



Capacity Development and Training for Return Counsellors (CADRE)

MANUAL FOR THE TRAINEES



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**Capacity Development and Training
for Return Counsellors (CADRE)**

MANUAL FOR THE TRAINEES

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Introduction

Over the last few years, the return of irregular migrants and asylum seekers whose protection claims have been rejected and their reintegration into the country of origin has become a priority in Europe. Programmes to assist returning migrants with reintegration into their countries and communities of origin have proliferated in the last decade. These reintegration programmes aim to ease the challenges that migrants face after they return; for example, providing assistance to start a business, or medical care. However, there is a newfound recognition among European policymakers and practitioners that successful reintegration starts before the return, and an increasing number of countries are investing in pre-departure counselling. Individualised return counselling before migrants return, can help them mentally prepare for the journey ahead, develop a clear picture of life after they return, and plan the first steps of their reintegration process, such as enrolling in a school or finding a job. Yet, the approaches of EU Member States to pre-departure counselling continue to differ greatly in terms of the methods they use, the level and intensity of the return counselling provided, and the extent to which they involve partners in the countries of return.

Building on the operational manual developed in a series of meetings within the framework of the European Return and Reintegration Network (ERRIN) in ERRIN Member countries, the project Capacity Development and Training for Return Counsellors (CADRE) advanced the idea of developing a common European return counselling framework. Through the exchange of good practices, development of technical tools and capacity building of return counsellors across Europe, the CADRE project aimed to improve training practices and capacity development opportunities offered to return counsellors and thus, contribute to increased harmonization and quality of pre-departure counselling in Europe.

This **manual for trainees** was developed during 2021 and 2022 as a deliverable of the CADRE project funded within the framework of ERRIN. The manual was drafted and reviewed by the CADRE Project Management Unit (PMU) at the International Centre for Migration Policy Development (ICMPD) in collaboration with the ERRIN PMU, external experts and members of the CADRE expert group¹. The final module in this manual (Module 5) on return counselling of victims of trafficking in human beings was developed in cooperation with the ERRIN-funded PROSPECT² project.

This manual forms part of a collection of training materials that also includes a manual for trainers and a set of handouts and training material for trainers. The CADRE project aimed to create reader-friendly material that is relevant and applies to the work of return counsellors and that focuses on the operational aspects of the return process and return counselling. As yet, there is no harmonised approach in the return procedures and return counselling provided by EU Member States which means that certain aspects are implemented differently. This collection of training materials

1 The experts participated in the Expert Group of the CADRE project came from Belgium, Denmark, Finland, France, Malta, Norway, Sweden, The Netherlands and the European Border and Coast Guard Agency (Frontex). The same ERRIN member countries plus Germany, as well as the European Border and Coast Guard Agency (Frontex) and the European Union Asylum Agency (EUAA - former EASO) were part of the Advisory Group of the CADRE project.

2 Read more about the PROSPECT project at: https://returnnetwork.eu/post_type_project/prospect-strengthening-the-provision-of-support-for-reintegration-of-vulnerable-persons-including-victims-of-trafficking-returning-to-nigeria/

is intended to contribute towards harmonising return counselling training. It could also serve as a basis for further discussions towards harmonising a sustainable return system, one that promotes migration management in a manner that fully respects the rights and dignity of migrants. As well as providing answers to specific issues, this manual also offers guidance and tools for reflection. The relevant institutions in Member States can therefore also use the manual as a tool to reflect on and develop their own practice.

Structure of the manual

This manual consists of five modules and provides background reading on the relevant issues that will help those involved in migration management and those responsible for return counselling deepen their knowledge and understanding of return operations in particular, and migration in general. The manual for trainees is the main document for both the return counsellors participating in the training and the trainers implementing the face-to-face training activities. It contains all the relevant information as well as the self-study exercises that return counsellors need to read and complete before the face-to-face training.

Target group

This manual is targeted at the institutions and people responsible for return counselling in ERRIN Member countries, including the national authorities, NGOs and IOs. Return counsellors will find useful guidance in this manual, and can use it to learn more about or refresh their knowledge of different issues related to their work-related tasks. When asked to deliver training to their colleagues, return counsellors can also use this manual, with its step-by-step guidance, to help deliver a successful training session.

Module 1

Introduction to Return Counselling

Return counselling is more than just providing information to a migrant about the possibility of returning to their country of origin. It also involves guiding them through the process of making a decision and engaging them in a dialogue about return. This module introduces the key principles and concepts of return counselling and explains the profile that people need to have in order to provide return counselling to third-country nationals. It also describes the main target groups and the various settings in which return counselling takes place.

This Module is divided into the following sessions:

- Session 1: What is return counselling?
- Session 2: The profile and competencies of a return counsellor.
- Session 3: Where does return counselling take place?

At the end of this module, participants will be able to:

- Describe the key principles and concepts of return counselling.
- Identify the main target groups for receiving return counselling.
- Describe the main tasks and functions of a return counsellor.
- Illustrate the knowledge, skills and attitudes a return counsellor needs to have.
- Describe the various settings in which return counselling takes place and provide basic information for counselling sessions in each of these settings.

1.1 What is Return Counselling?

Countries have different definitions of return counselling. It should provide migrants with up-to-date and reliable information in a language they understand and should be tailored to the different stages of migration and individual circumstances, including vulnerable persons³. In the EU Framework on Return Counselling and the Reintegration Assistance Tool (hereafter: EU Framework)⁴, return counselling is defined as follows:

3 Vulnerable persons refer to minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence.

4 See: The EU Framework on Return Counselling and the Reintegration Assistance Tool [COM (2021) 120 final], p. 3 ('Definition and purpose').

Return counselling is a key component of the return process and a crucial aspect to assist third-country nationals in obtaining correct information about their legal options to remain in Europe⁵, as well as on their opportunities to return and reintegrate in their country of origin. In addition to providing up-to-date and reliable information, the purpose of return counselling is to support migrants in accessing assistance and in planning their return and reintegration. Return counselling should not be considered a stand-alone activity as it is a part of the broader approach to migration management that respects the dignity of migrants.

Although the aim of return counselling is to help migrants make an informed decision about return, it also supports the implementation of migration policies by encouraging voluntary return and ensuring compliance with return procedures. The return counsellor is the coordinator for the entire return process.

The **target group** for return counselling are third-country nationals in EU Member States. A third-country national is defined as any person who is not a citizen of the European Union and who is not a person enjoying the European Union right to free movement.

The EU Framework⁶ highlights that any migrant may engage in a discussion with a return counsellor about returning to their country of origin. If and when they make the decision to return, they shall receive help to arrange their return.

Therefore, counselling should be available:

- regardless of a person's migration status (illegally staying migrant, asylum applicant etc.), and
- irrespective of whether they requested counselling.

The timing and content of the counselling should always be adapted to the target group. Return counselling is made available to:

- migrants **who have been issued with a return decision** stating the obligation to leave the country;
- migrants who **are subject to return procedures**;
- **illegally staying migrants** not known to the authorities.

Return counselling should be fully integrated into assisted voluntary return programmes (AVR), but should also be made available to those facing forced return procedures (e.g. in detention facilities).

Overall, the EU Framework emphasises that counselling should be provided at all stages of the migration process and be made available to all migrants expressing the desire to return to their home

5 In some Member States (e.g. Germany) legal counselling in asylum-related issues is only done by (independent) legal advisors or lawyers.

6 See: The EU Framework on Return Counselling and the Reintegration Assistance Tool [COM (2021) 120 final], p. 3-4 ('Definition and purpose').

country. Where appropriate, it should also be made available to migrants whose application for international protection is pending, but without distracting applicants from exercising their right to seek asylum and to conclude their asylum claim (access to appeal against a negative decision).

Return counselling providers

Return counselling can be provided by national authorities and by non-governmental implementing partners (international organisations and NGOs) and involves:

- Informing a migrant about their current status and remaining legal options;
- Supporting the migrant in recognising their current status;
- Engaging the migrant in a dialogue about their future and return as a possibility;
- Supporting the migrant in making a decision about their future and reorienting their initial goals (e.g. obtaining legal stay in Europe);
- Supporting the migrant to deal with the practical obstacles they face throughout this process;
- Informing and supporting migrants at every step of the return process, preparing them for return and reintegration in their home country.

Approaches

As outlined in the EU Framework⁷, there are three main approaches to return counselling:

- migrant-centred approach;
- compliance approach;
- mixed approach.

The **migrant-centred approach** focuses on supporting the individual to make an informed decision. It provides support adapted to the migrant's situation, their specific needs, country of origin and journey as well as their own capabilities. The approach covers not only the individual's future, but aims to provide tailored support that takes into account the migrant's psychological wellbeing by looking at the previous migration stages and seeking to understand what pushed the migrant to leave their country of origin in the first place and why they decided to return or was issued a return decision. The discussion should remain focused on return, but understanding the context of the migrant's situation is essential to providing tailored support.

The **compliance approach** by contrast focuses on convincing the migrant to return and/or to comply with a return decision or other immigration procedures. This approach can take place in a more coercive setting after a negative decision to remain in the country of destination.

⁷ See: The EU Framework on Return Counselling and the Reintegration Assistance Tool [COM (2021) 120 final], p. 10-11 ('Methodology and content of counselling').

The **mixed approach** combines the two approaches. The aim is to achieve a balance between providing the support and information that best suits the migrant's needs and experiences, while at the same time implementing national return policies. This implies informing the individual of the various options available while emphasising the benefits of return.

In the course of return counselling, the approach can also shift from a migrant-centred approach to a compliance approach, depending on the legal status of the individual. This could happen for example when, after the initial counselling stages, it becomes evident that the migrant has little to no option to remain legally in the country.



Self-study exercise 1

Which type of approach do you or your counselling organisation usually apply? Do you remember any situation/case where you switched from one approach to another?

Forms of counselling

According to the EU Framework on Return Counselling, there are three main forms of counselling:

- individual counselling;
- family counselling;
- group counselling

Individual counselling is the most commonly used form, as it is considered to be the most effective way of reaching a thorough understanding of the migrant's situation.

Family counselling is often used when a whole family, including minors, is involved in the return procedure. Providing family counselling may be appropriate as the return decision is often addressed to the whole family. A group approach is not necessarily suitable for all cases, e.g. due to domestic violence. Ideally, family counselling should be combined with individual counselling to ensure that the family's return plans will contribute to the wellbeing of each member of the family. If there are any indications of abuse or domestic violence, counsellors should be ready to provide individual counselling as well to both parties.

Group counselling can also be used if several individuals find themselves in a similar situation and come from the same country or from regions facing the same issues. However, it should only be used at the initial stages when the counsellor provides general information about return. Individual counselling should always be the preferred form to make specific plans for return.

Factors affecting the counselling process

The work of return counsellors is highly dependent on **external factors** that are mostly beyond their control, which might undermine the return counsellor's credibility:

- Return counsellors are not a migrant's only source of information. They also receive a lot of informal information from numerous other sources, e.g. the internet, friends, family, diaspora organisations, etc. This can make it challenging for counsellors to get their message across and develop a relationship of mutual trust.
- Nationals of some countries cannot be forcibly returned (e.g. if there are no EU or bilateral readmission agreements in place with the authorities in the countries of origin). In such cases, counsellors are entirely dependent on the person's willingness to return.
- Counsellors often operate in a very vague legal context, e.g. with lengthy legal procedures ongoing, or inconsistencies in the application of asylum procedures in Europe. This means that in spite of efforts made by counsellors and the quality of their work, their interventions will not always automatically result in a higher number of voluntary returns.
- Counsellors may find themselves caught between government decisions obliging the person to return and the expectations of the migrant who wishes to stay in a European country. This can result in some counsellors experiencing **role stress**.⁸



⁸ Read more at: Vandevoordt, Robin (2016): Judgement and ambivalence in migration work: on the (dis)appearance of dilemmas in assisting voluntary return



Self-study exercise 2

Think of a specific situation or case where you experienced role stress. Make some notes about the situation and how you felt and bring it to the face-to-face training. We will work further on this issue during the face-to-face training.

1.2 The profile and competencies of a return counsellor

Counselling can be provided by national authorities and by non-governmental implementing partners (international organisations and NGOs). At present, and in most Member States, national authorities work with other partners to provide return counselling services.⁹

Below, is a description of the profile of a return counsellor. It provides a definition of what a return counsellor is, describes the generic tasks and functions of their job and outlines the knowledge, skills and attitudes they need to have.

1. Definition

A **return counsellor** works for a national government body, a non-governmental organisation (NGO) or an international organisation that has the mandate to provide information and counselling to migrants about returning to their country of origin.

⁹ See: The EU Framework on Return Counselling and the Reintegration Assistance Tool [COM (2021) 120 final], p. 4 ('Definition and purpose').

Counselling interventions may take place within different settings, depending on the person's place of residence at the time (open reception facility, (semi)-closed structure, private housing or homeless), irrespective of their legal/administrative status (illegally staying migrant, applicant for international protection, rejected applicant for international protection, etc.). The timing and content of the counselling should always be adapted to the target group and administrative status of the individual. Return counselling can be provided through a 'migrant-centred approach', a 'compliance approach', or a combination of both approaches.¹⁰

Return counselling is a dynamic process and should be provided by counsellors with a broad set of skills, competencies and knowledge.

2. Generic tasks and functions

A return counsellor:

- Informs migrants about their current status and legal options¹¹, their rights, the consequences and risks of an illegal stay, always respecting the national framework and legislation;
- Promotes the idea of voluntary return;
- Guides migrants to reflect on returning voluntarily to their country, supports them in this process of reflection and tries to solve the practical obstacles that migrants may face throughout this process;
- Facilitates a return by informing and supporting migrants at every step of the return process including the preparations for reintegration in the country of origin.

3. Knowledge, skills and attitudes

3.1 Knowledge and work experience

A return counsellor:

- Knows the basic principles of national and EU asylum law, migration and return procedures and the corresponding legal provisions¹², and knows where to find additional information;

¹⁰ Migrant-centred approach: focuses on supporting the individual to make an informed decision; Compliance approach: focuses on convincing the migrant to return and/or to comply with a return decision or other immigration procedures; Mixed approach: combines the two approaches to achieve a balance between providing the support and information that best suits the migrants' needs and experiences, while implementing national return policies.
Source: EU Framework on return counselling and the Reintegration Assistance Tool [COM (2021) 120 final].

¹¹ In some Member States only independent lawyers inform about the outcome of the asylum decision.

¹² e.g. EU-law, Return Directive (2008/115/EC).



- Knows about the existing return, reintegration and other projects that a migrant can be referred to;
- Is able to find information on pre-departure procedures and post-arrival reintegration services provided in countries of origin;
- Knows and adheres to the principle of non-discrimination and the basic principles of intercultural communication and working with interpreters;
- Knows about international and European standards on child protection, dealing with vulnerable groups as well as aspects of gender, and is able to practically apply this knowledge;

3.2. Skills and attitudes

Communication skills and conversation techniques

A return counsellor should be able to:

- Create an environment of trust, openness and responsiveness to make a connection with the migrant and engage them in the conversation;
- Remain neutral and impartial;
- Communicate with the migrant in a respectful, understandable and focused way;

- Take into account cultural/ gender differences;
- Use the necessary active listening techniques (reflective listening, voice tone, body language, non-verbal behaviour);
- Show empathy and understanding of the migrant's needs, aspirations and personal situation;
- Switch from a “migrant-centred” approach to a more “compliance approach” and vice versa, if necessary.

Coping skills and resilience

A return counsellor should:

- Have sufficient resilience and the ability to maintain a professional distance with the migrant;
- Be able to work in settings where people live closely together and find a balance between being close and maintaining a professional distance;
- Develop coping mechanisms and stay calm during stressful situations or possible physical or verbal aggression; look for the support of colleagues and be able to quickly make use of the tools and procedures provided by the organisation to deal with these situations;
- Be realistic about their limits and what they can and cannot do;
- Be able to cope with having a dual role, i.e. being in between the migrant and the policy instructions or law;
- Be able to deal with the migrant's frustrations.

Analytical, methodological and organisational skills

A return counsellor should be able to:

- Use a systematic approach adapted to the personal needs of the migrant;
- Have conversations with migrants within a limited timeframe;
- Identify or assess the situation of the migrant and make use of this information to inform the person about their legal prospects¹³ and have a conversation about the implications;

¹³ In some Member States only independent lawyers inform about the outcome of the asylum decision.

- Detect any resistance on the part of the migrant against returning, understand the underlying reasons (e.g. economic, expectations from the family/ local community, other) and come up with tailored solutions within the framework of the existing tools (i.e. reintegration support);
- Create and support networks of cooperation with different stakeholders to refer migrants to (if needed) and look together for practical solutions;
- Provide remote counselling via digital tools, e.g. in situations arising from the pandemic.

4. Personal characteristics and attitudes

A return counsellor:

- Is flexible, reliable and solution-oriented;
- Stays objective and neutral;
- Respects the organisation's values and standards and follows the code of conduct;
- Respects confidentiality;
- Acts as a life-long learner and understands how to use newly acquired skills (as an individual and as a part of a team);
- Knows the limitations of the role and how and when to leave space to their counterparts;
- Understands why return counselling forms part of an inclusive, dignified and sustainable re-turn procedure;
- Considers themselves a coach on supporting people.



Self-study exercise 3

In the following exercise, you will be able to test your knowledge of the role and mandate of a return counsellor. Please mark the correct answers in the questions below; multiple answers may be possible:

1. Return counsellors may work for:

- a) A national government.
- b) A non-governmental organisation.
- c) An international organisation.

d) All of the above.

2. Which of the following is among the return counsellor's main tasks?

- a) To prepare migrants for forced-return.
- b) To organise their individual reintegration in the country of origin.
- c) To promote the idea of return as an option and especially the idea of voluntary return.
- d) To book their travel itinerary.
- e) To escort the migrants back to their home countries.

3. What does a return counsellor need to know in order to perform their job?

- a) The existing return, reintegration and other projects a migrant can be referred to.
- b) The post-arrival reintegration services provided in countries of origin.
- c) The languages of countries of origin.
- d) The entire national and European legal framework related to return.

4. Which coping skills should a return counsellor be able to apply?

- a) Be realistic about their limits and what they can and cannot do.
- b) Solve stressful situations by themselves.
- c) Build up a personal relationship with the migrant.
- d) Ignore their dual role, i.e. being in between the migrant and policy instructions or law.

5. Which of these analytical, methodological and organisational skills are relevant to the work of a return counsellor?

- a) Avoid referring migrants to support networks as this might hamper the return process.
- b) Use a systematic approach adapted to the personal needs of the migrant.
- c) Respect data protection and, therefore, do not provide any written reports on the outcome of the meetings.
- d) Adapt a one-size-fits-all approach and suggest general solutions within the framework of the existing tools (i.e. reintegration support).

6. What are the personal characteristics and attitudes of a return counsellor?

- a) Being flexible, reliable and solution-oriented approach.
- b) Remaining objective and neutral.
- c) Respecting the organisation's values and standards.
- d) Respecting confidentiality.
- e) All of the above.

Are there any other tasks, skills, attitudes you think return counsellors can/ should have? If so, make a few notes and bring your input to the face-to-face training.

1.3 Where can return counselling take place?

Return counselling is a process that may take time and consists of several different stages, depending on the person's administrative status, particular context or where they are living.

There are four basic settings where return counselling can be offered:

- Return counselling in **open reception facilities**¹⁴ (informing third-country nationals in relation to a decision they will have to take in line with the national legislation of a MS, and/or supporting them in taking this decision);
- Return counselling in **closed facilities** - many aspects of return counselling apply in both open and closed facilities;
- Return counselling to **people living outside formal reception structures**;
- **Outreach** and providing information in the field to homeless migrants.

Once the migrant has made the decision to return, information and counselling to prepare the return can also be offered in any of the above-mentioned settings. As this process involves discussion of a tailor-made reintegration plan, it is advisable though that adequate space in the facility and time be made available. *See module 4 – Reintegration Support and Assistance for more information.*

Return counselling in open reception facilities

In open reception facilities, various nationalities with different migration backgrounds, different legal prospects for staying, and at different stages in the asylum process can be found. Migrants staying in an open reception facility might be very reluctant to return or even have a dialogue about returning, as they often have access to multiple alternative sources of information on how they can settle (irregularly or legally) in Europe. Besides, many are still awaiting a final decision on their application for international protection. This can make it difficult for counsellors to get across the possibility of returning. Some people though do not want to wait for a decision regarding their application for international protection and decide to return to their country of origin because, for example, they are disappointed about the life they have now or their future prospects in Europe.

Compared with other settings, an open reception facility is usually equipped with appropriate spaces to hold counselling meetings. As people's basic needs are taken care of, they may have more time and mental space to think about their future.

¹⁴ Reception facilities throughout Europe are quite diverse in terms of mandate but also in the number of migrants they hold. A variety of different approaches are required in the different contexts.

Taking this into account, return counselling in open reception facilities mainly focuses on:

- Informing the migrants about their current options and the risks and consequences related to each option;
- Raising awareness of return and reintegration support (if applicable) and the possibility of returning to their country of origin;
- Motivating migrants to think about every possible outcome and have a plan for each possible outcome (legal stay, consequences of illegal stay, migration to other European country, reintegration and other possible outcomes);
- Motivating those who have received an official return decision to reflect and/or to consider voluntarily returning to their country, and supporting them in this process of reflection;
- If applicable, preparing the person for the return process, or referring them to other services to organise their return.

Return counselling in closed reception facilities

In closed reception facilities, people of different nationalities and backgrounds, and with different migration histories may also be found. Some might already have had multiple counselling meetings about returning to their country of origin. Others might have participated in activities to integrate into local society or taken language courses, worked with a formal work permit or in the informal labour market (depending on the national context). Some people might have left their home country several years ago and have complicated relationships with their family circle or other networks there. Some may still have a negative image of the past and be unaware of any changes in their home country. Returning home may imply returning to a country they no longer know where they will have to rebuild social networks.

Counsellors need to be aware that a migrant can, therefore, find being moved to a closed reception facility very confusing. It might also inspire protests by their local network (e.g. school, former employers, youth organisations, neighbours, etc.). Migrants staying in these facilities generally have very limited prospects of obtaining legal status in a European country. This means that in most cases, the intended outcome is that the migrant returns to their country of origin. Though not always the case, it is up to the individual migrant to decide how to return: either voluntarily, or by force.

Taking this into account, return counselling in closed reception facilities mainly focuses on:

- Prioritising voluntary return by giving migrants information about the process and what it entails, encouraging them to think about it and supporting them in making a decision to return voluntarily;

- Achieving maximum compliance from the migrant to cooperate in the return process;
- Facilitating a successful return: organising the return, or referring them to other services to organise their return and reintegration in their home country, if applicable.

Return counselling for people living outside formal reception structures

Irregular migrants often live in urban areas characterized by high levels of crime, poverty and insecurity, surviving on informal jobs and housing. This group consists of people with different administrative /legal status, who may not know or see any difference between these administrative/legal situations, including those who:

- have never applied for even temporary legal status;
- may or may not have already received a return decision;
- have received a return decision after a final rejection of their application for international protection;
- have temporary legal status (e.g. temporary visa) that has expired.

This group is generally mistrustful of local and public services. In this context, the working relationship between a return counsellor and a migrant often fluctuates, or is limited to ad hoc meetings. In such situations, it is quite important to provide a way to meet later, for example, by providing a business card with your contact details.

Taking this into account, return counselling in this context mainly focuses on:

- Making and maintaining contact with the target group in particular through:
 - Outreach work with irregular migrants who are homeless or those without a fixed address;
 - Assessing their immediate needs and directing them to other services, where required;
 - Building a working relationship (making a connection with them).
- Getting a clearer picture of the person's current situation, i.e. living conditions, background, network, pending procedures to legally remain in the country etc.;
- Making them aware of their current situation and the potential consequences of an irregular stay in the European country;
- Providing information about their future legal options (e.g. application for international protection, voluntary return) and referring them to other services where required;
- Starting a conversation about possible next steps, and encouraging them to think about their different options, including the possibility of return;
- If applicable, referring the person to a specialised return desk for more information about return and reintegration services available in the country of origin.

Once a more structured relationship with the migrant has been established, counsellors can set up meetings to discuss matters in more detail.

Outreach and information provision activities in the field

A distinction is made between ‘outreach’ and ‘information provision activities’ on the one hand, and ‘return counselling’ on the other. The three terms are closely interlinked; **information provision activities and outreach are seen as the preliminary steps to return counselling.** Outreach and information provision activities can take place in different contexts and target a broad audience (including the most hard-to-reach), while return counselling relates to a personal interview in which an Assisted Voluntary Return (AVR) and eventually, a tailor-made reintegration plan, is discussed.

In this regard, outreach activities may be relevant for certain groups of people e.g. those who are quite marginalized such as undocumented migrants who are homeless and who do not trust government authorities or those who work for them. The goal here is to provide basic information about different issues relevant to their situation, make and maintain contact with the migrant, encourage them to start thinking about their situation and provide contact details of another place they can go to if they want to discuss their situation with a return counsellor. *See module 4 – counselling for vulnerable persons for more information.*

Module 2

Communication in Return Counselling

In this module, participants will learn about the communication techniques that can be used in the different stages of a counselling session. Participants will also learn about the structure of a return counselling session, as well as the different phases of the counselling process and the importance of creating an environment of trust. Finally, there is a section on the decision-making process and the stages that lead up to a decision being taken. For guidance, this module also includes suggestions for questions that can be asked at different stages in the counselling process.

This Module is divided into the following sessions:

- Session 1: Basic psychological principles to read before providing return counselling.
- Session 2: Creating an environment of trust in the counselling session.
- Session 3: Effective communication techniques.
- Session 4: Understanding decision making process
- Session 5: Structure of a return counselling meeting.
- Session 6: Dealing with cases of aggression.
- Session 7: Working with interpreters in counselling sessions.
- Session 8: Intercultural communication.
- Session 9: Factors affecting the decision to return.

At the end of this module, participants will be able to:

- Understand the importance of creating an environment of trust in the counselling process and how to achieve this.
- Apply the techniques that help to make communication more effective.
- Understand the structure of a counselling session and prepare a counselling plan.
- Understand aggression and deal effectively with any cases that arise during counselling.
- Reflect on the ethics and guidelines on working with interpreters in different counselling settings and on how to address common mistakes.
- Discuss and elaborate on the factors that may affect the return decision and understand how to deal with these issues during counselling.

2.1 Before return counselling begins

Return counsellors should be aware of some basic psychological principles when providing counselling services to migrants. Regardless of where people live, they have fundamental psychological needs that have to be fulfilled for their overall wellbeing and for them to be able to function well in society.



Autonomy

People need to feel that they can make their own choices and make their own decisions. A sense of autonomy makes people feel they have some control over their own situation. This can be in areas such as where they want to go to (e.g. visit a friend), who they want to meet, what they want to do, how they want to organise their living space, how they want to earn an income, what they want to tell or share with others (e.g. with a counsellor) etc. People who think that they do not have any control over their own situation will often feel frustrated, and this can translate into feelings of anxiety, nervousness, passivity, anger or aggression. In general, migrants who have no clear prospects in a European country have to cope with high levels of stress over long periods of time, and often do not have a clear idea about what is likely to happen to them in the short or medium term. This often leaves them with the sense that they have no control over their situation.

Relatedness

People need to feel connected with others and accepted by others. They need to have people they can care for but also know that they matter to others, e.g. their family or neighbours etc. People who do not have this sense of belonging will feel lonelier and anxious etc.

Competence

People need to feel they have opportunities for self-development and that they can effectively manage their immediate environment. This could be through studying, having a profession or business, specific skills they are proud of or that they consider worthwhile. The opportunity for self-development makes people more self-confident and active. People who do not see the possibility for self-development are likely to have less self-confidence, be less active and feel more frustrated.

Taking these three groups of needs into account, one can comprehend that **people whose basic psychological and/or other fundamental needs are not sufficiently fulfilled for long periods, can feel more frustrated, have lower tolerance levels, and be less patient.** Minor incidents can sometimes cause someone to become suddenly very angry, or verbally aggressive towards others, including towards return counsellors.

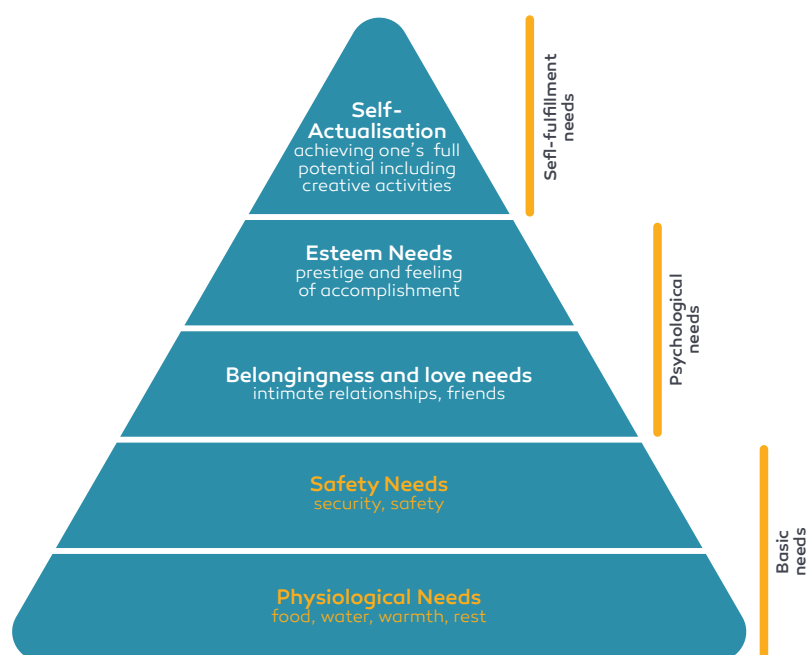
The return counselling process is also influenced by the **needs a person has at the time of the counselling.** Regardless of their cultural background, people first have to fulfil their fundamental physical needs (food, water, warmth, rest) and feel secure (safe), before they can even consider other things or make plans for the future (i.e. a return). To meet some of these needs, it can be very useful to have a list of the municipal, non-governmental and governmental organisations who work together that you can refer people to. Providing a clear timeframe and explaining the relevant procedures can also make people feel they have some level of control in the situation.

In this sense, counsellors should be aware of Maslow's theory of motivation on the hierarchy of human motives, or needs¹⁵. This hierarchy of needs is often shown as levels of a pyramid. Physiological needs (air, water, food, sleep, sex, etc.) are at the base of the pyramid. This is followed by safety and security (safety needs); then love, affection, and gregariousness (love needs); then prestige, competence, and power (esteem needs); and, at the highest level, creativity, pursuing goals (self-actualisation). **Needs lower down in the hierarchy must be satisfied before individuals can attend to needs higher up.** The need for growth does not stem from a lack of something, but rather from a desire to grow as a person. It is only once the needs further down the pyramid have been reasonably satisfied that an individual may be able to reach the highest level, referred to as self-actualisation.

In applying this knowledge to the return procedures, counsellors should know that people whose core (basic) needs have not been met **are not mentally ready to receive detailed information** or have a dialogue about return. This is often the case for migrants living on the street¹⁶ or those without any fixed address whose main concerns are related to immediate survival: finding something to eat or a place to sleep. Counsellors working with these groups should first focus on outreach and referring them to relevant social services before starting a more in-depth dialogue on future steps.

15 Maslow, A. (1943). A theory of human motivation. *Psychological Review*, 50(4); pp. 370– 96.

16 More information can be found on the special session on Outreach activities (module 6)



Source: Maslow's hierarchy of needs; Maslow 1943; 1954

2.2 Creating an environment of trust in the counselling session

Creating an environment of trust is a prerequisite for conducting return counselling sessions. It is important that every conversation between a professional and a client takes place within an environment of trust, not just in the return counselling context. This environment of trust refers equally to both how the counselling space is arranged and how the return counsellor adapts their style of communication to the migrant and their situation. Counsellors will have the opportunity to get practical tips and ideas on how to achieve this.

Key principles for creating an environment of trust

Meetings should always take place in a comfortable environment and in an atmosphere that is conducive to building a relationship of trust with the migrant. Adhering to some key principles may help to create the right conditions to build the organisation's credibility and image, and make individual counselling meetings more effective. The key principles are: accessibility, dialogue, transparency and risk assessment¹⁷:

- **Accessibility**: ensuring that information and resources i.e. counselling services can be easily accessed by migrants;

¹⁷ For further reading, see the DART model of Prahalad, C. K., and Ramaswamy, V (2004a) "Co-creation experiences;

- **Dialogue:** means interacting and engaging with migrants. It is more than just listening to them and providing them with information. It implies shared learning and communication between two individuals.
- **Transparency:** means sharing information about the role of the counsellor, what they can and cannot do and the outcomes of each meeting in a clear and transparent manner.
- **Risk assessment:** is ensuring that both the benefits and risks of the options available are discussed, so that migrants can make an informed decision and feel that they have a level of control over their lives. Migrants need to feel that these meetings are relevant and valuable to ensure that they continue to engage in a dialogue with the counsellor.

These key principles can be **translated into practical tips** and ideas both for the organisations, e.g. how they arrange the counselling space and for the counsellors e.g. helping them adapt the way they communicate.

Organisational settings

Return counselling should be conducted in a quiet and neutral space where the counsellor and the migrant can sit down and talk. If it is essential to reach the person in the street (if for a homeless migrant), offer them the possibility of reaching you in an office later on by providing clear contact details (e.g. using a business card).

Migrants should be able to access the counselling services easily. It is therefore important to:

- Make sure the person can easily make an appointment, e.g. by providing a free telephone number, and free consulting hours that are clearly communicated, e.g. by putting a sign with the opening hours outside the counselling office.
- Make sure that the person can easily find the office e.g. by putting a sign outside the office, and if necessary, elsewhere in the building with instructions on how to get there.
- Ensure confidentiality by making sure that other people cannot hear what is being said during the and avoid interruptions such as phone calls or other people coming into the office. If necessary, let other colleagues know when you will be speaking to migrants and therefore cannot be disturbed.
- Make sure there is a specific space in the building where people can sit while they are waiting to be seen. The waiting room, counselling space and desk should be neat and tidy.
- Avoid long queues of migrants waiting to be seen. This can be done by having a specialised desk registering the intakes and a timetable with separate time slots for counselling sessions.

- Avoid overloading the migrant with too much information in the office, e.g. by having too many posters on the walls or allowing too much external noise.
- Provide toys and colouring books for children who are waiting and/or participating in the counselling session.

The attitude of the return counsellor towards the migrant

As well as making sure the space where the counselling sessions are going to be held is well organised, the return counsellor's attitude towards the migrant is also very important. Counsellors should bear in mind the following points:

- Ask for permission to begin a counselling conversation. This gives the migrant a sense of autonomy.
- Adapt your communication style to the individual, and be responsive. This will help you make a connection with them, and build a relationship of trust. Try not to promise things, even if you would like to reassure them about their future.
- Always ensure there is a clear agenda for the counselling meeting, and always seek the person's permission to talk about certain topics. This will give them clarity about what they can expect from the meeting, and a feeling that they have a measure of control over the situation (autonomy).
- Be clear about who you are, what your role as a counsellor is and what you can and cannot do. Start by introducing yourself, your role and the limitations of your role. Migrants need to know you are a counsellor and what you can do as a counsellor. The information you provide to a migrant should be:
 - Objective, easy to use and clear;
 - Factual, correct, relevant/ adapted to each case
 - Verifiable
 - Consistent
- Be truthful about what you say, give the person your full attention and look at them while you are talking to them and they are talking to you. If you are making notes, tell them what you are doing and why this is needed.
- Be responsive; answer their questions within a specified time period, and/or refer them to another service, if applicable.
- Remain neutral. Do not give your personal views about decisions or actions the migrant has taken, e.g. why they have decided to stay in Europe illegally, or why they have worked without a permit. Without being judgemental, inform them fully about the potential consequences of the choices they have made (e.g. the consequences of working without a permit).

- Wear neutral clothes. Do not wear a police uniform or carry a visible weapon. It is always good to wear a jacket and/ or a recognizable badge so they know who you are.
- At the end of the meeting, give the migrant something to take with them, e.g. a visiting card, a note with the date of your next appointment, etc.
- Establish an internal reporting system covering all the counselling sessions you have had with the migrant to:
 - ensure continuity of/ and consistency in the counselling meetings;
 - show that you have captured their key concerns;
 - use when meeting with other counsellors to ensure consistency between counsellors;
 - have a back-up in case a counsellor is (unexpectedly) absent.

2.3 Effective communication

There is evidence of a better outcome from counselling when there is good/ effective communication. Good communication is a dynamic two-way dialogue between, in this case, the counsellor and the migrant, where each of them pay attention to what the other is saying, notices how each other reacts and responds accordingly. This is beneficial for both: it helps the counsellor understand the migrant's concerns, the obstacles that can hamper the counselling process, and provide tailored assistance; the migrant learns about the different options available, how the return process works and makes a more informed decision.

Here are three communication techniques recommended for return counselling sessions:

- **Active listening**
- **Non-verbal communication**
- **Effective interviewing**

Active listening

Active listening is an essential skill for every conversation between a professional and a client, and not only in the context of return counselling. Active listening is both an attitude and a skill that can be practised.

There are two main modes of listening: the passive (inattentive) mode and the active (attentive) mode. A **passive listener** risks interrupting or changing the topic in the middle of a person's, or in this case, the migrant's narrative, losing the opportunity to build trust and openness. On the other hand, an **active listener** is an effective listener. Among other things, active listening involves:

- showing **empathy** and **understanding resistance**, acknowledging, asking open questions, providing tailored information and making use of reflective listening skills;
- looking for **deeper meaning** behind what the person is saying;
- **verifying** whether you have understood correctly what the migrant has been saying;
- **being responsive**, showing that you are listening and following what the person in front of you is saying.

Showing **empathy** is not the same as showing sympathy or apathy. It involves balancing your emotions with the professional distance that counselling requires you to maintain. In the table below¹⁸ are some examples of how to respond with empathy in different situations. **Counsellors should try to show empathy rather than sympathy or apathy.**

Example	Empathy	Sympathy	Apathy
<i>The migrant is talking about their grief over losing a friend while they were travelling together</i>	I understand what you are going through.	Oh, poor you. It is really bad that this happened to your friend.	Mmm, I see.
<i>The migrant expresses anger about mistreatment by the authorities.</i>	I can understand that you are feeling angry about what has happened to you.	It is horrible that has happened to you.	Ah, OK.
<i>The migrant expresses fears about not being accepted back into the community if they return.</i>	I accept that you are very scared of the future.	Do not be scared. I am here to help you find a solution.	Can you excuse me? I need to go out for five minutes.
<i>The migrant starts crying.</i>	Simply sitting in silence and being emotionally present while the person expresses their feelings.	I am sorry for you, do not worry everything will be all right.	Can we proceed now?

Non-verbal communication

The counsellor should also use non-verbal communication to encourage the migrant to share more. This includes maintaining eye contact, nodding, maintaining a relaxed body posture, being emotionally present. Moments of silence can open up space for people to reflect on their situation and automatically encourage them to continue their story. It also gives people a sense of control in the discussion.

¹⁸ Table adapted from the manual of IOM: A Psychosocial Approach to Reintegration Counselling; adapted for the East and the Horn of Africa Region, January 2020. Available at: <https://publications.iom.int/books/psychosocial-approach-reintegration-counselling>

Interviewing / Questioning techniques

Choosing the right questions during a counselling session is not an easy task; the counsellor has to play an active role in the listening process while encouraging the migrant to actively participate in the interview and share the information that is required. There are several techniques that can be used, some of which are introduced below. These questioning techniques can only serve as guidance; each situation will be different and it will be up to you to adapt the information according to your personal style and circumstances of the case.

- **Open-ended questions:** these are questions that can bring out different answers that cannot be answered in a few words, or sometimes even in a single session. They encourage returnees to talk and provide maximum information. By asking open, exploratory questions, return counsellors can get a greater insight into how a person sees their future, what their initial goals and plans were, etc. It is important that these questions do not make the migrant defensive or feel they are being judged. To avoid this, you can formulate your questions in such a way as to invite the migrant to give a more precise answer. This can be done by asking ‘open questions’, starting with words such as:
 - **What:** “what” questions serve to solicit facts and gather information – “*what is the name of...*”
 - **When & where:** “when” & “where” questions serve to gather more information about real events that have happened – “*When did you first realise that...*” or “*Where did you realise...*”
 - **How:** “how” questions are related to sequence and processing of emotions and feelings; by doing this, you will automatically show empathy and establish greater trust in your working relationship with the migrant. This will encourage them to be more open with you and give you more details. Adding a personal note to your questions or comments will encourage greater openness and trust – “*How do you feel about this?*”; “*How was this decision for you?*”



- **Why:** “why” questions tend to focus on reasons and intellectual history. Although “why” questions encourage the migrant to speak about whatever they want in response to the question you have asked, **they can also raise a lot of (underlying) resistance and make them defensive and should therefore be avoided.**
- **Closed questions:** After you have gathered the information you need (which could happen in a single counselling session or more than one as every person goes at a different pace and the relationship between a counsellor and a client is unique), you could also use some “closed” questions, to generate a more specific answer: *“Do you agree with this?” – “Do you prefer this option, or the other option?” – “Do you think you would also do this yourself?”*
- **Echoing:** Repeat a key word from the migrant’s statement: *“I understand that you are afraid what your family members will say when they see you have returned. Is this correct?”*
- **Paraphrasing:** Restate the meaning of a specific part of the migrant’s statement: *“So, if I understand you correctly, you miss your local traditions. Is that right?”*
- **Summarising:** Summarise a part of the migrant’s statement (or the entire statement) to reassure them that you have been listening and that they have been heard and understood. This is a good sign of reflective listening as well: *“I understand from what you are saying that the possibility of not being able to find a job when you go back is making you feel stressed. Is that correct?”*
- **Affirming:** Acknowledge the positive aspects of what they have been saying and ask relevant follow-up questions: *“Thank you, it is well-understood and much appreciated that you find these sessions helpful. Would you also like to refer your wife for a counselling session with us?”*
- **Encouraging:** Use minimal utterances such as ‘mm’, ‘I see’ and ‘OK’, and do not interrupt: *“I see, please go on”*
- **Invite them to talk:** Sometimes it is useful (and especially for people who are quite quiet) to make an encouraging remark about the discussion e.g.: *“Would you like to talk more about that?”* or *“Could you please tell me more about your situation?”*
- **Provide affirmative statements** to encourage the person and acknowledge their worth and support them to continue talking, such as: *“You have been through so much and yet you have kept going”;* *“You are doing everything you can to be a good mother, your children must be very proud of you”*



Self-study exercise 4

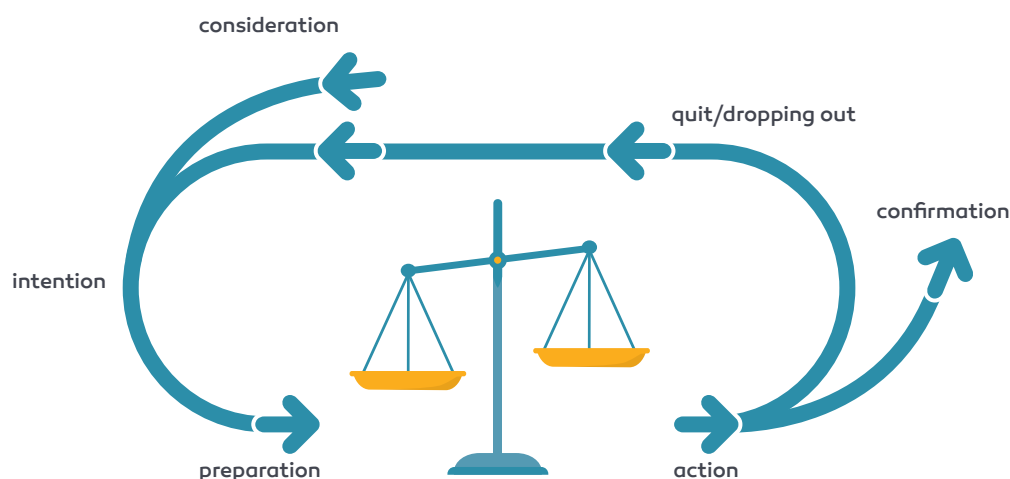
Rephrase the following *why* questions.

“Why don’t you want to think about returning to your home country?”

“Why do you think your parents don’t want you to come back?”

2.4 Understanding the decision making process

Making a decision is a process that takes time and includes several different phases. In this session, the return counsellor will get an understanding of the mental process a migrant has to go through to arrive at the decision to return to the country of origin. **Deciding to return involves a mental process that requires time and preparation.**



The *change circle* concept (also known as *the stages of change*)¹⁹ considers that every important decision is the result of going through a process consisting of different stages where change is central. This concept allows us to understand the ambivalence and resistance to return, or to even think about a decision to return, and to look at the situation as a normal psychic process. The migrant goes through a number of phases to arrive at that change, beginning with the **consideration** phase, moving to the **intention** phase, then the **preparation** phase and finally, to the **action** and **confirmation** phase.

This concept is circular, which means that someone has to pass through consideration phase to enter preparation phase etc. to achieve change. However, being circular, means that there is also the possibility to drop out of the process and start it again.

This circular concept can be applied to return counselling as follows:

- **Consideration (or information):** The migrant is aware that they have to reconsider their plans for the future. At this stage, they are not yet willing to have a proper dialogue about returning. The counsellor should limit their guidance to providing basic information, e.g. provide them with a leaflet about the return and reintegration programmes available, and answer possible questions and concerns.
- **Intention:** The migrant actively seeks information, or is more willing to hear about return options. Crucial in this phase is the ability of the counsellor to make a connection with the migrant, and build a relationship of trust with a view to having a proper counselling session at a later stage. Return counsellors can start providing more information about further legal possibilities, mentioning the return and reintegration programmes available.
- **Preparation:** The migrant starts to take steps to prepare for a possible return. They collect information about return and reintegration programmes and may contact their family to weigh up the pros and cons of returning. Return counsellors can provide support by asking some re-

¹⁹ This is also used in other sectors, such as the health care sector

flective or exploratory questions, and by showing real examples of people who have returned to their country of origin. In this phase, the aim of the counselling meetings is to give the migrant a better understanding of their 'decision needs', i.e. what they might need in order to make a decision (to return).

- **Action:** The migrant makes a decision and starts taking steps to implement this decision, e.g. by signing a declaration to return.
- **Confirmation:** The migrant confirms their decision. If they decide to return, the steps to prepare the return journey and reintegration into the country of origin should be taken together with the migrant (giving them some autonomy).

Dropping out and restarting

In this circular concept, it is always possible for the migrant to drop out of / quit the process, which here means: **choosing not to reach a final decision**. This can be because the migrant indicates that they need more time to come to a well-considered decision. Informing the migrant about this possibility will make the process less stressful and allow them to feel they have a measure of control over their situation/ making a decision. Knowing that the process can be slowed down or that it is even possible to drop out of it, will give the migrant space to think more clearly about the situation. It shows that the return counsellor is willing to let the process develop at the migrant's tempo.



Tip from the field!

Migrants who drop out of the process usually step back into the circle of change quite quickly and go through the various phases of it at a faster pace, as a lot of work has already been done. They will eventually come to a choice or decision that is more supported and longer-lasting.

Finally, the counsellor should always consider **the amount and type of information** they share with the migrant. This will depend on what stage of the decision-making process the migrant is at. The following provides an idea of the type of information that can be shared at the different stages:

- **During the intention phase:** the information the counsellor provides is quite generic and standardized. The level of interaction between the return counsellor and migrant is quite low.
- Once communication between the counsellor and the migrant has developed and the process has moved to **the consideration phase**, the information the counsellor provides to the migrant should be more personalized and adapted to the case. The level of interaction also increases.
- During **the decision phase:** the level of interaction between the counsellor and the migrant is high; the personalized information that is shared during this phase will form the basis for the migrant to make a choice/decision on the way forward.

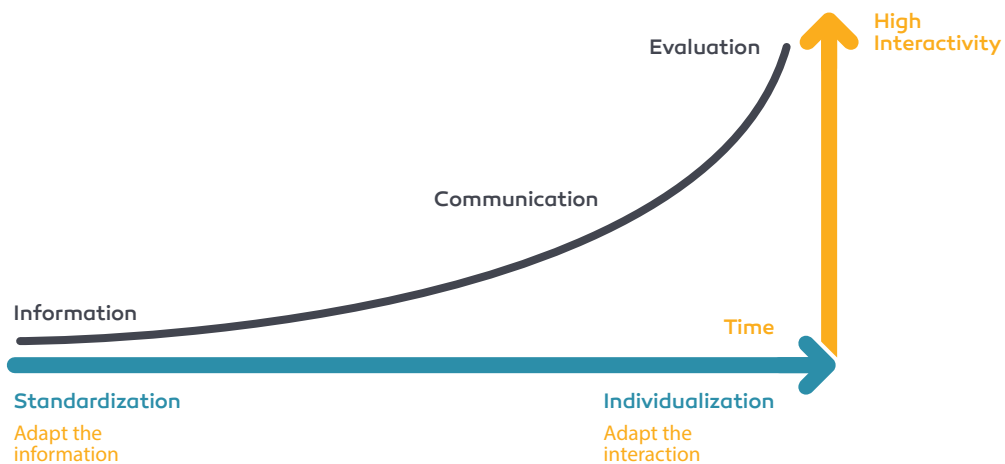


Figure used by FEDASIL describing the amount of information exchanged in each stage of the decision making process.

2.5 Structure of a return counselling meeting

This outline will give counsellors a handle on how to start having a dialogue with migrants about the option to return. Counsellors can use this format as a basic outline to talk to migrants about their current situation, inform them about the possibilities open to them (including returning to their country), and to support them in taking a decision on a way forward. The topics can be handled in one or more meetings, depending on the timeframe available, the context, the personality and circumstances of the individual and the relationship that is built between you. The order of subtopics might differ, depending on the profile and personality of the migrant and the counsellor.

<p style="text-align: center;">1. Introduction of the meeting</p> <ul style="list-style-type: none"> ■ Make contact with the person ■ Introduce yourself as a counsellor ■ Give an 'agenda' for the meeting 	<p style="text-align: center;">2. Information & dialogue</p> <ul style="list-style-type: none"> ■ Provide information and have a dialogue with the migrant on: <ul style="list-style-type: none"> ● his current situation ● his future prospects ● possible consequences ■ Ask open (exploring) questions to steer this dialogue 	<p style="text-align: center;">3. Conclusions & next steps</p> <ul style="list-style-type: none"> ■ Create a summary of the meeting ■ Verify whether the migrant captured the received information well ■ Talk about the next steps following this meeting ■ Show your appreciation to the migrant for this personal dialogue ■ Give something "tangible" to the migrant when closing the meeting (e.g. next meeting details; an open topic to reflect and prepare but NOT a promise that cannot be kept!) <p style="text-align: center;">Make an (Internal) report about the meeting</p>
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Below, you can find some practical ideas about **what to say** in each part of the counselling meeting. These suggestions should be adapted to the counsellor's personal style, the organisational framework and the circumstances of each case.

Introduction

- Express your appreciation that they have come to the meeting. Thank them for responding to your invitation and say that coming to the meeting means that they have already taken an important step. When a migrant comes to the counselling session on their own initiative, ask what made them decide to come.
- Try to make a connection with the person and break the ice by asking simple questions. For example, talk about practical issues in the reception centre or wherever they are being held such as what the food is like, or talk about the weather, or their children etc.
- The first time you meet, introduce yourself, and tell them about your role and about the organisation you work for. Be transparent and explain *what you can and cannot do*. Be clear about the limitations of your role and what the person can expect from you. Explain what information you as a return counsellor can share with others and what is confidential. If relevant, explain that your role as a voluntary return counsellor might change, i.e. where the counsellor is also in charge of the preparation of a forced return.²⁰ If necessary, repeat the information about your role and limitations in subsequent counselling meetings.
- If the person has come to the meeting at your request, ask them what they expect from the meeting, i.e. to check what information they have already received from other people in a similar situation. If the person comes to the meeting on their own initiative, ask what they would like to talk about, or whether they would like to talk about their current situation or prospects.
- Explain the purpose of the meeting, and give them an *agenda* so that they know what to expect and understand that nothing else apart from what you have told them is going to happen. Having a clear agenda for the meeting will give you some control over the meeting while also giving the migrant a sense of control in the proceedings.
- Explain that you would like to talk about their current situation, and possible prospects – and ask their permission to talk about these things. This will give them a level of certainty and control over what they choose to discuss with you.
- Tell them that **they do not have to make a decision today**. Be clear about the timeframe/time limits involved, and what will follow or what they can expect to happen, e.g. how long they can stay in a reception centre, when they must decide what to do next (e.g. comply with a return order) etc. By being transparent about these issues, you again give the migrant a sense of con-

²⁰ In some MSs, return counsellors are not only in charge of voluntary return counselling, but are also in charge but are also involved in preparing forced returns.

control or certainty about what is going to happen to them. If necessary, repeat this information in subsequent counselling meetings.

Information giving and dialogue

For this part of the meeting, the return counsellor can make use of what is known as a ‘cross road’ method. This is a mix of the return counsellor providing information (monologue) and a discussion (dialogue) with the migrant, with the aim of directing and guiding them towards making a decision. The content of this part of the meeting will vary, depending on whether the migrant has applied for asylum or has made other applications to legally remain in a European country and what stage they are at, as well as other factors such as cultural issues, personality etc.

It is useful to make a counselling plan for this part of the session. Write down the main topics you plan to cover. You can also use these points as a guide for future sessions with the same client.

Plan for information giving and dialogue part



For migrants whose application for international protection or other legal procedure remains pending

Talk with the migrant about their current legal status or pending procedures. Tell them what you know about the procedures they have pending and/or check the status of these procedures together with the migrant. Make the migrant aware of the fact that the decision concerning their asylum request might be positive (refugee status or subsidiary protection), or negative (rejection of the asylum request). Check whether the person understands their current situation and procedure(s), and correct them if necessary. Give them information about their remaining options and explain the consequences of each of these options (positive or negative). Give concrete examples that are relevant to the person you are talking to. The following are some of the questions to ask.

- ✓ You are waiting for the final decision on your asylum request. Is this correct?
- ✓ Have you thought about what the decision might be or the possible outcome?
- ✓ Do you have any idea what will happen when/if a decision is made in your favour?
- ✓ Have you thought about what you will do if the application is rejected?
- ✓ Do you know what options are open to you?
- ✓ Are you aware of the possible consequences of each of the options?
- ✓ What further information do you need in order to be able to make a decision about what to do?
- ✓ Do you feel ready to think about the options that are currently open to you?

In the yellow tables below, you may find some identical questions for each case described.

For migrants whose application for international protection and any appeals have been rejected

Talk with the person about their current situation and remaining options. Tell them what you know about their situation and/or check the status of these procedures with them. Let them know that their application for asylum has been rejected (if they don't already know) and check whether they understand their current legal status or pending procedure(s). Make sure they are fully aware of the current situation before going on to the next step. When explaining their possible options, also make clear the consequences of failing to comply with a return decision (or explain other issues such as: forced return; re-entry ban; no access to social services and/or accommodation in the European country involved; economic or physical abuse while staying illegally in the European country, or when trying to move to another European country). The following are some of the questions you could ask.

- ✓ Having your asylum claim rejected must be difficult for you (showing empathy). We can talk about the options open to you now (giving the migrant a sense of ownership over what is happening to them)
- ✓ This is bad news. Would you like to talk about other options you may have or would you rather come back to this in a few days?
- ✓ Do you know why you have been brought here? (in cases where the migrant is being held in a closed reception structure/ detention)
- ✓ You have received a negative decision regarding your asylum application. Do you know what that means?
- ✓ Does this decision affect your plans?
- ✓ Do you know what you are going to do now?
- ✓ Have you already made any plans or taken any steps?



Tip from the field!

If the person was unaware that their asylum application had been rejected, they may need some time to digest the news. You could ask them whether you should re-schedule the meeting for another time (if possible)

After informing the person about their legal status and remaining options, you can refer to the programmes that support voluntary returns and, if relevant, that support reintegration in the country of origin. Ask the person for permission to give them more information about these programmes (again, allowing the person to feel they have a measure of control in the situation). Explain the programmes and services available using concrete examples, e.g. similar stories about individuals who have previously

attended return counselling meetings, return stories, etc. Support your message by telling the individual (being transparent with them) where they can find further information about the programmes and services available or check the sources of information with them e.g. on the relevant website, folder, etc.

- ✓ There are specific programmes that can support people who would like to return to their country that can provide people with some support to resettle in the country. Would you like to hear more about this?

Once you have informed the migrant of their possible options, ask open (exploratory) questions to start a dialogue.

- ✓ How do you feel about the information you have received so far?
- ✓ What plans have you made for the near future? Would you like to share them with me?
- ✓ What are your plans if you are unable to legally remain in country X?

If the migrant does not want to, or does not have any real plans as yet, ask them what their plans were when they came to Europe.

- ✓ What makes you want to live in country X?
- ✓ What do you think you will be doing within 6 months, within 2 years? What do you think your family (and kids) will do?

Initiate a discussion about the possible obstacles they think they may face returning to their country of origin i.e. their concerns including safety concerns, whether they will be accepted or rejected by their family or local community, any feelings of shame or failure because migrating has not turned out as they had hoped. Sometimes a migrant has been sent to Europe by their family / community to make money to send back. In such cases, the migrant can feel pressure to keep going, even though their idea of what their life could be like may not exist. Then, a discussion about making decision for themselves can be useful. Depending on the circumstances, these are some of the questions you could ask.

- ✓ How long has it been since you last saw each other?
- ✓ What do you think your life would be like if you returned?
- ✓ Where do you think you would live and with whom? How would you feel about this?
- ✓ What did your family expect from you when you left? or What would your family think you should do?
- ✓ Is that still the case or has this changed?

- ✓ What makes you think so?
- ✓ So many people told you what to do. You are living on the streets in city X (if e.g. the migrant is homeless – if not adapt accordingly) and have been doing so for many months. Do you want to continue living like this? It's your life and you are entitled to make your own decisions

Explore with them (and their family) **how to establish new goals** and ask them to think about what these goals might be. You can also talk about other migrants you have dealt with who were in a similar situation. Sample questions:

- ✓ Would you like to discuss possibly making a new start in your home country?
- ✓ Could you think of running your own business in the future in your home country?
- ✓ Would you like me to talk to you about someone from your home country who returned home and is now working for an organisation as an interpreter?

Show your appreciation of what the person has already done and **commend their personal strength and resilience**.

- ✓ Coming to Europe illegally, and staying in a reception centre for a long time demonstrates that you can be very brave and have a great deal of perseverance.
- ✓ I have seen that you are a very strong mother for your children and that you are trying hard every day to offer them the best you can.
- ✓ What have you learnt since you left your country? Could this help you at home?



Tip from the field!

The migrant must not be pushed to provide an immediate answer to these questions. Instead, you can ask the migrant to prepare some of these questions for the next session. This gives the person a sense of ownership in the counselling meeting.

Conclusion and next steps

In the closing part of the meeting, the return counsellor should summarise what has been said. It is always good to check whether the person has understood the information correctly and if not, correct them. Ask whether they have any questions.

It is advisable to **make a list of next steps with the person** (including a timetable for when these should happen) or ask them what they think the next steps could be. It is also a good idea to make an informal agreement about the next steps.

- ✓ How would you like to continue from here?
- ✓ Would you like to meet again to discuss more issues concerning the XXX.
- ✓ Before our next meeting, you try to contact your family, and I will verify XXX (a specific topic or piece of information).

Make an appointment for the next meeting, or give your contact details (and office hours) where the person can reach you. You can either make a new appointment using an appointment sheet, or give them a date when you will call them back. Try to ask (again) for their contacts. It is usually easier to get information about their contacts at the end of a meeting than at the beginning.

Ask them for feedback about the meeting. For example:

- ✓ How did you feel about this meeting?
- ✓ Did you find our discussion useful today?

Thank the person, or show your appreciation for having this personal dialogue with you, and give them something to take away with them at the end of the meeting: e.g. a note with a short summary of the next steps, a flyer, a note with a date for the next meeting, etc.

- ✓ Thank you very much for coming to talk with me today.
- ✓ I understand that making a decision is difficult and challenging. If I can be of any assistance in this process, we can discuss this together again.

Write an internal report about the meeting, following the guidelines of your organisation.

2.6 Dealing with aggressive behaviour

In general, migrants with no clear prospects in a European country have to cope with long periods of significant stress, and often do not have a clear perspective on what is likely to happen to them in the short or medium term. This leaves them feeling they have no control over the situation they find themselves in and this lack of control can express itself in feelings of anxiety, frustration or even (verbal) aggression. People whose basic psychological needs²¹ and/or other fundamental needs are

²¹ In terms of autonomy, relatedness, competence (self-determination theory, Ryan & Deci, 2000)

not sufficiently fulfilled for long periods tend to be more frustrated, have a lower level of tolerance and less patience. Minor incidents can cause them to sometimes become suddenly very angry, or even (verbally) aggressive towards others, including return counsellors.

Tips to prevent verbal aggression in the return counsellor's office

- Make sure your office is suitably adapted for counselling.
- Have a safety protocol for counsellors. Take time to familiarise yourself with the safety rules in your office.
- Find out if the migrant has sufficient autonomy in the daily organisation of their life, and/or in the reception facility. If this is not the case, show some empathy for their life not turning out as they had hoped.
- Adapt your communication style to the individual and be responsive towards them. This will help you make a connection with them and help build a relationship of trust. Try not to promise things, even if you would like to reassure them about their future.
- When you have a counselling meeting with the person, ensure that there is always a clear agenda for the meeting, and always ask their permission to talk about certain topics. This will give them clarity about what they can expect from the meeting, and a feeling of having control (security) over the situation.
- Send a clear signal that aggressive behaviour towards you and others is not welcome. This can be done by e.g. hanging a poster where it can easily be seen by everyone (on or near the door of the counsellor's office).

What to do if a person is verbally aggressive

- **Stay calm**
Try to behave and speak calmly. Even if you also feel angry or anxious, try not to show this to the person who is behaving aggressively. This will help to avoid the situation escalating very quickly. People often copy (mirror) each other's behaviour, so when you stay calm you have a greater chance that the other person will also calm down.
- **Show empathy towards the person**
Show empathy towards the person who is behaving aggressively. Demonstrate to them that you have listened to their frustrations. This does not mean that you agree with their behaviour or position, but that you recognise their needs and are paying attention to their concerns and feelings about their situation. In this way, you show the person that you have paid attention to their frustrations, and that they do not have to continue expressing these feelings through aggressive behaviour. It always helps to talk in a soft and calm voice and avoid direct confrontation.

- ✓ I see that you are angry and disappointed. Let us sit down together and talk about what is making you so angry.
- ✓ I understand that you are angry. Would you like to have a break and maybe continue our discussion later?

■ **If this does not work**

In some cases, staying calm and showing empathy will not be sufficient to calm a person down. In these situations, it is important that **you clearly indicate your boundaries to the person who is behaving aggressively**. Here, it is better to speak in short sentences and stick to facts.

- ✓ I see that you are very angry, and that you are shouting.
- ✓ It is not possible for me to talk with you like this.
- ✓ Either you stop shouting, or I will have to end this conversation. (Again, you give the person the choice about whether they continue to shout or not).

- **If the situation really escalates, stop the meeting immediately and tell the person clearly that you are ending the conversation and will continue the meeting another time. Follow carefully the safety protocol and the guidelines of your organisation.**

2.7 Working with interpreters in counselling sessions

The nature of the work of return counsellors involves communication in multiple languages. This requires using trained interpreters to facilitate effective communication between the counsellor and the migrant. Good interpretation will help a counsellor gain a client's confidence and trust, and enable them to elicit information and convey messages effectively. Interpreters play a crucial role in the success of a counselling session, so it is important to find qualified interpreters to work with, and learn to benefit from their skills. It is vital to understand that a good interpreter is not only interpreting the words but also the ideas, i.e. the meaning of the message, and ensures that the content and meaning are communicated accurately. They also mediate concepts and cultural practices as needed.

An interpreter supports both the counsellor and the migrant; a trained interpreter is respecting the confidentiality and integrity of everyone involved. The work of an interpreter can be difficult. As well as being fluent in both languages, they have to listen, speak, and accurately convey what the migrant and the counsellor are saying. They must also convey feelings, emotions and non-verbal messages. At the same time, the interpreter has to remain neutral and impartial, while adapting to the different and sometimes difficult working environments. The following points provide useful ideas for working effectively through an interpreter in different settings and facilities.

In facilities with an interpreter present

Before the counselling session:

- Introduce yourself to the interpreter and brief them on how you would like to be presented.
- Acknowledge them as a professional in communication and respect their role.
- Allow time for a pre-session with the interpreter and let them know the issues you want to cover e.g. brief presentation of procedures, more advanced counselling on voluntary return.
- Ask if they are used to this type of interpreting and if they are familiar with the technical terms and procedures that are used (if needed).
- Ask if there are any cultural aspects you need to be aware of.

During the counselling session:

- Set up a triangle formation with the interpreter in the middle.
- Present the interpreter to the migrant/s you are talking to.
- Speak to the individual/s attending the counselling session, not to the interpreter.
- Try to speak slowly, rather than more loudly. Use shorter sentences and remember to pause so the interpreter can interpret.
- Avoid complicated sentence structure or asking multiple questions at the same time.
- Be patient; interpreting is rarely linear: a short sentence in one language may need more words in another. Also, be aware that some concepts do not have an equivalent in other languages. The interpreter may have to explain some of the terms you are using and this may take longer than your original question/ explanation etc. Give the interpreter time to restructure the information in their mind.
- Assume and insist that everything you say and the migrant says is interpreted.
- If you think you are not getting the type of response you were expecting, rephrase the question or consult with the interpreter to better understand if there is a cultural barrier that might be interfering with communication.
- Encourage the interpreter to let you know about potential cultural misunderstandings. Respect their judgement that a particular question is culturally inappropriate and either say it in a different way or consult the interpreter on how to say it.
- Ask the migrant to repeat back any important information to check they have understood correctly.
- It is your role to decide when to end the session.

After the counselling session:

- Ask if the individual/s in the counselling session has/have any questions.
- It may be useful to have a debriefing with the interpreter.
- Do not forget to thank them.

Outreach activities with an interpreter

Before the counselling session:

- Introduce yourself to the interpreter and brief them on how you would like to be presented.
- Brief the interpreter on the type of social conditions the migrants are living in e.g. camps, squats etc., and advise them on what to wear if conditions are going to be difficult.
- Allow time for a pre-session with the interpreter and let them know the issues you want to cover e.g. brief presentation of procedures, more advanced counselling on voluntary return.
- Ask if they are used to this type of interpreting and if they are familiar with the technical terms and procedures that are used.
- Ask if there are any cultural aspects you need to be aware of.

During the counselling session:

- Introduce the interpreter and explain what they are there to do. To help avoid the migrant/s viewing the interpreter with suspicion, it is important to explain the interpreter's role in the session (or have them explain it) e.g. that they are there to facilitate communication; that they are not in charge; that they are the medium and not the source of the message.
- Be aware the migrant/s you are speaking to may not view the interpreter as neutral if they come from the same country and that this can have a positive or negative impact on the situation.
- Be aware that having individual and confidential exchanges is rarely possible in outreach activities.
- Try to speak slowly. Use shorter sentences and remember to pause so the interpreter can interpret. You may have to speak more loudly if it is noisy.

After the counselling session:

- Have a short debriefing session. Ask how they found it and whether they have any other observations.
- Thank them for their work.

Remote interpreting (by phone or video call)

When there is no interpreter available on site, interpreting can be done remotely where the return counsellor and migrant are in the same location and the interpreter connects via phone / skype / zoom or other services – the following guidelines are adapted to services without video.

Beginning of the counselling session:

- Explain the situation to the interpreter: who you are (name, organization, role), who you are with (how many people, man or woman, volunteers...), where you are (an office, a centre) and the issues you wish to cover in the counselling session.

- Ask them to introduce themselves to the migrant/s.

During the counselling session:

- Try to speak slowly, rather than more loudly. Use shorter sentences and remember to pause so the interpreter can interpret. This is particularly important as the interpreter is not in the room and may miss some of the non-verbal cues.
- Avoid complicated sentence structure or asking multiple questions at the same time.
- Be patient; interpreting is rarely linear: a short sentence in one language may need more words in another. Also, be aware that some concepts do not have an equivalent in other languages. The interpreter may have to explain some of the terms you are using and this may take longer than your original question/ explanation etc. Give the interpreter time to restructure the information in their mind.
- If you are showing the migrant a document or they are showing you something, do not forget to tell the interpreter that this is what is happening.
- Assume and insist that everything you say and the migrant says is interpreted.
- If you think you are not getting the type of response you were expecting, rephrase the question or consult with the interpreter to better understand if there is a cultural barrier that might be interfering with communication.
- If you think the migrant may not have understood what you are saying, check back with the interpreter.
- Observe how the migrant interacts with the interpreter (e.g. whether they show signs of anger, sorrow etc) and ask about potential cultural misunderstandings.
- Thank them both and clearly state the exchange is over.

After the counselling session:

- Ask if the migrant(s) has/have any questions
- Let the migrant and interpreter say goodbye to each other.



Tip from the field!

Remote interpreting is always difficult because of the physical absence of one party involved in the communication. Be aware that some things might be missed or misinterpreted.

2.8 Intercultural communication²²

Culture is often defined as the combination of patterns of consciousness, habits and experiences that a group of human beings has in common. Culture also encompasses traditions, values and ways of being that are transferred from one generation to another, evolving over time. History and tradition play an important part in the formation of culture. Some say that culture defines the world as we know and understand it.

A fish only discovers its need for water when it is no longer in it. Our own culture is like water to a fish. It sustains us. We live and breathe through it.

Fons Trompenaars

In 1976, Edward T. Hall²³ suggested that culture was similar to an iceberg²⁴. He proposed that culture is made up of two parts with only about 10% of it (external or surface culture) being easily visible; the majority, or 90%, of it (internal or deep culture) is hidden below the surface²⁵, meaning many aspects of culture are not immediately apparent. Like an iceberg, only a small and sometimes superficial part of it is visible. It is important to be aware of and curious about the less visible elements of culture, as they could be the most important!

Self-study exercise 5

What does the word “culture” mean to you? What do you see as culture? (think about what you characterise as culture - there is no right or wrong answer).

22 The session has been partially adapted from the e-learning course on Respectful Working Environment, created by learn.hub, a product of icunet group for the International Centre for Migration Policy Development (ICMPD). Please visit www.icunet.group for more information.

23 Edward T. Hall was an anthropologist who made early discoveries of key cultural factors. In particular, he is known for his high and low context cultural factors. In a high-context culture, there are many contextual elements that help people to understand the rules. As a result, much is taken for granted, which might be confusing for persons who do not understand the ‘unwritten rules’ of the culture. In a low-context culture, very little is taken for granted. Whilst this means that more explanation is needed, it also means there is less chance of misunderstanding particularly when visitors are present.

24 Hall ET (1976) Beyond Culture. New York: Anchor Books/Doubleday

25 For a visualization of the Iceberg Theory you may read: <https://uca.edu/training/files/2019/09/Culture-as-an-Iceberg.pdf>

Where would this sit on the iceberg (would it be visible or invisible)?

The understanding of the role of (national) culture has become increasingly important and so too has the understanding of correct ways to communicate with different groups, as effective communication contributes significantly to sustainable and successful results in almost every situation. Being members of different cultures means people are likely to ‘see, interpret, and evaluate things differently, and consequently act upon them differently.’²⁶

Cultural difference is one of the factors that affect the ways we communicate. These differences may lead to misunderstandings during any communication, including during a counselling session. The migrant, the counsellor and the interpreter all have different cultural, social and personal backgrounds, and interpret information according to their own ways of perceiving and interpreting the world. During counselling sessions with migrants, cultural differences may be apparent through how we greet each other; the way we communicate our ideas, opinions or emotions; our use of non-verbal communication; and even our fundamental values. It is especially important to be aware of cultural variations in understanding and expectations related to gender, social hierarchy, attitudes to authority etc. There may also be cultural differences in perceptions of time or of self, or in the importance of religion or family/ community. Counsellors need to remember to meet the migrant as an individual person, not as a representative of their culture.

To be able to effectively communicate and interact with people from different cultural, ethnic or social backgrounds you need the right **knowledge, skills** and **motivation**. In this context:

- Knowledge is an understanding of culture and cultural difference and how this can affect the information obtained and exchanged between the return counsellor and the migrant during the counselling session.

26 Kittler M.G., Rygl D. and Mackinnon A.I. (2011). Special Review Article: Beyond culture or beyond control? Reviewing the use of Hall’s high-/low-context concept. *International Journal of Cross Cultural Management* 2011 11: 63

- Skills refers to the ones that are essential for effective cross-cultural communication.
- Motivation refers to the attitudes that affect an individual's understanding of culture and ability to communicate across cultures and cultural barriers. It also refers to an individual's openness to interacting with people from different cultural backgrounds.

It is an advantage to have some information about the cultural background of the person you are talking to, but it is equally important, as counsellors, to be aware of how your own culture affects you, your implicit **biases** and how they affect the way you communicate and understand others. From the moment we meet someone, our unconscious mind influences our assessment of that individual/ group. These cognitive biases affect all our activities, perceptions, habits and behaviours; they shape the world around us. We all have unconscious biases and they are present in our day-to-day life. In order for our brain to process the world around us, it takes shortcuts to save resources using learned patterns, associations and the same mental pathways. They reduce the complexity of the world and help us to make quick decisions, especially when we are in stressful situations.

Verbal and non-verbal communication

The way in which we communicate can differ considerably from culture to culture. Verbal communication is our use of language, which can be both oral and written. With intercultural communication, where different languages and/ or dialects are spoken/ written, people may misunderstand each other as they may not speak the other person's language, or not speak it well enough. But even if people are competent enough in the same language, their way of communicating can vary, or be quite different, as a result of the cultural differences between them.

Non-verbal communication is usually confused with body language, but is much more than that. If verbal communication is thought to be the main way we communicate and give information, non-verbal communication is usually the primary means through which we convey emotions and attitudes. Non-verbal communication tends to signal or highlight someone's cultural identity (the part that is not seen in the intercultural iceberg).

Non-verbal communication can contextualise what the person is communicating verbally and signal how it should be responded to e.g. whether it should be taken seriously or as a joke. However, in an intercultural setting, non-verbal communication may be misread due to:

- the same non-verbal cue having different meanings and being interpreted differently by different cultures;
- multiple non-verbal cues being sent simultaneously;
- it being governed by a number of cultural rules: gender, status and many others.

Ways to communicate non-verbally include: Gesture, Personal Space, Touch, Eye Contact, all of which are discussed here.

Gestures (kinesics)

These include hand gestures, head gestures, postures, smiles etc. As with verbal communication, gestures are informed by cultural cues. If you are not sure what a gesture might mean to someone from a different cultural background or how it might be interpreted, it is advised that you avoid using it!

Personal space (proxemics)

Personal space can be defined as the space you expect to have around you in a public setting e.g. in a cinema or elevator. Personal space, and what people are comfortable with, differs depending on the country and sometimes even the city. Privacy can be deemed unnecessary in cultures that value a communal way of living. Some languages do not have a word for privacy or use different vocabulary to describe it. Remember, even within this understanding of cultural ideas regarding personal space, individuals will have their own views and feelings.



Self-study exercise 6

What are your experiences related to your own personal space?

How is personal space perceived in your own culture? Are there any changes in this perception because of the COVID-19 pandemic?



Touch (haptics)

Linked to proxemics, individuals will also have different boundaries related to touch (haptics). Touch is one of the first ways of communication used and experienced by humans. For example, when a baby is born, they are usually given to the mother for skin-to-skin contact. But rules governing touch can be complex and very sensitive. It depends on who is doing the touching or being touched, where and why, but also depends on how often, or accidentally, it happens. Rules governing touch, that are sensitive enough in one's own culture, become even more complicated in an intercultural context, as in some cultures touch would be frowned on or might be completely forbidden.

Covid-19 has resulted in many changes to the way people interact with the introduction of measures such as social distancing. Think how unusual it was pre-Covid not to shake hands in the office or kiss someone on the cheek. And how strange it would feel to do it again.

Eye Contact (oculesics)

Rules governing eye contact can become complicated at the intercultural level. In some cultures, eye contact can indicate trust and interest, while in others it can be considered rude. In COVID-19 times, mask-wearing has made non-verbal communication even harder, as where one can't see a lot of person's face, they have to take cues from expression in eyes.

The aim here is not to reinforce any stereotypes, but to indicate tendencies that may apply to a larger share of different populations that share a common culture. This of course does not apply to all people from that place/country/culture in the same way, as culture is very diverse and made up of a huge range of people from different backgrounds who all have different ways of communicating. The better we are able to recognise and navigate behaviours and ways of communicating that differ from our own, the more understanding we can be towards one another.

To facilitate understanding across the cultural differences, **counsellors can use simple communication tools** that will help to improve the quality of intercultural communication and exchanges. For example:

- When you introduce new topics, never take for granted that the migrant understands what you are talking about;
- Ask the migrant to provide information in their own words;
- Encourage them to explain something in more detail so that you can get a better understanding of their perspectives on the matter rather than making your own assumptions;
- Be an active listener;
- Sum up what you think they have said to check that you understand it and that they understand you;
- Ask the migrant to define what they mean or understand by certain words or concepts to ensure you have a common understanding;
- If you are not sure what a certain form of non-verbal communication might mean to the person you are talking to, do not use it. Instead, ask an interpreter or a cultural mediator if one is available, about its meaning and where it would be appropriate or inappropriate to use.

2.9 Factors affecting return and reintegration

Migration is a circular process. For both voluntary and involuntary returned migrants, every stage of the migration journey influences how they return and how the processes of becoming re-embedded in the home country take place. Not only the conditions of return, but also the diverse reasons for migrating in the first place, influence these processes after the return. Decisions to migrate or return are often not made on the basis of economic calculations only, but are instead complex and multidimensional.

A number of studies²⁷ have explored the processes that returnees get caught up in when they try to become re-embedded in their countries of origin, as part and parcel of forced and voluntary return. Using a bottom-up approach, these studies have investigated whether the livelihoods of returnees can be considered to be sustainable, taking as a point of departure that sustainability of livelihoods can be explored through the processes that returnees experience in trying to re-embed themselves. Multiple factors such as economic, cultural and social embeddedness influence these processes, as well as other more subjective factors such as contextual and personal ones. According to the UN High Commissioner for Refugees²⁸ (UNHCR), successful reintegration requires access to reasonable resources, opportunities and basic services to establish a self-sustaining livelihood in conditions of equal rights with other residents and citizens. However, the realisation of self-sustainability also depends on social networks, safety, feeling at home and having a sense of belonging to the society around the returnee. All these aspects influence each other in a continuously ongoing process, which makes it difficult to define exactly when a return becomes successful.

27 Tine Davids and Marieke Van Houte, 2008. Remigration, Development and Mixed Embeddedness: An Agenda for Qualitative Research? *IJMS: International Journal on Multicultural Societies*. Accessed on 13/07/2021 at www.unesco.org/shs/ijms/vol10/issue2/art4

28 Dimitrijevic et al. 2004. *The Experience of Decision-Making and Repatriation Process. Return of Serbian Refugees to Croatia*. Belgrade: Danish Refugee Council

Even though the countries to which people are returned are supposed to be safe, they may still be in situations of post-conflict with conditions that are politically, socially and economically highly unstable. These post-conflict countries where returnees are about to make a new start and find their own position in society often have collapsed infrastructure, high unemployment and ongoing (political) tensions. In such situations, the return of migrants is often seen as a burden than as a positive development. Another complicating factor is the stigma experienced by returnees when they face the home community who remained in the country. Returnees are welcomed with a mix of distrust and misunderstanding, especially in post-conflict situations where their departure/ return might be seen as a betrayal. In other contexts, where families and sometimes whole villages have collected money for someone to migrate, the expectation is that this person will find a job in the West and send back enough money for the entire family or community. If the person who has migrated returns with no money or significant possessions, this is seen as either a failure or an irresponsible choice. The feelings of shame, failure and rejection play an important role here. It also makes returnees try to hide their transnational identity. Not being able to construct an individual identity has a major effect on the other aspects of embeddedness. It prevents the returnee from establishing the social networks that in turn would help them become embedded from an economic point of view. After many years abroad, returnees need these networks to help them start to build their lives again from scratch. The complexity of these and many other factors, (which may be revealed through every personal life-story), highlight the importance of reintegration and assistance programmes²⁹ to support a sustainable return in the home country.

Factors that may affect the return and reintegration process



- **economic factors** e.g. prospects of earning an income; paying back debts; and other factors;
- **social factors** e.g. family and friends who returnees can rely on and the extent to which they are accepted (or stigmatised) by this network; managing the community's expectations towards the migrant who left the home country
- **psychosocial factors** e.g. mental wellbeing such as how to deal with feelings of failure
- **individual factors** e.g. personal skills, resilience, underlying health conditions etc.;
- **assistance** that a person can receive: e.g. access to (in)formal social services in the European country, reintegration support in the country of origin etc.

29 Detailed information can be found in Module 3

Module 3

Reintegration Support and Assistance

In this module trainees will learn about the services of the European Return and Reintegration Network (ERRIN) and the reintegration services and partners in countries of origin. Return counsellors will also improve their knowledge of the conditions, eligibility criteria and procedures for receiving reintegration support and will learn how to inform a migrant about the steps and procedures that need to be taken, and support them in preparing their return and reintegration.

This Module is divided into the following sessions:

- Session 1: The European Return and Reintegration Network (ERRIN) and the reintegration services it provides.
- Session 2: Procedures to be able to receive reintegration support.
- Session 3: Preparing a voluntary return and reintegration case.

At the end of this module, participants will have:

- A better understanding of ERRIN's services and how it operates.
- A better understanding of the reintegration services and reintegration partners in countries of origin.
- A better understanding of the conditions/ eligibility criteria and procedures to receive reintegration support.
- The ability to support a migrant in preparing their return and reintegration, and be able to inform them correctly about the steps and procedures that need to be taken.
- The ability to prepare reintegration cases correctly, including putting together the necessary information and documents for the reintegration partners when the migrant arrives in the country of origin.

More information and material can be found on ERRIN's website at: <https://returnnetwork.eu/>. Member States also have a lot of useful information on their websites on the national procedures/ instructions/ templates for applying for reintegration services.

3.1 The European Return and Reintegration Network (ERRIN) and the reintegration services it provides

Many Member States have voluntary return and reintegration programmes to facilitate the return of a migrant to their country and provide reintegration support to the returned migrant in their country of origin. The provision of reintegration support can help migrants overcome, to a certain extent, the socio-economic and psychosocial difficulties that they may face when they return to their community. These reintegration programmes may be national programmes or multilateral programmes such as, for example, the European Return and Reintegration Network (ERRIN).

The European Return and Reintegration Network

ERRIN is a consortium of European Union Member States and Schengen Associated Countries that facilitates the return and reintegration of migrants who cannot, or no longer wish to, remain in Europe. ERRIN works with a wide network of reintegration partners to implement the programme, providing counselling, referral, and reintegration assistance for returnees in the respective countries of origin.



Note that as of June 2022, the ERRIN joint reintegration services will be taken over by Frontex. The information below only concerns the reintegration services provided within the current ERRIN programme.

Target group for ERRIN reintegration services

Both voluntary returnees and forced returnees of all ages and profiles are eligible for the programme.

Those eligible include:

- People applying for international protection;
- Migrants who have received a final rejection of their application for international protection;
- Regular and irregular migrants;
- Unaccompanied minors;
- Other vulnerable groups.

The target group/s of people who can apply for reintegration services via ERRIN is determined by the respective MS according to the policy in place. Migrants eligible for support from ERRIN's reintegration services can apply for reintegration support through an ERRIN contact point in the respective MS. In the Annex, you will find a list of contact points / agencies for each MS.

See here the accounts of two Senegalese nationals who received reintegration support to start their own business in Senegal:

<https://youtu.be/tQYR9JfnV2A>

and

<https://youtu.be/D4jiQNk2ecc>



Self-study exercise 7

What are your **first thoughts** on seeing these two accounts?

Reintegration services in the country of origin

A returnee under the ERRIN programme may be eligible for a number of return and reintegration services provided through a local reintegration partner in the country of origin to help them get started once they are back. The services that can be delivered vary and depend on where the migrant returns to, the migrant's profile, their specific needs and interests, and the (financial) resources available. Reintegration services may include:

REINTEGRATION SERVICES

Assistance immediately after arrival	<p>For example:</p> <ul style="list-style-type: none"> ■ Being picked up from the airport or reception at place of arrival ■ In-country onward travel assistance ■ Referral for urgent medical care
Information, (psycho-social) counselling, orientation and referral	<ul style="list-style-type: none"> ■ Counselling and referral to relevant services ■ Social, legal and medical support ■ Specific attention for vulnerable groups
Housing	Temporary accommodation or housing support during the first period upon arrival in the country of origin
Schooling/ training	<ul style="list-style-type: none"> ■ Schooling ■ Training: technical and vocational, language etc.
Economic assistance	Business start-up assistance, job orientation, etc.

Note that the allowance allocated to returnees to support their reintegration in the country of origin is generally limited. Given the limited allowances for reintegration available, be aware that in most cases, returnees will not be able to benefit from all the services listed in the table above at the same time. Therefore, keep expectations realistic and do not automatically make promises about the services they can hope or expect to receive. The services they might have access to in the country of origin will depend on, for example:

- the size of the allowance allocated to the returnee for reintegration;
- the profile, needs and priorities of the returnee and their dependents;
- the current conditions in the country of origin;
- the capacities and local network of the reintegration partner.

Also, be aware that reintegration financial support services provided via ERRIN are generally not given in cash directly to the beneficiary. This means, for instance, that the reintegration partner in the country of origin pays the allowance that has been allocated directly to the pharmacy, shop, etc. or that they reimburse the returnee who has paid for a specific item on receipt of formal proof of payment. The support could also be offered in the form of in-kind³⁰.

Watch the following video to get an idea of the in-kind support offered to a family of returnees in Kurdistan, Iraq.

<https://returnnetwork.eu/2021/01/08/return-and-reintegration-in-times-of-covid-19-the-best-thing-after-my-return-was-meeting-ettc/>

³⁰ In-kind support generally means support other than money - eg, a service, information provision, etc

Eligibility criteria

The relevant authorities in the European country the migrant is returning from will determine their eligibility to receive reintegration services, and specifically:

- whether the migrant is eligible for the programme (whether they can receive reintegration support or not);
- the allowance for reintegration that can be allocated to the returnee, according to its own national criteria;
- how the reintegration partner and returnee can spend the allowance in the country of origin by approving a 'reintegration plan' made by the reintegration partner together with the returnee.

Reintegration partner organisation in countries of origin

Reintegration services are provided by reintegration partner organisations active in the countries of origin. These can be NGOs or international organisations who are jointly contracted via European tender procedures, as well as counselling desks set up with the direct involvement of national government administrations in certain countries of origin. ERRIN assesses, certifies and selects the organisations who qualify and who are active in the countries based on desk reviews, interviews, field visits etc. and a digital semi-standardized reporting system (RIAT).

Country-specific information about the reintegration partners who have been contracted and specific contact points in the different countries of origin, can be found in the ERRIN country pages section in ERRIN's website. Currently, you can find country-specific information for the following countries. Please note that this list can change at any moment:

Afghanistan ³¹	Cameroon	Iraq	Nigeria	Tunisia
Algeria	DR Congo	Ivory Coast	Pakistan	Ukraine
Angola	Egypt	Kazakhstan	Russian Federation	Vietnam
Armenia	Ethiopia	Kyrgyzstan	Rwanda	
Bangladesh	Gambia	Mali	Senegal	
Benin	Georgia	Mongolia	Sri Lanka	
Brazil	Ghana	Morocco	Syria	
Burkina Faso	Guinea	Nepal	Tajikistan	
Burundi	India	Niger	Togo	

For further information, visit: <https://returnnetwork.eu/resources/> and explore the section "Country Pages"

³¹ Taking into account the latest developments in Afghanistan, the agreement will be reviewed

Talk2Connect (T2C)

An interesting tool for Return Counselors in Europe are the ‘Talk2Connect’ (T2C) sessions organised by the ERRIN Project Management Unit together with reintegration partners in countries of origin. The sessions are digital webinars during which return counsellors in Europe can talk directly with reintegration counsellors from reintegration partners in countries of origin, and vice versa. This direct digital interaction and exchange of information between return counsellors in Europe, and reintegration counsellors in the countries of origin give both types of frontline workers a better understanding of pre-departure and post-arrival realities and the kinds of things that need to be attended to.

3.2 Procedures to follow to receive reintegration support

For receiving reintegration support via a reintegration partner in the country of origin, the following procedures for migrants (and their counsellors) apply:

Before the return (in the European country)

Once the migrant has made a decision to return and wants to apply for reintegration support:

PROCEDURES	WHAT NEEDS TO BE DONE
1. Application form	Migrant completes an application form together with the return counsellor requesting reintegration support
2. Eligibility check	The government authority responsible checks the application form and decides whether or not the migrant is eligible for the reintegration services, and the maximum allowance for reintegration they are eligible for
3. Inform reintegration partner about application	The focal point (the person responsible in the government agency) sends the approved application form to the reintegration partner in the respective country of origin
4. Information about next steps	The return counsellor informs the returnee and reintegration partner about the next steps

After the return (in the country of origin)

Once the returnee is back in their country:

PROCEDURES	WHAT NEEDS TO BE DONE
Contact with the reintegration partner	<p>The returnee contacts the reintegration partner organisation and arranges a meeting (intake).</p> <p>This first contact generally takes place within the first month of the returnee arriving in the country, unless otherwise stated by the ERRIN MS responsible.</p>
Eligibility check by reintegration partner	<p>The reintegration partner verifies:</p> <ul style="list-style-type: none">■ the identity of the returnee■ whether the returnee is eligible for the reintegration services■ the maximum reintegration allowance that can be allocated to the returnee (in EURs or the currency rate of the ERRIN MS). <p>Important: the amount allocated may vary due to fluctuations in the exchange rate when exchanging money into the local currency.</p>
Make a reintegration plan	<p>The reintegration partner develops a reintegration plan with the returnee taking into account their needs, skills and what the returnee wants to do.</p> <p>In this reintegration plan, the reintegration counsellor together with the returnee specifies how the allowance allocated for reintegration and support will be used to help the returnee resettle, and to support their reintegration into local society.</p> <p>Before it can be implemented, the reintegration plan has to be sent for approval to the relevant authority in the European country.</p>
Approval of the reintegration plan	<p>The relevant authority in the European country verifies and approves the reintegration plan, or asks the reintegration partner for additional information or justification.</p> <p>Any changes in the reintegration plan that are made afterwards have to be agreed with the relevant authority in the European country.</p>

Implementation of the reintegration plan

Once the reintegration plan has been approved, the reintegration partner will:

- support the returnee to implement the plan
- monitor and coach the returnee throughout the implementation of the reintegration plan, and beyond (if necessary and possible).

Reporting

The reintegration partner reports to the relevant authority about the reintegration support that has been provided:

- content: the assistance that has been provided and the results;
- financial report: how the reintegration allowance has been spent (formal proof of payment and invoices).

Note that all payments have to be completed within 12 months after the departure date of the returnee. This is why returnees have to present themselves to the reintegration partner without delay to start the reintegration process.



3.3 Preparing a voluntary return and reintegration case

One of the key elements in facilitating the return and reintegration of a migrant to their country of origin, is paying sufficient attention to the preparation of the migrant's return and reintegration while they are still in the European country. During the **pre-departure phase**, return counsellors need to know what information to share with both the migrant and the reintegration partner in the country of origin and the preparatory steps that need to be taken to prepare the return and reintegration of the individual in the country of origin. A migrant's view of the quality of the voluntary return and reintegration services they receive will have a big influence on the overall credibility of a return and reintegration programme within the target group, and consequently, also the credibility of the return counsellor.

Crucial here is managing the migrant's expectations. Providing correct information to a migrant prior to their departure about the reintegration services they can receive once they have returned to their country, and the steps that need to be followed in order to benefit from these services, is crucial for the overall reintegration process of the returnee once they are back in the country of origin. Giving correct information about the return journey and the procedures a person has to follow to benefit from reintegration services, will:

- make the whole process more *predictable*;
- make the returnee feel they have some *control* over the situation;
- make the return *less stressful* for the returnee.

Providing incomplete or incorrect information to a migrant prior to departure about the reintegration services they can receive once they are back in the country of origin may create false expectations and a great deal of frustration on the part of the returnee and their dependants towards the reintegration partner organisation. In the end, this will also delay the provision of reintegration services to the returnee.

Be aware that the migrant's view of the quality of the return and reintegration services they receive will have a big influence on the overall credibility of a return and reintegration programme within the target group.

There are a number of **preparatory steps** that need to be taken once a person has decided to voluntarily return. These are:

- Organising the logistics for the return
- Preparing the arrival and reintegration in the country of origin
- Restoring social networks in the country of origin and concluding affairs in Europe
- Reintegration assistance (financial aid)

Preparing the return logistics

This includes i.a.:

RETURN LOGISTICS	WHAT NEEDS TO BE DONE
Travel documents	Verifying/ obtaining valid travel documents: i.e. passport, laissez-passer, etc.
Other administrative requirements	COVID-19 test result, proof of COVID-19 vaccination, fit-to-fly if there are medical problems, etc.
Travel logistics	<ul style="list-style-type: none"> ■ Arranging travel tickets ■ Arranging airport assistance at the airport in the European country, or in transit airports if relevant
Information on return journey	Informing migrant about travel arrangements for the return journey
Other	Any other requirements, depending on the national context of the EU MS.

Preparing the arrival and reintegration in the country of origin

Migrants who decide to return voluntarily to their country might have been abroad for a long period of time. Some of them might have complicated relationships with their family in their home country, e.g. when certain financial expectations (remittances, debts) cannot be (immediately) met or paid back. Therefore, be aware that the return and reintegration process may be very stressful for the migrant as it is a life-changing event.

Return counsellors can play a supporting role in:

- *restoring contacts* with the migrant's family/ local networks in the country of origin;
- *helping to conclude affairs* in the European country;
- *preparing the first days after the migrant arrives* in the country of origin;
- *preparing the migrant's reintegration* into the country of origin;
- *providing accurate, up-to-date and relevant information* throughout the process of preparing the return and reintegration of the migrant to their country.

Return counsellors can support migrants in this process by:

- being present, *responsive* and paying attention to the migrant’s concerns, questions and plans;
- giving the migrant *autonomy* /ownership over their preparations to return and reintegrate;
- being *genuine* and neutral;
- recognizing and respecting the personality of the migrant.

Be aware that migrants can always go back on their decision to return, albeit temporarily. Giving them the possibility to change their mind might make the experience less stressful and give the person a sense of control in the situation. Knowing that it is acceptable for the process to be slowed down will make it less stressful for the individual and demonstrate that the return counsellor recognises their needs at that particular moment.

Restoring the migrant’s social networks and concluding affairs in Europe

RESTORING SOCIAL NETWORKS AND CONCLUDING AFFAIRS	WHAT NEEDS TO BE DONE
Time	Build in sufficient time for the migrant to prepare their return if possible
Social networks in the country of origin	<ul style="list-style-type: none"> ■ Encourage the migrant to contact their family and social networks in the country of origin ■ Facilitate these contacts if required: i.e. providing access to phone/ digital communication tools
Conclude affairs in Europe	<ul style="list-style-type: none"> ■ Say goodbye to friends and other contacts in the European country ■ Conclude administrative and logistical issues: e.g. terminating rental contracts, selling belongings that cannot be taken with, collecting children’s school certificates, etc.

**RESTORING SOCIAL
NETWORKS AND
CONCLUDING AFFAIRS**
WHAT NEEDS TO BE DONE
**Immediate plans/ needs
upon arrival**

Ask the migrant about their short-term plans once they arrive in their home country.

- Which city or area do they want to go to?
- Who will pick them up at the airport?
- Where can they stay the first few days after they arrive in the country of origin?
- What other immediate needs have to be addressed when they arrive (i.e. medical follow-up, etc.)?

**Reintegration plans in
the medium term**

Talk with the migrant about their plans in the medium term to reintegrate or resettle in their home country.

What are their plans for settling back in their country, and re-establishing their independence?

Verify whether the migrant might be eligible for specific reintegration support (in-kind support, or other forms of support).

Be aware that not all migrants may be eligible to receive these types of reintegration support.

**Application request for
reintegration support**

If the migrant might be eligible for reintegration support:

Complete an application request for reintegration support together with the migrant, or refer them to a more specialized reintegration counsellor.

**Collect relevant
documents**

Collect documents that may be relevant for the reintegration of the migrant and their dependants:

- School certificates for children, birth certificates of children born in the country they are returning from (or other European country if they were born there)
- Medical certificates if medical follow-up is required
- Certificates of previous work experience in Europe if relevant.

Documents should preferably already have been translated into the (main) language of the country of origin. If this is not possible, an English translation of the documents will ensure continuity of information for both sides.

**Support for migrants
with children**

Support parents with children to mentally prepare their children for the return (See detailed information on this subject in Module 5).

Reintegration assistance³²

REINTEGRATION ASSISTANCE	WHAT NEEDS TO BE DONE
Information for migrant	<ul style="list-style-type: none"> ■ Provide information about the conditions and procedures the returnee should follow to receive the reintegration support once they arrive in the country of origin. ■ Provide information about any changes in the returnee’s application for reintegration support, e.g. where assistance can or cannot be provided at the airport, etc. ■ If possible, let the migrant talk directly (via mobile phone/internet etc.) with a reintegration counsellor from the reintegration service partner in the country of origin. This will allow the migrant to talk directly with a contact person in the reintegration partner organisation in the country of origin. Allowing the returnee to have this conversation with someone in the reintegration service will give them more clarity about what to expect (‘what will happen’) and a sense of having some control in the situation.
Manage expectations	<p>Be aware that the allowance available for post-arrival/reintegration support is often limited, so keep expectations realistic and do not make promises about the services the migrant will receive in their home country. Avoid giving false hope.</p>
Inform reintegration partner	<ul style="list-style-type: none"> ■ Ensure that application forms for reintegration are complete and shared in good time with the reintegration partner. ■ Ensure that the local reintegration service partner has all the details relating to the migrant’s arrival well in advance of the migrant’s departure from Europe: <ul style="list-style-type: none"> ■ <i>WHO</i>: names of people arriving, composition of family ■ <i>WHERE</i> and <i>WHEN</i>: date of departure, flight number, airport where arriving ■ <i>WHAT</i> needs attending to: <ul style="list-style-type: none"> ■ immediate needs to be addressed upon arrival (i.e. urgent medical follow-up, onward travel, emergency housing, etc.) ■ specific vulnerabilities to take account of³¹ ■ Contact number in the country of origin (the home country) of the returnee, and of the family (if available).

³² E.g. medical cases, unaccompanied minors, victims of trafficking, pregnant women, elderly persons, single parents, mental problems of the migrant to be aware of (i.e. that may result in possible aggressive behaviour towards the counsellor of the reintegration partner in the country of origin), other situations.

Information to provide to the migrant prior to their return

As return and reintegration is likely to be very stressful for the migrant, return counsellors have a crucial role in **providing relevant information that is correct and up to date**. Having accurate and up-to-date information will make the process more predictable and enable the migrant to feel they have some control in the situation. In turn, this can help make the return and reintegration process more successful.

The following checklist is the minimum information a counsellor should ensure they provide to a migrant when preparing their return and reintegration:

INFORMATION TO PROVIDE	INFORMATION THAT SHOULD BE PROVIDED TO THE MIGRANT/ INFORMATION THE MIGRANT SHOULD HAVE
Arrangements for return journey	<p>Information about the arrangements for the return journey:</p> <ul style="list-style-type: none"> ■ Date of departure to the country of origin ■ Flight information (flight number, airport where arriving, travel itinerary, etc.) ■ Amount and weight of luggage that can be taken ■ Where to meet at the airport prior to leaving the European country (if applicable) ■ If airport assistance in the country of origin is requested, where to meet the reintegration partner at the airport ■ Contact details and opening hours of the reintegration partner in the country of origin ■ Documents that should be kept after arriving in the country of origin to present later to the reintegration partner (ID document, boarding passes, etc.).
Procedures to receive reintegration support	<ul style="list-style-type: none"> ■ Information about the procedures to follow to receive reintegration support in the country of origin: ■ The returnee must contact the reintegration partner once they are back in the country of origin. The first contact should preferably take place very soon after arriving in the country of origin (cf. within one month after the date of return) ■ The returnee should bring their ID and any other relevant documents to the first meeting with the reintegration partner (e.g. formal confirmation of eligibility for the reintegration services) ■ The reintegration partner will prepare a reintegration plan together with the returnee on how the reintegration allowance that has been allocated will be spent. This plan has to be approved by the authority responsible in the relevant European country before the allocated amount can effectively be spent.

Reintegration allowance

- The **eligibility** of the returnee for the reintegration services and **reintegration allowance** are determined by the government authority in the European country not by the reintegration partner.
 - The reintegration partner can only provide **IN-KIND** assistance, not cash support (unless otherwise stated by the relevant authority in the European country).
 - The reintegration allowance can only be used for purposes directly linked to the reintegration of the returnee and not for buying food, payment of debts, etc.
 - The reintegration allowance that has been allocated will be exchanged from EUR (or the **currency** of the respective European country) to the local currency. Differences in the exchange rate and bank charges will be deducted from the allocated reintegration budget.
 - Costs incurred by the reintegration partner before or on the arrival of the returnee will be paid via the allocated reintegration allowance (e.g. transportation from the airport to the final destination, temporary housing, medical care, etc.)
 - In some countries, **taxes** should be paid on the reintegration allowance. These taxes should be paid out of the budget allocated for the returnee.
 - All expenses related to the reintegration allowance that has been allocated should be paid within 12 months of the departure date, according to the instructions of the relevant authority in the European country.
-

Other ERRIN projects and activities³³

In addition to the generic reintegration programme, ERRIN also serves as a platform to develop and test new practices in the context of return and reintegration, together with a wide range of implementing partner organisations in and outside Europe.

Some examples of other projects implemented within the framework of ERRIN³⁴:

- Improving return counselling and outreach in Europe:

- **CADRE:** Capacity Development and Training for Return Counsellors
- **Reach Out:** Improving outreach to undocumented migrants (collaboration between Fedasil – BE, and OFII – FR)

³³ For more information about these projects, please have a look at the project information sheets on the ERRIN website: www.returnnetwork.eu/what-we-do-projects-and-activities/

³⁴ This is not an exhaustive list.

- Extended reintegration support:

- *MedRA, MedRA Plus:* Providing post-return medical assistance in countries of origin through existing or new networks
- *Prospect:* Strengthening the Provision of Support for Reintegration of Vulnerable Persons, including Victims of Trafficking, Returning to Nigeria
- *Sustainable reintegration in Iraq (SRI):* including pre-departure and post-arrival trainings, and new ways to support returnees in finding employment in Iraq (job matching)
- *Linking reintegration services with programmes/ projects from the development sector:* with pilot-activities in i.a. Bangladesh and Nigeria
- *ERSO- OFII network:* a direct cooperation between ERRIN and the French Office for Immigration and Integration (OFII), and the network of European Reintegration Support Organisations (ERSO), which offer comprehensive assistance for returning migrants

- Government-to-government activities: for increased ownership for 3rd country government authorities in the reintegration of their citizens (currently in Armenia, Ghana, Afghanistan)

- RIAT or the Reintegration Assistance Tool: an online platform used for standardized information exchanging between return counsellors in Europe, MS administrations and reintegration partner organisations in the countries of origin. This RIAT system is used for:

- handling reintegration cases between the return counsellor in Europe, the EU MS administration in Europe and the reintegration partner in the country of origin in a (semi) standardized way;
- providing individual feedback in a secure way to return counsellors in Europe on the cases they referred to a reintegration partner;
- financial reporting of the reintegration cases that have been handled (for audit purposes);
- the collection of anonymous data for statistical analysis used for among other things, policy development

ERRIN provides training and a helpdesk for ERRIN MSs and return counsellors on how to use RIAT.

- Quality standards: developing a common method of defining and monitoring the quality of reintegration assistance provided to returnees

Module 4

Return Counselling for Vulnerable Persons

In this module trainees will learn about the concept of vulnerability and discuss practical ways of providing counselling to specific vulnerable groups.

This Module is divided into the following sessions:

- Session 1: Recognizing and communicating with vulnerable persons.
- Session 2: Outreach Activities – providing information to homeless migrants.
- Session 3: Counselling for minors.

At the end of this module, participants will:

- Have a better understanding of the concept of vulnerability
- Have learnt about effective ways to contact and counsel homeless migrants (outreach activities)
- Understand the main principles of return counselling for minors and how to apply these principles

4.1 Recognizing and communicating with vulnerable persons

Return counsellors need to learn how to recognise vulnerable people, understand their specific needs and adapt the counselling sessions to the needs of the vulnerable person they are dealing with. Counsellors should also know about the legislation in their country regarding vulnerable groups and who can or cannot be returned.

Returning vulnerable persons is a sensitive element of migration management. Article 9 para. 3 of the Return Directive defines the categories of third-country nationals considered vulnerable as: **minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence.**

Vulnerability in the context of return is addressed at the EU level in the Return Directive and the Return Handbook. However, there is little information about the specific procedures that should be implemented and how they should be carried out at an operational level. Article 14 includes a provision on safeguards while the return is pending; “MS shall ensure that the following principles are taken

into account as far as possible in relation to third-country nationals during the period for voluntary departure granted, and especially: a) family unity with family members present in their territory is maintained; (b) emergency health care and essential treatment of illness are provided; (c) minors are granted access to the basic education system subject to the length of their stay; (d) special needs of vulnerable persons are taken into account". The same provision in the Return Directive also applies to vulnerable persons in detention – article 16, para. 3: "Particular attention shall be paid to the situation of vulnerable persons. Emergency health care and essential treatment of illness shall be provided". Nevertheless, there is very little operational guidance addressing the specific needs of vulnerable persons.

Ideally, **indications of a person's vulnerability** will have already been included in the file the return counsellor has access to. If this is not the case, the return counsellor can further investigate³⁵ the vulnerable person's specific circumstances by asking relevant questions and for any available documentation that is relevant to the case. It is important that the return counsellor correctly understands the person's vulnerability and the limitations that this vulnerability can pose for the return counselling process.

There are no standardized vulnerability screening tools for return and reintegration operations in a European level. Country specific tools to assess whether there are any vulnerabilities that could put the migrant at risk either prior to, during or upon arrival could be used on a case by case basis. The significant importance of these tools is that they also strengthen due diligence process to ensure that the return is safe and dignified and that reintegration is sustainable; these tools could also provide advice to governments and migrants on the viability of a return.



Please note that any vulnerability screening tools used in return operations are NOT meant to assess international protection related risks in case of return.

There are some general guidelines for return counsellors providing counselling to vulnerable persons. In the next sessions, these general guidelines will be developed further for specific groups. The general guidelines include, among others, the following points:

- Return counselling sessions with vulnerable persons may require more time depending on the situation of the individual. For example, it may be necessary to repeat things frequently, the counsellor may receive answers that sound improbable and find that the individual has difficulty concentrating, particularly if they are experiencing mental illness.
- The tone of voice and style of communication must be adapted to the situation and needs of the vulnerable person.

35 The European Asylum Support Office (EASO) has developed a tool called the Identification of Persons with Special Needs, the IPSN tool. Its primary objective is to facilitate the timely identification of persons with special needs. Although it is proposed by EASO for reception and asylum procedures, it might be useful for return related procedures, if the counsellor does not have access to the migrant's files and needs to assess the situation. It can be accessed at: <https://ipsn.easo.europa.eu/>

- It is more likely that the vulnerable person will not be able to complete/ will drop out of the voluntary return process as they may not be able to understand the complicated procedures in the return process.
- If the vulnerable person is experiencing severe pain, or suffering other physical symptoms that need treatment, the counselling appointment should be postponed until the medical issues are resolved.
- If the person is experiencing distress e.g. due to recent bad news (such as having just received a return decision), it is possible that they will not be able to concentrate and need to postpone the counselling appointment.
- Consider how the counselling space should be set up (e.g. it should be wheelchair accessible, the windows should be left open and distancing measures applied to prevent transmission of diseases such as tuberculosis).
- Counsellors should ensure that they are also mentally and physically well.

4.2 Outreach Activities – providing information in the field to homeless migrants³⁶

The term outreach is widely used in different settings and it is defined in a number of different ways by different organisations/institutions. It literally means the ‘act of reaching out’. It is the activity of taking the service you are providing to someone: “Any attempt to take the service to people who need it and who would otherwise probably not use the service”³⁷. In the case of homeless and/or undocumented migrants, outreach is conducted wherever the individual happens to be, as many undocumented migrants are permanently on the move. Although homeless undocumented migrants are not considered among the vulnerable groups in the Return Directive, return counselling for this group of highly marginalized and vulnerable people nevertheless requires a specialized approach.

Outreach activities are not return counselling as such. A distinction is made between ‘outreach’ and ‘information provision activities’ on the one hand, and ‘return counselling’ on the other. The three terms are closely interlinked; however, providing information and outreach are seen as preliminary steps to return counselling. Nevertheless, and because the main tools useful to any return counselling session can also be useful in outreach activities, outreach too can be considered a form of counselling.

³⁶ For a full report on outreach activities, see: Reaching Out to undocumented migrants, a guide. ERRIN, OFII-Fedasil, 2021. Accessible at: <https://returnnetwork.eu/wp-content/uploads/2021/04/Guide-on-Reaching-Out-to-Undocumented-Migrants.pdf>

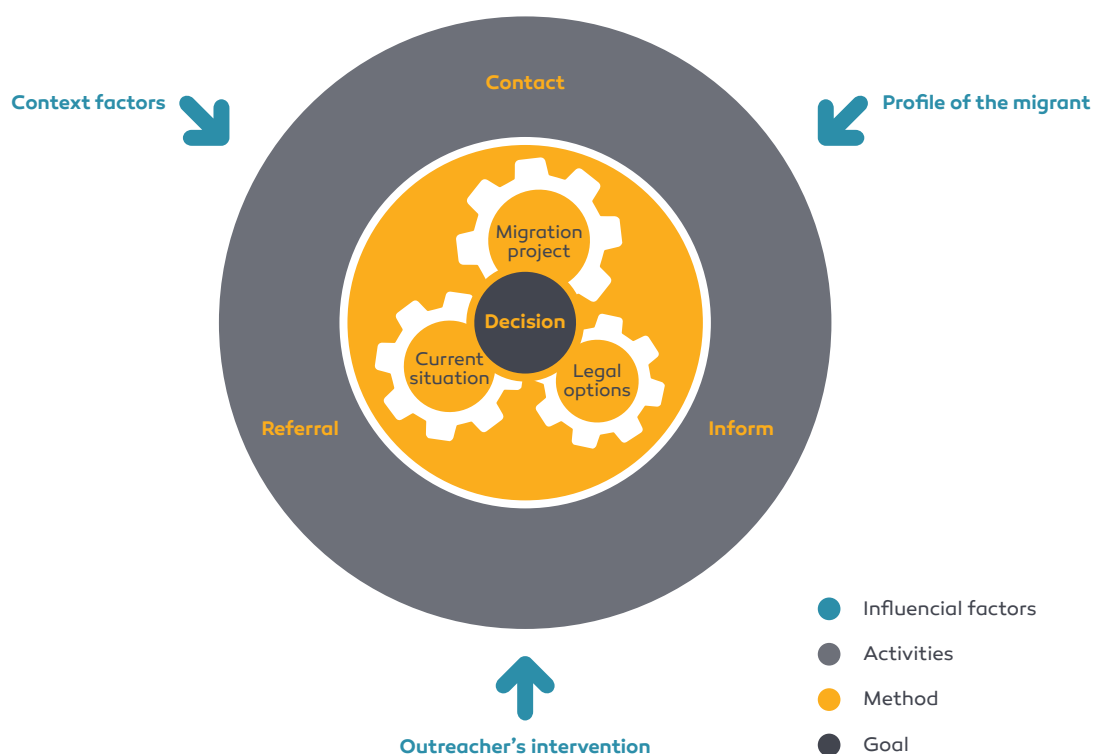
³⁷ Thomas & Pierson, 1995, p.371

Counselling and outreach to homeless migrants

Most of the time, the conversations between the outreach field workers³⁸ and homeless migrants is quite simple. It mainly involves those engaged in outreach introducing themselves, asking a few questions and if need be, referring the homeless migrant to other services. This often casual contact **can eventually contribute to/ facilitate** a deeper and more personal contact with the migrant.

The **outreach model**³⁹ below consists of four layers summarizing the main components:

- The **factors** to consider before or while engaged in outreach (context, intervention, migrant's profile);
- The **activities** of the person doing the outreach (contact, inform, refer);
- The **approach** to follow depending on the individual's situation, their migration plan and legal options;
- The **decision** - the goal of the counselling / information provided during outreach (in the centre of the model).



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³⁸ In reports and in fieldwork these professionals could also be quoted as “outreachers”

³⁹ This model comes from the report of OFFI and FEDASIL: Reaching Out to undocumented migrants, a guide. Accessible at: <https://returnnetwork.eu/wp-content/uploads/2021/04/Guide-on-Reaching-Out-to-Undocumented-Migrants.pdf>

Factors that influence the outreach activities

The experience of outreach field workers shows that the context, the profile of the migrant and the interventions of the outreach worker can have an impact on the outcome of the outreach activity. It is very important that those engaged in outreach have sufficient information about the profile of the group they plan to target. Migrants in transit⁴⁰, for example, have a different profile to migrants who are stranded.⁴¹



Self-study exercise 8

You are asked to participate in an outreach activity in your country of origin. Before you set off, you will need to have done some research about the situation in your area. Think about what you will need to know, then answer the following questions:

What do you already know about this target group? Try to give as many ideas as possible

What do you think would be useful to know more about your target group?

40 'Transit migrants' refers to migrants who are staying temporarily in one country and whose purpose is to travel further to other destinations e.g. they may be staying in Brussels or in northern France hoping to reach the UK.

41 'Stranded migrants' refers to individuals who have either never tried to obtain a legal residence permit, or who have exhausted all procedures and are desperate to obtain documentation. They often live hidden in urban environments, fearing deportation and avoiding any contact with state authorities. At the same time, they usually have a bigger network, having lived in the country for a longer period.

Preparation for outreach activities

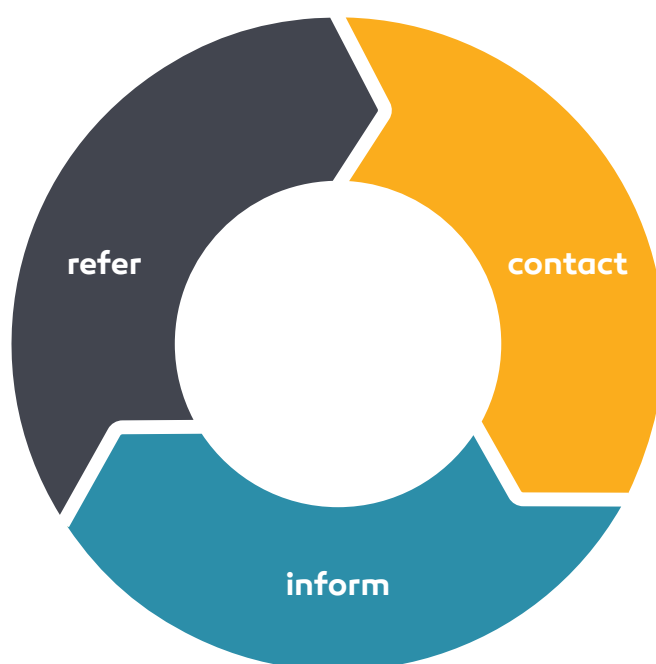
Before conducting outreach activities, you need to know what kind of information to give to the migrants you are going to be meeting. A good knowledge of the following procedures will be useful preparation for these activities:

- Assisted Voluntary Return and Reintegration (AVR): allowance, reintegration contacts, administrative help and so on.
- Asylum Procedures (including the Dublin Regulation)
- Reintegration procedures

If you have not received training in any of these procedures, ask whether someone who has been doing outreach within your organisation/ team can assist, and form a pair of outreach field workers.

Activities of the outreach counsellor

The activities of the outreach counsellor begin with **establishing contact, providing information** to the migrant and possibly **referring** them to other services/ stakeholders for further assistance.



Contact

A conversation/ dialogue and making a connection with the migrant are only possible **once contact has been made**. The hardest and one of the most critical aspects in reaching out to this target group is the first contact. Once the first contact has been made, it is more likely that a dialogue can proceed and/or that follow-up contacts will take place.

There are two ways of making contact: **proactive** (when the outreach counsellor approaches the migrant) or **reactive** (when the migrant approaches the outreach counsellor and initiates the first contact, e.g. with a question⁴²).

The challenge for the counsellor in both situations is to **keep the conversation going after the first questions have been answered**. In order to maintain and develop the dialogue, the outreach counsellor is advised to ask additional questions that build on the first question.

Providing information

Once contact has been established, providing information is key for this particular target group.

Information in this context should be:

- Tailored to the needs of the individual.
- Limited to a few well-defined topics. Some of these topics can be prepared beforehand while others will become apparent during the conversation.

Bear in mind the following important principles:

- Provide correct information. Ensure the information you provide is reliable, clear, objective and neutral. It is your job to provide information, not to convince the migrant or push them in the direction of one procedure or another. **Ownership of the decision lies with the migrant**. The migrant is in the best position to make their own decision once they have all the information.
- Use an interpreter: Using an interpreter or cultural mediator⁴³ is recommended to ensure that the detailed and often complex information is understood correctly.
- Follow up: Even if you cannot immediately provide all the right answers to the questions you have been asked, entering into a dialogue provides opportunities to organise a follow-up appointment.

42 Examples of the questions they might ask include:

- Who are you?
- Can you provide me with a place to sleep?
- Can you help me get to county X?
- Can you help me get papers / asylum here?
- Can you help me go back to my country?

43 Read about the differences between these two groups in the glossary of terms

Referral

Outreach is much easier if the activities are carried out within a **broader network of stakeholders**. Having direct contact with undocumented migrants is not the only way you can get information to them. A network of stakeholders including government organisations, civil society organisations, NGOs, international humanitarian organisations, migrant communities and others can help you reach the target group or help the target group reach you. You can also consult them or refer undocumented migrants to them.



Self-study exercise 9

Which people, organisations or services can you think of who could play a role in your outreach activities? Following your argumentation in the previous exercise, please provide some information on the referrals you could do to different stakeholders or other forms of working with stakeholders.

Outreach counselling method

Three elements are crucial when designing the method for outreach counselling:

1. The person's migration plan;
2. Their current situation;
3. Their legal options.

Migration Plan

In order to be able to give advice, the outreach counsellor needs to know the objectives of the person they are talking to. Their migration plan (where did they initially started this itinerary from – any countries in which they passed by and stayed – their final destination and many more) is crucial in order to provide return counselling.



Self-study exercise 10

What questions can you ask to discuss the person's migration plan?



Tip from the field!

Some of the migration plans that you may hear during outreach are the following:

- I want to reach “...” because I have family members there.
- I want to reach “...” because I have more chance of getting papers there than here.
- I cannot stay “...” because I received a rejection / because the asylum application takes too long / because I cannot work even if I have the papers.

Current situation of the person

Outreach field workers also need to know about the migrant's current situation. This can be divided into two categories:

1. The administrative situation (regular, irregular, if they have been fingerprinted, if they have already applied for asylum or visa in the country or in another country).
2. The psycho-social situation (homelessness, lack of health care, basic needs, vulnerability, financial difficulties).



Tips from the field!

- People usually think that the word “fingerprinted” means “asylum application”. If you want to know if someone has had their fingerprint scanned (for example when they arrived at an entry point), you can ask for a “police fingerprint”.
- The word “asylum” tends to be better understood than “international protection”. The question “Did you try to obtain asylum in “country x” can be expressed as “Did you apply for international protection in “country x”?”

Legal options

The legal options to consider fall into two main categories. One is for the migrant to apply for international protection in the country they are in, the other is to return to the country of origin. The Dublin procedure - the transferral of someone from one EU country to another - is included in the first category.

However, before deciding between the two alternatives, the return counsellor has to provide the migrant with sufficient information about the different procedures and rights (the procedure for international protection, an appeal, the Dublin Regulation, AVR, the right to material aid including shelter etc). The return counsellor needs to explain the different procedures,⁴⁴ see if they accord with the migrant's migration plan and their current situation. If the counsellor does not know enough about these complicated sometimes legal procedures, they should refer the migrant to a legal advisor for further advice.



Tips from the field!

While explaining the procedures, or the reasons why a particular migration plan is not possible, it can be useful to watch the migrant's first reactions to the news. These reactions may reveal that there are elements of the story that have not been shared yet, ones that could potentially explain the reasons behind the current migration plan and/or could play an important and decisive role at a later stage. Be observant!

Reflection and decision

Start a process of reflection

The goal of the information provision during outreach activities is to have the migrant make an informed decision. This can only be achieved if the migrant engages in a process of reflection. Sometimes this process happens automatically after the exchange of information. If the migrant does not seem to have started this process, you need to be flexible by providing information and asking more questions.

Ownership of the decision is and will remain with the migrant and therefore, at this stage too, it is up to the migrant to decide whether to consider their situation or not. In order to maintain and possibly strengthen any relationship of trust that has been established, it is crucial you guarantee that you will get back to them and be available when needed.

⁴⁴ In some MSs, only independent legal advisors can provide legal counselling.

It is very important to respect the fact that the migrant has ownership of the decision. If the migrant is ready to take a decision, you need to be ready to act. You need to be able to refer the person to the right place immediately and hence the importance of your network, which should include:

- A legal service where information can be given about other procedures (e.g. humanitarian/ medical regularisation procedures).
- A voluntary return agency for information on voluntary return that corresponds to the circumstances of the individual.
- The immigration office/ asylum authority where they can apply for international protection.



Last tips from the field!

Outreach can have a number of valuable outcomes, even if it was not the one that was intended. Often you won't even know how things turn out for the individual, as it is quite possible you will lose contact with them. Nevertheless, being able to provide information to a migrant, listening to their account, referring someone for urgent medical care or to a shelter, having a conversation with them about their migration efforts, questioning and inviting them to reflect on their current situation, etc. are valuable outcomes as well. In addition, it is always important to distribute business cards with your contact details. After they have had time to consider their situation, the migrant may get back to you for further information.

4.3 Counselling for minors

This section will explain how to provide counselling to minors and how to include children in the return counselling process within a family context or if the children are unaccompanied. It includes practical tips and questions that will help trainees improve the way they communicate with minors involved in the return process. Return counsellors should always bear in mind the psycho-social stages of development of the child and what to expect at stage.

Background information

Children are defined as all persons between the ages of 0-18. They are entitled to special protection in Europe and in most countries around the world. As such, they should always be given special consideration, including in return procedures. The principle of the best interests of the child is clearly defined in most European and national legislation across the EU. As there is no universal response to what is in the best interests of the child, each case requires an individual assessment and might require a different approach. Return counsellors are therefore required to carefully apply the relevant procedures to determine the child's best interests or to closely cooperate with the organisation in charge of doing so, before commencing return-related proceedings.

Return Directive 2008/115/EC specifically regulates return-related issues, including the return of children and unaccompanied children. In general, most unaccompanied children are returned voluntarily; however, some MSs forcibly return unaccompanied children. As a general guideline, return procedures should take place in a safe, child appropriate and gender sensitive manner. Children (like other returnees) must be consulted and informed about all the practical arrangements in a child-friendly manner. Children must not be subjected to force or coercive measures and at the same time, they should not have to witness the use of force or coercive measures against other returnees.

Article 7, para. 2 of the Return Directive which regulates the period for voluntary departure, emphasises that MSs shall, *“where necessary, extend the period for voluntary departure by an appropriate period, taking into account the specific circumstances of the individual case, such as the length of stay, the existence of children attending school and the existence of other family and social links”*.

Understanding the return from a minor’s perspective

For minors, the return represents a huge change in their lives. It means:

- leaving a familiar environment, eg. a house, accommodation, school, village/ city, teachers, etc., their caretakers and friends and
- arriving in a country or surroundings that might be partly, or even completely new to them: e.g. another neighbourhood, climate, language, housing, people, noises and smells, rules at school and at home, dress codes (e.g. for girls) etc.

These enormous changes can be very confusing and stressful for children, and can make them feel lost or insecure. This might be expressed in behavioural changes (e.g. unadapted or problematic behaviour, aggression), or psychosomatic complaints (e.g. stomach pains, nightmares, bedwetting, etc.).

Return counsellors should also be aware that many children might have been raised or even born in Europe, and might have been living in different places in Europe, e.g. collective open or closed reception facilities, temporary/irregular housing in big cities/transit areas, etc. This means that they often behave culturally just like other children who live in Europe, and do not always have a strong link with the country of origin. Therefore, they are not always aware of the local norms or values in the country of origin, and do not always have a good grasp of the language that is written or spoken in school. As a consequence, they will need time to adapt to the new environment in the country of origin, the different climate, food and local attitudes (i.e. norms, values and dress codes). This is especially so for young adolescents and girls. As a result of what might be seen as their strange (European) behaviour and accent, they might even experience additional difficulties in being accepted by the children in their new school and new environment. As establishing friendships (feeling of belonging to a group) are fundamental elements in the overall socio-emotional development of a child or adolescent, this might have repercussions for their self-confidence and self-esteem, and hence their wellbeing at a later age.

When counsellors are preparing a return involving minors, they have to be mindful of the fact that the children also need to be prepared for the move. Counsellors should provide the necessary attention alongside the counselling offered to parents, and discuss the return with the children as well. The same applies in the case of unaccompanied minors.



Tip from the field!

Do not use children as interpreters in return counselling sessions! Children need to get prepared for their return too, not only to “Help” their parents getting prepared!

Before engaging in return counselling sessions with minors, counsellors must have an understanding of the minor’s background and current situation. They must familiarise themselves with the details of the case and the available support in the country of origin.⁴⁵ In addition, children could be invited to group counselling to give them the opportunity to discuss their concerns about the future and allow counsellors to provide them with accurate information to demystify the process.

Adapting return counselling sessions to the needs of the children

The counselling sessions with children **must be adapted to the psycho-social and developmental needs** of the specific age group.

Children between 3 – 5 years

Children at this age are not yet able to build real friendships with other children and are in general still very connected to their caregivers, i.e. parents and teachers. At this age, they still need a lot of physical affection (e.g. hugs, sitting on someone’s lap, etc.) and for adults to be responsive to their needs in order to feel protected and appreciated. Cognitively, they are not yet able to think abstractly or in a chronological way, or to see details.

- ✓ Tell the child what is going to happen without giving too many details. Convey your message with a simple drawing with flat/simple figures, or by using a ‘comic sheet’ with fantasy characters, e.g. animals.
- ✓ Let the child draw as well to help them process the new information (e.g. drawing a plane, etc.).
- ✓ Be responsive (to build/maintain a connection), answer the questions they ask at different moments. At this age, children need some time to process the information they are receiving. They might ask questions about things they do not really understand at unexpected moments.

⁴⁵ Sweden has a unit that tries to arrange for someone (government/ non-government) to receive the child when they arrive in the country of origin if there are no parents or relatives to take care of them.

- ✓ When talking to children of this age, be sure that your face and eyes are at the same level as theirs, i.e. kneel down when you talk to them, and take their hand, or put your hand on their lower arm (to make a connection). Small children do not like to be towered over.

Children between 5 -7 years

At this age, children are still very connected to their caregivers (their heroes), but also start to establish their first real friendships. Cognitively, they start to think in a more chronological way.

- ✓ Convey what you want to say with a drawing by using a simple comic book with fantasy characters, e.g. animals.
- ✓ Help them understand the timeframe: e.g. using pictures or having a countdown in a calendar, e.g. when their last day at school will be, when they will have their goodbye party, when they will go to the airport, etc.
- ✓ Let them draw a picture to process this information.
- ✓ Respond to the questions they ask at different moments.
- ✓ Make sure they can say goodbye to their school friends and teachers (e.g. via a goodbye party at the school, collecting addresses in a book of friends, photograph album etc.).

Children between 7 – 12 years

At this age, establishing deeper friendships (belonging to a group) becomes increasingly more important for the overall wellbeing and development of the child. Cognitively, children are now able to think in a more chronological and abstract way. Older children within this age group (at the age of around 10 or 11) can think in an abstract way. This might help them, but can also lead to false expectations which is why it is important to tell them the truth about what is happening. Make sure that the information you give them is the same information their parents give them. Bear in mind that children who have experienced migration might be more mature than children of the same age who have not experienced migration.

- ✓ Explain in more detail what is going to happen. For this age group, you can use comics (with realistic pictures). **Tell them clearly that the decision taken by the government (i.e. a return decision) has nothing to do with the child's behaviour, school results, etc.** At this age, children might indirectly project certain events (i.e. a decision to return) onto themselves and think they are responsible for what has happened (e.g. 'It is my fault that we have to return, because I did not achieve good results at school').
- ✓ Be clear about the timeframe, e.g. by showing them a calendar with some key words.
- ✓ Give them blank sheets of paper to draw on or notebooks or make notes in to help them process the information, or express their feelings or fears.

Capacity Development and Training for Return Counsellors

- ✓ Provide enough time to talk about their concerns and how they see their future, be responsive and answer any questions they may have.
- ✓ Make sure they can say goodbye to their friends, swap addresses and photos, etc.
- ✓ Ensure that school certificates (e.g. their school grades) are collected and translated at least into English and, if possible, into the main language of the country of origin. This will help the child in their new school, so that they do not lose any schooling compared to those around them (which could well affect their self-confidence and future prospects).

13+ years

At this age, youngsters tend to distance themselves a bit more from their caretakers (parents), and mainly rely on their friends and peers. Having close friendships and belonging to a group is fundamental for their well-being and their development into autonomous and self-confident adults.

- ✓ Explain what is going to happen, why and when. **Tell them clearly that the government's decision to return them/ their family has nothing to do with their behaviour, school results etc., and their parents' decisions.** At this age, children might think for example, that it is their fault that their parents did not obtain legal status in the European country, or blame their parents.
- ✓ For this age group, you can support your message using different tools, eg. comics, apps, etc.
- ✓ Allow enough time to talk about their concerns and how they see their future, stay responsive and answer any questions they may have.
- ✓ Make sure they have time to say goodbye to their friends, swap addresses and photos, e.g. via social media, a personalised photo album etc.
- ✓ Ensure that school documents are collected and translated.



Return counselling for children in a family context

Return counsellors should be aware that the family is a system: each family member is connected and the actions of one member of the family may have a direct or indirect impact on the others as well. Therefore, within the boundaries of this system, patterns can develop with the behaviour of one family member being caused by or causing other members of the family to behave in certain predictable ways. **The role of the parents should never be neglected or go unacknowledged while the various procedures are ongoing.** No matter what the situation is, the parents are always responsible for their children's well-being (if the children are with them), unless there is a legal decision to the contrary⁴⁶.

The following are suggestions for counselling children in a family context:

- Support parents to prepare their children for moving to another place/ country. If it is difficult for the parents to handle this topic with their children, ask the parents' permission to talk directly with their children.
- Ask the parents' permission to work directly with their children on issues relating to the return. If they give you permission to do this, keep them informed about the actions you plan to take, the topics you are going to talk about, how you are going to approach the child etc. The parents have the right to know (and must be informed) when, why and what you discuss with their child.
- Ask the parents if they need any support with their children. They might not be aware of the importance of involving the children. Reassure them that they are still in charge of their children.

Return counselling for unaccompanied and separated children

Before any return-related procedures can take place, the authorities have to have already appointed a legal guardian for the minor, both in host country and country of origin if there are no parents or relatives present in the country willing to take on this role. The minor must always be accompanied by their guardian in meetings with the return counsellor. The return counsellor has to inform the child about what is going to happen in the future, then confirm this with the guardian. This way, the child's autonomy is respected, however old they are. Also, the Best Interest Determination (BID) of the child should conclude that voluntary return is in best interest of the child and it won't jeopardize child's safety and wellbeing.

During a return counselling session with a minor and their legal guardian:

- Make sure that the child and the legal guardian understand the decision and the alternatives.
- Always respond to child's questions about voluntary return.

⁴⁶ In Denmark return counsellors are not allowed to contact children. Only parents are allowed to do this and consequently inform their kids about return.

- Understand the attitude of the child and the legal guardian and of the family in home country towards voluntary return.
- For young people approaching the age of 18, make sure they understand any changes in the country of residence that will affect them once they turn 18.
- After the counselling session with an unaccompanied minor, the counsellor needs to carefully follow up with the child and the guardian, to make sure they both understood the information correctly. The child may later ask the guardian for a further explanation and support so it is crucial to ensure that the guardian has completely understood the procedures.



Tip from the field!

It is very important that the child understands they have done nothing wrong and that it was the government who took the decision to return them. The same message should be communicated to the parents if they are not in the country when the child arrives back.

4.4 Examples from MS of best practices in child-friendly approaches in return procedures

- The Norwegian National Police Immigration Service developed a child-friendly information portal available in 15 different languages at: <https://asylbarn.no/>
- The Swedish Migration Agency has a special page on their website with information for children about asylum and migration issues. They have also created an app that can be downloaded on both iPhone and Android devices suitable for children aged seven to eleven. For more information, see: <https://www.migrationsverket.se/English/Private-individuals/Protection-and-asylum-in-Sweden/Children-seeking-asylum.html>
- The Dutch NGO Solid Road has created a toolkit for the whole family, including children's books, conversation cards and a brochure for parents, called "The journey of the cockatoo" which provides information about returning to the country of origin. It is available in different languages.
See more at: <https://www.youtube.com/watch?v=voEO2NS9vTQ>

Module 5

Return Counselling for Victims of Trafficking

In this module, participants will learn about the phenomenon of trafficking in human beings, build their capacity to counsel victims of trafficking, and learn about the importance of cooperation and coordination with partner organizations in the country of origin. The role of the return counsellor in conducting the safe, dignified and voluntary return of victims of trafficking (VoTs) and people vulnerable to trafficking is explained in this module. This role can be summarised in the following diagram:



The module is divided into the following sessions:

- Session 1: Trafficking in human beings - concepts, definitions and elements
- Session 2: Counselling of people vulnerable to exploitation including victims of trafficking
- Session 3: Cooperation and coordination with the reintegration partners in the countries of origin.

By the end of this module, participants will be able to:

- Identify the concepts, definitions and elements of trafficking in human beings and have a better understanding of it;
- Understand different aspects of counselling people vulnerable to exploitation including victims of trafficking and how to apply them;
- Identify effective ways of contacting and coordinating with relevant stakeholders in the countries of origin to enable a safe return and reintegration of victims of trafficking;
- Understand how to prepare a risks and needs assessment plan and what, at a minimum, it should include.

5.1 Trafficking in Human Beings - Concepts, Definitions and Elements

Trafficking in human beings is a crime committed against an individual. It is a process that can result in sexual exploitation, slavery or slavery-like conditions, forced labour, removal of vital organs and other exploitation of a person.

Trafficking in human beings is internationally defined in the **Palermo Protocol**⁴⁷ as the following:

- ✓ Trafficking in persons is the **recruitment, transportation, transfer, harbouring or reception of persons** including the exchange or transfer of control over those persons (**ACT**), 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. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs. **The consent of a victim** of trafficking in human beings to the exploitation, whether intended or actual, **shall be irrelevant** where any of the means have been used.

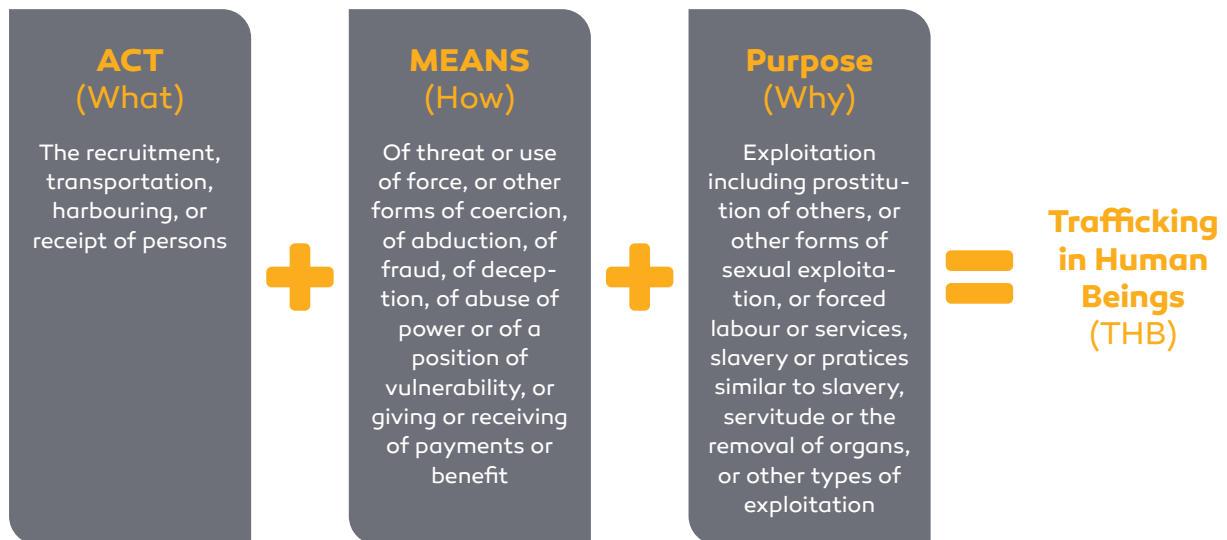
In Europe, the **Anti-Trafficking Directive**⁴⁸ defines trafficking in human beings as a serious crime, often committed within the framework of organized crime, which constitutes a gross violation of fundamental rights and is explicitly prohibited by the Charter of Fundamental Rights of the European Union (EU). The Directive provides binding legislation to prevent trafficking, to prosecute criminals effectively and to adequately protect the victims, in line with the European standards. The directive follows a victim-centred approach, including a gender perspective, to cover actions in different areas such as criminal law provisions, prosecution of offenders, victims' support and victims' rights in criminal proceedings, prevention and monitoring of the implementation.

Trafficking is often referred to as a chain of events, where a set of illicit means are used, starting with the recruitment and leading to the exploitation of the victim. A case only qualifies as trafficking in human beings, if all three elements (act, means, purpose) are present. Exploitation is central to the trafficking definition as the purpose. If a minor (defined internationally as being below the age of 18 years) is involved, it is child trafficking, even if the 'means' are absent.

47 A Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. See more at: https://treaties.un.org/doc/Treaties/2000/11/20001115%2011-38%20AM/Ch_XVIII_12_ap.pdf

48 Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA (OJ L 101, 115.4.2011). See more at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32011L0036&from=EN>

It is useful to look at the various components of trafficking in human beings in more detail.



Remember!

Children are more vulnerable than adults because of their lack of life experience, their developmental age and emotional immaturity.

Self-study exercise 11

Please write in the table below the different elements, that according to the Palermo Protocol definition, relate to the ACT, MEANS and PURPOSE of trafficking in human beings.

ELEMENT	ACTIONS
ACT (what)	
MEANS (how)	
PURPOSE (why)	

Forms of trafficking

There are different forms of trafficking (and different terms are used). Following the Palermo Protocol definition, the main types and forms of trafficking are:

- Internal trafficking – happening within a country’s borders;
- International trafficking – happening across international borders.

Forms of trafficking are mainly categorised under the different purposes and types of exploitation. They can be differentiated as being for:

- Sexual exploitation (including prostitution)
- Labour exploitation
- Domestic servitude
- Forced marriage
- Forced begging or criminal activities
- Exploitation in armed conflicts
- Irregular adoption
- Organ removal
- Child Trafficking:
 - forced marriage
 - early marriage
 - domestic servitude
 - forced begging
 - commercial sexual exploitation (including in tourism).

The United Nations Office on Drugs and Crime (UNODC) Global Report on Trafficking in Persons⁴⁹ covers 148 countries and provides a regular overview of patterns and flows of trafficking in persons at global, regional and national levels. It appears that trafficking for sexual exploitation and trafficking for labour exploitation continue to be the most common forms of trafficking.

Self-study exercise 12:

To illustrate different forms of trafficking, watch the short video “Open Your Eyes to Human Trafficking” by UN.GIFT: https://www.youtube.com/watch?v=tE_IduB6bQc

⁴⁹ You can read more at <https://www.unodc.org/unodc/data-and-analysis/glotip.html>

Differences between Trafficking in Human Beings and People Smuggling

In comparison to trafficking in human beings, smuggling of migrants (people smuggling) is defined in the UN Protocol⁵⁰ as “(...) the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or permanent resident”. People smuggling and human trafficking are completely different crimes but are often used interchangeably. This **should absolutely be avoided**.

Differences between People Smuggling and Trafficking in Human Beings

ELEMENT	PEOPLE SMUGGLING	TRAFFICKING IN HUMAN BEINGS
Type of crime	Crime against the State and civil order.	Crime consisting in the violation of the human rights of the individual.
Why do we fight it?	To protect the sovereignty of the state.	To protect the rights of individuals.
Relationship smuggler/ smuggled person and trafficker/victim	Commercial relationship between smuggler and smuggled person ends after illegal border crossing achieved and fee paid.	Exploitative relationship between trafficker and victim continues in order to maximise economic and/or other gains from exploitation.
Rationale	Organised movement of persons for profit.	Organised recruitment/ transport and (continuous) exploitation of the victim for profit.
Illegal border crossing	Illegal border crossing is a defining element, i.e. transnationality is a defining element.	Border crossing (legal or illegal) not required/part of the definition i.e. THB can also be national/internal.
Consent	Persons consent to illegal border crossing.	Either no consent or initial consent made irrelevant because of use of force or coercion at any stage of the process.

⁵⁰ Art. 3 of Protocol against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention against Transnational Organized Crime (2000).

Remember:

- **People smuggling** is different from THB, relating to who the crime is against (state), whether borders are crossed (yes), consent is given (yes) as well as the relationship being a commercial one which ends with the service agreed (even though illegal) being provided.
- **Human trafficking** happens in different forms, for different exploitation purposes (labour exploitation, sexual exploitation, child trafficking, etc.). A long list of other crimes and offences usually occur as part of the trafficking process.

Forced labour

Delineating between forced labour and human trafficking can be difficult and is often academic. Forced labour can be trafficking for forced labour - but also only forced labour. Both circumstances require initial identification as crimes that go beyond labour law violations and where victims require protection and assistance. Forced labour involves the movement of a person, usually, but not necessarily, across borders, for the purpose of exploitation. **It is, however, important to understand that not all forced labour is a result of human trafficking.**

Forced Labour is defined in the ILO Forced Labour Convention 1930 (No. 29) as: ***“all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.” (Art.2).***

It is important to understand that labour law violations and poor working conditions that seem to suggest that the workers are being exploited does NOT automatically qualify as a case of trafficking. It is also NOT to be confused with forced labour.

Who are the traffickers and how do they act?

A trafficker is a person who commits or is complicit in or directs another person to commit the trafficking of another human being (or human beings) for any form of exploitation.

Traffickers range from sole operators, to loose-knit networks, to highly sophisticated organized crime syndicates that operate internationally. Their principal motive is financial gain. **Parents or other family members** and acquaintances can also be traffickers who force the victim into commercial sex or other types of exploitation.

There are multiple trafficking scenarios. Traffickers' methods evolve and change constantly. In many cases, deception plays a key role. Traffickers who use deception will take their time to build trust with victims; they may cultivate a fake 'love' or 'care' relationship with victims that can take the form of

boyfriend/fiancé relationships, pastoral figure relationships or other forms of close friendship, in order to deceive them into situations of trafficking. A common method of recruitment into trafficking consists of fake offers of legitimate paid employment, education or training. Debt bondage (the practice of requiring someone to work to pay off a loan when the value of their work greatly exceeds the value of the loan⁵¹) is also used by traffickers to control victims in multiple ways. Other forms of bondage may include juju⁵² or different forms of ritualized violence as pressure to exploit mostly women coming from specific cultural backgrounds. Over the last few years, governments and law enforcement authorities have struggled to keep pace with the increasing and evolving use of the Internet for human trafficking.

Who are the victims?

A trafficked person may never self-identify as a victim; however, self-identification is not required to obtain assistance and protection. There are a variety of reasons for this, including a lack of trust, self-blame, conviction no one would believe them. Victims may be trafficked for a few days or weeks, or may remain in a trafficking situation for years.

It is important to avoid making a quick judgment about whether the person is a victim of trafficking or not at the first encounter. **No one consents to being trafficked.** A person may consent to being in a particular situation but not to having their rights violated. Trafficked persons are routinely arrested, detained, prosecuted, convicted, and, in some cases, imprisoned or deported, without ever being identified as victims.

Indicators of trafficking

The identification of a victim of trafficking in human beings is a process that usually involves several stakeholders and requires fast and regulated actions. Identification is crucial for the victim's recovery and for successful criminal proceedings. There are many different **indicators** of trafficking, but they will not necessarily be visible at first sight. Effective identification of trafficking cases requires the authorities to be aware that trafficking is a crime and to **look for potential signs** in the course of their professional duties. It is easy to overlook or miss these signs (as in the "Open your Eyes" video in self-study exercise 2). Indicators can be visible, non-verbal (thus communicated through body language, for example) or communicated verbally by potential victims.

51 Debt bondage and others forms of "servile status" are defined and prohibited by the UN Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery, 1956.

52 Generally referred to as Voodoo, Juju is an expression of local traditional African religion in west Africa, where people of all classes and education levels often still believe in a universal order of spirits and gods which govern human existence. Juju is often mentioned as one of the root causes of trafficking of Nigerian women in the European prostitution market. Read the full article of Paola Degani and Cristina Ghanem on the topic "*How Does the European Union Talk about Migrant Women and Religion? A Critical Discourse Analysis of the Agenda on Migration of the European Union and the Case Study of Nigerian Women*" in the following link: <https://www.mdpi.com/2077-1444/10/1/27/htm>

Return counsellors should use the list of indicators below as a tool for reference in their work. However, this list is not conclusive and there may be other signs of trafficking that are not included here.⁵³

INDICATORS OF TRAFFICKING IN HUMAN BEINGS

People who have been trafficked may:

- Believe that they must work against their will.
- Be unable to leave their work environment or feel that they cannot leave.
- Show signs that their movements are being controlled.
- Show fear or anxiety.
- Be subjected to violence or threats of violence against themselves or against their family members and loved ones.
- Suffer injuries that appear to be the result of an assault
- Suffer injuries or impairments typical of certain jobs or control measures.
- Be distrustful of the authorities.
- Be threatened with being handed over to the authorities and be afraid of revealing their immigration status.
- Not be in possession of their passports or other travel or identity documents and/or have false identity or travel documents.
- Be found in or connected to a type of location likely to be used for exploiting people.
- Be unfamiliar with the local language.
- Not know their home or work address.
- Allow others to speak for them when addressed directly.
- Act as if they were instructed by someone else.
- Be forced to work under certain conditions.
- Be disciplined through punishment.
- Be unable to negotiate working conditions and receive little or no payment.
- Have no access to their earnings.
- Work excessively long hours over long periods, without having any days off.
- Live in poor or substandard accommodations.
- Have no access to medical care.
- Have limited or no social interaction, including limited contact with their families or with people outside of their immediate environment.
- Be unable to communicate freely with others.
- Be under the perception that they are bonded by debt (e.g. have had the fees for their transport to the country of destination paid for by facilitators, whom they must payback by working or providing services in the destination.
- Be in a situation of dependence.
- Come from a place known to be a source of human trafficking.

⁵³ See also Human Trafficking Indicators, UN Office on Drugs and Crime, at https://www.unodc.org/pdf/HT_indicators_E_LOWRES.pdf

- Have acted on the basis of false promises.
- Not wear the right clothes for the weather conditions.
- Have signed papers or contracts but not know their content.
- Behaving aggressively and / or obsessively.
- Signs of malnutrition.
- Poor personal hygiene.

Why are victims of trafficking vulnerable?

Trafficked persons can be considered **de facto vulnerable persons**, because of the circumstances they may have experienced during their journey and exploitation in the foreign country or in their own country. Vulnerability relates also to the **likelihood that trafficking/exploitation and abuse will take place**. It is important to remember that the **root causes** of trafficking will also most likely be at the root of any **re-trafficking** in the future as well. Understanding these dynamics in return counselling enables return counsellors to rightly identify them, and act upon them.

Root causes of trafficking can relate to the following:

- **Vulnerability due to poverty, hardship, adversity:** those who have backgrounds of poverty and adversity, and/or lack family and community protection are highly prevalent among victims of trafficking. Victims may be trafficked by their own family members, as families may be involved intentionally or may be complicit in a trafficking process. The imposition of debt bondage upon whole families is highly significant in trafficking cases.



- **Vulnerability due to socio-cultural norms, gender roles, family background, stigma and marginalization within the communities**, due to race, gender, caste, ethnicity, culture, religion, sexual orientation and situation of debt.
- **Vulnerability due to health conditions, injuries and disabilities**: victims may have pre-existing mental or physical disabilities, illnesses and conditions that traffickers can exploit.
- **Vulnerability due to a change in personal circumstance or situation**: the loss of family protection (especially in the case of children and young adults); a reduction in safety, stability and security; the loss of home, wealth, occupation or profession.

The increased vulnerability of undocumented migrants

While, as previously stated, all trafficked persons are vulnerable, undocumented migrants and migrant workers (e.g. seasonal workers, construction workers, cleaners, au pairs, nannies etc.) can be extremely vulnerable for a number of reasons:

- Irregular migrants experience different levels of **isolation** once they are outside their countries of origin. They often face: language and communication difficulties, a lack of social and community networks; geographical and cultural disorientation; discrimination; and restrictions on their freedom of movement;
- Undocumented migrants are often highly **fearful of national authorities** in countries of transit and destination, fearing criminalization, imprisonment, detention or deportation. This makes them less likely to seek help even when they suffer human rights violations and are placed in situations of danger and abuse. Traffickers benefit from this fear as individuals will remain silent, or tell the authorities and NGOs pre-rehearsed stories;
- Migrants often **lack any knowledge of their labour rights**. They may be employed on the basis of a work contract or temporary/seasonal employment in low wage sectors where it can be difficult or impossible to access legal advice. Migrant workers may also feel unable to exercise the right to legal protection and standards due to their insecure immigration status in the country, and fear over loss of employment opportunities;
- **Migrants are often indebted**, finding themselves in a system of debt bondage in lieu of fees. The fear of being perceived as a failure by family and community if they do not send remittances, or do not remain and succeed abroad as expected, is a driving force behind many of the decisions that they make. These factors make migrants a specific target to trafficking exploitation.

Return counsellors should have sufficient knowledge about the individual situation of the person they are assisting. Most probably, this information will have already been gathered by different professionals before the return procedure begins. Therefore, it is important that return counsellors en-

gage with the other relevant stakeholders in their country (such as those in the asylum system, anti-trafficking system, social services, child protection services, THB police units and others) and with colleagues in the countries of origin, when doing their own risk and needs assessments, and preparing reintegration options prior to return. Sometimes, it is the return counsellors who are fully responsible for the screening/identification process. They should be aware that if the returnee is assessed as being a (potential) trafficked person, they have a right to a period of recovery and reflection⁵⁴ and should not be returned to the country of destination until the conditions for a safe return are met.

54 **Recovery and reflection period** is a specific right which (potential) victims of trafficking are entitled to. According to the Council of Europe Trafficking Convention, as soon as there are reasonable grounds to believe (made on the basis of the balance of probabilities) that the person has been trafficked, she/he shall be granted a recovery and reflection period of a duration of at least 30 days, with the possibility of renewal, and not be removed from the territory until her/his identification process has been completed.

5.2 Counselling of people vulnerable to exploitation, including victims of trafficking

The aim of this session is to equip return counsellors with the basic tools for counselling individuals who may have experienced trafficking, exploitation, and abuse.

Clear and effective communication is the first task for any professional who works with victims of trafficking or other forms of exploitation. Effective communication and conduct with victims of trafficking should be:

- Trauma-informed
- Gender - sensitive
- Culturally sensitive

Trauma-informed communication practice

A trauma-informed approach to communication and care is one that commits return counsellors and others to providing services in a manner that is welcoming and appropriate to the identified needs of vulnerable individuals in the pre-return period (in the country of destination) and the post-return period (in the country of origin). The first impression that professionals give must be one that immediately distinguishes them both verbally and non-verbally from traffickers and from other people who have harmed or abused them in the past. Speech, movement, gesture and approach are integral to the impression that the professional gives. A trauma-informed approach to communication helps people understand that the professionals are committed to ensuring their health and safety.

Return counsellors should follow simple, trauma-informed methods of communication, which demonstrate gentle but pro-active interest in an individual's wellbeing. This **mainly involves the return counsellor changing their perspective both in settings with minimum standards and basic structures such as reception units (e.g. camps) as well as in the more organized and well-equipped agencies.**

Basic trauma-informed communication principles that will help people who may be trafficked understand that the professionals are committed to ensuring their health and safety include the following:

- A safe, calm and consistent environment and approach;
- A genuine attempt to build trust;
- A person knowing who is working with them and that they have time to be heard;
- A demonstrated interest in a person's immediate safety, health and practical needs;
- A maintained focus on the 'Here and Now'.



People may not remember what you have said, but they will remember how you made them feel.

Safety and building trust

The first step for return counsellors and other service providers is **to provide safety and an unconditional space of acceptance** where individuals can recount their experiences of migration and trauma. First impressions count: trafficked persons and people vulnerable to exploitation who experience an initial positive and reassuring response from professionals are far more likely to return or ask for help if they later lose contact with the return counsellor.

The individual should feel they are in a safe and confidential space. If it is impossible to re-arrange the room and create such a space, the return counsellor should contact one of the other organizations working on the case to arrange for the interview to take place somewhere else. Everything that happens during the counselling session should be calm and predictable and help the person feel secure, and therefore confident.

The following are some simple ideas that can help a person feel safe and help to build a relationship of trust between the individual and the return counsellor:

- It is good to maximize the light and space in the room, both in how the room is physically arranged and how the person can choose to move around it;
- It is best to avoid a formal interview setting in which the professional faces the individual across a desk. This can be distancing and intimidating and suggest that the professional is a figure of authority. Sitting as equals in the room creates a feeling of safety and openness, which assists communication. This approach is possible even in a tiny room, and is helped by the presence of plants or other comforting, natural objects. Being able to make choices is important. Individuals should be offered a drink or a snack, and given the opportunity to make small choices such as where to sit, to take a break and whether to have the window open or the heating on. Demonstrating attentiveness to individual needs is especially reassuring for people who have been dominated or controlled;
- It is important at the outset to explain who each person in the room is, their professional role, why they are there, and their professional obligations to ensure confidentiality;
- It is important to check that the person understands everything and that they know they can ask questions about any aspect of the work or people's roles at any time;
- All the professionals involved should be aware that everything they do is a form of communication be it speech, movement, gesture, eye contact or expression so everything should be done calmly, slowly and in a positive manner.

- A prerequisite for safety and trust is respecting the **duty of confidentiality and informed consent**.⁵⁵ This will enable professionals and survivors to build a relationship of trust, which can support survivors to disclose more information about their trafficking history and the needs and risks that relate to it.



Tip from the field!

Safety is the first condition for healing. One way for a return counsellor to assess an individual's safety concerns is to ask them: "When was the last time you felt safe?"

The following are some ideas for questions you could ask in the **first meeting** with a person who might be a victim of trafficking:

- *What would you like to focus on in this conversation?*
- *I understand that you may have already spoken to other agencies and professionals before. Maybe you have even had a caseworker or social worker before? I am wondering if it would be a good idea for me to contact them in order not to overwhelm you with the same questions you may have already answered and having to repeat the same information again? What do you think? If I need to know anything else, or you would like to add anything, you can tell me and I will tell you, ok?*
- *You can also ask me anytime to explain something if there is anything about my work, or my role, or why I am asking something is unclear to you.*
- *For the moment I would like to get a clearer picture, but without you having to tell me the whole story from the beginning again. How does that sound? I just need to ask if you are already in contact with any other organizations? If you are, which organizations are you in contact with? Do you remember the name of the person you spoke to? If you don't remember, it doesn't matter, the name of the organization will do. Can you also please tell me a little bit about when and why you contacted that organization and what happened?*

In many cases, people **may feel unable to accept the help that is offered at the time**, but they will nonetheless remember their first impression and may feel able to ask for help at a later point in time. This is why it is also important to **provide your contact details** (e.g. business card) at the earliest opportunity.

It is important to **avoid making the person any promises** (or statements which sound like promises) or guarantees, which may not be possible to keep. It is advisable to try to end a counselling session

⁵⁵ Any information concerning a trafficked person or a person vulnerable to exploitation can be highly sensitive and should be treated in strictest **confidence**. The storage and use of the information must be handled with the greatest respect for the privacy and safety of the person at all times. However, there will also be essential information that will need to be shared to secure effective identification, protection, individual support, access to services, social inclusion, criminal justice and redress, return and reintegration. In exceptional circumstances (e.g. if it is to protect the best interests of the individual? return counsellors and interpreters or the best interests of the public) the duty to observe confidentiality and informed consent may be overridden by safeguarding issues.

by providing the person with a few **'next steps'** that they can focus on, for example another appointment, or ensuring they are provided with other information they may need.

Time

It is important to create the impression that you have plenty of time for the person, EVEN when that is NOT the case. It is important not to make assumptions about the way a person initially presents themselves, which may have little bearing on how they are actually feeling. For example, if someone appears calm on the outside it does not automatically mean they are feeling calm inside, but might instead be feeling profoundly anxious. If someone is verbally aggressive, it does not automatically mean that he/she wants to offend you, but that they may be afraid, and this is the way they cope with that fear. Listen carefully and pace the conversation accordingly, then simply agree to make another appointment to hear more about their situation then.

Appearing to have time to listen and time for the person will make them feel calm and increase their confidence. Hurried movements, not maintaining eye contact or anything that suggests that you are in a hurry (such as repeatedly looking at the clock, shaking your legs, etc.) or have authority over the person, can have the opposite effect and can exacerbate any anxiety they may be feeling. Having authority over the person means that even saying "Calm down please, so that I can talk to you" would likely be interpreted by the person as a value judgment on them and would lead to them shutting down. A clear and demonstrated willingness to listen and spend time with them builds trust. For those professionals working in a busy or crisis environment (e.g. migrant detention centres), this consistent approach can actually be a time saver. It enables people to overcome their anxiety and other barriers and explain their needs and background more easily.



Remember!
Generating trust takes time!

Focus on the 'Here and Now'

People who have been trafficked and who are vulnerable to exploitation often find discussion of their traumatic history or uncertain future overwhelming and this can exacerbate psychological problems and symptoms. An immediate 'debriefing', involving discussion of a person's traumatic history is not recommended and can be harmful. This engagement needs to be managed at a pace that the person can cope with, so that they do not become overwhelmed. Instead, the subject of the first encounter should focus on practical issues and discussing or planning some modest activities that can be managed in the current moment or 'here and now'. This can be very effective in helping individuals feel safe and in control. It is sometimes helpful to simply say to an anxious individual that they are safe right now. In practice, conversations about **health, housing and safety** are usually relatively successful entry points for engaging in a discussion with vulnerable persons about their situation. Talking about these issues rather than addressing the issue of trafficking and exploitation directly,

can be an effective way of building a rapport with the individual. Conversations around these issues will allow a relationship of trust to gradually develop, which will help return counsellors identify the individual's particular needs. It will also lead to an individual gradually disclosing details about the trafficking and exploitation they experienced.

Gender- sensitive communication

Gender-sensitive communication and conduct is vital to ensure that victims of trafficking feel as safe and protected as possible; they should never feel threatened, undermined or disregarded for any reason related to their gender. Individuals should be treated and spoken to in a way that is non-discriminatory, without gender bias based on preferences or stereotypes, and that does not make them feel stigmatized.

Return counsellors should remain aware that victims of trafficking may have a history of sexual violence which can cause them to feel inhibited, ashamed and stigmatised. Women and girls represent the vast majority of identified victims of trafficking for sexual exploitation; men and boys can also be trafficked for sexual exploitation. In numerous cases, individuals never disclose that they have been subjected to sexual violence, or only disclose it with great difficulty due to the shame and fear they continue to experience. In this regard:

- Trafficking victims and vulnerable people should be able to choose the gender of the professionals (including return counsellors) who work with them in any role which involves recording or discussing personal details or sensitive information;
- Victims of any gender may prefer to work with female professionals, who should therefore be made available. In the case of children, female child specialists should always be available. If one is not available, migrants should be informed in advance and asked if they wish to continue with the return counsellor available;
- Professionals should ensure that they understand the impact of experiences of gender-based violence on an individual and fully take this into account when assessing that person's individual needs and risks.

Culturally sensitive communication

Communicating with victims of trafficking and vulnerable people should be done in a culturally sensitive way and should ideally involve working together with a cultural mediator or interpreter. In so doing, return agencies demonstrate respect for the cultural origin and personal identity of each individual, and support the formation of relationships of trust.

Several practical steps must be taken to support victims of trafficking and vulnerable people to ensure that communication between the individuals and the agencies involved is as straightforward as possible. The services of a professional interpreter or cultural mediator should be offered for any situation that requires them to speak or understand a language that is not their first language or where

there are differences in the dialect. Even people who are quite fluent in the main language spoken in the returning country can benefit greatly from having an interpreter or cultural mediator present, as this removes the additional challenge of having to understand, think, interpret and speak about difficult topics in a language that is not their own/mother tongue.

Practical ideas for culturally sensitive communication include the following:

- Once a victim/vulnerable person has established a working relationship with a particular interpreter or cultural mediator, it is best to try to continue working with the same person whenever possible;
- Being asked to provide personal information and background history is highly sensitive and confidential, particularly if it relates to human trafficking. Family members, friends or other associates who know the victim should not be relied upon to interpret or to provide cultural mediation, even temporarily or in the interim;
- Interpreters and cultural mediators should not know the victims/vulnerable people they are working with personally or have any relationship with them outside their professional roles and duties. Equally, they should not enter into any personal relationship once they have met the individual in the course of their professional duties;
- Additional time and effort might be needed if the cultural mediation/ interpretation is being done online or on the phone and should be a last resort in cases of human trafficking.

The role of Return Counsellors in identifying and assessing vulnerabilities and risks

In most of the cases, return counsellors are counselling and preparing the return of victims of trafficking and other vulnerable people who have already agreed to return or who are obliged to return to their countries of origin (or other country of return) following a decision by the EU national authorities. Their trafficking and exploitation-related vulnerabilities might not have been previously assessed in any depth, or have been wrongly assessed, due to the speed with which the cases are processed and the great complexity of THB assessments in this context. In such cases, it is nevertheless important that return counsellors find out if any information identifying THB/any previous vulnerability assessment is available, what the eventual outcomes were and the reasons for those outcomes, before proceeding with their own assessment.

Once return counsellors have gained a person's trust, they need to use a comprehensive methodological framework to assess the individual's vulnerabilities and risk factors before they are returned. Such a framework will provide them with a tool they can use to evaluate individual vulnerability. It will also enable them to assess factors, **which if present upon return, are likely to enhance the risk of re-trafficking and further harm**. The reintegration plan should, therefore, reflect this and frame it adequately.

A useful (but not the only) methodological framework for assessing vulnerabilities in the pre-return phase is the **SIPPS ANALYSIS**⁵⁶, which enables professionals to organize complex evidence quickly

56 SIPPS: The Systemic Investigation, Protection and Prosecution Strategy

and efficiently and identify gaps so that they can formulate structured, clear decisions. In brief, the organizational structure of the SIPPS comprises **seven domains**, which are assessed against past, current and future (potential) acts that affected or that might affect the person concerned.

SIPPS: Assessing the vulnerabilities against factors/domains

1. Home and Environment

2. Education and Employment

3. Behaviour

4. Psychological Health

5. Physical Health

6. Sexual Health

7. Safety/Suspected/Actual Abusers and Facilitators

During the counselling sessions in the pre-return phase, return counsellors may spot trafficking-related vulnerabilities and **identify reasonable grounds to believe** that the person is trafficked. In such situations, they need to take steps to give individuals the **recovery and reflection period** they require to adequately prepare themselves for their eventual return. This will also allow the return counsellor more time to organize proper pre-return counselling, carry out the risks and needs assessments, prepare the safe and dignified return of the individual, and **communicate and develop reintegration plans in cooperation with the partner organization/s in the country of origin**. - See Session 3 of this manual.



Remember!

Return counsellors act as a safeguard that persons who may have been trafficked and those who are vulnerable to trafficking and exploitation will return in a dignified manner and will not face harm such as retaliation or re-trafficking in their countries of origin / countries of origin.

5.3 Cooperation and coordination with the reintegration partners in the countries of origin

This session looks at the basic procedures for cooperating and coordinating with the reintegration partners in the countries of origin. It examines the contents of the risk and needs assessment as well as the operational workflow to maximise cooperation between all the different stakeholders. By the end of this session, return counsellors will be able to recognise and identify the basic procedures for cooperating and coordinating with the reintegration partners in the countries of origin, since the safe and dignified voluntary return of victims of trafficking requires close and effective cooperation between the returning and receiving states.

In situations where trafficked people or people vulnerable to trafficking **need to return to their countries of origin**, the provisions of the *Council of Europe Convention on Action against trafficking in Human Beings*⁵⁷ (Article 16), should guide the return counsellors as follows:

- **(Returns) ... shall be with due regard for the rights, safety and dignity of that person** and for the status of any legal proceedings related to the fact that the person is a victim, and shall preferably be voluntary;
- **Each Party shall adopt such legislative or other measures as may be necessary to make available to victims**, where appropriate in co-operation with any other Party concerned, contact information of structures that can assist them in the country where they are returned or repatriated, such as law enforcement offices, non-governmental organisations, legal professions able to provide counselling and social welfare agencies;
- **Child victims shall not be returned to a State**, if there is indication, following a risk and security assessment that such return would not be in the **best interests of the child**;

The diagram below summarizes the essential steps that return counsellors need to follow in preparing the return of a trafficked person.

⁵⁷ Council of Europe, *Council of Europe Convention on Action Against Trafficking in Human Beings*, 16 May 2005, CETS 197. Article 16. available at: <https://www.refworld.org/docid/43fded544.html>

PRE-RETURN PHASE

STEP 1: Establishing first contact with the returnee

STEP 2: Applying basic therapeutic principles

STEP 3: Generating trust

STEP 4: Building a rapport in the pre-return counselling sessions

STEP 5: Assessing a person's vulnerabilities, risks and needs

STEP 6: Establishing cooperation with the partners in the country of origin

STEP 7: Completing the Risks and Needs Assessment in partnership with the county of origin

STEP 8: Preparation of the reintegration plan and obtaining consent from the returnee

RETURN PHASE

STEP 9: Coordinating the return

POST-RETURN PHASE

STEP 10: Reintegration in the country of origin

STEP 11: Monitoring of reintegration programs, case follow up and reporting

It is very important to establish and maintain communication workflows between sending and receiving country already in the pre-return phase. After having completed all the steps from 1-5 analysed before (session 2 of this module), return counsellors need to request and establish operational cooperation with the relevant professionals in the country of origin (Step 6). Then, as elaborated in details in the sections below, the return counsellors need to closely cooperate with the reintegration partners in the country of origin when completing the risk and needs assessment (Step7) and preparing the actual reintegration plan for the trafficked person (Step 8).

In this last session, we will provide a brief overview on the importance of this cooperation and coordination with the reintegration partners in the countries of origin in the pre-return phase. The return and post-return phases are also important, but won't be further analysed in this introductory module.

Why is cooperation with third-countries necessary when preparing voluntary return and reintegration of victims of trafficking?

The safe and voluntary return of victims of trafficking **requires close co-operation between the returning and receiving States**. Any information regarding the status of a person as a victim of trafficking should only be shared with the receiving national authorities or civil society with the informed consent of that person. Mutual co-operation between returning and receiving States can help to **achieve a durable solution for victims of trafficking and ensure their full and successful reintegration after their return** to their communities, the education system and the labour market.

It is important to build a protection team for victims of trafficking in human beings with other known and trusted professionals in the country of origin. Return counsellors can create a necessary ‘bridge’ between the service providers in the returning country and the services they refer trafficked returnees on to in the country of origin. It means proposing to the returnee that they meet the partners/trusted professionals in the country of origin via online (video) call, explaining why it is a good idea and how these service providers can help the returnee once they return home. The return counsellor should organize the online meeting, introduce everyone on the call and discuss the options together. If it makes a returnee feel more comfortable, a cultural mediator can also be present. In the return context, this forms the basis for the cooperation between professionals in the sending country and the country of origin. The aim of this interaction is to:

- (a) Conduct a risk and needs assessment, and on the basis of that;
- (b) Prepare the reintegration plan.

The return counsellor should create referral pathways in order to: reduce re-traumatization or distress in facing the unknown; repeat important information to other professionals in the country of origin; and plan what is going to happen following the return. Trafficked returnees cannot be left without having agreed, concrete and individualized support in place and detailed step-by-step information about what is going to happen following their return.

Risk and Needs assessment

One of the roles of the return counsellor is to assess the viability of different social inclusion pathways for the returning individual in question. This assessment should also map the risk of the person being **ostracized** and the **possibilities for social inclusion** in a particular family and community. The risk and needs assessment should also provide **alternative options**, including in a different community, city or region, especially when family members are involved (explicitly or not) in the original trafficking.

Therefore, it is essential that both the return counsellors and the relevant stakeholders in the country of origin are included in the process of conducting the risk and needs assessment for the vulnerable/trafficked person.

The return counsellor in the EU country initiates the evaluation procedure to carefully assess the safety, needs, and wellbeing of the person who has been trafficked prior to his/her return home. The assessment should begin **immediately after** the trafficked/vulnerable person has made the decision to return home. In the case of trafficked children, this assessment should begin as soon as the child is identified as being a victim of trafficking. It is specifically aimed at:

- Identifying any imminent or future risks to his/her safety;
- Identifying any imminent or future risks to the safety of his/her family or other close friends;
- Establishing the possibilities for social inclusion.

It will be the returning country that initiates the risk and needs assessment and continues to develop it together with the partners in the country of origin and the returnee. Doing it this way, means that those involved all work together to prepare the safe and dignified return of the individual. Once the person has returned, the partners in the country of origin are responsible for implementing the pre-agreed individual Reintegration Plan based on the risks and needs previously identified. They will also make any *ad hoc* adjustments that are needed at the time and subsequently, in the different phases of post-arrival assistance (such as the immediate post-return phase, short-term reintegration phase, long-term reintegration phase). They will inform the sending organization about any such adjustments as a part of the follow-up process for an agreed period of time. The aim is the full social inclusion of the person in question.

How do return counsellors and partners in the country of origin conduct a Risk and Needs Assessment?

Return counsellors and partners in the country of origin carry out the risk and needs assessment:

- By gathering information and data through a **case file review, interviews with the person in question, and with contacts in different institutions and individuals both in the destination country and the country of origin** (via conversations with the victim, phone contacts, e-mail contacts, trusted third parties e.g. police liaison officers, police records, social services, health professionals, anti-trafficking authorities, immigration/asylum, NGOs, IOs, etc.). This is all done with due respect for national **data protection** laws in order to ensure that personal data is recorded, stored and shared in line with legislation.
- By **actively involving the returnee in the process**, providing information regularly, discussing his/her views and opinions, updating him/her on the steps being taken or feedback that has been received. On completion of the risk and needs assessment, the trafficked person should immediately be informed about the final outcome.
- By **taking into consideration the results** of the assessment of the vulnerability of the person done at a previous stage as this might affect the person in question.

In interviews with the returnee and organizations and individuals in the country of destination, return counsellors can pose the following questions:⁵⁸

RISK AND SOCIAL INCLUSION ASSESSMENT FOR VOLUNTARY ASSISTED RETURN⁵⁷

Suggested Questions

To the trafficked person

- How would you feel if you went home?
- Where would you feel safe?
- Has anyone threatened your family and/or friends?
- Has anyone threatened you?
- Do the perpetrators know where you/your family live?
- Are the perpetrators members of your family, friends, or close social groups?
- What could be done to make you feel safe?
- How do you think your family/friends will react when you return home?
- Do you want to go back to school, work, university, etc.?
- What is the worst that could happen to you/ your family and/ or friends when you return home?
- How could you deal with this?
- What could you do or what could be done to avoid this?

To national focal points, NGOs, IOs, diplomatic and consular missions

- Would the trafficked person face criminal prosecution or civil sanctions for acts performed during the period of exploitation?
- What is the local infrastructure like? Is it in good condition?
- Is the place of residence accessible?
- Would the local police be capable of protecting the trafficked person?
- Would the trafficked person face stigmatization, marginalization and social isolation?
- Would the trafficked person have access to local social services?
- Would the trafficked person have access to agencies providing accommodation?
- Would the trafficked person have access to medical aid and treatment?
- Would the trafficked person have access to psychological counselling?
- Would the trafficked person have access to legal counselling and assistance?
- Would the trafficked person be able to resume professional training or education?
- Would the trafficked person have access to permanent accommodation? What is the quality of this accommodation?
- Would the trafficked person have the opportunity for long-term, independent financial security?
- Would a return to the family be possible?
- What are current conditions in the family like (violence, etc.)?
- What is the current situation in the community?

⁵⁸ Adapted from Guidelines for the Development of a Transnational Referral Mechanism for Trafficked Persons in Europe: TRM-EU. ICMPD, 2010 (pages 81-83)

What the risk assessment should include?

The risk assessment should include the **risks that have been identified** using the SIPPS analysis, specifying the related **minimum standards of security and the appropriate procedures to ensure that each of the risks identified is reduced to a minimum and is effectively managed**. It should be regularly reviewed and updated in the place/country of origin once the trafficked person has been returned. The trafficked/vulnerable person should be fully informed about the potential risks and the measures that will be taken to protect her/him and his/her significant others. **Also, it is essential that return counsellors together with the country of origin partners assess the risk of re-trafficking** and include all the possible risks in their assessment. These risks include:

- **Risks from the original traffickers:** This requires consideration of each of the known original traffickers who conducted the trafficking crime and all of their known associates, or other victims who may still be under their control and in contact with the returnee. It is important to ensure that the individuals have a phone and contact details, which are not known or cannot be discovered by their traffickers, and to sensitively check their social media presence and current relationships to find out if they are safe in their use of the internet and any risks online;
- **Risks posed by associates, relatives, friends, acquaintances or others who may be implicated in the original trafficking:** In many cases people may not have recognized that a person to whom they remain close or in contact is complicit in their trafficking. This should be approached carefully and in a non-confrontational manner. It can take time for them to recognize and be able to fully confront the extraordinary deception practiced by traffickers posing as partners and friends, and it is particularly challenging in many cases for them to comprehend or manage their own family members being implicated in their trafficking. In such cases, they may require specialist therapeutic care which the return counsellor should arrange. It is vital to ensure that they do not become overwhelmed and lose contact with the service because they feel unable to continue. Therefore, the return counsellor should be looking out for this possibility from the outset, without causing any alarm or demanding that the person confronts the issue directly at an early stage in the process. The emphasis should be on ensuring that the person is able to maintain their personal safety, has the next appointment or meeting arranged, and has the level of individual support that they need;
- **Risk from potential traffickers** who may target or groom the victim in the future and commit further crimes against them. **This should always be considered to be a risk for victims who have been trafficked in the past due to their increased vulnerability to trafficking after leaving the control of their original traffickers.** The risk of re-trafficking can stem from the individual's continuing vulnerabilities relating to the impact the trafficking had on them, including mental and physical health issues, as well as their personal circumstances, such as being destitute or other situations of adversity and/or economic hardship. Some people might be more vulnerable to re-trafficking, including those who are vulnerable as previously discussed.

What information does the return counsellor need to provide to the reintegration partners in the third-country?

In the context of organizing their return, it is essential that return counsellors **highlight the nature of the special needs of victims of trafficking when they communicate with the reintegration partners in the country of origin**. This needs to be done with sufficient time prior to the return. Subsequently, assessments initiated in the European country can be fine-tuned or completed by the reintegration partners in the country of origin, following the return of the individual.

At a minimum, return counsellors must inform the relevant partners in the country of origin about the **health, housing and safety** needs of returnees who have previously been trafficked or who are vulnerable to exploitation. This should be done with sufficient time prior to the individual's return. The aim is that the return counsellor, together with the relevant people in the country of origin, design, plan and prepare the return and reintegration plan, and that they involve the returnee in the whole process.

This should be done in a culturally sensitive way and ideally should involve working together with a cultural mediator. If psychological help is needed and the individual accepts it, therapy that has commenced but has not been concluded prior to the return due to the lack of time, should continue after the person has returned.⁵⁹ If the individual takes medication, it is important to ensure continuity of availability and use, including after their return. Safety in trauma-informed care in the pre-return phase must, consequently, focus on asking people about the strategies they adopted to make their migration dreams happen, as a way of helping individuals console themselves and enable them to cope with the almost intolerable impact of multiple traumas and failure of the plans they had had. If these questions are not adequately addressed in the pre-return phase, any post-return vulnerabilities attributable to their trafficking experiences will further increase and make the risk of re-trafficking more likely.

Operational workflow for information-sharing between the sending European country and the country of origin

In order to ensure a coordinated, dignified and safe return process, the following **series of notifications** between the return counsellors in the sending country and the receiving organization in the country of origin, are recommended:

⁵⁹ This could also be in the form of online (remote) therapy if there are difficulties in accessing face-to-face therapy in the home country.



Subsequently, **return professionals in both countries** engage in:

- **Direct consultations** (bilateral), plus (multi-lateral) with the returnee and ideally the cultural mediator (online)
- **Joint finalization of the Risk and Needs Assessment** (agreed timeframes)
- **Finalization of the Individual Reintegration Plan** (focusing on housing, health, safety, livelihood options/further education in the short, medium, long-term to be implemented upon return. This may be adapted in the country of origin, following an evaluation of the outcomes of their return– e.g. after the first three months in relation to how they have settled well-being, healing).
- **Practical aspects of organizing a safe and dignified return** (i.e. documentation, decision if the person will travel accompanied, who will wait for the person at the airport, how and when funds will be disbursed, what the safety precautions will be if needed, how return counsellors in the country of origin will be doing the reporting to the sending organization, how the sending organization will monitor the reintegration process)
- **Data protection procedures**

What should an Individual Reintegration Plan include?

An individual reintegration plan is developed between the three relevant parties: the returnee, the return counsellor and the reintegration counsellor. This can only happen with the explicit consent of the trafficked/vulnerable person of interest. It should contain at a minimum the information below (this list is not exhaustive):

- **Placement with(in) their family/community** (if assessed as viable, what support will the family receive, from whom, timeframe for the support arrangements, safety plan, support for the trafficked person if any risks in the family context re-emerge, who will provide that (NGO, community leader, focal point with the police, etc);
- **Placement in a flat/shelter/NGO accommodation** (accommodation in de-facto detention conditions does not meet the minimum standards for returning trafficking victims!);
- **Proposed housing** and related conditions (shelter, shared rented apartment, room arrangement occupancy, common facilities, open/closed facility, when is the curfew, use of the mobile phone, social media, visits, email/phone communication, cooking meals and grocery shopping, options for recreational activities, etc);
- **Case manager** (who she/he is, what his/her tasks and responsibilities are, how he/she can help, setting up an online introduction, any complaints mechanism);
- **List of concrete services and activities planned to be offered to the person, residentially on walk-in** (within the shelter, or at a different location), including their description and conditions attached to their use (psychological assistance, medical assistance (internal, external, access to it), legal advice, what vocational training and education, what concrete income generation program/job placement options, what religious support, family/community inclusion activities as applicable);
- **Duration of each service planned to be offered** (e.g. psychological assistance, medical assistance, individual/group therapy, peer to peer support, frequency, for how long);
- **Financial support possibilities** (what possibilities exist, the amount, conditions attached, duration, mentor support);
- **Transportation to reach services/school/work** (alone, accompanied, who pays for the ticket, transport organized by the service provider);
- **Rights and obligations to be respected** (withdrawal of consent, complaints mechanism, confidentiality, safety precautions, disclosure to third parties, admission policy to the accommodation/particular service);
- **Safety arrangements and safety plan** (within the facility and outside the facility, how often it will be assessed, what information is/will be needed by the returnee for this purpose);
- **Procedure for reassessing risks and needs** after the return (when, by whom, how, using what criteria/factors such as health and psychological condition, personal situation, and external, and if they move to another location, who will carry it out);
- **Adapting the Reintegration Plan in the country of origin** (how it will be done, what milestones, criteria, timeframe);

- **Case monitoring and follow up with the returning organization** (explain the purpose of monitoring, if the person agrees, for how long, how will the contact be maintained, etc.).



The individual reintegration plan should also include a **pre-departure individual assistance plan** with practical details on who is going to do what prior to the return and during the return, and that the returnee is not just given a list of contacts. It is also crucial for the trafficked person to have a **safe mode of transport or transfer arranged** before the actual return journey begins. To minimize the risk of the traffickers picking the returnee up when they arrive, a service provider from the country of origin should be at the border/airport/harbour to receive the trafficked person.

Once returned to the place/country of origin or resettled in a third country, the process of social inclusion and reintegration should start.

Additional / Background readings

Part 1

Legal Framework and Fundamental Rights

This module introduces the main national and EU legal framework relevant to return counselling including the respective fundamental rights framework. In addition to the national laws and regulations, the module covers Return Directive 2008/115/EC as the principal legal act regulating return-related issues in the EU and the Return Handbook that provides practical commentary and guidance on the implementation of each article of the Return Directive. The module also introduces the main elements of the Asylum Procedures and the Common European Asylum System (CEAS) and covers the related mandate of the European Border and Coast Guard Agency (Frontex) and the responsibilities of the return counsellors who form part of the Standing Corps in line with Regulation 2019/1896. Finally, the module discusses the fundamental rights that are most relevant in the return counselling context.

This part is divided into the following sessions:

- Session 1: Return Directive 2008/115/EC and the Return Handbook.
- Session 2: National legal framework.
- Session 3: European Border and Coast Guard Agency (Frontex).
- Session 4: Common European Asylum System – legal instruments and the Asylum Route.
- Session 5: Introduction to Fundamental Rights and the Relevant Sources.

At the end of this part, participants will be able to:

- Describe the relevant national and EU legal framework relevant to return counselling.
- Describe the relevant EU, regional and international human rights framework.
- Identify the fundamental rights most relevant in the return counselling context.

Return Directive 2008/115/EC and the Return Handbook

The principal legal act regulating return-related issues in the EU is Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally-staying, third-country nationals – the so-called Return Directive. The Return Directive aims to harmonise and support national efforts to better manage returns.

As stipulated in Article 1, the Return Directive ‘sets out common standards and procedures to be applied in Member States for returning illegally staying third-country nationals, in accordance with fundamental rights as general principles of [EU] law as well as international law, including refugee protection and human rights obligations’.

The key features of the Return Directive include:

- the requirement for a fair and transparent procedure for return decisions;
- the obligation for EU countries to either return irregular migrants or to grant them legal status, thus avoiding situations of “legal limbo”;
- the principle of voluntary departure by establishing a general rule that a “period for voluntary departure” should normally be granted;
- a minimum set of basic rights for irregularly staying migrants pending their removal, including access to basic health care and education for children; especially, Article 5 contains a specific human rights provision, which imposes an obligation on Member States when implementing the Directive, to take due account of
 - the best interests of the child;
 - family life;
 - the state of health of the third-country national concerned; and
 - the principle of non-refoulement.
- a limit on the use of coercive measures in connection with the removal, ensuring that such measures are not excessive or disproportionate (Article 8(4)).
- an entry ban valid throughout the EU for migrants returned by an EU country;
- a limit to the use of detention, binding it to the principle of proportionality and establishing minimum safeguards for detainees (Articles 15,16,17).

The Directive establishes that ‘a third-country national who has applied for asylum in a Member State should not be regarded as staying illegally on the territory of that Member State until a negative decision on the application, or a decision ending his or her right of stay as asylum seeker has entered into force’ (recital 9).

On 1 October 2015, the European Commission adopted a Recommendation establishing a common *Return Handbook*⁶⁰ to be used by Member States when carrying out return-related tasks. The Handbook includes a number of safeguards, including the right to good administration. The Handbook is not legally binding, but provides practical commentary and guidance on the implementation of each article of the Return Directive, including examples, extracts from human rights standards, and references to relevant European Court of Justice (ECJ) judgements.

⁶⁰ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017H2338&from=EN>

The EU cooperates with countries of origin through readmission agreements that set out clear obligations and procedures for both parties related to when and how to readmit their own nationals who are irregularly residing on the territory of the other country. Readmission is the act by a State accepting the re-entry of an individual (own national, third-country national or stateless person).⁶¹ The aim of readmission agreements is to standardise the cooperation between EU MSs and third-countries; they can only be used after a return decision has been made in accordance with the procedural guarantees set by the Return Directive and the Asylum Procedures Directive.

National legal framework

Directives are legal acts of the EU that have to be enacted into national law by MSs before they become legally binding. MSs usually have a certain amount of flexibility when transposing them into national law. Directives can be adopted by means of different legislative procedures. MSs have transposed the Return Directive into national laws and practice. The deadline for this was 24 December 2010.



Self-study exercise 11

Prior to the face-to-face training, ask/interview your supervisor and/or peers during a short (coffee) break about the legal framework and provisions relevant to return and return counselling in your country. Write down a few notes and do not forget to bring them to the face-to-face training for discussion and exchange of ideas.

European Border and Coast Guard Agency (Frontex)

The European Border and Coast Guard Agency (Frontex) is governed by Regulation (EU) 2019/1896 of 13 November 2019 on the European Border and Coast Guard (OJ L 295, 14.11.2019, p. 1). For the first time, the European Union has its own uniformed service that is called the European Border and Coast Guard Standing Corps. It consists of four categories of operational staff:

1. Category 1: statutory staff members recruited by the Agency who receive 6 months' training and have 5-year contracts;
2. Category 2: staff seconded to the Agency by the MSs for an extended period (2-year deployments with the exact duration and location being decided by Frontex);
3. Category 3: staff provided by MSs for short-term deployments (available for a maximum of 4 months per year and deployed for a minimum of 30 days);

⁶¹ See definition in the European Migration Network (EMN) Glossary: https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/glossary_search/readmission_en.

4. Category 4: staff forming part of the reserve for rapid reaction for rapid border interventions (deployed when the other categories are fully deployed).

The Frontex mandate now also includes:

- Assisted Voluntary Returns (AVRs): providing support to MSs in (assisted) voluntary returns, including return counselling, coordination of activities, setting standards, developing best practice. There is the possibility too of enhancing cooperation with stakeholders such as the IOM, UNHCR, as well as NGOs.
- Post-arrival: support after handover, with the main focus on supporting and arranging service providers for MSs and ensuring standardisation where possible.
- Post-return: providing reintegration assistance to returnees.

The Standing Corps includes 12 different job profiles, the eleventh being the one for a return specialist. A Return Specialist is an official who works for a relevant national authority or statutory agency of a MS who carries out tasks connected to the return of third-country nationals illegally staying on a MS's territory. The profile of a Return Specialist is divided into four sub-profiles covering the areas of:

1. Third Country Cooperation
2. Return Case Management Systems (RECAMAS)
3. Integrated Return Management Application and Frontex Application for Return (IRMA/FAR)
4. Return Counselling

The main tasks of the Return Specialist are to:

- operate in support of the national authorities responsible for return;
- act individually or in a team deployed to reinforce the responsible authorities;
- support one or more return processes related to:
 - Consular cooperation for return purposes;
 - Identification and acquisition of travel documents from third country authorities for the purpose of return;
 - Return case management systems, operational data collection and synergies with the integrated return management platform, use of operational return systems;
 - Other relevant activities in pre-return, return operations and post-arrival and post-return stages for both voluntary and forced return (**including return counselling**, and cultural mediation).

Returning counselling is one of the Return Specialist's sub-profiles (see above). Return counsellors in the Standing Corps focus on promoting voluntary return and explaining the relevant procedures at every stage of the return for both voluntary and forced returns. In line with this, the return counsellors of the Standing Corps have the following responsibilities:

- Promoting voluntary returns;
- Informing third-country nationals about:
 - ✓ Return procedures
 - ✓ Reintegration possibilities
 - ✓ Post-arrival/post-return support
 - ✓ Obligation to return and rights for those who have been issued with a return decision.
- Facilitating referral to the appropriate authorities of the MS;
- Advising and assisting MSs in preparing and coordinating voluntary returns, as well as post-arrival and post-return assistance.

Common European Asylum System

The European Union is an area of protection for people fleeing persecution or serious harm in their country of origin. Asylum is a fundamental right and an international obligation for countries, as recognised in the 1951 Geneva Convention on the protection of refugees.

EU countries have a shared responsibility to welcome asylum seekers in a dignified manner, ensuring that they are treated fairly and their case is examined following uniform standards. This ensures that, no matter where an applicant applies, the outcome will be the same. Procedures must be fair, effective throughout the EU, and impervious to abuse.

With this in mind, since 1999, the EU has established a **Common European Asylum System (CEAS)**. In 2020, the European Commission proposed to reform the system through a comprehensive approach to migration and asylum policy based on three main pillars:

- efficient asylum and return procedures,
- solidarity and fair share of responsibility, and
- strengthened partnerships with third countries.

The negotiations for this amendment are still ongoing.

Legislative instruments

The Common European Asylum System sets out common standards and co-operation to ensure that asylum seekers are treated equally in an open and fair system – wherever they apply. The system is governed by five legislative instruments⁶².

⁶² In addition to these legal acts, Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof, was adopted following the conflicts in former Yugoslavia, and was **triggered for the first time** by the Council in response to the unprecedented Russian invasion of Ukraine on 24 February 2022 to offer quick and effective assistance to **people fleeing the war in Ukraine**. The implementation of a temporary protection regime is a collective decision of the Council of Ministers and, therefore, Member States cannot resort to it individually. You can read more at: https://ec.europa.eu/home-affairs/policies/migration-and-asylum/common-european-asylum-system/temporary-protection_en.

These are three directives:

- The **Asylum Procedures Directive**⁶³ aims at setting out the conditions for fair, quick and quality asylum decisions. Asylum seekers with special needs receive the necessary support to explain their claim and in particular protection of unaccompanied minors and victims of torture is ensured.
- The **Reception Conditions Directive**: The RCD sets standards for the reception of applicants for international protection in Member States. It regulates such entitlements of applicants for international protection as housing, food and clothing and access to health care, education or employment under certain conditions and it also contains provisions to promote the identification and appropriate treatment of vulnerable applicants. Last, it regulates the conditions and grounds for detention. These provisions are to ensure a dignified standard of living in accordance with the Charter of fundamental rights for all international protection applicants.
- The **Qualification Directive** has two objectives:
 - to define who is entitled to international protection (refugee status and subsidiary protection); and
 - to regulate the content of international protection, i.e. which set of rights refugees and beneficiaries of subsidiary protection are entitled to, and what obligations of Member States are in this respect.

And two regulations:

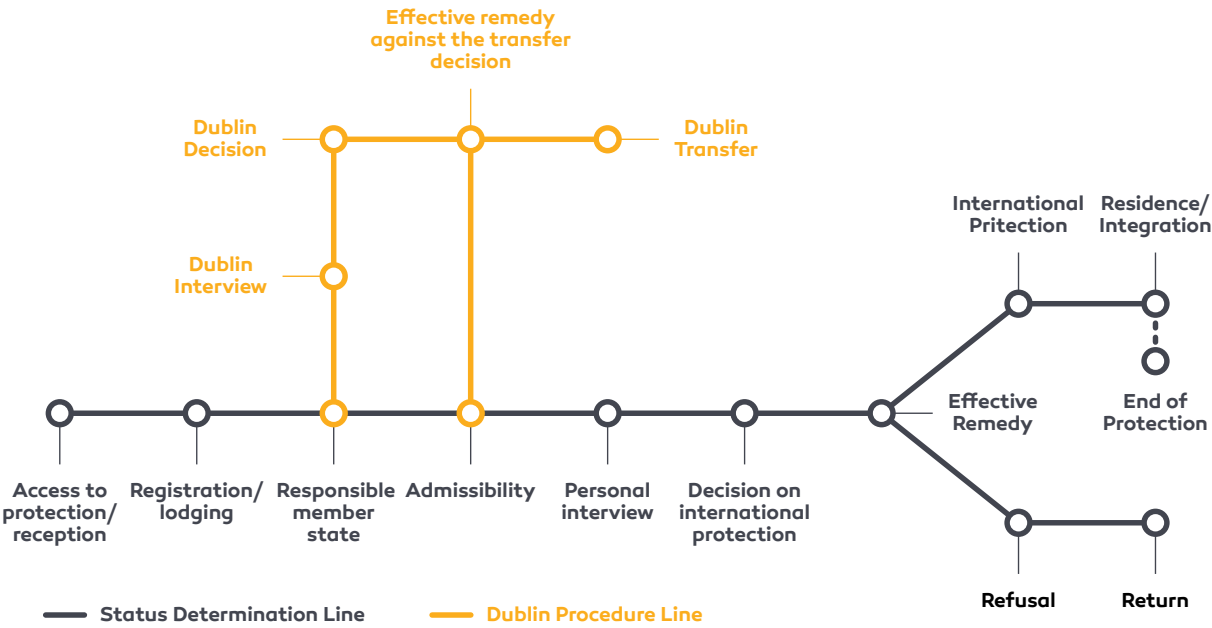
- The **Dublin Regulation** enhances the protection of asylum seekers during the process of establishing the State responsible for examining the application, and clarifies the rules governing the relations between states. It creates a system to detect early problems in national asylum or reception systems and address their root causes before they develop into fully fledged crises.
- The **EURODAC Regulation** supports the determination of the Member State responsible under the Dublin Regulation and allows law enforcement authorities access to the EU database of the fingerprints of asylum seekers under strictly limited circumstances in order to prevent, detect or investigate the most serious crimes, such as murder, and terrorism.

63 Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast) – available at <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013L0032&from=en>



The Asylum Route

The asylum acquis, when put into practice looks like this. The asylum route illustrates different phases of the asylum procedure in the EU, which the applicant for international protection follows while applying for protection. The starting point is the *Access to Protection/Reception*, and the final destination of an application varies, since each case is examined on its own merits.



Source: European Asylum Support Office

- The first stage is the access to international protection followed by the registration or lodging of the application.
- The next stage is the examination of the admissibility of the asylum claim. Depending on the national context, the admissibility examination of an asylum claim may also consider safe third country options, subsequent applications examination and other considerations.
- Next is coming the examination of the application on its merits and the decision drafting.
- The next stage is the notification of the decision (International protection or rejection). Depending on the outcome, the applicant may apply for a residence permit or appeal against the decision.
- Following a definite refusal of the asylum claim, the return procedures may begin.

Safe Countries of Origin

International law (the Geneva Convention) and EU law (the Asylum Procedures Directive) consider a country safe when there is a democratic system and generally and consistently: i) No persecution; ii) No torture or inhuman or degrading treatment or punishment; iii) No threat of violence; iv) No armed conflict.

Originating from a country which is deemed to be safe, does not in any case restrict the right to seek international protection. Any citizen has the right to apply for asylum. Applications will continue to be assessed on an individual, case-by-case basis. Strong safeguards, including the right to appeal, remain in place. Nevertheless, different procedures may be put in place: **applications from nationals of countries on the EU Safe Countries of Origin list, which is different in each MS, might be fast-tracked, allowing for faster returns if the individual assessments of the applications confirm no right of asylum.**

More information about the EU list of safe countries can be found on the European Commission's EU 'Safe Countries of Origin' list.⁶⁴

Introduction to Fundamental Rights and the relevant sources

Fundamental rights are legal guarantees without which individuals and groups cannot secure their fundamental freedoms and human dignity. They are universal in the sense that they apply equally to everyone. They permit people to develop their full potential and their mental, psychological, intellectual and physical capacity. Fundamental rights define what individuals or groups of people are entitled to and describe the limitations a state may impose to intrude on those entitlements.

⁶⁴ https://ec.europa.eu/home-affairs/sites/default/files/what-we-do/policies/european-agenda-migration/background-information/docs/2_eu_safe_countries_of_origin_en.pdf

Human rights⁶⁵ and freedoms are usually divided into two categories:

1. civil and political rights;
2. economic, social and cultural rights.

Human rights:

- ✓ are not given, bought, earned or inherited – they belong to people simply because they are human beings;
- ✓ are universal, equal and non-discriminatory – they apply to all people all over the world and they have in principle the same value for everyone regardless of a country's culture, traditions or religion;
- ✓ protect individuals as well as groups;
- ✓ aim to preserve the dignity of the human being;
- ✓ are interrelated, interdependent and indivisible – they are all important and form a body of rights that cannot be selectively applied (for example, it is difficult to use your right to vote if your right to education has been neglected and you cannot understand written documents);
- ✓ are inalienable, which means that they cannot be taken away – people still have human rights even when they are violated.

Moreover, some rights are **absolute** and others **non-derogable**, while some rights are **qualified**.

An **absolute right** is a right that cannot be limited or infringed under any circumstances, not even during a declared state of emergency. The prohibition of torture, inhuman or degrading treatment, and the prohibition of refoulement, are absolute rights, that cannot be limited for any reason. Such rights are also non-derogable.

Non-derogable rights are those that states are not allowed to restrict. Under the ICCPR (International Covenant on Civil and Political Rights) (Article 4), these are:

⁶⁵ According to the European Union Agency for Fundamental Rights (FRA), both fundamental rights and human rights entitle individuals to expect and to receive certain levels of treatment. These terms essentially refer to the same content and are often used interchangeably. However, there is a difference: 'fundamental rights' are specifically used in national constitutions of EU Member States, whereas 'human rights' are used in international law. Nevertheless, the links between the two notions can be seen in the similarities between the EU Charter, the ECHR and the Universal Declaration of Human Rights.

- the right to life
- and the right to be free from:
 - arbitrary deprivation of life
 - torture and other ill treatment
 - slavery
 - imprisonment for debt
 - retroactive penalty
 - non-recognition before the law
 - infringement of freedom of thought, conscience and religion.

Non-derogable rights may be either absolute or non-absolute. While non-derogable rights cannot be suspended, some non-derogable rights provide for limitations in their ordinary application, such as the right to marry and found a family in Article 12 of the ECHR, and the right to liberty and security in Article 5 of the ECHR, which can be limited in the circumstances defined in the Convention itself.

Qualified rights are rights that state authorities can sometimes interfere with, if they are acting in the interest of the community or to protect other people's rights. For example, the right to respect for private and family life (Article 8 of the ECHR), the freedom to manifest your religion or belief (article 9) and the right to freedom of expression (Article 10 of the ECHR) or to assembly (Article 11 of the ECHR) allow interferences, but such interferences must be in accordance with the law and necessary in a democratic state for the requirements of public order, public health or morals, national security or public safety. Such interferences may never involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.

Some rights are limited. This means they can be restricted only in specific situations set out in the human rights instruments. For example, Article 5 of the ECHR provides that there is no breach of your right to personal freedom if you are detained following a criminal conviction, or under mental health legislation, and if the correct procedure was followed.

Human Rights protection

To promote and protect the rights and fundamental freedoms of individuals or groups, human rights law places obligations on states, and more specifically government officials carrying out their duties, to act in certain ways and to refrain from committing human rights violations. They are expressed and guaranteed by international treaties, international customary law, regional legal orders (e.g. the EU acquis) and national law.

States are the main entities responsible for ensuring that human rights⁶⁶ are respected and guaranteed by public authorities. These authorities are obliged to perform their duties accordingly towards individuals who are within the State's jurisdiction, including non-nationals.

⁶⁶ The term "human rights" is mainly used in the international context where conventions relate to human rights. The term "fundamental rights" is usually used in the EU context. The Charter of Fundamental Rights of the European Union that was adopted in 2000 underlines this. The terms can be used interchangeably.

States have a duty to set up mechanisms for the prevention of human rights violations. They have to proactively ensure human rights are protected by holding those who violate them on their territory accountable and providing effective remedy to those whose rights are violated.

In Europe, there are four intersecting ‘layers’ of human rights protection, which are secured by:

1. the EU Charter of Fundamental Rights;
2. the Council of Europe’s conventions, most prominently the ECHR; and
3. the protection afforded by relevant UN human rights instruments.
4. the national legislation

Through the robust normative framework of the United Nations (UN), the Council of Europe (CoE) and the European Union (EU), human rights have, over time, become legally binding obligations on States.

The United Nations System

The UN system is the global framework for human rights standards and protection. Following the 1948 Universal Declaration of Human Rights (UDHR), the UN adopted several international conventions relevant for the protection of certain human rights, such as the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).

The Council of Europe System

The CoE system is one of the most advanced regional systems of human rights protection in the world. It encompasses the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and the Protocols thereto, as well as the European Court of Human Rights (ECtHR). The CoE has adopted numerous treaties that are binding on the States that have ratified them. It also provides an entire institutional system to monitor human rights protection.

The European Union System

Both the UN and CoE frameworks are highly relevant to the EU context, since all EU MSs are party to these systems. The human rights standards contained in these systems have been incorporated into the respective national and EU legal frameworks. Already in the Treaty on the Functioning of the EU (TFEU) and the Treaty on European Union (TEU), fundamental rights are laid down as essential values of the EU⁶⁷; Article 2 and 6 of the TEU are considered the constitutional backbones of fundamental rights protection in the EU legal order.

⁶⁷ “The Union shall constitute an area of freedom, security and justice with respect for fundamental rights and the different legal systems and traditions of the Member States” (Article 67(1) TFEU: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012E/TXT&from=EN>).

The Charter of Fundamental Rights of the European Union (Charter) confirms the rights guaranteed by the ECHR. As regards the relationship between the Charter and the ECHR, according to Article 52(3) of the Charter, in so far as it contains rights which correspond to rights guaranteed by the ECHR, the meaning and scope of those rights are the same as those laid down by the Convention. This does not prevent EU law providing more extensive protection.

Part 2

Diversity and anti-discrimination

This part provides an overview of the concept of diversity, an important area for return counsellors to know about, and the principle of anti-discrimination in the context of migration and return counselling. After having read this part, participants will be able to understand the concept of diversity and the principle of anti-discrimination, including unconscious bias and how these beliefs may affect actions/ activities in the return counselling process.

Diversity

We all have an understanding what diversity means, but it is important to recognise the broad spectrum of the term. Diversity can be present in race, gender, age, national origin, culture, religion, class, disability status, size, sexual orientation, personality type, communication style, education and life experiences. Many studies have shown that appreciating and leveraging the power of diversity in a workplace setting, results in more effective and innovative teams and organisations than those that are made of people who are the same. Some aspects of diversity can be acquired, whereas others are inherent due to our background and origin. Diversity is made up of many things; the following graph⁶⁸, inspired by the original 4-layers model created by Gardenwartz & Rowe⁶⁹, provides some structure to demonstrate the range of attributes and characteristics it encompasses.



68 Graph developed by Christian Raschke - Vielfalt Gestalten (Managing Diversity) for ERRIN and with the dimensions of the internal dimensions according EU anti-discrimination legislation.

69 Find out more about the different layers of diversity: (Gardenwartz & Rowe: Diverse Team at work, 2003)

Our personality is the first layer. The second layer is formed by age, gender, sexual orientation, physical ability, ethnicity and religion/beliefs. The model categorizes the first and second layers as belonging to the internal circle, defining them as internal or core dimensions that are understood to be relatively unalterable. These dimensions are protected by EU anti-discrimination legislation. The external dimensions, the third layer, are created by individual decisions and chances that people do or do not get according to their position in society. For example, for refugees the legal status is one of the most important dimensions; work experience might not be easily achieved, especially when you do not have a working permit or low chances on the labour market. Changing your place of residence might be easy or difficult; but it may also be dangerous if forced to flee your country or place of residence. There is also a fourth dimension which refers to the workplace such as management status, work location, seniority etc..

Our identity is made up of different parts; these different dimensions of diversity 'interact' differently depending on the mix ("intersectionality"⁷⁰). These intersecting and overlapping social identities may be both empowering and oppressing. For example, being a white English man from London might be different from being a black young woman from Manchester. Even though both are English/British nationals, their experience and how they interact with the world might be different.

When thinking about diversity in a professional context, these are some considerations to take into account:

1. Ability to take another perspective into account

We tend to stick to our own perspective and are unable to see things through the eyes of others. But, by listening to/ understanding another's perspective on something, we can gain new knowledge from the situation. Being open to new perspectives might be an opportunity to innovate and find alternative solutions. In the context of return counselling, considering different perspectives should be part of training and day-to-day practices; counsellors can make use of peer consultation or other reflection/ learning opportunities (e.g. workshops and trainings; group empowerment sessions etc.)

2. Tolerance of ambiguity: There is always more than one story

When we think of things objectively or scientifically, we tend to believe there is one definitive answer or single source of truth. In these situations, we tend to have our own framework of reference or patterns, and therefore do not listen or hear the stories and perspectives of others. It is the task of professional counsellors to try to remove their own framework of reference, patterns of thinking and biases to listen with an open mind and in an unbiased way to others' accounts and perspectives, even if they differ from their own. Counsellors should be aware that there might be different truths.

⁷⁰ The term intersectionality was conceptualized by Kimberlé Crenshaw at 1989. Read more at: Kimberle Crenshaw, Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics. University of Chicago Legal Forum, Volume 1989, Issue 1; Art. 8. Accessible at <https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=1052&context=uclf>



Self-study exercise 12

Listen to the *TED talk* given by Nigerian novelist Chimamanda Ngozi Adichie on the danger of the single story⁷¹ (18 mins.). Then reflect on what might happen if we only ever hear one story about another person or country.

3. Understanding that each person has their own “map” or framework of reference in mind

Humanistic psychology⁷² emphasises that people have individual maps in their minds which give them direction and lead them through life. These maps (or frameworks of reference) are individually constructed from early childhood on and are influenced by the various internal and external dimensions referenced in the Four Layers of Diversity model mentioned above. This map helps an individual to explain to themselves individual perceptions, emotions and actions so that nearly every behaviour or a decision a person takes, makes sense to them. We should therefore be cautious about any of the assumptions we may make that would suggest we have really understood another person’s framework of reference.

4. To reflect on your own prejudices and stereotyping of others

Unconscious bias (analysed later as well) happens when we act on subconscious deeply ingrained biases, stereotypes or attitudes formed by factors such as our upbringing, experiences and environment. This can mean people can be unfairly discriminated against and can affect communication and relations in the counselling context. As such, professional counsellors have to constantly question/ challenge their perceptions. Our emotions can give us a signal about unconscious bias; sometimes, positive or negative feelings towards someone may be an indication that our unconscious bias is in play.

5. Detecting discrimination and discriminating structures in the working environment

We can uncover discrimination either through hearing about it from someone else, or experiencing/ being witness to it ourselves. The former is where people claim to have experienced direct or indirect discrimination, for example experiencing racism, sexism etc. Accusations of racism, sexism should be taken seriously and counsellors should examine any accusations to get a better understanding of the concerns of the migrant. Once the emotional aspect has been taken care of, legal steps can be taken to address this discrimination. Alternatively, we identify or experience situations of possible discrimination ourselves. In these cases, counsellors can respond by sharing their concerns with their clients, colleagues and hierarchy in the organisation – and look for possible steps that can be taken to address the discrimination (e.g. involve a legal counsellor).

⁷¹ https://www.ted.com/talks/chimamanda_ngozi_adichie_the_danger_of_a_single_story

⁷² Humanistic therapy is a mental health approach that emphasizes the importance of being your true self in order to lead the most fulfilling life. It’s based on the principle that everyone has their own unique way of looking at the world. This view can influence your choices and actions.

6. Knowledge of equal rights and anti-discrimination legislation

Counsellors should have a basic understanding of human rights and anti-discrimination laws⁷³ to be able to detect situations of possible discrimination, and to identify with their client how to address the situation, taking into account their mandate, limitations and role as a counsellor.

7. Continuous training and awareness on diversity

Return counsellors need to have a broad range of communication skills⁷⁴ to deal with different situations and the ability to adapt their language to the target group (e.g. gender-sensitive language). These skills can be acquired via on the job - trainings; broad learning opportunities and workshops; exchange sessions with peers or colleagues.



Self-study exercise 13

Please think about your work as a (return) counsellor. Give some concrete examples of situations related to the skills and attributes described above. Find an example from each of the sections above (1-7) and write down a few notes about every situation.

Anti-discrimination in the context of migration and return counselling

Discrimination is any unfair treatment or arbitrary distinction based on a person's sex, gender identity, religion, nationality, ethnic origin, sexual orientation, opinions, political views, disability, pregnancy, parenting, age, language, social origin or another status, which has no objective or reasonable justification. Discrimination may be an isolated event affecting one person or group at one time, or may manifest itself through longer-term actions such as harassment or abuse by an authority.

⁷³ Read more at module 2 "legal framework and fundamental rights"

⁷⁴ Read more at module 3 "communication in return counselling"

Discrimination is more apparent and more frequent against certain groups or people in our societies, meaning there is much to do to achieve a society without discrimination and with respect for diversity. In the early nineties, a group of EU member states took some initiatives to combat discrimination. The 1997 Treaty of Amsterdam⁷⁵ introduced a specific power to combat discrimination. It marked a significant milestone with a new clause, Article 13, which covers discrimination on the grounds of sex or sexual orientation, racial or ethnic origin, religion or belief, disability and age⁷⁶. The treaty came into force on 1 May 1999, and was subsequently adopted into national legislation.

Discrimination can take different forms. People are deemed 'normal' by a particular or dominant group while others, not from that group, are seen as different or deviant. This psychological process is called "Othering"⁷⁷. It enables groups and cultures to build their social identity but is also the basis for many forms of discrimination. Groups gather together in sub-groups, and define criteria for who belongs to these sub-groups. They define a hierarchy between the two groups in which they consider themselves as superior. People also make distinctions between those they perceive as belonging to the in-group versus those in the out-group. They attribute negative characteristics to those in the out-group who they then treat differently. Those in the out-group are not perceived of as individuals, but as a faceless crowd. It is an 'us versus them' way of thinking about human relationships. It is important to see each person as an individual to reduce prejudices and conflicts between different groups. The more you see group-members as individuals, the less you tend to categorise people as members of a group, which might help reducing discrimination.

Different forms of discrimination exist:

- **Individual:** refers to when one person acts in a discriminatory way
- **Institutional:** refers to organisations and administrations which practice discrimination
- **Structural:** refers to rules, norms, routines, patterns of attitudes and behaviour in institutions and other societal structures
- **Discursive:** refers to all forms of attitudes, terms, metaphors and cultural language
- **Cultural:** images which discriminate against groups of people

Many discriminatory acts are not done on purpose, but unconsciously. Even when the discrimination is not intentional, it can cause harm. It is important to understand how discrimination works, how unconscious biases work as well, and how we can avoid this in counselling. As any other person, return counsellors might have internalised certain stereotypes and prejudices⁷⁸ through their education, personal network etc., which they may not be fully aware of (unconscious bias).

75 https://europa.eu/european-union/sites/default/files/docs/body/treaty_of_amsterdam_en.pdf

76 Originally: article 6 a: Without prejudice to the other provisions of this Treaty and within the limits of the powers conferred by it upon the Community, the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, may take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

77 Spivak, Gayatri Chakravorty: The Rani of Simur. An essay in reading the archives. In: History and Theory 24 (3). Blackwell Publishing for Wesleyan University. p 247-272 (1985)

78 One of the most impressive studies about how unconscious bias is learnt in early childhood is the "Black Doll, White Doll Experiment". The experiment was first conducted in 1950 and repeated many times afterwards. It shows how children at the age of nine already distinguish between white dolls, seen as good, beautiful, wealthy and therefore, valuable and black dolls seen as ugly, dirty, poor and bad. Both black and white children preferred playing with the white dolls.

How can we combat unconscious bias?

We can all contribute to combating unconscious bias. However, in order to avoid subconsciously discriminating against people, it is crucial to confront our own biases. The first step is to be aware of unconscious bias and implicit associations.

- Always ask yourself: Is my opinion factually true? What evidence do I have?
- Take your time to make decisions, especially if you are in a role that impacts colleagues or others.
- Discuss your thoughts with a diverse group of people and seek information from a range of sources.
- Evaluate what you say and ask yourself if you are being unintentionally biased towards someone, for example when giving feedback to your colleagues. It is always better to reflect on the prejudices you may have together with other people, as it might be difficult to detect them on your own.
- Look at statistics before you judge. Tracking and analysis can help you to identify emerging forms of bias to be aware of, so you can adjust your own techniques and approaches.



Self – study exercise 14

Please reflect on the following questions:

1. What kind of prejudices might clients experience in the context of return counselling?

2. Try to identify some of your own prejudices thinking about situations where you were aware of your own prejudices. When self-reflecting following the reading above, how does that make you feel and how would you have handled differently?

Terms and definitions used in this manual

Application for international protection: according to article 2(b) of the Asylum Procedure Directive ‘application for international protection’ or ‘application’ means a request made by a third-country national or a stateless person for protection from a Member State, who can be understood to seek refugee status or subsidiary protection status, and who does not explicitly request another kind of protection outside the scope of Directive 2011/95/EU, that can be applied for separately’. According to article 2(c) of the Asylum Procedure Directive ‘applicant’ means a third-country national or stateless person who has made an application for international protection in respect of which a final decision has not yet been taken.

Asylum seeker: An individual who is seeking international protection. In countries with individualized procedures, an asylum seeker is someone whose claim has not yet been finally decided on by the country in which he or she has submitted it. Not every asylum seeker will ultimately be recognized as a refugee, but every refugee is initially an asylum seeker.

Charter of Fundamental Rights of the European Union⁷⁹: a single document, which brings together all the personal, civic, political, economic and social rights enjoyed by people within the EU. The charter has become legally binding on the EU with the entry into force of the Treaty of Lisbon, in December 2009.

Closed reception facility: a specialised facility used for detention of a third-country national who is the subject of return procedures, be it the return preparation and/or the removal process (based on EMN Glossary).

Counselling: a learning-oriented process, carried on in a simple, one-to-one social environment, in which a counsellor, professionally competent in relevant psychological skills and knowledge, seeks to assist the client, by methods appropriate to the latter’s needs and within the context of the total personnel program, to learn more about himself and to accept himself, to learn how to put such understanding into effect in relation to more clearly perceived, realistically defined goals to the end that the client may become a happier and more productive member of his society.”⁸⁰

Cultural mediator vs. interpreter: In the migration context, a cultural mediator is a professional who facilitates the communication (including interpretation) between people speaking different languages and with different cultural backgrounds (EMN Glossary). An interpreter is a professional who must have a perfect understanding of both the passive and active languages they are working from/with (European Parliament – Profile of the Interpreter). Hence, the key difference between an **interpreter** and a **cultural mediator** is that an **interpreter** passively conveys the

⁷⁹ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12012P/TXT&from=EN>

⁸⁰ Gustad, J. W. (1953). *The definition of counseling*. In R. F. Berdie (Ed.), *Roles and relationships in counseling* (p. 3–19). University of Minnesota Press accessible at <https://psycnet.apa.org/record/1954-04285-001> (30/3/2021)

messages from one language to another, whereas a **cultural mediator** can work to “shape” the exchanges between two parties.

Dublin procedure: the process of establishing which the EU Member State is responsible for examining an application for international protection lodged in one of the EU Member States by a third-country national under Regulation (EU) No 604/2013 (Dublin III Regulation).

European Border and Coast Guard Agency: Frontex, the European Border and Coast Guard Agency, is an European Agency that supports EU Member States and Schengen Associated Countries in the management of EU’s external borders and in fighting cross-border crime.

European Convention on Human Rights: The European Convention on Human Rights⁸¹ is the first instrument to give effect to certain of the rights stated in the Universal Declaration of Human Rights and make them binding. Since its adoption in 1950 the Convention has been amended a number of times and supplemented with many rights in addition to those set forth in the original text.

Fit to fly: the term refers to those patients who, despite suffering an injury or illness, they are in a favorable condition for travelling by plane to their countries of origin.

Forced return: compulsory return of an individual to the country of origin, transit or third country (i.e. country of origin), on the basis of an administrative or judicial act (EMN Glossary).

Human smuggling: Human smuggling, or the smuggling of migrants, is securing or aiding the illegal entry of a person into a state in which they are not a national or permanent resident, for financial or other material benefit.

Human trafficking / Trafficking in Human Beings: “(...) the recruitment, transportation, transfer, harboring 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.

Individual assistance plan (IAP): It is a written agreement jointly developed by the responsible stakeholders and the assisted trafficked person where goals, activities and services – tailored to the individual’s needs – are clearly defined.

Informed consent: Any free, voluntary permission or approval to something proposed or requested based on full exposure of all facts to make fully informed decisions, including awareness of any risks involved (to the extent they can be known) and any available options. Information sharing is an essential component of “informed consent”.

81 Accessed at the website of the European Court of Human Rights at: <https://www.echr.coe.int/Pages/home.aspx?p=basic-texts&c>

Irregular migrant: a third-country national present on the territory of a Schengen State who does not fulfil, or no longer fulfils, the conditions of entry as set out in the Regulation (EU) 2016/399 (Schengen Borders Code) or other conditions for entry, stay or residence in that EU Member State (EMN Glossary).

International protection: refugee status and subsidiary protection status as defined in points (j) and (k) of art. 2 of the Directive⁸² on common procedures for granting and withdrawing international protection (recast)

Legal guardian: the person appointed to minors (who lack parental care) and who serves as a key procedural safeguard to ensure respect for their best interests.

Legal stay: the presence, on the territory of an EU Member State, of a third-country national who does fulfil the conditions of entry as set out in Art. 5 of the Regulation (EU) 2016/399 (Schengen Borders Code) or other conditions for entry, stay or residence in that EU Member State (based on EMN Glossary).

National referral mechanism (NRM): “A co-operative framework through which state actors fulfill their obligations to protect and promote the human rights of trafficked persons, coordinating their efforts in a strategic partnership with civil society. The basic aims of an NRM are to ensure that the human rights of trafficked persons are respected and provide an effective way to refer them to services. In addition, NRMs can work to help to improve national policy and procedures on a broad range of trafficking-related issues such as residence and return regulations, compensation, and witness protection. NRMs can establish national plans of action, standard operating procedures and can set benchmarks to assess whether goals are being met. The structure of an NRM will vary in each country; however, NRMs should be designed to formalize co-operation among government agencies and non- governmental groups dealing with trafficked persons.”

Non-refoulement: The principle of *non-refoulement* is a core principle of international refugee law and international human rights law. It prohibits states from expelling or returning (*refouler*) a refugee to a place where his/her life or freedom is threatened on account of his/her race, religion, nationality, membership of a particular social group or political opinion. This principle is clearly expressed by Article 33 of the 1951 Convention relating to the Status of Refugees. Human rights norms provide additional protection from *refoulement* to all migrants including with regard to situations where there is a substantial risk of torture or cruel, inhumane or degrading treatment. The principle of *non-refoulement* is widely recognised as a rule of customary international law and is therefore binding on all states, whether or not they are parties to the 1951 Convention and relevant international human rights instruments.

82 Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast). Available in English at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32011L0095&qid=16502989099096-from=EN>

Open reception facilities: all forms of premises used for accommodation of applicants for international protection and other categories of migrants and refugees (based on EMN Glossary).

Pre-departure counselling: counselling provided prior to departure of a migrant to the country of origin, preparing the migrant for their departure and reintegration.

Reasonable grounds to believe: Decision made by the competent authority, usually designated under the national NRM, on the basis of having identified signs that a person may be trafficked, made on the level of balance of probabilities.

Recovery and reflection period: A sound period of time to allow the person about whom reasonable grounds exist that he/she has been trafficked to recover, escape the influence of traffickers/exploiters and take an informed decision about her/his future in full compliance with the respect of the human rights regulations. No expulsion order should be enforced against the trafficked person during this period. The length of the reflection period varies from country to country and is subject to definition by national legislation. It should at minimum be 30 days.

Re-entry ban: an administrative or judicial decision or act prohibiting entry into and stay in the territory of the EU Member States for a specified period, accompanying a return decision (EMN Glossary).

Referral: the procedure following counselling in which a person can be referred – with his/her agreement – to one of a number of processes and procedures to meet any immediate needs, and/or for further consideration of his/her situation (based on UNHCR material⁸³)

Refugee status: recognition of a third-country national or stateless person as a refugee by an EU Member State, according to the Geneva Convention of 1951 and 1967 Protocol and the Qualification Directive

Reintegration: re-inclusion or re-incorporation of a person into a group or a process, e.g. of a migrant into the society of their country of origin (EMN Glossary).

Rejected applicant for international protection (asylum seeker): a person covered by a first instance decision rejecting an application for international protection, including decisions considering applications as inadmissible or as unfounded, as well as decisions under priority and accelerated procedures, taken by administrative or judicial bodies during the reference period (EMN Glossary).

Return counsellor/ Return counselling: Return counselling is an approach through which migrants engage in a discussion with a return counsellor about returning to their country of origin, and if and when they make the decision to return, they receive help to arrange their return. Return counsellor is the coordinator for the entire return process. The aim of return counselling is to help migrants take an informed decision about return, it also supports implementation of migration policies by encouraging voluntary return and ensuring compliance with return procedures.

83 UNHCR, chapter 5, Mechanisms for profiling and referral. Accessed at: <https://www.unhcr.org/50a4c1209.pdf>

Return Decision: an administrative or judicial decision or act, stating or declaring the stay of a third-country national to be illegal and imposing or stating an obligation to return (EMN Glossary).

Return Directive: the Directive⁸⁴ on common standards and procedures in Member States for returning illegally staying third country nationals

Return Handbook: a legal document to be used by the Member States as the main tool for performing return-related tasks and for training purposes⁸⁵.

Returnee: the term returnee is used for the foreign nationals in general, or victims of trafficking from the country in which they were identified as trafficked persons to their country of origin. The process can be voluntary, forced and assisted or, alternatively, forced and not assisted

Schengen (agreement): an agreement between some EU Member States and some neighbouring non-Member States to gradually remove controls at their common borders and introduce freedom of movement for all nationals of the signatory Member States, other EU Member States or third countries (EMN Glossary).

Subsidiary protection status: the recognition by a Member State of a third-country national or a stateless person as a person eligible for subsidiary protection; According to Article 2(f) of the Qualification Directive, a person qualifies for subsidiary protection if there are substantial grounds for believing that he or she, if returned to his/her country of origin, would face a real risk of suffering serious harm

Trafficker: A person committing or being complicit in or directing another person to commit the trafficking of another human being (or human beings) for any form of exploitation.

Transit country: The country a migrant travels through to reach his/her final destination.

Unaccompanied and separated child (or unaccompanied minor): A child who is separated from both parents and other relatives and is not being cared for by an adult who, by law or custom, is responsible for doing so.

United Nations Convention on the Rights of the Child: a legally-binding international agreement, consisting of 54 articles, setting out the civil, political, economic, social and cultural rights of every child, regardless of their race, religion or abilities.

Victim of trafficking/trafficked person: A person who has been subjected to the crime of trafficking in human beings about whom reasonable grounds to believe that he/she has been trafficked exist. The terms 'victim of trafficking' and 'trafficked person' refer to persons who qualify as victims of trafficking in accordance with the UN Trafficking Protocol (Art. 3) and/or relevant national leg-

84 2008/115/EC of the European Parliament and of the Council of 16 December 2008

85 Return Handbook: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017H2338&from=EN>

isolation. The term 'trafficked person' is used to acknowledge that person's trafficking experience as central and in need of redress. For many people, the term 'victim' implies powerlessness and constructs identity around the individual's victimization. However, from a human rights perspective, the term 'victim' is important as it designates the violation experienced and the responsibility for redress.

Voluntary return: the assisted or independent return to the country of origin, transit or third country, based on the free will of the returnee (based on IOM Glossary on Migration, 2nd ed., 2011).

Vulnerable categories of people per se: minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, victims of human trafficking, persons with serious illnesses, persons with mental disorders and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, such as e.g. victims of female genital mutilation.

Vulnerable person to trafficking and exploitation: A person whose likelihood that trafficking will take place, owing to his/her personal traits/characteristics/conditions, which interact with contextual and situational factors placed on a development continuum in specific ways, is high.

Order to leave the Schengen area: a return decision.

