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DOMESTIC WORK & HUMAN TRAFFICKING

GUIDELINES ON DETECTING PRESUMED VICTIMS



Introduction

Through the reporting procedure of human trafficking cases to the Hellenic National Referral Mechanism for the Protection of Victims of Human Trafficking (NRM) and the daily communication with frontline professionals, the NRM team in the National Centre for Social Solidarity (EKKA) has identified the need for discussion and provision of guidelines regarding forced labour, and in particular domestic servitude, an invisible form of exploitation, as it takes place in private homes, where victims are difficult to be identified as such and receive protection services. Victims of domestic servitude are individuals who may work without adequate, *or at all*, remuneration, and often in isolation or even confinement, while they often suffer psychological and/or physical abuse. Furthermore, working conditions may include long or continuous working hours, or even the demand of one's 24h availability for work, deprivation of one's rights, such as rest, leave or social insurance, and unsuitable accommodation. Victims usually belong to vulnerable social groups, including women and children.

In light of the above discussion, these guidelines aim to inform frontline professionals about the special aspects of domestic servitude and facilitate prompt victim identification and further protection.

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The NRM Team,
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Overview

Among the forms that forced labour can take — that is, labour exploitation within the context of *human trafficking* as defined by Article 323A of the Penal Code—is **domestic servitude**. A *key feature* of this form of exploitation is that the work is **performed within a household, mainly inside the private home of the employer, for little or no pay**. Victims may perform a variety of tasks such as *cooking, cleaning, laundry, caring for children and the elderly, and so on*. They often **live on the property where they work**, have **limited freedom of movement**, experience **various forms of abuse**, and are **constantly at the employer’s disposal to work any day or time** of the week.

Legal framework

According to International Labour Organization Convention No. 189, “**domestic work**” **refers to tasks performed in or for a household or households, and a “domestic worker” is defined as any person engaged in domestic work within an employment relationship**. The term “domestic work” covers a wide range of tasks and services that vary from country to country and may differ depending on the worker’s age, gender, national or ethnic background, legal status, as well as the cultural and economic context in which they work.¹

In practice, however, domestic workers often **do not enjoy the rights and benefits afforded to other workers**. These rights include having an employment *contract, legal working hours (including mandated breaks and leave), minimum wage, healthcare, social security, maternity benefits*, and more. In many countries, domestic work is not considered formal employment but rather “informal help” with household chores, and therefore is not regulated by national labour laws².

However, even in countries where this type of work is legally recognised, enforcing the regulations is often challenging. A common example is that labour inspectors and other relevant authorities often lack authority to conduct inspections and oversee working conditions inside private homes. Additionally, in cases where the employer holds diplomatic or consular³ status and enjoys civil and criminal immunity as provided by international law,

¹ International Labour Organization, C189- Domestic Workers Convention, 2011 (No. 189), available at <https://normlex.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C189>

² For Greece, see Zerdeli, *Labour Law: Individual Labour Relations*, Sakkoulas, p. 56: “*Due to the distinctive nature of the services provided and the special circumstances under which they are offered, there is a trend in case law towards broadening the exceptions to protective labour legislation.*”

³ Diplomatic/consular staff, regardless of their privileges and immunities, are obliged to respect the laws of the host state, including provisions of labour legislation and those related to fundamental rights, among others.

domestic workers within diplomatic or consular residences become especially vulnerable to labour exploitation⁴.

It is *important to clearly distinguish* between cases of forced labour that constitute human trafficking—a criminal offence under Article 323A of the Penal Code—and cases involving violations of labour or social security legislation. According to the International Labour Organization, forced labour refers to work or services performed **without the individual's genuine consent** and **under the menace of penalty**. Therefore, a breach of labour rights alone does not automatically indicate labour exploitation unless additional factors are present. For this reason, it is essential to assess each case individually, taking into account the specific circumstances under which the work is carried out, particularly:

- ➔ the **type** and **volume** of work performed
- ➔ the **remuneration** and how it is determined,
- ➔ the **working** and **living** conditions, including working hours, leave, hygiene, food, sleep, and so on
- ➔ the **threat of sanctions** (e.g., threat of criminal penalties or other punishments, such as loss of rights and privileges, use of violence, confinement or detention, etc.), the use of other **means of coercion**, or other methods to obtain and maintain the (false) consent of the victim, such as **fraud** or **deception**, **exploitation of the victim's vulnerable position**, and **abuse of power** by the perpetrators.
- ➔ the **purpose of the perpetrator**—that is, the intent of the person who profits from the victim's labour.

Similarly, the above factors must also be taken into account when *distinguishing* between forced labour as human trafficking and **assistance that can reasonably be expected from cohabitants or family members**. Particular challenges arise in cases where adult or minor family members (spouses/partners, biological or adopted children, grandchildren, nieces and nephews) undertake work as part of maintaining the household and/or supporting the family's livelihood (such as agricultural work, animal husbandry, work in a family business, among others), which requires further investigation.

Specifically, the following should be taken into consideration:

- ✦ the type and volume of work performed, *considering* factors like the person's gender, age, health, and other relevant aspects,

⁴ OSCE/Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, *How to prevent human trafficking for domestic servitude in diplomatic households and protect private domestic workers* (Vienna, 2024)

- ✖ the living conditions and the treatment of the person in *relation* to the rest of the family members,
- ✖ the financial situation and overall living standards of the family,
- ✖ any particular cultural characteristics,
- ✖ any prohibition on the minor's attendance at school and the *actual* possibility of access to education in this regard,
- ✖ the availability of free time,
- ✖ performing tasks under the threat of punishment, or facing punishment if the duties are not carried out or are inadequately fulfilled, and
- ✖ the *intent* of the perpetrator to gain unlawful personal benefit from the individual's work.

Indicators

When looking into possible cases of **domestic servitude**, the following indicators suggest that the person may be experiencing labour exploitation:

- ✓ Absence of legal employment contract, health or insurance coverage.
- ✓ Inability to resign/withdraw consent to work and change employer.
- ✓ The volume of work expected is disproportionate to the worker's actual capacity, taking into account labour law provisions on working hours, rest breaks and holidays, as well as personal characteristics such as gender, age, disability and pregnancy, among others.
- ✓ Wages are very low, excessively delayed, or withheld—either partly or entirely—due to an alleged debt, as a 'penalty' for not performing duties effectively, or even without any explanation at all.
- ✓ Payment is made 'in kind', in the form of food and/or accommodation.
- ✓ The worker is subjected to physical, sexual, verbal or emotional abuse, or receives threats directed at themselves (e.g., threats of making a complaint to the authorities or of violence/death) or towards their family members.
- ✓ The worker is not entitled to rest (e.g., breaks, leave, free time or sleep) nor to privacy (for example when several workers are crowded into the same room).
- ✓ The worker is deprived of food or the food provided is inappropriate (e.g. minimal quantities, spoiled/expired food or leftovers).
- ✓ Hygiene conditions are inadequate (e.g., absence of bathroom/toilet).

- ✓ Sleeping conditions are unsuitable, such as lack of a bed or mattress, or the worker having to sleep in the kitchen, storage room, attic or other inappropriate places.
- ✓ The employee's identification documents are retained by the employer.
- ✓ Withholding of other personal items (e.g., mobile phone, wallet).
- ✓ Obstruction/denial of medical care.
- ✓ The employer forbids the worker to leave the property or restricts their outings to mandatory accompaniment and only for work-related tasks (e.g., shopping for household needs).
- ✓ The employer prevents the worker from contacting their family or friends.

Victim Identification & Protection

Some of the above indicators alone are enough to establish a presumed case of human trafficking in the form of domestic servitude, provided that the three elements of **act, means and purpose of exploitation**, as required by the legal definition of the offence, are met⁵. Once a person is identified as a presumed victim of human trafficking, the NRM [standard operating procedures](#) are applied, covering the key stages of victim protection, including the reporting procedure to the NRM.

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⁵ *The recruitment, transportation, transfer, harbouring or reception of persons, including the exchange or transfer of control over those persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.*