





Border & Migration Police in Support of Victims of Trafficking and Potential Victims of Trafficking



Manual on the Implementation of
Standard Operating Procedures for the
Identification and Referral of Victims of
Trafficking and Potential Victims of
Trafficking



FOREWORD

In July 2011, the Government of Albania approved an important document in the fight against trafficking in human beings, "Standard Operation Procedures for the identification and referral of victims and potential victims of trafficking (SOP)."

Pursuant to the implementation of obligations deriving from this important instrument for the identification and protection of victims of trafficking, the Office of the National Anti-Trafficking Coordinator (ONATC), and the International Organization for Migration (IOM), through consultant Ms. Valbona Lenja, in the context of the project funded by USAID "Strengthening Albanian Anti-Trafficking Capacities," have undertaken the publication of a series of eight brochures, with this one being one of them.

Each of the brochures seeks to help a certain group of professionals to take advantage of the possibilities offered by the SOPs and use their skills and experience to create, together, an environment where the law is implemented and the rights of victims of trafficking are respected.

Contribution to the preparation of the brochures included that by specialists from different and indispensable areas for the system of the identification and protection of victims of trafficking.

Mr. Genc Merepeza, Chief of the Green Border Sector, Directory of Operational Services, Department of Border and Migration, GDSP, contributed to drafting this brochure.

Supported by the USAID-funded project "Strengthening Albanian Anti-Trafficking Capacities," implemented by IOM.

NOTE

The views of the author expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the U.S. Government and/or the International Organization for Migration (IOM).

What is Trafficking in Persons?

Trafficking in persons shall mean, "The recruitment, transportation, transfer, harboring or receipt of 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. Exploitation shall include the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs¹"

Considering the above definition, the trafficking of persons has the following key elements:

- 1. Activity recruitment, transportation, transfer, harboring and receipt of persons;
- 2. *Methods* threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power or of a position of vulnerability, or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person;
- 3. Purpose exploitation of a person according to the ways listed in article 110/a of the Penal Code or Article 3 of the Palermo Protocol.²

What is a Victim of Trafficking?

According to letter "e" of article 4 of law no. 9642, dated 20.11.2006 "On the ratification of the Council of Europe Convention "On measures

against trafficking in human beings," a Victim of Trafficking in human beings is the person who is the target of trafficking in human beings.

Note!

The determination that a person is "a potential victim of trafficking (PVT)" does not in any way mean that the person was not trafficked; the determination shall only mean that the person has not been identified as a "victim of trafficking (VT)" by the group/structure responsible for formal identification at the border and in the territory (G/SRFI).

In spite of these categorizations, all persons whether they have been identified as potential victims by the institutions that conduct initial identification or identified as victims of trafficking by the responsible structure for formal identification, shall be ensured immediate access to necessary assistance.

Why is it Important to Identify Victims of Trafficking?

The trafficking in persons is an extreme violation of human rights. As such, any failure to discover the committed crime and to identify the victims of trafficking creates the environment necessary for the continuation of the crime and other crimes and the denial of victims' access to justice. All anti-trafficking actors in Albania and in the world attach special significance to the correct and speedy identification of victims of trafficking because victims of trafficking:

• need specialized assistance and protection;

 $^{1\,}$ Law no. 9188, dated 12.2.2004, "On some additions and amendments to Law no. 7895, dated 27.1.1995 'Penal Code of Albania,' amended, article 110/a.

² IOM Manual on direct assistance for victims of trafficking. IOM, 2007

- most probably have acute physical and mental health problems that illegal emigrants or smuggled persons do not have:
- have suffered severe and serious crimes and most are likely to be currently in danger;
- need special measures necessary to manage risk both to them and to assistance personnel of organizations helping them

Note!

Only correct identification gives victims of trafficking the possibility to benefit from the below services in accordance with Albanian legislation

- Victims of trafficking in an assistance program may receive free legal assistance³.
- Victims of trafficking may be involved in the witness or collaborator of justice protection program⁴.
- Foreign victims of trafficking are given special type "C" work permits for business purposes, employment, self-employment, or vocational training⁵.
- Victims of trafficking are included among beneficiaries of economic assistance upon exit from social care institutions until their employment⁶.
- Potential victims/ victims of trafficking may be accommodated in special residential centers.

Difference between Trafficking and related crimes

Problems most encountered in the identification of victims of trafficking that should be avoided is the failure to differentiate between trafficking and the exercise and/or exploitation of prostitution, or assistance to illegal border crossing (smuggling)⁷.

Trafficking is enslavement. Trafficking refers to all actions that consist in harboring and using an individual for forced services. The essence of trafficking is the forms of enslavement and not the elements of recruitment, movement, hiding, transfer (i.e. elements of movement). All persons involved in the recruitment, transportation, harboring, receipt, or keeping of the person in an enslaving situation are involved in trafficking. If a person is kept in prostitution through psychological manipulation, physical force, deceit...; he/she is a victim of trafficking. When a person is forced, violated or deceived, or is kept forcefully in prostitution, this person is a victim of trafficking, even if the person initially entered into prostitution upon his/her free will.

The following table outlines a summary of elements that make the difference between these criminal offences.⁸

Trafficking in persons	Assistance for illegal border crossing Article 298 of the PC
Crime against the person.	Crime against the state.
Conducted, among others, also through crossborder	Conducted only through crossborder transportation.
transportation.	-

⁷ Precisely difference between articles 110a and 114a, 298 of the Penal Code of Republic of Albania.

³ Law No. 10039, dated 22.12. 2008 "On legal aid," Article 13: "Persons entitled to legal aid"

⁴ Law No. 10173, dated 22.10.2009, "On the protection of witnesses and collaborators of justice"

⁵ Law No. 9959, dated 17.7.2008 "On foreigners," Article 60.

⁶ Law No. 10252, dated 11.03.2010, "On some additions to Law No. 9355, dated 10.03.2005 "On social aid and services." Article 1

⁸ ICMPD. Guidelines for the Development and Implementation of a Comprehensive National Anti trafficking Response. ICMPD, 2006.

Continued exploitation of the victim.	Ensuring profits in exchange for ensuring illegal entry into another country
Exploitation relationship continues to maximize profits.	Upon entrance of the illegal emigrant into the desired country, the relationship smuggler – smuggled person ends.
Conducted without the consent/approval of the victim. Conducted to protect human rights.	Conducted with the free will of the smuggled person Conducted to protect the integrity of state borders.

Victim of Trafficking Person	Person Exercising Prostitution
The person (female, male, minor or adult) conducts, among others, sexual relations for payment, obliged by force, held by force, coerced or deceived, not upon free will or choice. Pushing the person may include physical or	The person (adult female and male) conducts sexual relations
psychological elements.	

GENERAL ETHICAL AND SAFETY PRINCIPLES IN RELATIONS WITH VICTIMS OF TRAFFICKING

According to Guidelines of the United Nations High Commissioner for Human Rights and Trafficking in Human Beings "The rights of trafficked persons should be at the center of all efforts to prevent and combat trafficking, to protect, assist and compensate victims."

The following ethical and safety principles in relation to victims

of trafficking, integrated into the SOPs, are:

For trafficked girls and women 10:

- **-Do no harm:** treat each woman and the situation as if the potential for harm is extreme until there is evidence to the contrary. Do not undertake any interview that will make a woman's situation worse in the short term or longer term.
- **-Know your subject and assess the risks:** learn the risks associated with trafficking and each woman's case before undertaking an interview.
- **-Prepare referral information do not make promises that you cannot fulfill:** be prepared to provide information in a woman's native language and the local language about appropriate legal, health, shelter, social support and security services, and to help with referral if requested.
- Adequately select and prepare interpreters and co-workers: weigh the risks and benefits associated with employing interpreters, co-workers, or others, and develop adequate methods for screening and training.
- **Ensure anonymity and confidentiality:** protect a respondent's identity and confidentiality throughout the entire interview process from the moment she is contacted through the time the details of her case are made public.
- **-Get informed consent:** make certain that each respondent clearly understands the content and purpose of the interview, the intended use of the information and

⁹ In the case of minors, this definition is not applicable. A minor engaged in paid sexual relations is a victim of trafficking.

¹⁰ Source: World Health Organization

her right not to answer questions, her right to terminate the interview at any time, and her right to put restrictions on how the information is used.

-Listen to and respect each woman's assessment of her situation and risks to her safety: recognize that each woman will have different concerns, and that the way she views her concerns may be different from how others might assess them.

Do not re-traumatize a woman: do not ask questions intended to provoke an emotionally charged response. Be prepared to respond to a woman's distress and highlight her strengths.

Be prepared for emergency intervention: be prepared to respond if a woman says she is in imminent danger.

For trafficked children

The rights of children envisioned in the Convention for the Rights of the Child represent the principles for all actions with trafficked children. Below are some of them considered key:

- -Recognize and protect the best interests of the child: in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities, or legislative bodies, the best interests of the child shall be a primary consideration."
- **Do not discriminate children:** respect and ensure the rights set forth in the present Convention to each child without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's,

race, color, sex, language, religion, political or other opinion, national, ethnic, or social origin, property, disability, birth or other status.¹².

- Recognize and respect the right of the child to be heard and considered in all matters related to the child: assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.¹³

Respect the right of the child to privacy: no child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, or correspondence, nor to unlawful attacks on his or her honor and reputation.¹⁴

DESIGN OF THE IDENTIFICATION SYSTEM FOR VICTIMS OF TRAFFICKING IN ALBANIA

Standard operating procedures divide the identification at the border and in the territory of the RoA into two main moments: into initial identification and the formal identification. The structures that conduct the initial identification vary. The purpose and structures are outlined in the following table:

¹¹ Article 3.1, Convention on Rights of the Child.

¹² Article 2 Convention on Rights of the Child.

¹³ Article 12 Convention on Rights of the Child.

¹⁴ Article 16 Convention on Rights of the Child.

Initial Identification¹⁵

Definition of initial identification at the border and in the	Structures Responsible for initial identification	
territory	In territory	At border
The initial identification of victims of trafficking is the entirety of actions undertaken by state and non-state institutions at the border and in the territory of the RoA that makes it possible to determine that a person, minor or adult, is a potential victim of trafficking in human beings. These actions shall include at least: 1. Assessment of the situation of persons against trafficking indicators 2. Collection and analysis of initial information about the person's trafficking process 3. Informing the person about his/her rights and assistance available to victims of trafficking and potential victims of trafficking and ways to access assistance 4. Providing first aid to bring the person out of the exploitation network and his/her speedy rehabilitation in a safe environment 5. Notifying the Group/Structure Responsible for Formal Identification (G/SRFI) and 6. Cooperation and coordination to ensure the rehabilitation and reintegration of trafficked persons.	structures, y Social care centers for persons in need, y Shelters for victims of trafficking,	Border and Migration Police

Formal Identification

Formal identification of victims of trafficking at the border and in the territory of the RoA is the identification of a person as a victim of trafficking conducted only by the Group /

Structure Responsible for Formal Identification (G/SRFI) according to the formal interview format included in the SOP document.

Formal identification should achieve at least:

- 1. The determination whether the person is a victim of trafficking, through the collection and analysis of information provided by the person himself/herself,
- 2. Enhanced assessment of the victim of trafficking person's need for assistance and protection;
- 3. Provision of instructions and ensuring the trafficked person's access to appropriate and safe assistance,
- 4. Collection of information and initiation of investigations for the penalization of traffickers.

The formal interview and all actions to determine the status of the person vis-à-vis trafficking shall be conducted at the earliest opportunity upon identification of the person as a potential victim of trafficking in human beings. The formal interview shall be conducted separately from the report of the offence. Even if the person wishes to report the offence, the formal interview shall in no case be interrupted in order to obtain a report of the offence; another time shall be scheduled for that purpose. The formal interview shall be conducted in every case in the premises of the SFAIT, and all necessary arrangements for the formal interview, including the notification of the state social worker, shall be the responsibility of the SFAIT police officer.

What are the Specific Duties of Border and Migration Police Officers Pursuant to SOPs?

SOPs contain specific duties for border and migration police officers, for the identification, referral, and rehabilitating, integrating, or reintegrating assistance for victims/ potential victims of trafficking, whether minor or adult, Albanian or foreign citizens.

Below is a table of main duties of border and migration police officers:





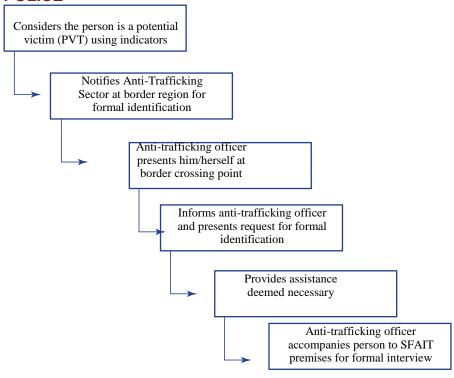
Primary Role Monitoring Role



Trinary Role - Monating Role Support Role					
Structures		Duties of Border & Migration Police Officers			
they operate in		Identification and initial		Rehabilitatio n/	
			initial	formal	Reintegration
olice	of nal s	Green Border Services Sector			
of State Policy Sorder and On Directory of Operational Services	Directory of Operational Services	Blue Border Services Sector			
ectory of sent on Bo Migration		Investig ation			
General Directory of State Police Department on Border and Migration Directory of Directory of	ry of on & sions	Migratio n Sector			
	Directory of Migration & Readmissions	Readmission and Return Sector			
Green Border Crossing Blue Bord		rder			
B Reg		ue Border ssing Point			

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SCHEME OF ACTIONS BY BORDER & MIGRATION **POLICE**



Beware!

In order to conduct a correct identification and referral, Border & Migration Police officers should:

Use indicators made available in SOP document:

SOPs require that initial identification at the border is done through normal interviews referring to indicators provided in the document.

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Primary and secondary indicators made available in SOPs for initial identification of minors and adults at the border are:

Target age-	Primary	Secondary
For minors	 Minor informs to have been misused, abused, threatened, coerced, exploited and is happy to have come into contact with authorities, and gives indications of seeking assistance; Minor is accompanied by an adult known for trafficking adults and minors; Minor states to have worked or intends to do a job inappropriate for his/her age; Minor has fake documents; 	 Minor is afraid or unhappy to have come into contact with authorities, remains distant and refuses to speak or is afraid to speak with a person of the law; Minor appears neglected; Minor is malnourished, dressed inappropriately for the age or weather; Minor displays self-confidence and maturity unusual for his/her age; Minor declares that he/she secured

Target age- group	Primary	Secondary
For adults	 Parents have no knowledge of minor crossing the border illegally; Minor displays visible signs of violence and exploitation; Minor is unaccompanied and absence of parent's authorization to travel can't be explained only by parent's negligence; Minor does not have a passport or ID and appears unregistered (never had a document); 	the travel document and visa from family members; The minor carries cash or items for which he/she has no convincing explanation; The minor is accompanied by an unfamiliar adult that insists on being with the minor at all times.

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was maltreated, abused, threatened, violated, exploited, gives signs of being happy to be in contact with authorities and indicates that he/she seeks help; • There is information that

• The person informs he/she

- There is information that the person had been a victim of trafficking before:
- The person has visible signs of physical or psychological violence;
- The person is in the company of another person on whom there is information that he/she is a trafficker of humans;
- The person doesn't have identification or travel documents with him/her; someone else with no family or stable friendship relations with him/her carries the documents of the person traveling illegally;
 The person has no

financial means to afford the travel to destination

and will pay back borrowed money by working after arrival in

destination:

- The person who was promised work, school, marriage, etc., doesn't know to tell the circumstances;
- The person is afraid or unhappy to be in contact with authorities;
- The person declared he/she has no contact with his/her family;
- The person appears malnourished;
- The person is inappropriately dressed for the weather;

Note!

SOPs draw attention to the fact that all state and nonstate institutions responsible for initial identification of victims of trafficking should not consider these indicators an exhaustive list of the appearance of trafficking and its consequences, but rather use their professional judgment and continuously update their knowledge on any display or trafficking and its effects on persons in the communities they work in.

• Demonstrate sensibility to the attitudes of victim of trafficking to identification and offers for assistance.

You should be aware that minor victims of trafficking would very rarely wish to be identified as victims of trafficking because:

- They think they are helping their family and not being exploited;
- They are afraid their parents may be punished;
- They don't know what trafficking is or that their experience was trafficking and they don't know they are entitled to assistance;
- They are afraid of revenge on them, their siblings, and parent;
- They fear that by being identified, their situation might get worse.

You should be aware that in some cases, offers for help may not be welcomed by minor victims of trafficking. In many cases, they have not had experience of being given unconditioned help and therefore may not trust you either. The child may not be in a psychological condition to understand and accept assistance.

• Follow steps according to SOPs:

Steps for initial identification for foreign and Albanian minors at the border:

- 1. If in first contact with the minor, the RDBM officer/ shift BCP interviewer finds indicators of trafficking from the list of indicators (see above), he/she takes the minor to the appropriate premises for interviewing;
- **2.** The RDBM officer ensures that the minor's basic needs are met (food, water, bathroom, heat, physical security);

If he/she finds that the minor needs immediate medical assistance, the RDBM officer takes him/her immediately to the nearest health center.

If the minor is foreign, the RDBM officer seeks the presence of an interpreter from the approved list of interpreters and signs with him/her the Confidentiality Agreement.

- 3. The RDBM officer interviews the minor and makes the first assessment of the minor's needs, including risk assessment if there is such, from the minor's family members or others;
- **4.** If he/she finds that the minor is a potential victim of trafficking (PVT), the RDBM officer immediately notifies the SFAIT police officer;

If he/she finds that the minor is not a PVT but still a minor in need of assistance and protection, the RDBM officer notifies immediately the shift supervisor and together notify the RA head and consult with him/her about further steps to be followed

At border crossing points that have a social worker's support, this social worker will help refer the minor in need for assistance to the necessary services

- 5. The RDBM officer informs the SFAIT officer about the data collected on the minor's trafficking, involvement or not of the family in potential trafficking, and encountered needs of the minor PVT for assistance and protection;
- **6.** The RDBM officer enters information on TIMS:
- 7. If the minor is foreign, the RDBM officer enters information on the national register for foreigners and reflects it in the daily work log.

Steps for initial identification for foreign and Albanian adults at the border:

- 1. If in first contact with the person, the RDBM officer/ shift BCP interviewer finds indicators of trafficking from the list of indicators (see above), he/she takes the person to the appropriate premises for interviewing;
- **2.** The RDBM officer ensures that the person's basic needs are met (food, water, bathroom, heat, physical security;

If he/she finds that the person needs immediate medical assistance, the RDBM officer takes him/her immediately to the nearest health center.

If the person is foreign, the RDBM officer seeks the presence of an interpreter from the approved list of interpreters and signs with him/her the Confidentiality Agreement

- **3.** The RDBM officer interviews the person and makes the first assessment of the person's needs and assessment of risk, if there is one, from other persons;
- **4.** If he/she finds that the person is a potential victim of trafficking (PVT), the RDBM officer notifies immediately the SFAIT police officer:
- **5.** The RDBM officer informs the SFAIT police officer on data collected on the person's trafficking and the encountered needs of the PVT for assistance and protection;
- **6.** The RDBM officer enters information on TIMS:
- **7.** If the person is foreign, the RDBM officer enters information into the national register for foreigners and reflects it in the daily work log.
- Document process according to SOPs:

Main documents to be filled out to document the process and ensure the minor or adult is identified and referred correctly:

- Confidentiality agreement with the interpreter (in case the minor or adult is foreign);
- Written request to SFAIT for immediate intervention;
- Daily work log;
- Note in national register for foreigner;
- Data entered into TIMS.

Aside from filling out these documents in all cases, the Border and Migration officers at the border crossing point should always have the following updated:

- 1. a list of contacts of SFAIT police officers, and
- **2.** an official list of interpreters.

SOPs contain formats of some of the documents listed above. In reproducing and filling out formats, the BMP officers should take care to ensure the reproduction includes all sections and provide all information required by standard formats.

Duties for rehabilitation, integration, and return

One of the components of rehabilitating and reintegrating assistance for victims of trafficking that may be realized only through Border and Migration Police structures is the issuance of the residence permit and its extension.

Border and Migration Police officers should know and use the assistance that victims/potential victims may receive through other structures outside State Police.

ATTACHMENTS

Annex 9.1 CONFIDENTIALITY AGREEMENT (for interpreters)

(for interpreters)
I the undersigned (Name, family name), identification document no, interpreter for the, undertake to interpret correctly and without bias, the communication between the interviewee and interviewers,
I declare with responsibility that, in accordance with obligations outlined in law no. 9887, dated 10.03.2008 "On the protection of personal data," I shall not disseminate in any type of form the information of which I become aware during the conduct of this service.
Name, family name, and signature
Date

Annex 9.13 REQUEST FOR IMMEDIATE INTERVENTION BY THE SFATP

Date:

Subject of request:

- 1. Name and job description of the agency/institution making the request:
- 2. Description of the circumstances in which the agency came into contact or established contact with the presumed victim of trafficking:
- 3. Data available to the agency on the person deemed a presumed victim:

Name, Family Name:

Age:

Residence:

Location:

If a child, names of parents:

If a child, name of the legal custodian if it is not the parent:

- 4. Description of the circumstances that led the agency to think the person is a presumed victim of trafficking:
- 5. Description of efforts made by the agency/institution to save or assist the presumed victim:
- 6. Recommendations issued by the agency/institution on the SFATP police intervention:
- 7. Name, family name, and contact information for the employee of the agency/institution, which may be contacted by SFATP police officers for further information:

Annex 9.7

STATEMENT OF TAKING THE CHILD INTO CARE

STATEMENT OF TAKING THE CHIED INTO CARE					
By the Family					
I (name, family name), born on (date), in (city and country), with identification document, number, parent/legal custodian of the child; name, family name born on					
declare today, on					
Name, family name, signature of parent/legal custodian:					
Name, family name of the employee giving the child into care					

Annex 9.8 STATEMENT OF TAKING CHILD INTO CARE By care institutions

by care institutions
I (name, family name), born on (date), in
(city and country), identification document
employee of the institution with the
title declare today, on (date) that I take the child
named, place of birth
whose parent/ legal custodian is
and, identification number in
the institution
Name, family name, signature
Name, family name, signature of child
Name, family name, signature of parent/legal custodian allowing the institution to take care of the child
Name, family name, signature of those present
Function
Name, family name, signature of interpreter, if any

List of contacts

Structure	address	Contact person	Landline	Mobile phone
SFAIT				
SIAII				
INTERPRETER				
SOCIAL				
WORKER	_			
	MoI			
RESPONSIBL E AUTHORITY	MoI			
	MoI			
	MOLSAEO			
	MOLSAEO			
	MFA			
	MFA			

¹⁸ Format 9.8 in SOPs

^{*} PS. This table will be filled out by BMP officers working with interviewing citizens and initial identification of VT.

TABLE OF PROCESS SUCCESS MONITORING BY **RESPONSIBILITIES OF BORDER & MIGRATION POLICE**

Done by	Role in identificati	Success indicators	Monitored by
Interviewer at BCP. BMP officer at BCP	Monitor of initial identification Supporting communication with RA		Shift supervisor at BMPS Head of Investigation / Risk Analysis at RDBM. BMP Rep in RA of BMD
Interviewer at BCP. BMP officer at BCP	Institution of initial identificatio n	Number of minors identified and referred as potential victims of trafficking Number of minor potential victims of trafficking referred for formal interview	Head of Investigation / Risk Analysis at RDBM. BMP Rep in RA of BMD
Interviewer at BCP. BMP officer at BCP	Institution of initial identification	Number of adults identified and referred as potential victims of trafficking Number of adult potential victims of trafficking referred for formal interview	Head of Investigation / Risk Analysis at RDBM. BMP Rep in RA of BMD

Sample Diary of Border & Migration Police officers on duties regarding SOPs:

01110010	Identifying code ⁱⁱ	Action taken	Documentation	
Date ⁱ			information	
			on the case ^{iv}	Sent ^v
··	A.C. 001			
	A.L. 021			
L	I.	l .	I .	1

i Note date of initial identification.

ii Person's initials and number on TIMS for date of identification at BCP marked under identifying code.

iii Mark transferred to SFAIT.

iv Information prepared before hand v Information given to SFAIT.

