

# Human Trafficking Prevention Act

Announced Date 2009.01.23

## Chapter One: General Provisions

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Article 1 This Act is enacted to prevent human trafficking and to safeguard the rights of victims.

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Article 2 The terms used in this Act are defined as follows:

1. Human trafficking:
  - (1) To recruit, trade, take into bondage, transport, deliver, receive, harbor, hide, broker, or accommodate a local or foreign person, by force, threat, intimidation, confinement, monitoring, drugs, hypnosis, fraud, purposeful concealment of important information, illegal debt bondage, withholding important documents, making use of the victim's inability, ignorance or helplessness, or by other means against his/her will, for the intention of subjecting him/her to sexual transactions, labor to which pay is not commensurate with the work duty, organ harvesting; or to use the above-mentioned means to impose sexual transactions, labor to which pay is not commensurate with the work duty, or organ harvesting on the victims.
  - (2) To recruit, trade, take into bondage, transport, deliver, receive, harbor, hide, broker, to sex transactions, labor to which pay is not commensurate with the work duty, or organ harvesting, or to subject people under 18 years of age to sexual transactions, labor to which pay is not commensurate with the work duty, or organ harvesting.
2. Offenses of human trafficking:

Referring to acts of human trafficking conducted in violation of this Act, the Criminal Code, Labor Standard Law, or Regulation Against the Sexual Transaction of Children or Adolescents, or other related laws.
3. Improper debt bondage:

Referring to the use of unclear contracts or unreasonable payments of a debt to place people

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under bondage, subjecting them to sexual transactions, labor exploitation, or organ harvesting in order to fulfill or guarantee the payment of their debts.

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Article 3

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The competent authorities referred to in this Act: the Ministry of the Interior at the central government level; municipal governments at the municipal level; county (city) governments at the county (city) level.

The central competent authority shall be in charge of the following functions:

1. The research, planning, enactment, promotion, and enforcement of the policies, rules and programs of human trafficking prevention and control.
  2. The coordination and supervision of the municipal and county (city) governments in the implementation of human trafficking prevention and control.
  3. The planning, promotion, supervision, and implementation of the investigation of human trafficking cases and the referral of criminal cases; identification of human trafficking victims; and protection of the personal safety of human trafficking victims.
  4. The safeguard of the human rights, protection and sheltering, resource integration and allocation, promotion, supervision, and implementation concerning human trafficking victims without a valid visitor or resident permit that grants permission to work in Taiwan (hereinafter referred to a work permit).
  5. The planning, promotion, supervision, and implementation concerning human trafficking prevention and control advertisement and the training of relevant professionals.
  6. The counseling and assistance to the human trafficking prevention and control promoted by the local governments and various authorities.
  7. The compilation and publication of human trafficking information.
  8. The international liaison, exchange and cooperation in human trafficking prevention and control.
  9. The planning, supervision, and implementation of
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other national human trafficking prevention and control.

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Article 4

The governments of municipalities and counties (cities) shall regularly hold liaison and coordination conferences on human trafficking prevention and control; designate authorities or departments specifically to integrate the authorities, departments, and manpower related to police affairs, public health affairs, social affairs, labor affairs, and human trafficking prevention and control; and coordinate the specialized operations brigades or service centers of the National Immigration Agency of the Ministry of the Interior to fulfill the following functions (they may request assistance from judicial authorities if necessary):

1. The implementation of the human trafficking prevention and control policies, regulations and programs adopted by the central government and the integration of related resources.
  2. The investigation of human trafficking cases, referral of criminal cases, identification and protection of the personal safety of human trafficking victims.
  3. The screening for designated infectious diseases; medical treatment; evaluation of injury and collection of evidence; psychological counseling; and psychological therapy of human trafficking victims.
  4. The safeguard of the rights, protection and sheltering of human trafficking victims residing in the Taiwan Area with the ROC citizenship, and the supervision and counseling of organizations that administer sheltering.
  5. The planning and implementation of the employment, employment promotion and protection, labor rights, workplace safety, and other related rights of human trafficking victims.
  6. The compilation of statistical information on human trafficking cases.
  7. The implementation of other functions related to human trafficking prevention and control.
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Article 5

The provisions of this Act that involve the related central competent authorities' functions and powers shall be dealt with by the authorities thereof; their powers and responsibilities are divided as follows:

1. Judicial competent authority: the planning, promotion and supervision of the legal procedures for the identification of human trafficking victims and the investigation and prosecution of human trafficking.

2. Health affairs competent authority: the planning, promotion and supervision of the screening for designated infectious diseases, medical treatment, injury evaluation and evidence collection, the psychological counseling and psychological therapy of human trafficking victims.

3. Labor affairs competent authority: the planning and revision of the policies, regulations, and programs for the employment counseling; employment promotion and protection; labor rights safeguard; and workplace health and safety of the human trafficking victims. The planning, promotion, supervision and implementation of the protection and sheltering, and issuance of work permits for human trafficking victims with a valid resident visa.

4. Coast guard competent authority: the planning, promotion, supervision and implementation of the investigation of human trafficking cases, referral of criminal cases; identification and protection of the personal safety of human

5. Mainland affairs competent authority: The coordination, liaison and supervision of the human trafficking cases that involve the Mainland Area, Hong Kong or Macau, and other relevant affairs.

6. Foreign affairs competent authority: the planning, promotion, and supervision of the coordination, liaison, international information sharing, bilateral and non-governmental cooperation concerning human trafficking cases and human trafficking prevention and control.

7. Other human trafficking prevention and control measures planned and implemented by the related

competent authorities in accordance with their respective functions and powers.

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## Chapter Two: Prevention and Identification

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Article 6 The central competent authority shall organize the related competent authorities, local governments, and non-governmental organizations to actively conduct activities related to such human trafficking prevention and control as promotion, investigation, rescue, protection, sheltering, and repatriation, and to cooperate with international governmental bodies or non-governmental organizations to eradicate human trafficking.

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Article 7 Personnel conducting human-trafficking-related arrest, investigation, trial, identification of victims, rescue, protection and sheltering, shall have undergone relevant professional training.

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Article 8 Judicial police departments shall dispatch officers to protect any human trafficking victim, social worker or other relevant professional who is assisting in the investigation of human trafficking cases and believed to be in danger during the course of an investigation and trial.

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Article 9 The police personnel, immigration officers, labor affairs personnel, social affairs personnel, medical personnel, civil affairs personnel, household registration personnel, educational personnel, employees of the tourist industry and immigration service industry, or other personnel engaging in human trafficking prevention and control, upon the discovery of a suspected case of human trafficking during the normal course of their duty, shall immediately notify the local judicial police authority. The judicial police authority, upon being notified, shall promptly take action to implement relevant protection measures. Anyone not stated in the preceding paragraph, upon the knowledge of a suspected case of human trafficking, may notify the local judicial police authority. The name, residence address and other identifiable

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personal information of the people in the preceding two paragraphs shall be kept confidential unless otherwise stated in the laws.

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Article 10      The judicial police authority and labor affairs competent authority shall set up special channels or telephone hotlines for the reporting of human trafficking.

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Article 11      The judicial police authority, upon discovering or receiving a report on a suspected human trafficking case, shall immediately undertake the identification of human trafficking victims.

The prosecutors, upon the discovery of a suspected case of human trafficking during the course of an investigation, shall immediately undertake the identification of human trafficking victims. The court, upon the knowledge of a suspected case of human trafficking during the course of a trial, shall immediately refer the case to the prosecutors for investigation.

The judicial police and prosecutors may request assistance as necessary from social workers or relevant experts while indentifying human trafficking victims; suspected human trafficking victims may likewise request assistance from social workers or relevant experts.

The personnel responsible for identifying victims shall inform the suspected victim of the follow-up procedures and related protection measures before commencing the identification.

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### Chapter Three: Protection of Victims

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Article 12      When any suspected human trafficking victim is in need of medical treatment, the judicial police shall immediately inform the local health department and escort the victim to the local medical facility to receive treatment and to be screened for designated infectious diseases.

When any human trafficking victim is found to be free from infectious diseases after being screened, the judicial police shall protect, shelter, or detain him/her

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pursuant to this Act or other applicable laws.

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Article 13 Any human trafficking victim who is an ROC national with citizenship and in need of protection and sheltering as assessed by the competent authority of municipality or county (city), shall be provided with protection and sheltering in accordance with Article 17 by the competent authority thereof.

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Article 14 Any suspected human trafficking victim who is a non-citizen ROC national, foreigner, stateless person, Mainland Area resident, Hong Kong or Macau resident, and has a valid visitor (or resident) permit, shall be provided with protection and sheltering in accordance with Article 17. The suspected human trafficking victim thereof without a valid visitor (or resident) permit shall be detained apart from other detainees who have violated exit and entry regulations, and may be provided with assistance in accordance with Article 17 before identification is completed in accordance with Article 11.

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Article 15 Any suspected human trafficking victim placed under segregated detention as stated in the preceding Article, once identified to be a human trafficking victim, shall be provided with protection and sheltering in accordance with Article 17 and the provisions relating to detention stated in Article 37 of the Immigration Act, Article 18 of the Act Governing Relations between People of the Taiwan Area and Mainland Area and paragraph 2, Article 14 of the Act Governing Relations with Hong Kong and Macau are not applicable. Any suspected human trafficking victim placed under protection and sheltering as stated in the preceding paragraph, once identified as a human trafficking victim, shall continue to be protected and sheltered in accordance with Article 17.

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Article 16 The central competent authority shall issue a temporary visitor permit valid for no more than 6 months to anyone identified as a human trafficking victim without a valid visitor (or resident) visa.

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Article 17 The competent authorities and labor affairs competent authorities at all levels shall, either by themselves or by commissioned non-governmental organizations, provide human trafficking victims or suspected ones under protection and sheltering with the following assistance:

1. Protection of personal safety;
2. Necessary medical assistance;
3. Interpretation assistance;
4. Legal assistance;
5. Psychological advice and counseling;
6. Being accompanied when questioned (interrogated) throughout the investigation or trial;
7. Necessary financial assistance;
8. Other necessary assistance.

The competent authorities and labor affairs competent authorities of all levels shall establish or designate suitable shelters to protect and shelter human trafficking victims or suspected ones; the procedures, administration and other regulations that have to be followed for the sheltering thereof shall be determined by the central competent authority in consultation with the central labor affairs competent authority.

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Article 18 The costs to provide necessary assistance and to repatriate victims back to their country (area) of origin as stated in paragraph 1 of the preceding Article shall be imposed upon the victimizer; multiple victimizers shall bear the joint liability.

The competent authorities or labor affairs competent authorities of all levels in charge of the protection and sheltering, shall order the victimizer to pay within a specific period the costs as stated in the preceding paragraph; any overdue payment shall be referred for compulsory enforcement in accordance with the laws.

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Article 19 Any suspected human trafficking victim who is a non-citizen ROC national, foreigner, stateless person, Mainland Area resident, Hong Kong or Macau Area resident with no valid visitor (or resident) permit; after being placed under protection and sheltering, and

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being issued a temporary visitor permit, the competent authority or labor affairs competent authority may revoke his/her temporary visitor permit, and may detain or repatriate him/her if he/she leaves the shelter without permission or violates laws or regulations and the violation is deemed to be sufficiently serious.

The repatriation stated in the preceding paragraph shall be enforced only after the approval of the judicial authority has been secured.

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Article 20 Any human trafficking victim or suspected one, who is a minor or juvenile and fits any of the following circumstances, shall be sheltered and protected in accordance with the prioritized Statute for Prevention of Sexual Transactions Involving Children and Adolescents; anything not provided for by the Statute shall be regulated by this Act:

1. Discovered to be suspected of engaging in sexual transactions;
2. Fitting the circumstance set forth in the preceding subparagraph and deemed by a court at a trial to be engaging in sexual transactions in accordance with the Statute for Prevention of Sexual Transactions Involving Children and Adolescents.

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Article 21 Any person who becomes aware of the name, date of birth, residence and other identifiable personal information of a human trafficking victim due to his/her duty or work shall keep the information in strict confidence unless otherwise stated in the law. The government authorities shall not reveal the identifiable personal information of any human trafficking victim as stated in the preceding paragraph when making public any document related to human trafficking cases.

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Article 22 No advertisement material, publication, radio broadcast, television, electronic message, the Internet or other media may report or note information on the name or other identifiable personal data of human trafficking victims. However, this limit is not applicable

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to any of the following circumstances:

1. Having the permission of the victim with legal capacity;
2. Being deemed necessary by the crime investigation authority pursuant to the law.

The proviso in the preceding paragraph is not applicable to any human trafficking victim who is a minor.

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**Article 23** Any human trafficking victim testifying as a witness before a prosecutor in an investigation or before a court in a trial, giving an account on what he/she has learned of or seen, and being questioned and cross-examined in accordance with the law, may be protected by the related provisions of this Act and may also be eligible for the protection stated in Articles 4 to 14, Articles 20 and 21 of the Witness Protection Act, if he/she is not eligible for the protection of the Act thereof.

Any reporter, informer, accuser or victim of a human trafficking case deemed by the prosecutor or judge to be in need of protection, may be eligible for the protection stated in Articles 4 to 14, paragraph 2 of Article 15, Articles 20 and 21 of the Witness Protection Act.

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**Article 24** Any human trafficking victim 's legal agent, spouse, lineal relative by blood or collateral relative by blood within 3rd degree of kinship, parent, family member, doctor, psychiatrist, counselor, or social worker, may accompany him/her and may make observations when he/she is questioned or cross-examined during an investigation or trial; it is the same when the victim is under investigation by the judicial police.

The provisions in the preceding paragraph regarding the person accompanying the victim are not applicable to a human trafficking suspect or defendant.

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**Article 25** The questioning, cross-examination or confrontation of a human trafficking victim during an investigation or trial may be conducted outside the court upon request or *virtute officii* or may be undertaken by using

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audiovisual telecommunications equipment or other appropriate methods to separate the victim from the defendant.

Any human trafficking victim located outside the country may be questioned, cross-examined through audiovisual telecommunications equipment in an ROC embassy or representative office.

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Article 26 The judicial police, prosecutor and court, during the course of an inquiry, investigation and trial, shall pay attention to the personal safety of human trafficking victims and, if necessary, shall separate the human trafficking victims from other criminal suspects or defendants.

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Article 27 The statement made by any human trafficking victim during an investigation by the prosecutors, judicial police officers, or judicial police may be accepted as evidence during a trial if it is proven to be credible under special circumstances, to be necessary to prove the body of the crime, and if the victim fits one of the following conditions:

- 1) The victim is unable to make a statement due to a physical and psychological trauma;
- 2) Due to physical and psychological pressure at the trial, the victim is unable to make a complete statement or refuses to make a statement when questioned or cross-examined; or
- 3) The victim cannot be summoned or fails to appear after being summoned because he/she is not in the Taiwan Area or his/her whereabouts is unknown.

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Article 28 The central competent authorities may, based upon the necessity of an investigation or trial, extend the temporary visitor (or resident) permit under a six-month duration of stay issued to any human trafficking victim who is a non-citizen ROC national, foreigner, stateless person, Mainland Area resident, Hong Kong or Macau Area resident with no valid visitor (or resident) permit prior to the issuance of the temporary permit. If the human trafficking victim in the preceding paragraph has a valid visitor (resident) permit, the

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central competent authority may grant an extension to his/her visitor (resident) permit based upon the status of the investigation or trial.

If the human trafficking victim's personal safety may be threatened after his/her repatriation back to his/her country (area) of origin because of his/her assistance in the investigation or trial, the central competent authority may grant stay or residency to him/her on a special case-by-case basis. After continuous legal residency in the ROC for a period of five years and over 270 days per year, the victim may apply for permanent residency. The procedures, required documents, qualifications, types of permits, revocation and cancellation of such permits, and other relevant and binding regulations for the stay, residency and applications for permanent residency of the trafficked victims who have been granted the victim status on a case-by-case basis shall be determined by the central competent authority.

The human trafficking victim in respect of paragraphs 1 and 2 may apply for a work permit at the central labor affairs competent authority without being subjected to the restrictions set forth in the Employment Service Act and Article 11 of the Act Governing Relations between People of the Taiwan Area and Mainland Area, and the period in which he/she can work shall not exceed the period of his/her stay or residency.

The permit application, revocation or cancellation, control, and other relevant and binding regulations stated in the preceding paragraph shall be determined by the central labor affairs competent authority.

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Article 29 Any human trafficking victim who has violated other provisions of the criminal code or administrative regulations as a result of being trafficked may be eligible for a reduction in penalty or absolution from his/her liability.

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Article 30 Any human trafficking victim who is a non-citizen ROC national, foreigner, stateless person, Mainland Area resident, Hong Kong or Macau resident, shall be

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repatriated back to his/her country (area) of origin as soon as possible if his/her continued assistance is deemed by the judicial authorities to be no longer necessary in the investigation or trial, and the central competent authorities have coordinated with relevant authorities or civil organizations to contact the government departments of the victim ' s country (area) of origin, or their embassy, authorized organization, or non-governmental organization in Taiwan, or his/her family.

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#### Chapter Four: Penalties

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Article 31      Anyone using such means as debt bondage or another person ' s inability, ignorance, or helplessness to force him/her into sexual transactions for profit, shall be sentenced to imprisonment ranging from six months to five years, and may also be fined up to NT\$3 million. Any attempt to commit the crime stated in the above paragraph is punishable.

Article 32      Anyone using such means as force, threat, intimidation, confinement, monitoring, drugs, fraud, hypnosis, or other means against another person ' s will to labor to which pay is not commensurate with the work duty for profit, shall be sentenced to imprisonment under seven years, and may also be fined up to NT\$5 million. Anyone using such means as debt bondage or the abuse of another person ' s inability, ignorance, or helplessness to subject him/her to labor to which pay is not commensurate with the work duty for profit, shall be sentenced to imprisonment under three years, and may also be fined up to NT\$1 million. Any attempt to commit either crime stated in the preceding two paragraphs is punishable.

Article 33      Anyone recruiting, transporting, delivering, receiving, harboring, hiding, brokering, or accommodating another person under 18 years of age in order to subject him/her to labor exploitation or underpayment for profit, shall be sentenced to imprisonment under seven years, and may be fined up to NT\$5 million. Any attempt to commit the crime stated in the

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preceding paragraph is punishable.

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Article 34

Anyone using such means as force, threat, intimidation, confinement, monitoring, drugs, fraud, hypnosis, or other means against another person's will to subject him/her to organ harvesting for profit, shall be sentenced to imprisonment over seven years, and may be fined up to NT\$7 million.

Anyone using such means as debt bondage or abusing another person's inability, ignorance, or helplessness to subject him/her to organ harvesting for profit, shall be sentenced to imprisonment ranging from five to twelve years, and may also be fined up to NT\$5 million.

Anyone recruiting, transporting, delivering, receiving, harboring, hiding, brokering, or accommodating a person under 18 years of age in order to subject him/her to organ harvesting for profit, shall be sentenced to imprisonment over seven years, and may be fined up to NT\$7 million.

Any attempt to commit any of the crimes stated in the preceding three paragraphs is punishable.

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Article 35

Any property or profit from assets acquired from human trafficking shall be confiscated regardless of its ownership except the part that shall be returned to victims. When the entirety or part of the property cannot be confiscated, the trafficker shall pay according to its value or give his/her assets as compensation.

For the purpose of preserving the full value of the confiscated property or profit from assets as stated in the preceding paragraph, a certain portion of the property may be seized discretionally if necessary.

The Ministry of Justice shall transfer the seized cash or proceeds from the sale of the confiscated property stated in paragraph one to the central competent authorities for the compensation of human trafficking victims.

The directions for the transfer of seized cash and proceeds from the sale of the confiscated property as stated in the preceding paragraph and compensation to human trafficking victims, shall be enacted by the

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central competent authorities along with the Ministry of Justice.

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- Article 36 Any civil servant, who covers up human trafficking crime, shall be sentenced in accordance with related provisions with respective penalties increased by half.
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- Article 37 Any offender of a human trafficking crime who voluntarily surrenders himself/herself, confesses during an investigation, and furthermore provides information leading to the discovery and arrest of another principal offender or accomplice, shall receive a reduction in penalties or be absolved of the offense.
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- Article 38 Anyone in violation of Article 22 shall be fined from NT\$60,000 to NT\$600,000, and the articles stated in the Article may be confiscated or subjected to other necessary disposal by the related competent authorities; concerning the change ordered to be made within a specified period, each and every lapse may be subject to additional separate penalties. However, when deemed necessary to the public interest by the related competent authority, the reporting on the death of the victim shall not be subjected to the penalties thereof.
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- Article 39 Where any representative of a legal person, or any agent, employee, or staff member of a legal or natural person violates human trafficking crime in the course of conducting normal business operation, the legal or natural person shall be imposed with a fine in accordance with the respective provisions of each human trafficking crime. However, if the natural person or the representative of a legal person has tried his/her best to prevent the occurrence of the offense, he or she shall be exempted.
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- Article 40 Any ROC vessel, aircraft or other means of transportation whose owner, operator, captain, pilot or driver has been engaged in the transportation of persons trafficked, may be subjected to a specific period of suspension, or revocation of its related licenses by the related competent authorities, and its
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captain, pilot, or driver may be subjected to the revocation of his/her professional licenses or qualifications.

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Article 41      Anyone violating the provisions of paragraph 1 of Article 9 by failing to fulfill his/her duty to report without a justifiable reason shall be fined from NT\$6,000 to NT\$30,000.

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Article 42      This Act is applicable outside the territory of the ROC to the crimes stated in Articles 31 to 34.

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Chapter Five: Supplementary Provisions

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Article 43      The provisions of this Act are also applicable to the human trafficking cases dealt with by a military court and a military prosecutor.

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Article 44      The enforcement rules of this Act shall be enacted by the central competent authority.

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Article 45      The effective date of this Act shall be determined by the Executive Yuan.

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