

## RE-ESTABLISHMENT, ORGANIZING SAFE PLACES TO STAY, SECURITY, ASSISTANCE

The Ministry of Justice has launched several measures to protect and assist the victims through the Norwegian Plan of Action to Combat Trafficking in Women and Children. The ROSA project was established in January 2005, and came about after the Secretariat of the Shelter Movement was given a mandate to implement the measures concerning help and protection according to the Plan of Action.

The ROSA project gives information 24/7 about the various forms of help and protection female victims of trafficking are entitled to in Norway. ROSA is an emergency and information hotline that offers help and information to governments, NGO's and lawyers. Private individuals are also welcome to call for help and information, whether it is the victim herself, her family members, students, journalists or others in need of information about trafficking in humans. Your call may be anonymous if so desired.

The Government has developed measures to ensure that female and child victims of trafficking are protected and given assistance. The government has also arranged Safe places and access to necessary assistance and information for victims of trafficking. This has been done through dialogue and co-operation with public services, crisis centres and NGOs. Ways to meet the special needs of children are necessary and will be examined in more detail by the Ministry of Justice, the Ministry of Children and family Affairs, the Ministry of Health, and the Ministry of Social Affairs.

Women and children who claim to be victims of trafficking will be offered a reflection period. This implies that expulsion decisions concerning victims of trafficking may be suspended for 6 months, with a view to provide practical assistance and counselling to the individual concerned. During the reflection period victims of human trafficking will be given an opportunity to assess their situation and to decide whether they wish to co-operate with the police in investigating and prosecuting the organisers. They will also be provided with practical assistance and counselling, and safe places to stay. The reflection period is a legal stay in Norway for 6 months and also includes permit to work.

## **What is trafficking in humans?**

From Himalayan villages to Eastern European cities, people especially women and girls are attracted by the prospect of a well-paid job as a domestic servant, waitress or factory worker. Traffickers recruit victims through fake advertisements, mail-order bride catalogues and casual acquaintances. Upon arrival at their destination, victims are placed in conditions controlled by traffickers while they are exploited to earn illicit revenues. Many are physically confined, their travel or identity documents are taken away and they or their families are threatened if they do not cooperate.

Women and girls forced to work as prostitutes are blackmailed by the threat that traffickers will tell their families. Trafficked children are dependent on their traffickers for food, shelter and other basic necessities. Traffickers also play on victim's fears that the authorities in a strange country will prosecute or deport them if they ask for help.

Trafficking in human beings is a global issue, but a lack of systematic research has resulted in the scarcity of reliable data on the trafficking of human beings. This in turn has hindered the undertaking of comparative analyses and the design of countermeasures. There is a need to strengthen the criminal justice response to trafficking through legislative reform, awareness raising and training, as well as through national and international cooperation. The support and protection of victims who give evidence is a key to prosecuting the ringleaders behind the phenomenon.

The definition of trafficking in humans stated in the Norwegian Penal Code § 224 is based on what is known as the Palermo Protocol. On 15 November 2000, the General Assembly adopted a package of instruments against various forms of transnational organized crime, including the UN Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children. These require the countries that become States Parties to adopt basic criminal offences, including trafficking in persons or the equivalent, participation in the activities of an organized criminal group, money laundering and other illicit conduct.

The Palermo Protocol describes trafficking as "...recruitment, transportation, transfer, harbouring or receipt of persons..." by improper means, such as force, abduction, fraud or coercion, for an improper purpose, such as forced or coerced labour, servitude, slavery or

sexual exploitation. Countries that ratify the Protocol are obliged to enact domestic laws making these activities criminal offences, if such laws are not already in place (Art.3). Trafficking cases known in Norway have so far concerned the exploitation of women in prostitution, and therefore Governments measures focus upon how to help, protect and assist women in prostitution who are victims of trafficking.

## **Legal aid**

§ 107 a. In cases concerning contravention of sections 192 to 199, 207, 209 or 212, second paragraph, second and third sentences, of the Penal Code the aggrieved person is entitled to the assistance of an advocate if the said person so desires. In other cases the court may on application appoint an advocate for the aggrieved person if there is reason to believe that as a result of the criminal act he or she will suffer considerable harm to body or health and there is deemed to be a need for an advocate.

The aggrieved person's advocate shall be remunerated by the State pursuant to the provisions of section 107 d.

The police shall inform the aggrieved person of the right to have an advocate when the matter is reported to the police.

Persons exposed to crime of violence which legally do not match the definition "substantial harm to body and health" will not have the right to an appointed advocate. However, regardless of income or assets free legal aid can be entitled if there is brought a suit against the perpetrator for the harm that has been done. In these cases the aggrieved person is not to pay a co-payment.

## **Help and rights**

Norway is committed through the Palermo Protocol to protect and assist victims of trafficking that are in Norway at the time being. These persons are connected to Norway in ways that will have an effect on their statutory right to receive help from the official social services. At the same time it is important to bear in mind that persons who are victims of trafficking often do not find the police and the public social service trustworthy. Women who are victims of

trafficking are often isolated and the recruiters often use the women's distrust of the police to secure control of the women. This might create a problem not only for the trafficked women seeking help, but also for civil servants trying to assist and support the trafficked women.

## What is a residence permit?

A residence permit is a permit entitling the holder to reside in Norway more than three months. This permit does not entitle the holder to take employment, with the exception of EEA nationals. The provisions of the Immigration Act provide the framework for the entry of foreign nationals into the Kingdom of Norway and their presence in the realm. The UDI's decisions on protection and work and residence permits are reached in accordance with the Immigration Act and the Immigrant Regulations. Here are some of the terms used in connection with questions about residence permit:

### **Individual protection**

Means that asylum or residence on humanitarian grounds is granted in accordance with an individual consideration of the application.

### **Residence on humanitarian grounds.**

This is a normal term for a permit which is granted to asylum seekers who do not meet the requirements for asylum, but have a background similar to that of a refugee. The permit may also be granted when other strong humanitarian considerations indicate that they should be allowed to stay in the country.

### **Family reunification**

Residence or work permit granted to close family members of a foreign national with legal residence in Norway. Family reunification also applies to family members of Norwegian nationals. Family reunification mainly applies to children under 18 years of age and spouses.

### **Asylum**

A place of refuge for persons who have a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion. Asylum includes, for example, protection from being sent back to the area where the person in question may fear persecution. Asylum also confers certain rights during the stay in the

country of asylum. Foreign nationals who are granted asylum in Norway receive refugee status.

### **Asylum seeker.**

An asylum seeker is a person who on his or her own initiative, without prior notification, asks the authorities for protection and recognition as a refugee. The person is called an asylum seeker until a decision has been made on the application.

### **Visa**

Permit allowing one to enter Norway and stay for up to three months. Foreign nationals who wish to travel to Norway must in most cases apply for such permission at the Norwegian Foreign Service mission closest to them. The application must be granted before entry. Norway has an agreement with a number of countries under which the visa requirement is waived. Nationals from these countries do not require visa for entry into Norway.

UDI has made fact sheets about the different kinds of permits concerning immigration to Norway. You will find information on how to apply for the different kinds of permits, terms and conditions, and frequently asked questions at this address:

<http://www.udi.no/templates/Page.aspx?id=4563>

## **What is the difference between an expulsion and a rejection?**

**A rejection** is a decision denying a foreign national entry into Norway or ordering a foreign national to leave the country. The decision does not prevent later entry. Rejection must not be confused with expulsion or removal from the realm.

A rejection decision may be made on the following grounds in accordance with the Immigration Act and the Immigration Regulations if the person:

- keeps incomplete travel documents
- does not have a work or residence permit
- does not meet the financial requirement to reside in Norway
- has been denied entry to Norway in the past
- is registered in the Schengen Information System (SIS)

- is in debt to the Government due to a previous rejection and the following costs of deportation
- has committed a serious crime or there is reason to believe the person is about to do so, or if the person is mentally disturbed

If there are to be any changes concerning the criteria for rejection, i.e. if there is a change in the Government's decisions concerning the person's settlement permit, then the rejection will be withdrawn.

**Expulsion is the most serious sanction the government may use towards a foreign national:**

An **expulsion** is a decision that implies that the foreign national must leave the country and can only re-enter the country if certain conditions are met. An expulsion order implies that the foreign national is prohibited from entry into Norway for a period of minimum two years and sometimes not ever again. The majority of individuals who have had an expulsion order in Norway have committed a serious crime, or they have not left the country within the limited time and therefore are illicit immigrants. There are some exceptions to the rules of expulsion: if the person has a settlement permit, or the person is born in Norway, or the result of the expulsion order will be more traumatic than the seriousness of the crime he or she has committed, or if the expulsion will result in the persecution of the person in their country of origin, then the person can stay in Norway.

**What does the reflection period imply?**

Women and children who are victims of trafficking are given a reflection period. This implies that expulsion decisions concerning victims of trafficking may be suspended for up to 45 days with a view to providing practical assistance and counselling to the individual concerned. During the reflection period victims of human trafficking will be given an opportunity to assess their situation and to decide whether they wish to co-operate with the police in the prosecution of the organizers. They will also be provided with practical assistance and counselling, and safe places to stay.

### **How to qualify for a reflection period?**

A reflection period will be offered to a person if there is reason to believe that she or he is a victim of trafficking according to the Palermo Protocol definitions. However, as a rule it is the woman's explanation that is the deciding argument, unless there is physical evidence that contradicts her story. No claim will be made against the woman to prove the reliability of her story, evidence or documentation. The woman's own story is the deciding factor.

This ambiguity must be noted: The circular indicates that the woman has to make a formal complaint against the trafficking agents or recruiters - but there is no demand for her to do so. However, the government strongly encourages the women to make a formal complaint. The government has made one condition before one can receive the reflection period: that is that the trafficked woman must have an intention to break away from the trafficking situation. This is because:

Firstly, the National Plan of Action against human trafficking says that it is important to prosecute traffickers and recruiters - as well as giving the victims protection and help. When dealing with trafficking in humans it is essential that the women contribute by making a formal complaint and provide the police with as much information as possible. This might be difficult if the woman does not break away from the environment of human trafficking. Secondly, the reflection period shall not be used as a means to obtain a lawful permit in Norway in order to continue prostitution activities.

The woman may often feel threatened by the traffickers and the situation might call for some time for her to adjust. The government shall therefore be flexible as regards this condition. It is the woman's willingness to receive help that shall indicate if the conditions meet the government's obligations. It is assumed that the woman will break away from her situation mainly because it is expected that the woman can manage without the traffickers. It is also a condition that the woman is willing to receive the kind of help the government is offering. More information about this can be found in a Norwegian circular at the UDI.

## Safe havens

Safe havens are places a woman who has chosen to break away from (eventually has an intention to break away from) her traffickers can be hidden, and where she can receive help and/or protection from the government.

By calling 22 33 11 60 she will be offered safety, assistance in contacting public authorities, access to medical help, legal aid, interpretation services, food money. She will be accompanied to the social welfare office or to the police if she wishes to make a formal complaint against her traffickers. It is important to emphasize that the personnel are sworn to professional secrecy and that the stay is free.

## Health rights and financial rights

### **Social rights for foreign Citizens**

Protection of trafficked persons (Articles 4-6)

In addition to taking action against traffickers, the states that have ratified the Protocol are required to take some steps to protect and assist trafficked persons. Trafficked persons are entitled to confidentiality and protection from offenders when they provide evidence or assistance to law enforcement or appear as witnesses in prosecutions or similar proceedings, but also if they do not. Some social benefits, such as housing, medical care and legal or other counselling are also provided for.

#### In Norway:

As a rule: According to the law concerning social services (called Sosialtjenesteloven) the rights in general cover all residents in Norway, see § 1-2.

Exceptions: There is an opportunity to limit the use of the law for some foreign citizens according to the current regulations, see § 1-2.

What kind of limitation this is can be found in the administrative regulation, chapter 1, where the law states that all residents in Norway are entitled to certain rights. There is no demand that the person is a Norwegian citizen, or that the stay is of some specific time period, or that the person is connected to the country through work or education.

While the administrative regulation makes an exception for illicit immigrants concerning the

right to receive financial help pursuant to chapter 5, it does not deprive them the right to receive other forms of help.

In short, one can say that persons from other Nordic countries and countries within the European Union have extensive rights according to the law, while persons from third world countries may experience these limitations in rights described in the administrative regulation.

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