

REGULATIONS MADE IN TERMS OF

Combating of Trafficking in Persons   
Act 1 of 2018

section 27

Regulations under Combating of Trafficking in Persons Act

Government Notice 336 of 2019

(GG 7047)

came into force on date of publication: 14 November 2019

The Government Notice which publishes these regulations notes that they were made after consultation with the Minister responsible for home affairs and immigration and the Minister responsible for international relations, where the regulations relate to powers exercised or duties   
performed by these Ministers under the Immigration Control Act 7 of 1993.

ARRANGEMENT OF REGULATIONS

1. Definitions

2. Designation of state employed social workers to assess and determine persons as victims of trafficking

3. Reports of trafficking in person or suspected trafficking

4. Police assistance to victims of trafficking

5. Assessment and determination of persons as victims of trafficking

6. Revocation of determination as victim of trafficking

[The word “victim” is plural in the heading of regulation 6 in the text of the regulations.]

7. Provision of services to victims of trafficking

8. Assistance to foreign victims in obtaining visitors entry permits or temporary residence permits

[The heading of regulation 8 in the text of the regulations is “Assistance to foreign victims   
of trafficking in obtaining visitors entry permits or temporary residence permits”.]

9. Assistance to children who are victims of trafficking

Annexure: Forms

**Definitions**

**1.** In these regulations a word or an expression to which a meaning has been assigned in the Act has that meaning, and unless the context otherwise indicates -

“state employed designated social worker” means a state employed social worker designated in terms of section 12(6) of the Act; and

“the Act” means the Combating of Trafficking in Person Act, 2018 (Act No. 1 of 2018).

**Designation of state employed social workers to assess and determine persons as victims of trafficking**

**2.** The Minister may designate a state employed social worker under section 12(6) of the Act for the purpose of assessing and determining the status of persons as victims of trafficking -

(a) if the social worker is registered as a social worker in terms of the Social Work and Psychology Act, 2004 (Act No. 6 of 2004); and

(b) if the Minister is satisfied that the social worker has the capacity and skills to make the assessment and determination of persons as victims of trafficking.

**Reports of trafficking in person or suspected trafficking**

[The phrase “trafficking in person” should be “trafficking in persons”.]

**3.** (1) A police officer who -

(a) has information about trafficking of a person or who reasonably suspects that a person is being trafficked; or

(b) receives a report under section 12(1) of the Act and reasonably suspects that a person concerned is being trafficked,

must make a report to a state employed social worker no later than 24 hours of having the information about the trafficking or becoming aware of the suspected trafficking or of receipt of the report.

(2) A state employed social worker who receives a report -

(a) under section 12(1) of the Act must immediately notify a police officer to investigate the matter, if the report came from a person other than a police officer; and

(b) under section 12(1) or (2) of the Act, must not later than 24 hours of receipt of the report, notify a state employed designated social worker to assess and determine whether the person is a victim of trafficking as contemplated in section 12(4)(a) of the Act.

**Police assistance to victims of trafficking**

**4.** The police assistance contemplated in section 12(3)(a) of the Act includes providing a victim of trafficking with transport to a social worker, hospital, court or to any other place for purposes of protecting the victim or for an investigation for the purposes of the Act.

**Assessment and determination of persons as victims of trafficking**

**5.** (1) A state employed designated social worker must make an assessment and determination of whether a person is a victim of trafficking as contemplated in section 12(4)(a) of the Act -

(a) within 48 hours of receipt a report in terms of section 12(1) or (2) of the Act; and

(b) on a form substantially corresponding to Form 1.

(2) If the state employed designated social worker makes a determination that a person is a victim of trafficking as contemplated in section 12(4)(a) of the Act, the state employed designated social worker must issue the person with a document, set out in a form substantially corresponding to Form 2, indicating that the person is a victim of trafficking.

(3) If the state employed designated social worker makes a determination that the child is a victim of trafficking, the state employed designated social worker must, within 48 hours of making the determination, refer the child to a designated social worker for an investigation in terms of section 139 of the Child Care and Protection Act to determine whether the child is in need of protective services.

**Revocation of determination as victims of trafficking**

**6.** (1) Subject to subregulation (4), a state employed designated social worker may revoke a determination that a person is a victim of trafficking if -

(a) the determination was made on the basis of misleading, false or incorrect information; or

(b) there are reasons to believe that the determination was made incorrectly because of -

(i) any substantial fraud by a person in respect of a matter relating to the determination; or

(ii) an error of law or fact by the state employed designated social worker who made the determination.

(2) For purposes of revoking a determination that the person is a victim of trafficking, the state employed social worker must carry out a re-assessment of the determination and determine whether there are grounds for revoking the determination.

(3) Before a state employed social worker revoke the determination that the person is a victim of trafficking, the state employed social worker must give the person -

[The verb “revoke” should be “revokes” to be grammatically correct.]

(a) notice of the social worker’s intention to revoke the determination; and

(b) an opportunity to make any representation on the intended revocation of the determination within the period specified in the notice.

(4) A state employed designated social worker who made the determination under section 12(4)(a) of the Act may not be the same state employed designated social worker, under subregulation (2) to -

(a) carry out the re-assessment of the determination; and

(b) determine whether there are grounds for revoking the determination.

(5) If the state employed designated social worker -

(a) after the re-assessment of a determination in terms of subregulation (2) finds that there is a ground for the revocation of the determination; and

(b) revokes the determination,

the person to whom a document, set out on Form 2, indicating that the person is a victim of trafficking was issued must surrender the document to the state employed designated social worker.

(6) If the determination of a person as a victim of trafficking is revoked, the person may not make use of the document, set out on Form 2, issued to that person to acquire any assistance offered to victims of trafficking in terms of the Act or for any other reason.

(7) A person who contravenes subregulation (6) commits an offence and on conviction is liable to a fine not exceeding N$20 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

**Provision of services to victims of trafficking**

**7.** (1) A person may be designated under section 13(1) of the Act to provide services to victims of trafficking if that person -

(a) is a legal practitioner as defined in section 1 of the Legal Practitioners Act, 1995 (Act No. 15 of 1995) or a legal aid counsel referred to in section 3 of the Legal Aid Act, 1990 (Act No. 29 of 1990);

(b) is a medical practitioner as defined in section 1 of the Medical and Dental Act, 2004 (Act No. 10 of 2004) or a registered nurse as defined in section 1 of the Nursing Act, 2004 (Act No. 8 of 2004);

(c) is a social worker as defined in section 1 of the Social Work and Psychology Act, 2004 (Act No. 6 of 2004); or

(d) is a police officer.

(2) An organisation may be designated under section 13(1) of the Act to provide services to victims of trafficking if that organisation -

(a) is registered with the appropriate authority, in cases where registration is required;

(b) is a non-profit organisation in the form of a trust registered under the law relating to the registration of trusts or is a legal person; and

(c) in the opinion of the Minister, has the necessary staff capacity and expertise to provide the relevant services to victims of trafficking in terms of the Act.

(3) The referral of a victim of trafficking in person to a person or an organisation designated in terms of section 13 of the Act must be made on a form substantially corresponding to Form 3.

[The phrase “trafficking in person” should be “trafficking in persons”.]

**Assistance to foreign victims of trafficking in obtaining visitors entry permits and temporary residence permits**

**8.** (1) A police officer or a social worker contemplated in section 12 of the Act must assist a foreign victim of trafficking in obtaining a visitors entry permit in terms of section 14 of the Act.

(2) The Minister must assign a state employed social worker to assist the foreign victim in obtaining the temporary residence permit in terms of section 15(1) of the Act.

**Assistance to children who are victims of trafficking**

**9.** (1) Before a child who is a victim of trafficking is returned to the place from where the child is suspected to have been trafficked or to any other suitable place, including a place where the child’s parent or care-giver resides as contemplated in section 19(1) of the Act, the Minister must -

(a) ensure that the state employed social worker dealing with the matter of trafficking in person has requested the police officer investigating the matter to conduct an investigation into the question of whether the child will be safe at the place in question and the police officer must compile a report on the investigation and submit it to the Minister;

[The phrase “trafficking in person” should be “trafficking in persons”.]

(b) ensure that the police officer investigating the matter has carried out the investigation, with the co-operation of appropriate authorities, if the place in question is in another country;

(c) consider the report referred to in paragraph (a); and

(d) in the best interests of the child, determine whether an adult is required to escort the child and decide who should escort the child to the place.

(2) The Minister must, based on the report referred to in subregulation (1)(a), determine whether the child’s parent, guardian, care-giver or other person with parental responsibilities and rights in respect of the child has the financial means to pay for the travel of the child and the child’s escort.

[It appears that the reference to “the report referred to in subregulation (1)(a)”   
should have referred to “the report referred to in subregulation (3)”.]

(3) A state employed social worker dealing with the matter of trafficking in person must compile a report on whether the child’s parent, guardian, care-giver or other person with parental responsibilities and rights in respect of the child has the financial means to pay for the travel of the child and the child’s escort.

[The phrase “trafficking in person” should be “trafficking in persons”.]

(4) If the Minister -

(a) authorises under section 19(1) of the Act that an adult must escort a child at State expense; or

(b) determines under subregulation (2) that the child’s parent, guardian, care-giver or other person with parental responsibilities and rights in respect of the child does not have the financial means to pay for the travel of the child,

the travel expenses of the child and the adult escorting the child must be paid out of the budget of the Ministry responsible for gender equality and child welfare.

(5) If the child who is the victim of trafficking is returned to Namibia in terms of section 18 of the Act, the state employed social worker dealing with the matter of trafficking in person must provide the appropriate on-going monitoring and services to the child and the family of the child in order to safeguard the well-being and safety of the child.

[The phrase “trafficking in person” should be “trafficking in persons”.]

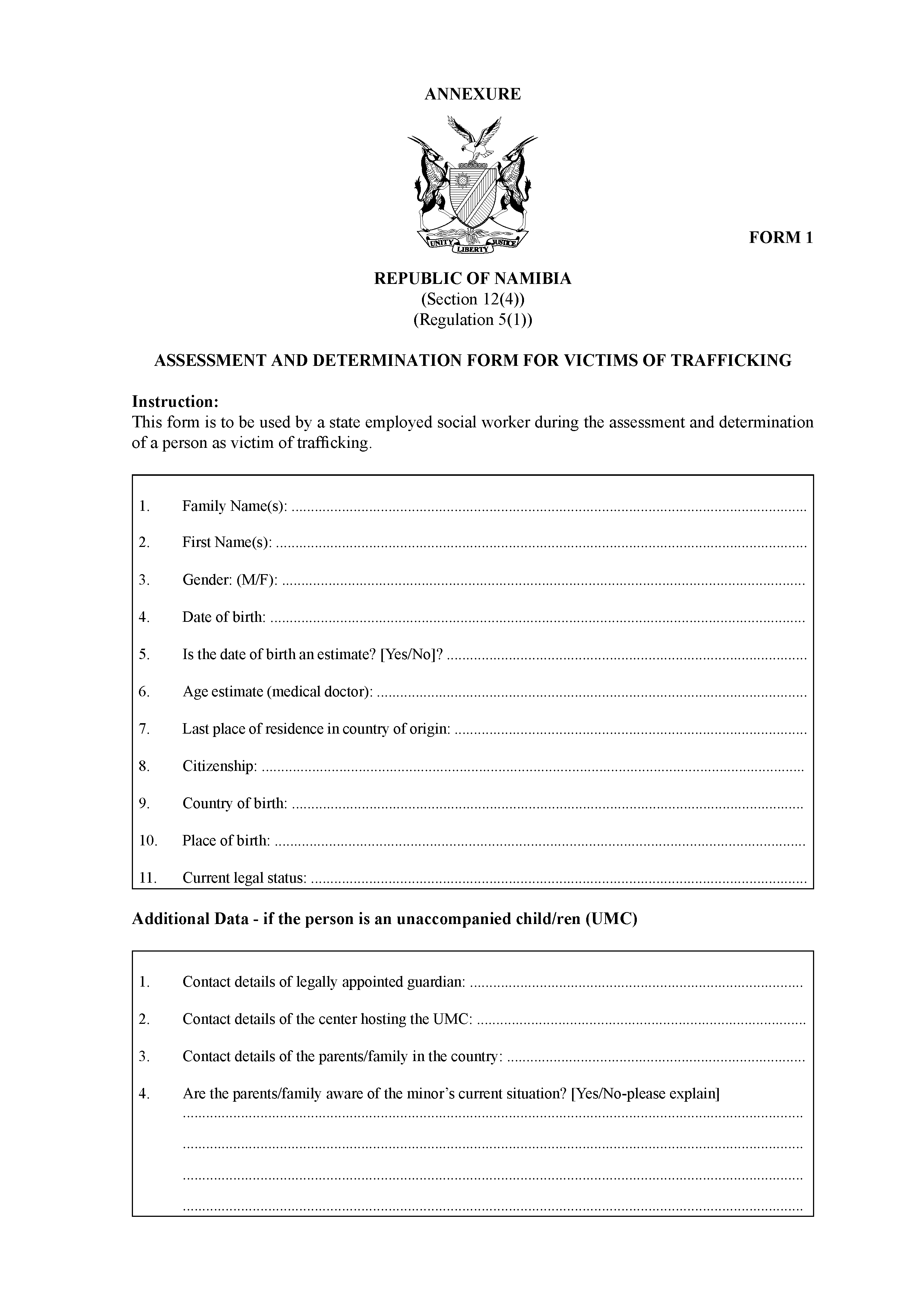
**ANNEXURE**

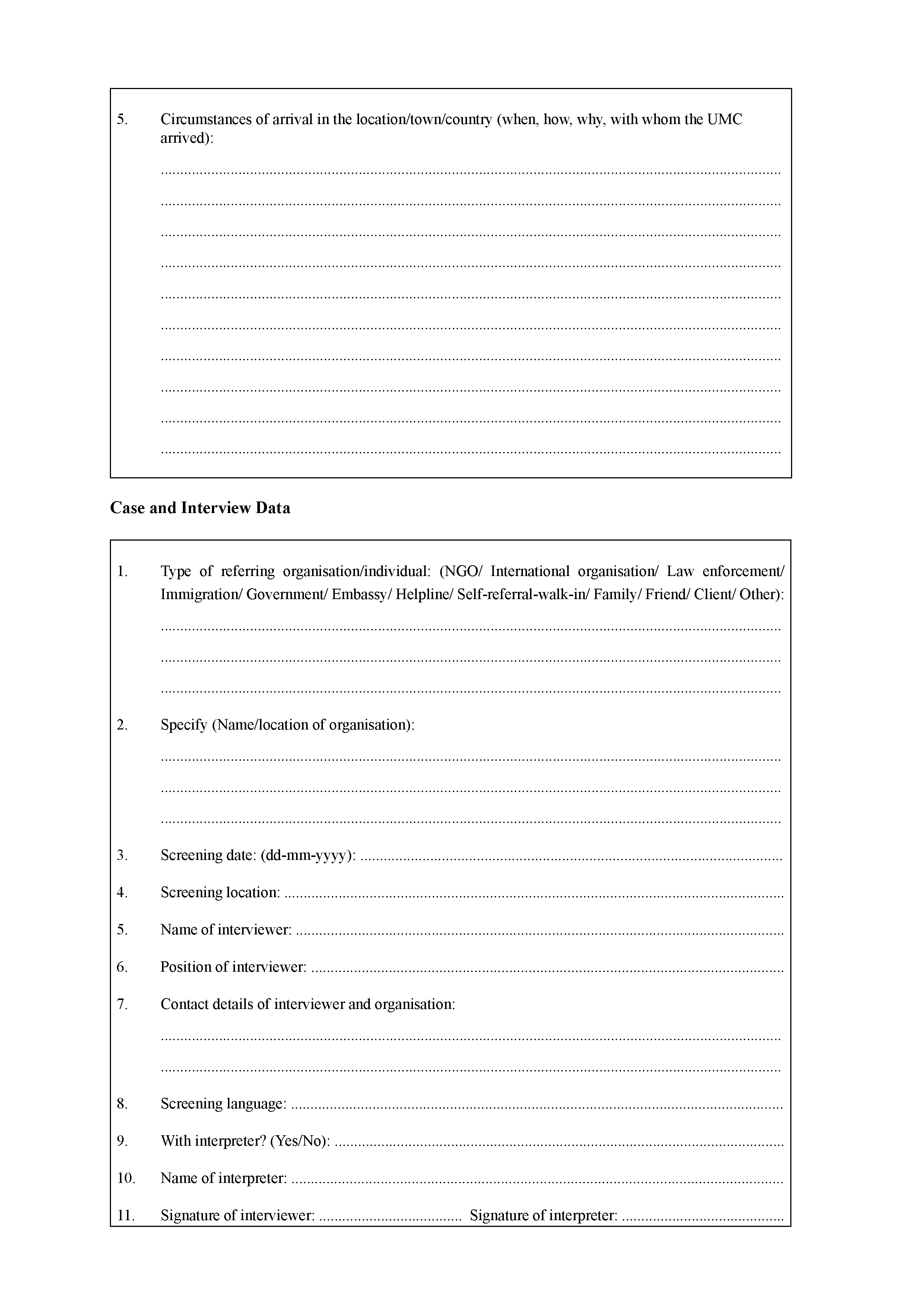
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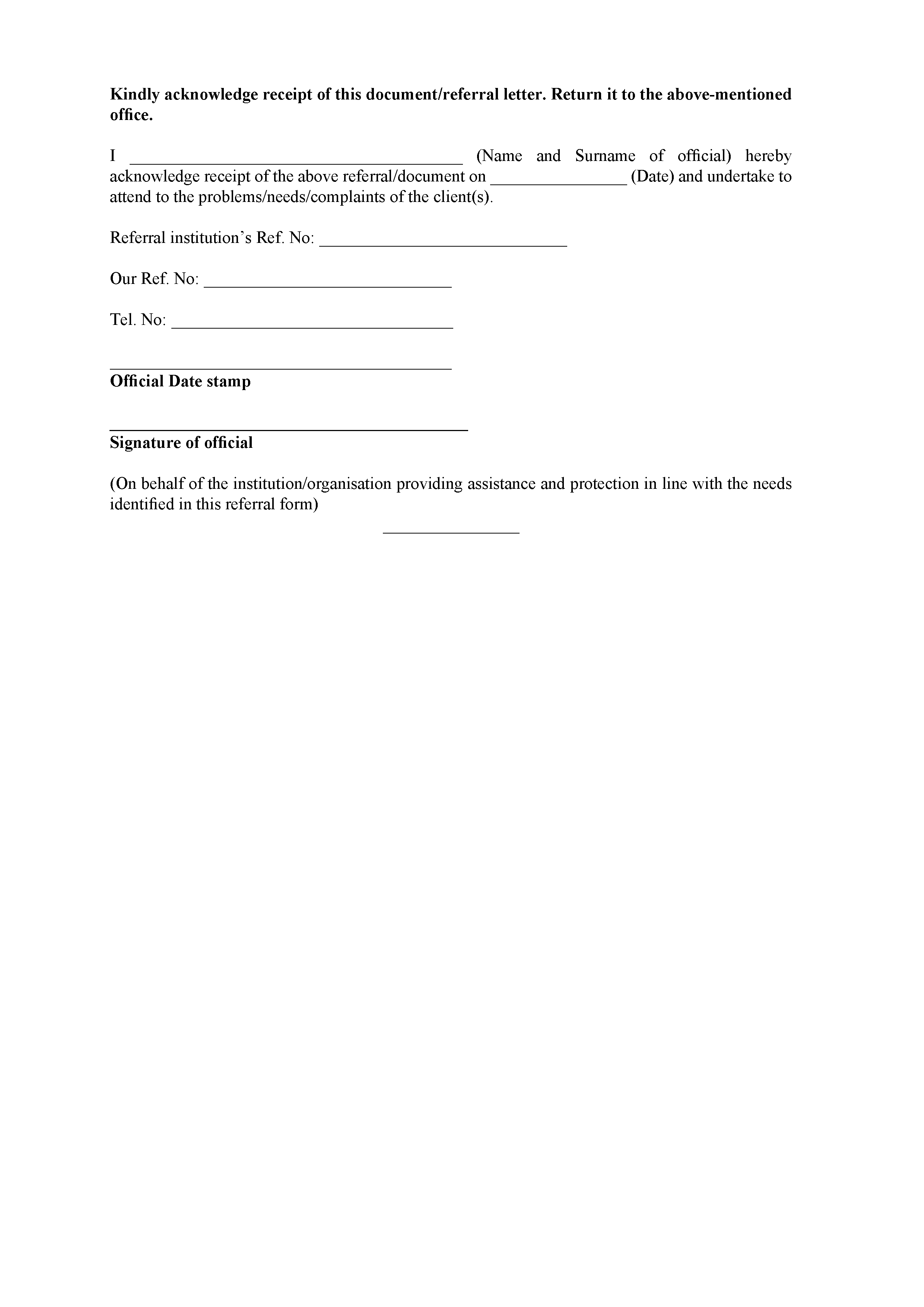
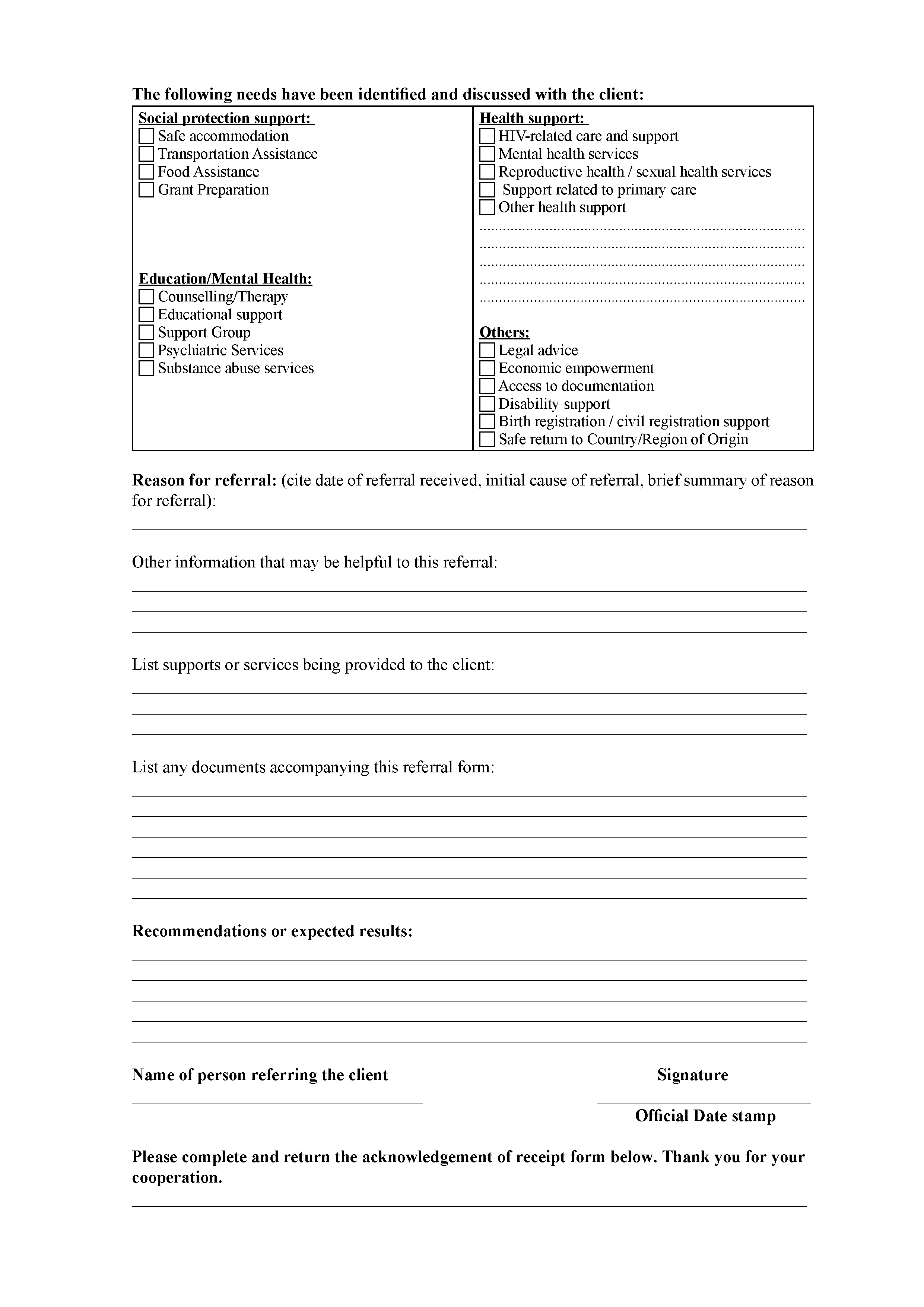
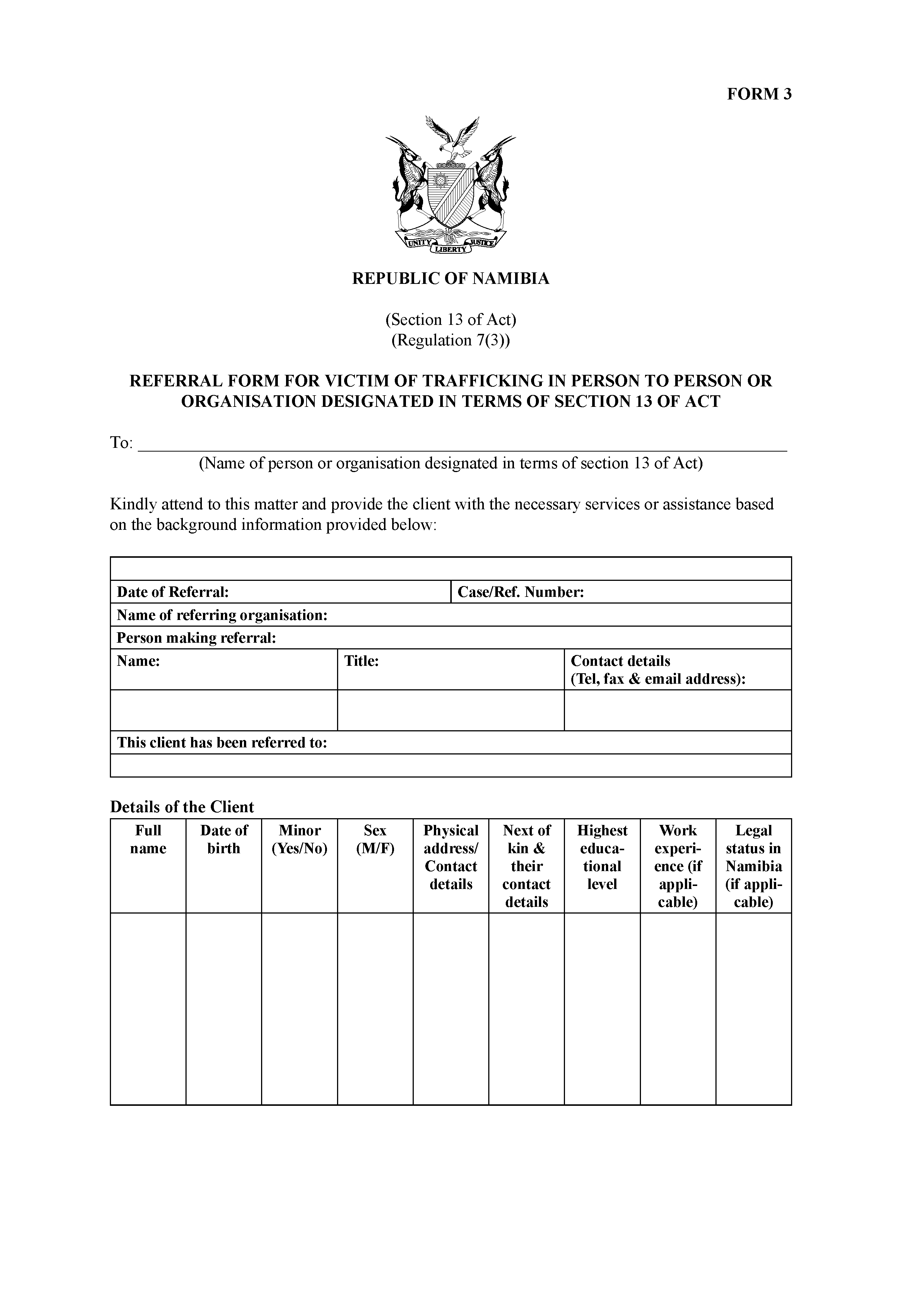
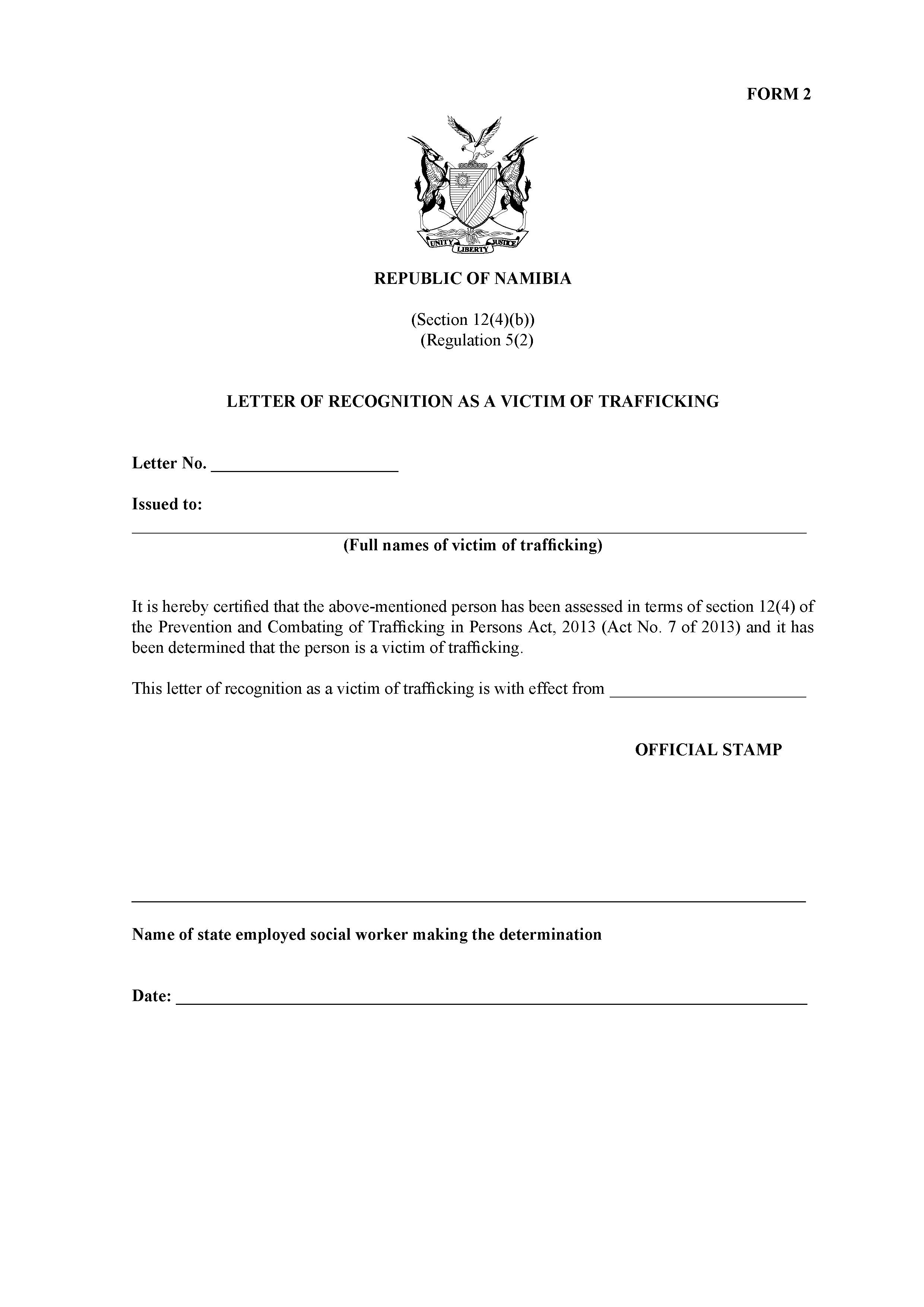
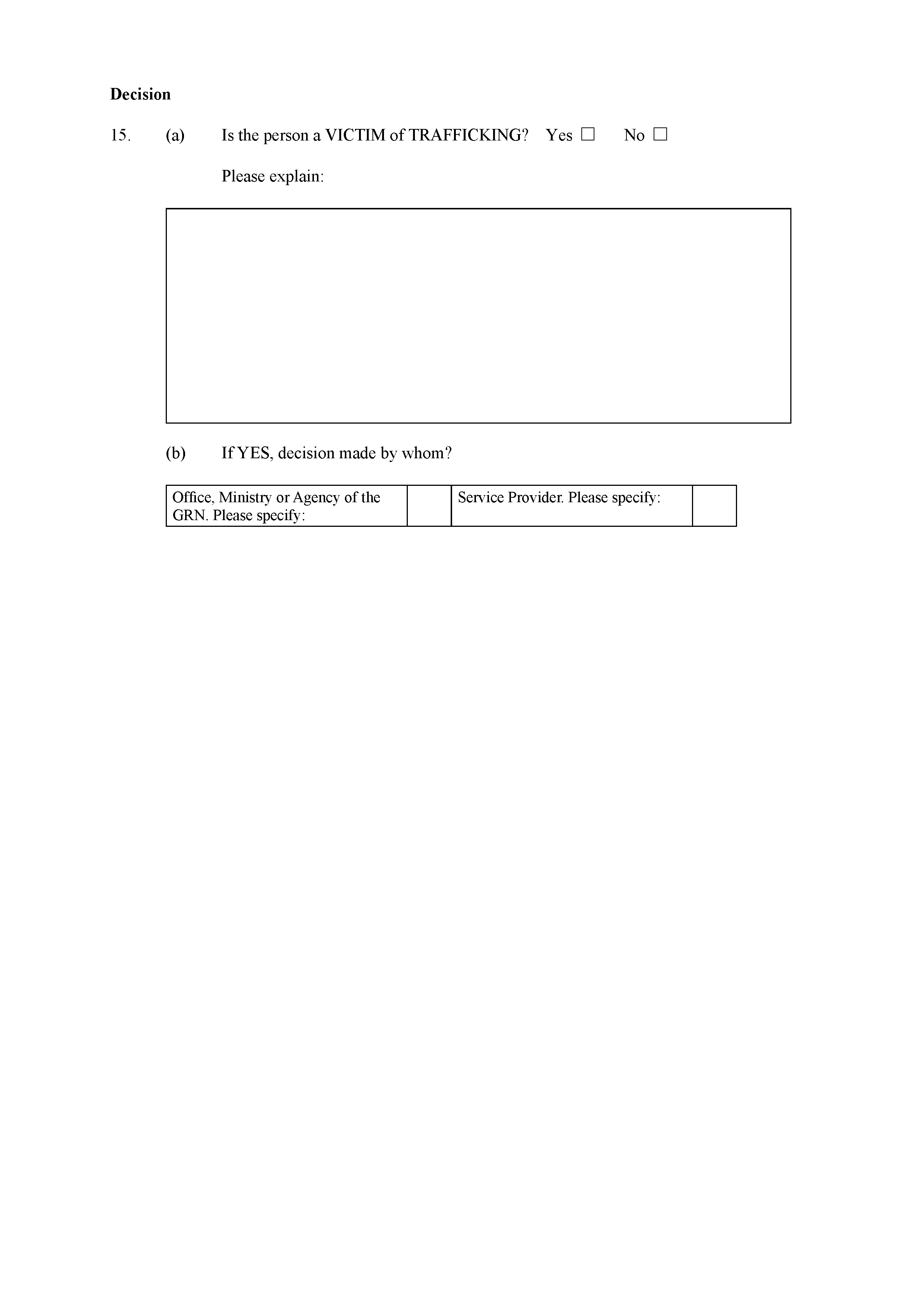
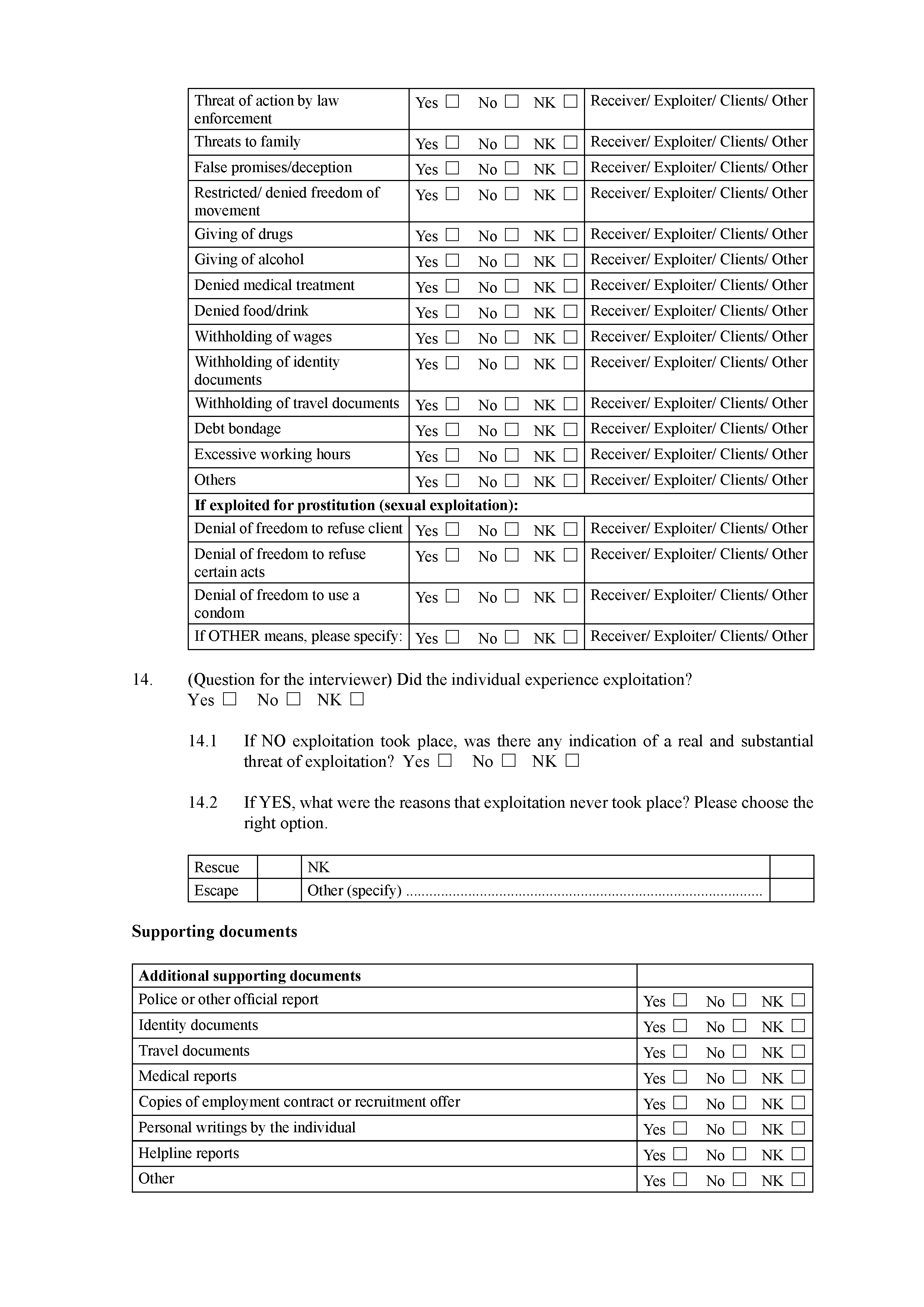
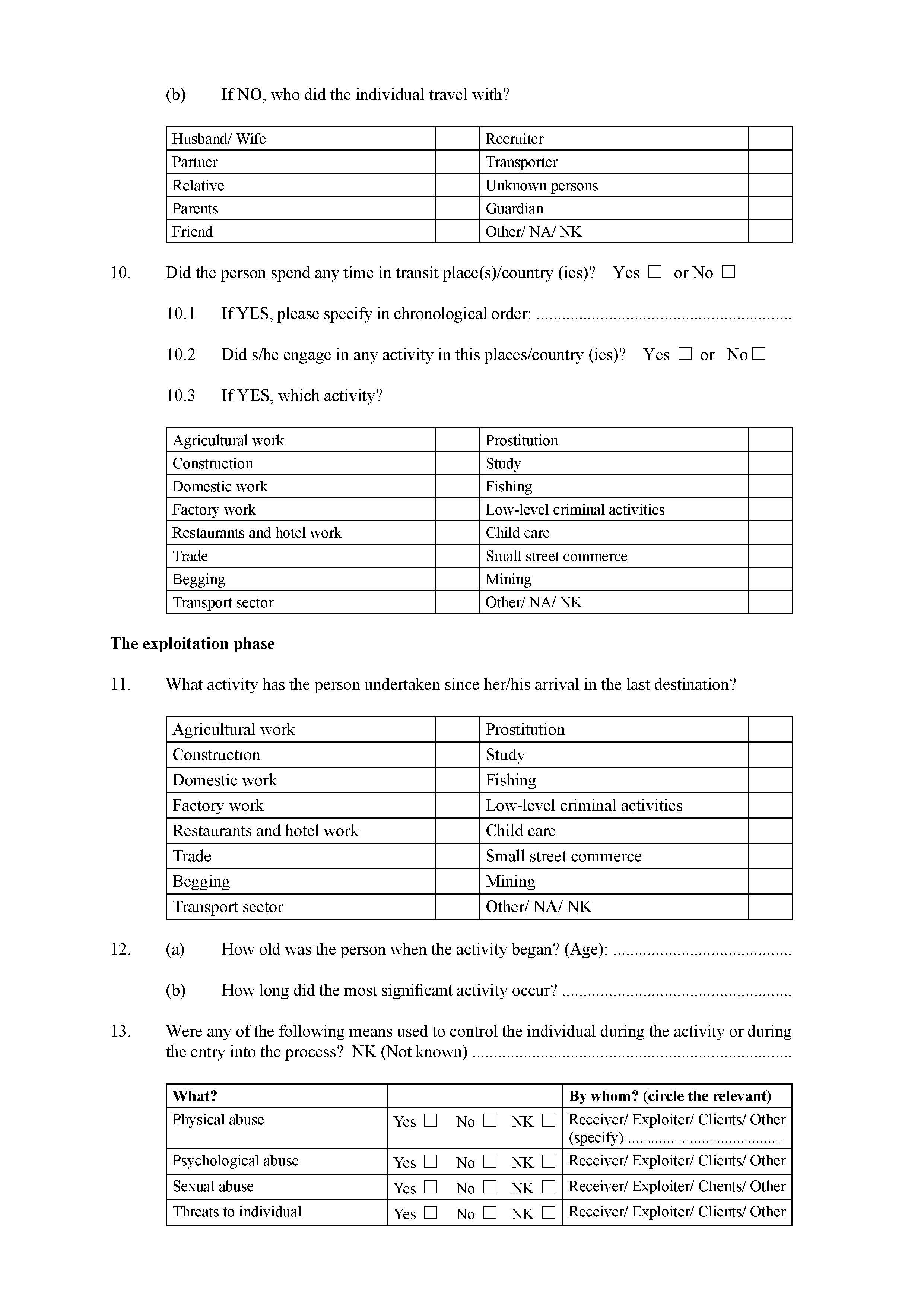
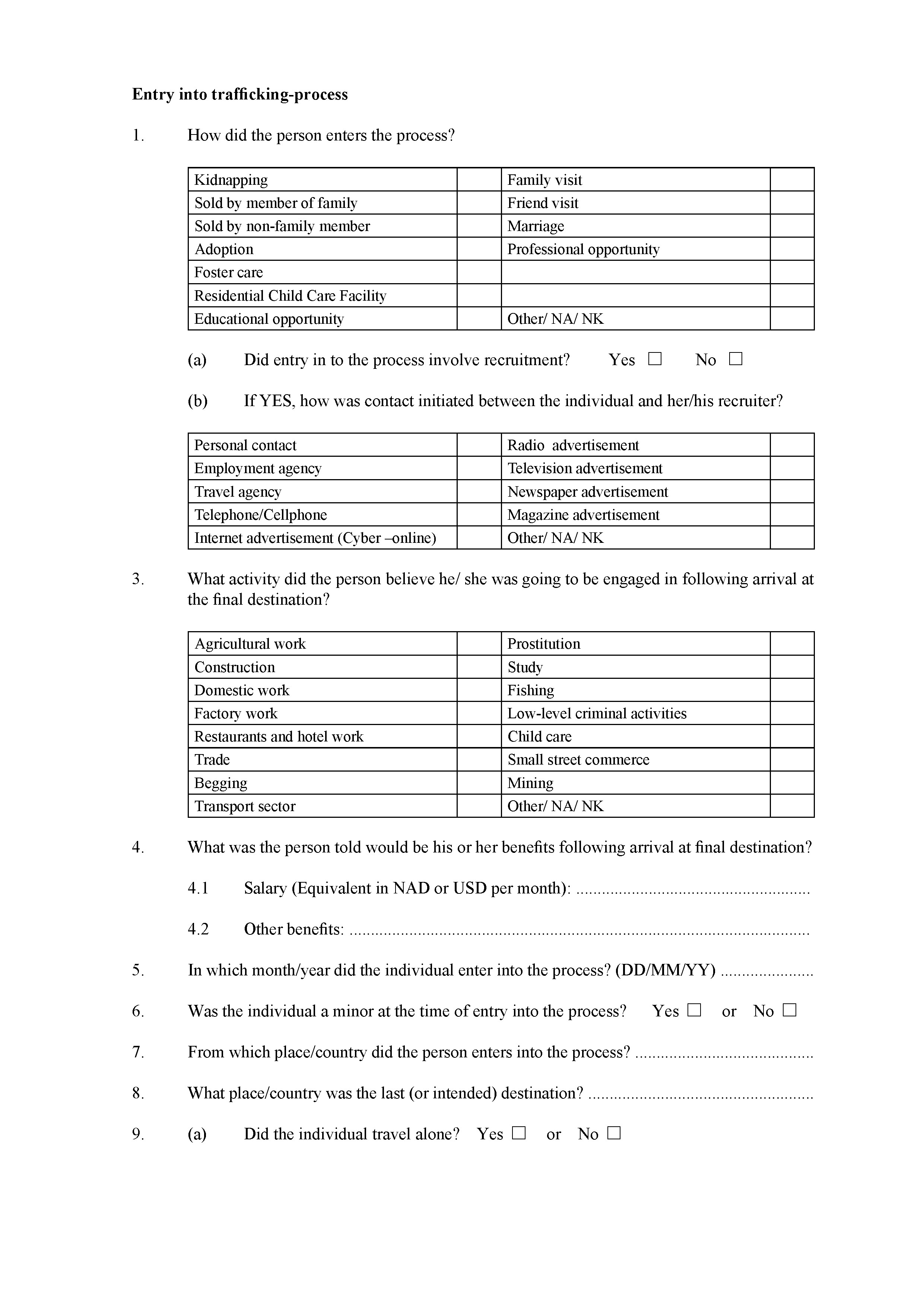
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[Note that Form 2 erroneously makes reference to the “Prevention and Combating of Trafficking   
in Persons Act, 2013 (Act No. 7 of 2013)” rather than the Combating of Trafficking in Persons   
Act 1 of 2018.]

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