who has been identified as a suspected victim of human trafficking will, for the purpose of these arrangements, be treated no less favourably than a person from outside that area. In this regard, certain administrative arrangements (in particular, the granting of a recovery and reflection period) will apply to persons from the European Economic Area. Nothing done in this regard will interfere with the immigration entitlements such persons have under European Union law.

Recovery and Reflection period

5. A person who has been identified by a member of the Garda Síochána not below the rank of Superintendent in GNIB as a suspected victim of human trafficking shall be granted a permission to remain lawfully in the State for a period of 60 days (a 'recovery

and reflection period'). The purpose of the recovery and reflection period is to allow the person -

- (a) time to recover,
 - (b) to escape the influence of the alleged perpetrators of the trafficking, and
 - (c) to take an informed decision as to whether to assist Gardaí or other relevant authorities in relation to any investigation or prosecution arising in relation to the alleged trafficking.
6. The Minister will issue or cause to be issued to a person who has been granted a recovery and reflection period a notice confirming the fact that the person has been granted permission to be in the State for 60 days.
 7. A person who has been granted a recovery and reflection period will not be the subject of removal proceedings for so long as his or her recovery and reflection period remains valid.
 8. A recovery and reflection period may be terminated in circumstances where the Minister for Justice, Equality and Law Reform is satisfied that -
 - (a) the person has actively, voluntarily and on his or her own initiative renewed contact with the alleged perpetrators of the trafficking,
 - (b) it is in the interest of national security or public policy ("*ordre public*") to do so, or
 - (c) victim status is being claimed improperly.
 9. The granting of a recovery and reflection period does not of itself create any entitlement for the person to assert a right to reside in the State when the period in the notice at paragraph 5 has expired.
 10. Where a suspected victim is the holder of a pre-existing residence permission with an expiry date later than the expiry date of the recovery and reflection period, the Minister may, at the expiry of the recovery and reflection period, permit him or her to remain in the State for the remaining period of validity of the pre-existing permission.

Temporary Residence Permission

11. In circumstances where the Minister is satisfied that -
 - (a) the person has severed all relations with the alleged perpetrators of the trafficking, and
 - (b) it is necessary for the purpose of allowing the suspected victim to continue to assist the Garda Síochána or other relevant authorities in relation to an investigation or prosecution arising in relation to the trafficking,the Minister will grant to the person concerned a temporary residence permission valid for a period of 6 months.
12. A temporary residence permission may be granted during the recovery and reflection period or following the expiry of that period as the Minister considers appropriate. A temporary residence permission will be renewed in circumstances where the Minister is satisfied that the person has not renewed contact with the alleged perpetrators of the trafficking, and it is necessary for the purpose of allowing the suspected victim to continue to assist the Garda Síochána or other relevant authorities in relation to an investigation or prosecution arising in relation to the trafficking.

13. The Minister may revoke a temporary residence permission in the following circumstances—
 - (a) the person concerned has actively, voluntarily and on his or her own initiative renewed contact with the alleged perpetrators of the trafficking,
 - (b) the person concerned no longer wishes to assist the Garda Síochána or other relevant authorities in the investigation or prosecution of the trafficking,
 - (c) the allegation of trafficking is fraudulent or unfounded, or
 - (d) any investigation or prosecution arising in relation to the trafficking has been finalised or terminated, or
 - (e) the Minister is satisfied that it is in the interest of national security or public policy (“*ordre public*”) to do so.
14. Where the person is under the age of 18 years regard will be had to the best interests of the child in the granting and revocation of a temporary residence permission.
15. The granting of a temporary residence permission does not of itself create any right to long-term or permanent residence.
16. Where the person is the holder of a pre-existing residence permission with an expiry date later than the expiry date of the temporary residence permission, the Minister may, at the expiry of the recovery and reflection period, permit him or her to remain in the State for the remaining period of validity of the pre-existing permission.

Voluntary Repatriation

17. The Minister will make arrangements to facilitate a person to whom this notice applies in returning to his or her country of origin at the end of any period of residence granted under this notice, or before that period expires if the person so wishes. Assistance in this regard can also be arranged through the offices of the International Organisation for Migration.

13 November, 2008