Moldova PSEA Network

Regional Refugee Response for the Ukraine Situation

UNITED NATIONS MOLDOVA

MISCONDUCT DISCLOSURE SCHEME

Rollout of the Misconduct Disclosure Scheme (MDS) in Moldova

Legal Framework and Compliance with Moldovan Legislation

Contextual guidance for organizations

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Acronyms

CNPDP

National Center for Personal Data Protection(Sometimes referred to simply as “the data protection authority” in Moldova)

CSO

Civil Society Organization

GBV

Gender-Based Violence

GDPR

General Data Protection Regulation (EU framework referenced as a comparative standard)

HR

Human Resources

INGO

International Non-Governmental Organization

MDS

Misconduct Disclosure Scheme

NGO

Non-Governmental Organization

PSEA

Protection from Sexual Exploitation and Abuse

SEAH

Sexual Exploitation and Abuse and Harassment

SOP

Standard Operating Procedure

UN

United Nations

UNHCR

United Nations High Commissioner for Refugees

UNICEF

United Nations Children’s Fund

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MISCONDUCT DISCLOSURE SCHEME

Section 1.

Introduction and overview

Purpose and scope

Target audience

How this document helps

Context of MDS in Moldova

Key Moldovan legal framework

Purpose and scope

This guidance supports national and international non-profit organizations in Moldova in implementing the Misconduct Disclosure Scheme (MDS). Its central aim is to strengthen safeguarding practices against serious misconduct-particularly sexual exploitation, abuse, and harassment (SEAH)-while ensuring alignment with Moldovan law.

Although many NGOs recognize the importance of vetting staff and volunteers, practical guidance on integrating international safeguarding standards with national legislation has often been limited. This document provides a structured blueprint, addressing both technical procedures and legal obligations of the MDS.

Target audience

The guidance is intended for staff responsible for human resources, legal compliance, and safeguarding functions.

How this document helps

This MDS guideline clarifies legal obligations by unpacking Moldovan legislation, including the Labor Code, Data Protection Law, and anti-discrimination provisions, explaining how misconduct records can be obtained and shared lawfully. It provides step-by-step instructions for establishing MDS-compliant reference checks, from preparing consent forms to managing cross-border data transfers. Finally, it promotes consistency by standardizing how misconduct information is disclosed, verified, and applied across organizations.

Context of MDS in Moldova

Moldova's civil society landscape has expanded rapidly in recent years, particularly in response to the war in Ukraine. International organizations and local Civil Society Organizations (CSOs) now play a central role in assisting refugees, host communities, and individuals with specific needs. Much of this work involves direct support to vulnerable populations, including children and survivors of gender-based violence (GBV), increasing the need to protect against risks of sexual exploitation, abuse, and harassment (SEAH).

The MDS provides a structured mechanism to identify individuals with substantiated histories of SEAH and ensure they are excluded from recruitment. Moldova's legal framework supports this initiative. The Labor Code regulates fair hiring and dismissal, while the Data Protection Law sets out strict rules for the lawful collection, storage, and transfer of personal data. By applying clear, consent-based procedures, the MDS aligns with these legal obligations.

Although many NGOs already conduct background checks, the absence of standardized practice has left gaps in safeguarding. The MDS addresses these by introducing uniform terminology and reference-check protocols. This enables NGOs to collaborate more effectively, reducing the risk of known offenders moving between organizations and ensuring safer environments for beneficiaries.

Key Moldovan legal framework

The Labor Code (Law No. 154-XV) establishes requirements for fair employment and dismissal, ensuring that misconduct disclosures are supported by documented evidence.

The Law on Personal Data Protection (Law No. 195/2024) sets conditions for lawful processing of personal data, emphasizing informed consent and legitimate interest. MDS checks must comply with these rules to avoid legal liability.

The Anti-Discrimination Law (Law No. 121/2012) prohibits bias in hiring. Misconduct disclosures must therefore be limited strictly to safeguarding concerns and not extend to personal beliefs or protected characteristics.

Section 2.

Legal Analysis & Risk Matrix

This section identifies the key legal issues and conflicts that may arise from MDS implementation. Rather than describing every law in exhaustive detail, it focuses on specific points of tension and practical solutions.

2.1 Summary of Relevant Laws

2.2 Key Legal Conflicts and Challenges

2.3 Legal Risk Matrix

2.4 Recommended Resolutions and Best Practices

2A.1 Key Differences Between Law 133/2011 and Law 195/2024

2A.2 Essential Steps for MDS Compliance Under Law 133/2011

2A.3 Special Issues Addressed by Law 133/2011

2A.4 Practical Tips for Ongoing Compliance

2.1 Summary of Relevant Laws

Legal framework and compliance

Respecting Moldovan law is essential to ensure that the MDS is applied lawfully and fairly. Compliance not only upholds the rights of staff, volunteers, and affected people but also strengthens transparency and reinforces a zero-tolerance approach to misconduct.

Labor Code (Law No. 154-XV of 2003)

Articles 56 and 64 of the Labor Code establish that dismissal must be based on documented grounds. For SEAH cases, employers must conduct proper internal procedures, including evidence gathering and the right of response, before terminating employment. Article 212 on confidentiality also allows the use of “legitimate interest” in reference checks, provided organizations demonstrate that privacy rights are respected.

Law on Personal Data Protection (Law No. 195/2024)

This law will enter into force on 23 August 2026; until then, Law No. 133/2011 remains applicable. NGOs must therefore comply with the current framework while preparing for transition. Article 5 of Law No. 133/2011 requires explicit, informed consent for background checks, while Article 6 permits processing under legitimate interest if safeguarding needs outweigh privacy concerns. Article 31 regulates cross-border data transfers, often requiring safeguards such as standard contractual clauses. Article 11 limits data collection to what is strictly necessary, and Article 13 requires secure deletion once the data is no longer needed.

Anti-Discrimination Law (Law No. 121/2012)

Articles 2 and 7 prohibit discrimination in hiring based on gender, race, ethnicity, religion, or other protected characteristics. Under the MDS, candidate rejections must be based solely on substantiated safeguarding misconduct, not unverified allegations or personal traits. Recruitment and reference checks should therefore be framed narrowly to avoid conflating misconduct with irrelevant or protected attributes.

Other relevant laws

- The Criminal Code and Criminal Procedure Code oblige reporting of serious crimes, including child abuse and trafficking. This intersect with MDS checks when criminal conduct is identified.
- The Child Protection Law (Law No. 140/2013) requires strict vetting for child-facing roles and mandates reporting of suspected child abuse. It also emphasizes confidentiality of child-related data.
- The Law on Combating Human Trafficking (Law No. 241/2005) reinforces due diligence in hiring, particularly in sectors vulnerable to exploitation, and supports the need for rigorous misconduct checks.
- The Law on Whistleblower Protection (Law No. 122/2018) protects individuals reporting wrongdoing, including SEA. The implementation of the MDS must therefore balance transparency with the duty to preserve whistleblower confidentiality during any potential disclosure process.
- The Law on Public Procurement (No. 131/2015) allows for safeguarding clauses in supplier contracts, while the Law on Volunteering (No. 121/2010) requires ethical volunteer management in line with MDS obligations.
- Administrative norms, such as the Methodological Guidelines on Keeping Employee Records (Government Decision No. 1440/2007) and Data Protection Guidance from the National Center for Personal Data Protection, provide detailed instructions on secure record-keeping. Sector-specific decrees, particularly those concerning child protection, clarify documentation and reporting requirements for safeguarding incidents.

2.2 Key Legal Conflicts and Challenges

While Moldova's legislative framework broadly supports responsible hiring and safeguarding, the practical application of the MDS can create operational tensions.

This section explores the main areas where MDS obligations may conflict with local laws and outlines the core questions that NGOs must resolve to ensure both compliance and effectiveness.

Consent requirements

Under Moldovan law, any entity processing personal data must establish a lawful basis for doing so. Normally, the hiring organization —the one requesting the reference— is responsible for obtaining explicit consent from the candidate. However, when a former employer is asked to disclose information, they must also ensure that the disclosure does not breach their own confidentiality obligations. This means that even where consent has been provided to the hiring agency, the data-sharing organization must verify that it is legally protected before releasing misconduct records.

→ Practical Example:

NGO A wants to hire Ana for a counseling role. They send a reference request to NGO B, Ana's former employer. Although NGO A has a signed consent form from Ana, NGO B initially hesitates, fearing a breach of confidentiality. NGO A then shares the signed consent statement-specifically naming NGO B-to confirm that Ana has authorized them to release any documented misconduct information.

Balancing safeguarding with privacy

When candidates refuse consent for MDS checks, organizations face the challenge of weighing individual privacy against the duty to protect beneficiaries. In such cases, NGOs may either rely on "legitimate interest" to proceed with limited checks or disqualify the candidate from high-risk roles where thorough vetting is essential. Internal policy should set out which approach applies to ensure consistency.

To support decision-making, organizations should apply a proportionality test and keep written records of the outcome. This may involve a documented legitimate interest assessment or, where appropriate, adopting less intrusive measures-such as requesting references limited strictly to safeguarding misconduct. Such documentation demonstrates that privacy rights have been considered while prioritizing protection of vulnerable groups.

→ Practical Example:

Andrei applies for a program officer role in a child-focused NGO but declines to provide consent for background checks due to "privacy concerns." Given the position involves direct work with minors, the NGO may consider whether Andrei's refusal should disqualify him, or if there is a lesser measure (e.g., a probationary period with close supervision). They document the reasoning and keep a record showing they weighed Andrei's privacy against their duty to safeguard children.

Legitimate interest under Moldovan law

Article 6 of the Law on Personal Data Protection permits data processing on the basis of legitimate interest where it is both necessary and proportionate. In the context of safeguarding, preventing sexual exploitation, abuse, or harassment qualifies as a compelling interest. However, organizations must also show that applying legitimate interest is the least intrusive option available.

To demonstrate compliance, NGOs should keep written records explaining why disclosure of misconduct data isnecessary. This may include reference to past cases where the absence of disclosure enabled an offender to secure employment with another organization. Where records are retained for extended periods, organizations should periodically review whether continued storage remains justified or whether it infringes on privacy rights. Such reviews help ensure proportionality and strengthen accountability.

→ Practical Example:

NGO C conducts a legitimate interest assessment to justify storing misconduct records of a former staff member accused of sexual harassment. They document the reasons: (1) The individual worked closely with vulnerable adults. (2) The harassment was substantiated by an internal investigation. (3) Keeping the record is necessary to prevent re-hiring or referencing the individual for another sensitive post. Every year, NGO C reviews these records to confirm they are still needed.

Employment termination and non-hiring decisions

Under the Labor Code, dismissals must be supported by documented grounds. Articles 56 and 64 require that any decision to terminate employment follows due process, including proper investigation, collection of evidence, and giving the accused an opportunity to respond. This ensures that termination based on allegations of SEAH is lawful and procedurally fair.

Not all SEAH-related misconduct meets the criminal threshold. Exploitative behavior-such as intimate relationships with beneficiaries where a clear power imbalance exists-may not constitute a crime under Moldovan law but can breach an NGO's code of conduct. When substantiated and documented, such misconduct provides lawful grounds for dismissal under labor regulations.

The same principles apply to recruitment. Organizations may refuse to hire candidates with substantiated histories of SEAH or breaches of safeguarding codes, even when the conduct is not criminal. For example, inappropriate relationships with minors above the age of consent but under 18 remain safeguarding breaches. To reduce legal risks, decisions must be grounded in documented evidence, and HR records should clearly justify the refusal.

→ Practical Example:

An NGO field officer was found to have initiated a romantic relationship with an adult beneficiary who relied on the organizations' shelter and cash assistance. Although this behavior did not necessarily breach criminal statutes, it violated the organization's PSEA policies due to the power imbalance. Through an internal investigation, the NGO substantiated the misconduct, took the necessary administrative measures for gross ethical breaches, and documented the findings in a secure database in line with data protection requirements. The case was shared within safeguarding networks, ensuring that other organizations were alerted to the risk of re-hiring an individual who had engaged in exploitative behavior, even though no formal criminal charges were filed.

Risk of discrimination

The Anti-Discrimination Law prohibits employment decisions based on protected characteristics such as gender, age, race, or religion. For NGOs, this means that any negative outcome in hiring must be based exclusively on substantiated safeguarding concerns. Documented misconduct-such as proven cases of sexual exploitation, abuse, or harassment-can provide legitimate grounds for refusal, but personal traits or unverified allegations cannot.

Indirect discrimination risks may also arise if reference requests are vague or overly broad. Asking for "all negative information" may result in disclosures unrelated to safeguarding, such as political or religious views. To avoid this, NGOs should use standardized templates that limit requests to safeguarding-related misconduct. This ensures compliance with anti-discrimination law while maintaining focus on legitimate safeguarding risks.

→ Practical Example:

A manager in NGO D sends a reference request for a candidate named Sergiu, vaguely asking, "Please provide any negative information that might affect his role." The response includes personal disputes Sergiu had about political or religious views-which are not relevant to job performance or safeguarding. If NGO D uses those details to reject Sergiu, it risks discrimination claims. By contrast, a focused request on "documented misconduct or safeguarding concerns" avoids this pitfall.

Data protection and cross-border sharing

When seeking references from employers abroad, NGOs must comply with Article 31 of the Law on Personal Data Protection. This requires verifying that the receiving entity provides adequate safeguards for personal data. Where the partner country has weaker legislation, additional measures-such as standard contractual clauses-must be applied, and data should always be transferred through secure channels.

Cross-border checks also demand stronger documentation. If explicit candidate consent is not available, organizations relying on "legitimate interest" must show that the transfer is necessary for safeguarding. Written justifications and secure records of each transfer are essential to demonstrate compliance with Moldovan law and to reduce the risk of legal challenge.

→ Practical Example:

NGO E requests a misconduct record from a former employer in a non-EU country with minimal data protection laws. NGO E sends them its standard contractual clauses stating that the candidate consented to MDS checks and that any disclosed misconduct must be handled securely. This protects NGO E from violating Moldovan law on cross-border data transfers.

Whistleblowing and reference-checking

The Law on Whistleblower Protection (No. 122/2018) guarantees confidentiality for individuals who report misconduct in good faith. At the same time, the MDS depends on documenting and sharing substantiated misconduct findings, some of which may rely on whistleblower testimony. This creates a need to carefully balance disclosure obligations with the duty to protect whistleblowers.

Organizations should apply safeguards to ensure that misconduct disclosures do not inadvertently reveal the identity of whistleblowers. Practical measures include redacting personal identifiers and limiting references to the outcomes of investigations rather than naming or describing those who reported concerns. In this way, NGOs can meet MDS obligations while preserving whistleblower confidentiality.

Practical Example:

Dana, a staff member, reports her supervisor for sexual harassment. After an internal investigation substantiates the claim, the supervisor is dismissed. Later, the supervisor applies elsewhere. When asked for a reference, the NGO confirms that "This individual was terminated for substantiated misconduct violating our SEAH policies." No mention is made of Dana or the whistleblower process, preserving confidentiality while fulfilling MDS obligations.

Key takeaways

Effective implementation of the MDS requires balancing legal compliance with safeguarding priorities. Whether addressing consent refusals, applying legitimate interest, or preventing discrimination, NGOs should rely on clear documentation, procedural fairness, and consistent internal policies. This approach ensures decisions remain lawful, transparent, and defensible.

The following sections present a legal risk matrix and recommended practices to help organizations manage these challenges and align MDS procedures with Moldovan legal standards.

2.3 Legal Risk Matrix

The Legal Risk Matrix below, illustrates typical legal conflicts that organizations in Moldova may face when implementing the Misconduct Disclosure Scheme (MDS). Each row includes the conflict description, an approximate risk level, recommended mitigation measures, and references to Moldovan laws or MDS guidelines. Feel free to tailor this matrix to your organization's specific context and risk profile.

Potential legal conflict	Risk level	Mitigation measures	References
1. Candidate Refuses to Consent to Data Sharing	Medium	- Perform a documented legitimate interest assessment if refusal persists, showing why safeguarding needs outweigh the privacy concerns. - Offer alternative solutions (e.g., asking for partial references that still cover misconduct) if feasible. - If the position involves high-risk duties, consider disqualifying the candidate based on inability to conduct proper MDS checks; keep a detailed record to justify this decision under local labor law.	- Law on Personal Data Protection (No. 195/2024), Articles 5–6 - Labor Code (No. 154-XV), Article 212 (confidentiality requirements) - MDS Guidance: Sections on candidate consent and legitimate interest
2. Overly Broad or Vague Reference Requests	Medium	- Use standardized templates clearly stating that only proven or relevant misconduct (e.g., SEA, harassment) is requested. - Train HR staff to avoid questions unrelated to safeguarding or protected characteristics.	- Anti-Discrimination Law (No. 121/2012), Articles 2, 7 - MDS Guidance: Fair hiring and non-discrimination - Law on Personal Data Protection (No. 195/2024), Articles 5, 11

		- Conduct spot checks or audits of recent reference requests to ensure they adhere to anti-discrimination and data minimization principles.	
3. Cross-Border Data Transfers to Previous Employers Abroad	High	- Obtain explicit written consent for cross-border checks, specifying that data may be shared with entities outside Moldova. - Where consent is absent or insufficient, rely on a documented legitimate interest test and ensure secure channels (e.g., encrypted email) are used. - Prepare additional safeguards (e.g., standard contractual clauses) if the other country does not meet adequate data protection standards.	- Law on Personal Data Protection (No. 195/2024), Article 31 - MDS Guidance: International reference-check protocols - Potential Donor Regulations: Some donors require compliance with GDPR-equivalent standards
4. Potential Discrimination in Declining a Candidate	Medium	- Base any negative decision strictly on documented misconduct relevant to safeguarding, not on protected characteristics (race, sex, religion, etc.). - Keep clear internal records (e.g., meeting notes, investigation summaries) that show how the conclusion was reached.	- Anti-Discrimination Law (No. 121/2012) - Labor Code (No. 154-XV), Articles 8, 47 - MDS Guidance: Non-discriminatory hiring and reference checks
5. SEAH Allegations That Do Not Reach the Criminal Threshold	Medium	-Incorporate explicit internal policies indicating that certain exploitative or unethical behaviors (e.g., relationships with beneficiaries under 18, even if above local age of consent) may lead to termination or non-hiring. -Document and investigate each allegation thoroughly, including witness statements and factual evidence. -Justify the decision in writing to demonstrate it aligns with your organization's code of conduct and safeguarding policies.	-Labor Code (No. 154-XV), Articles 56, 64 (grounds for lawful termination) -Child Protection Law (No. 140/2013) for minors -MDS Guidance: Handling non-criminal safeguarding misconduct
6. Whistleblower Identity Potentially Revealed During Reference-Checking	Medium	- Redact or anonymize any sensitive details that identify the whistleblower; share only the outcome of the misconduct investigation (e.g., "substantiated SEAH case"). -Align internal investigation reports with the Law on Whistleblower Protection, ensuring anonymity is protected.	-Law on Whistleblower Protection (No. 122/2018) -MDS Guidance: Confidentiality provisions for whistleblowers -Labor Code (No. 154-XV), Article 212 (employee privacy)

		-Train staff on what information can be disclosed under MDS guidelines so as not to inadvertently breach whistleblower confidentiality.	
7. Retention of Misconduct Records Beyond Immediate Hiring Needs	Low	-Establish written data retention schedules (e.g., keep records until hiring decision is finalized, then periodically review whether continued storage is necessary). -Securely delete or anonymize records that are no longer required for safeguarding. -Document legitimate interest if retaining records for future risk management (e.g., if the individual reapplies or if further investigations arise).	-Law on Personal Data Protection (No. 195/2024), Articles 11, 13 -MDS Guidance: Data minimization and secure disposal -Internal HR and Safeguarding Policies: Ensure all staff know the retention policy and schedule
8. Inconsistent Application of MDS Across Different Departments or Programs	Medium	-Develop uniform internal guidelines (written SOPs) that mandate the same steps for reference checks and misconduct disclosures in all units. -Provide mandatory training so managers, HR, and program leads understand their roles in MDS compliance. -Designate a central safeguarding officer or committee to oversee cross-department consistency and monitor whether protocols are followed.	-Civil Society Development Law (No. 86/2020), Articles 8, 12 (ethical standards and governance) -MDS Guidance: Standardization of reference-check procedures -Administrative Norms: Internal audits or compliance checks under relevant bylaws
9. Candidate Alleges Defamation After Negative Disclosure	Medium	-Ensure only documented findings of misconduct or SEAH are shared. Avoid unsubstantiated allegations or rumors. -Give candidate a right of reply, granted by the hiring organization, before finalizing the hiring process, thus reducing the likelihood of a defamation claim. -Maintain detailed evidence (investigation reports, witness statements) indicating how conclusions were reached.	-Civil Code (possible defamation claims) -Law on Personal Data Protection (No. 195/2024), Article 6 on legitimate interest -MDS Guidance: Documentation and fairness in reporting

10. Volunteer Roles with High Beneficiary Contact Lacking Thorough Vetting	Medium	-Amend volunteer management policies to require background checks (including references for misconduct) similar to paid staff, especially for child-facing or vulnerable-population roles. -Train volunteer coordinators to spot possible signs of undisclosed misconduct (inconsistent references, refusal to provide consent). -Align volunteer agreements with the Law on Volunteering to clarify that misconduct leads to immediate disengagement.	- Law on Volunteering (No. 121/2010) -MDS Guidance: Including volunteers in safeguarding processes -Child Protection Law (No. 140/2013) if volunteers work with minors

→ How to use this matrix

The risk matrix is intended as a practical tool that organizations can tailor to their specific context. Each scenario should be evaluated for its likelihood and impact, with risk levels (low, medium, high) assigned accordingly.

Mitigation measures should be refined to reflect organizational capacity, donor requirements, and internal codes of conduct. For instance, an NGO constantly recruiting international staff may need to place greater emphasis on cross-border data safeguards than one hiring primarily local personnel. Organizations should also maintain a reference library of Moldovan laws and policies relevant to the MDS-such as the Labor Code, Anti-Discrimination Law, and Data Protection Law-and cross-reference them with internal Standard Operating Procedures (SOPs). This ensures that responses to safeguarding risks remain legally grounded.
Finally, the matrix should be considered a living document. As laws, donor requirements, and organizational structures evolve, NGOs are encouraged to review it on an annual or semi-annual basis to ensure it remains relevant. Regular updates enable organizations to manage risks systematically, remain compliant with Moldovan legislation, and strengthen the MDS's core objective of preventing misconduct and protecting beneficiaries.

2.4 Recommended Resolutions and Best Practices

Organizations should begin by adopting a dedicated MDS compliance policy. This written policy should set out the organization's approach to reference checks, data sharing, and its zero-tolerance stance on SEAH The policy should explain how substantiated misconduct-such as harassment, exploitation, or abuse-will be considered in recruitment and employment decisions. Clear roles and responsibilities should be outlined, for example, designating the HR manager, safeguarding focal point, and legal advisor at each stage of the process.
Second, organizations should integrate MDS clauses into employment contracts and volunteer agreements. All contracts should include a clause affirming the NGO's right to conduct safeguarding-related reference checks. For volunteers and short-term consultants, agreements should state that proven misconduct is grounds for immediate disengagement, in line with the Law on Volunteering (No. 121/2010).
Finally, organizations should ensure that reference checks apply to all staff, with the level of scrutiny adjusted to the nature of the role. Positions with significant beneficiary contact—such as those working with children, refugees, or survivors of abuse—should undergo the most rigorous screening, including multiple references and, where relevant, international verifications. Roles with moderate exposure may follow the standard MDS process with targeted enhancements.2.4.2 Strengthen Data Protection Practices
Organizations should develop a standard consent form with clear and accessible language. The form should explain why data is collected-specifically to protect beneficiaries, staff, and the public, and how it will be used, limited strictly to verifying past misconduct. To ensure full comprehension, forms should be translated into Romanian, Russian, and other relevant languages. Each form should include the contact details of the NGO's data protection officer or designated focal point, in line with the Law on Personal Data Protection (No. 133/2011 until 2026; Law No. 195/2024 thereafter).

All organizations should also maintain an MDS reference-check log. This should be kept in a secure database or spreadsheet, recording each request, the legal basis for processing (consent or legitimate interest), and the date consent was given. Where checks are conducted under legitimate interest, a short written note should explain why safeguarding needs outweigh the candidate's privacy rights, citing the relevant provisions of the Data Protection Law and sector-specific risks.

Finally, organizations should set and publicize data retention timelines. Negative reference-check records may be retained for up to three years for unsuccessful candidates, or two years following termination for staff. An annual review should be conducted by HR or a safeguarding officer to ensure records no longer required under legitimate interest are securely deleted or anonymized. Each deletion should be documented in a register, enabling the NGO to demonstrate compliance if audited by the National Center for Personal Data Protection (CNPDP).

Handling consent refusals
NGOs should adopt a clear refusal-handling procedure. If a candidate declines to sign the consent form, the organization should meet with them to explain the safeguarding purpose and potential consequences of refusal, particularly for high-risk roles. If refusal persists, the organization may either disqualify the candidate or proceed under legitimate interest, as permitted under Article 6 of the Law on Personal Data Protection (No. 133/2011, transitioning to Law No. 195/2024 in 2026). Any legitimate interest assessment should be completed in writing and stored in the candidate's file for audit purposes.

Alternative reference pathways
Where candidates object to certain employers being contacted—for example, due to a hostile work environment—organizations may accept alternative references from other credible sources. Candidates may reasonably exclude one or more past employers on such grounds, but cannot refuse contact with all previous

employers. At least one credible reference must be obtained to verify safeguarding risks, and a blanket refusal may lawfully result in disqualification from high-risk roles if properly documented. The priority must remain verifying safeguarding risks, not gathering unrelated personal information.

Cross-border data-sharing protocols
International reference checks require strict safeguards under Article 31 of the Data Protection Law. NGOs should use a cross-border checklist before requesting references abroad. This should confirm candidate consent or a legitimate interest assessment, the use of secure communication channels, and, where necessary, signed standard contractual clauses if the employer is in a country without adequate protection. Reference requests should be limited to safeguarding-related misconduct (SEA, harassment, exploitation) to avoid breaching privacy laws domestically or abroad.

Documenting non-criminal SEAH
NGOs should establish a standard investigation template covering each stage of the process, from initial complaint to final decision, ensuring documentation is signed and dated by the safeguarding focal point or investigator. Non-criminal but unethical conduct (such as exploitative relationships with beneficiaries) should be recorded separately from criminal offenses but treated with equal seriousness. A misconduct decision matrix can link common scenarios-such as inappropriate relationships or repeated harassment-to consistent HR actions, ensuring fairness across programs and locations.

Mitigating discrimination risks
To ensure compliance with the Anti-Discrimination Law (No. 121/2012), Organizations should include a protected characteristics checklist in all reference-request templates, reminding providers not to disclose irrelevant personal details. HR staff should be trained to redact or disregard any protected data inadvertently received. Before finalizing a negative decision, NGOs should provide the candidate with a right-to-reply opportunity, documenting their response to demonstrate procedural fairness.

Protecting whistleblowers in disclosures
The Law on Whistleblower Protection (No. 122/2018) obliges NGOs to safeguard individuals who report misconduct in good faith. To comply, organizations should establish an anonymization protocol when handling MDS disclosures, ensuring whistleblowers are never identified. A designated confidential advisor or small specialist team should manage these cases, limiting shared information to essentials only (e.g., “misconduct substantiated; individual dismissed”) without revealing the reporter’s identity.

Building organizational capacity and collaboration
NGOs can strengthen implementation by engaging in joint workshops with peer agencies and sub-grantees, sharing tools such as consent templates, reference forms, and cross-border procedures. Larger INGOs should consider a mentorship model, pairing with smaller local NGOs to provide practical support in developing consent forms or conducting legitimate interest assessments.

Section 2A. Compliance Under the Current Law NO. 133/2011 on Personal Data Protection

Although this document refers extensively to Law No. 195/2024 on data protection, which enters into force in August 2026, Law No. 133/2011 on personal data protection remains in force until then. This means that, for now, organizations in Moldova must ensure that any MDS (Misconduct Disclosure Scheme) practices follow the rules of Law 133/2011. This interim section explains how to stay compliant with the current law while preparing for the change to Law 195/2024 in 2026.

2A.1 Key Differences Between Law 133/2011 and Law 195/2024

Law 133/2011 is based on the older EU Directive 95/46/EC, whereas Law 195/2024 introduces updated definitions, including provisions on profiling and mandatory Data Protection Impact Assessments (DPIAs).
Both laws require a lawful basis for processing, either through consent or legitimate interest. While Law 133/2011 uses different terminology, it still permits processing where there is a compelling legitimate interest that does not override the rights of data subjects.
For cross-border transfers, Law 133/2011 requires personal data to be adequately protected, though with less detail than Law 195/2024, which specifies stronger safeguards and formal mechanisms.
Oversight under both frameworks remains the responsibility of the CNPDP, which will continue to act as the supervisory authority once the new law enters into force.

2A.2 Essential Steps for MDS Compliance Under Law 133/2011

To remain compliant while Law No. 133/2011 is still in force, NGOs must ensure that MDS processes are carefully aligned with existing requirements.
Consent or legitimate interest: Explicit written consent must be obtained from candidates or volunteers before collecting or disclosing misconduct data. Where consent is refused or withdrawn, Article 5(5)(e) permits processing under “legitimate interest,” provided a balancing test demonstrates that safeguarding beneficiaries outweighs the privacy impact on the individual.
Limiting scope of data: Article 4 requires that data be “adequate, pertinent, and non-excessive.” Reference checks should therefore be restricted to confirmed or strongly suspected misconduct relevant to safeguarding-such as sexual exploitation, abuse, or harassment-while excluding unrelated personal details.
Transparency and right to information: Articles 12 and 13 require organizations to inform candidates which data is being collected and why. Candidates also have the right to access or correct inaccurate information. Clear communication on data use is therefore essential at the recruitment stage.
Security and confidentiality: Articles 29 and 30 mandate that employers adopt technical and organizational measures to protect personal data. NGOs should limit access to authorized HR or legal staff and use encryption or locked filing systems to store reference responses.
Cross-border data transfers: Article 32 allows personal data to be transferred abroad only where adequate protections exist. Transfers may be based on candidate consent, confirmation of adequate protections in the destination country, or specific exceptions (such as contractual necessity or vital interests). While Law 133/2011 provides fewer details than Law 195/2024, organizations can still rely on its provisions to justify MDS reference checks abroad, supplementing with contractual

safeguards where appropriate.
Retention and disposal: Articles 4(e) and 11 require deletion or anonymization once data is no longer needed. For MDS, records should be retained only as long as they remain relevant to recruitment or future verification, typically two to three years after a final hiring decision. Clear retention schedules and secure deletion practices are essential to demonstrate compliance.

2A.3 Special Issues Addressed by Law 133/2011

Sensitive data: Article 6 of Law 133/2011 prohibits processing sensitive data, including racial or ethnic origin, religious beliefs, health status, or criminal records, except under limited conditions. Findings related to SEAH may fall under “data regarding alleged or proven wrongdoing.” Such information must therefore be collected and used solely for safeguarding purposes, ensuring necessity and proportionality.
Whistleblower anonymity: Although Law 133/2011 does not explicitly use GDPR-style data minimization principles, it still requires that personal data be limited to what is necessary. If a misconduct case involving a candidate relies on whistleblower testimony, the whistleblower’s identity must not be disclosed unless there is a clear and legally justified reason. This safeguards compliance with both data protection and Moldova’s Law on Whistleblower Protection (No. 122/2018).
Enforcement: Under Article 26, the CNPDP may suspend or terminate data processing if NGOs breach obligations. Non-compliance may lead to fines under contravention law, and penalties may escalate where violations significantly affect data subjects’ rights.

2A.4 Practical Tips for Ongoing Compliance

Consent forms should explicitly reference Law No. 133/2011 on Personal Data Protection, which governs data processing until 23 August 2026. This ensures candidates are fully informed of the legal framework currently in force.

If personal data is processed under the legitimate interest clause (Article 5(5)(e)), organizations must maintain a short-written record justifying the decision. This assessment should be signed by the responsible representative-such as the HR lead, safeguarding focal point, or legal advisor-and stored securely in the candidate’s file. This provides transparency and allows the organization to demonstrate compliance during audits or reviews.

NGOs should also include a “current vs. future” clause in HR and data-protection policies. A suitable statement could be:“Until 23 August 2026, all personal data processing for reference checks and misconduct disclosure is carried out in accordance with Law 133/2011. From 23 August 2026 onward, or upon earlier official enactment, this policy will be updated to align with Law 195/2024.”
Finally, organizations should regularly consult guidance from the CNPDP, which publishes updates and clarifications on implementing Law 133/2011. Keeping policies aligned with CNPDP recommendations will help ensure ongoing compliance.

Section 3.

Practical Implementation Guidance

3.1 Preparing Your Organization

3.2 Step-by-Step MDS Procedure

3.3 Handling Special Cases

3.4 Ensuring Non-Discriminatory Practices

3.5 Case Studies or Brief Scenarios

3.1 Preparing Your Organization

Before initiating MDS checks or contacting previous employers for misconduct-related information, NGOs should ensure that their internal policies and staff capacities are aligned with Moldovan law and the MDS framework. This includes updating policies, training staff, and assigning clear responsibilities. The following sections outline key steps and considerations.

3.1.1 Internal Policy Updates

Incorporating MDS into key documents: Organizations should ensure that MDS requirements are fully integrated into their internal governance frameworks. HR manuals and recruitment procedures should include a dedicated section on the Misconduct Disclosure Scheme, specifying which positions require checks, the consent process, and the rules for data handling (including storage duration and secure disposal).

Codes of conduct and staff handbooks should clearly state that documented cases of SEAH may be disclosed if future employers request references under the MDS. These documents should also clarify that employees engaging in SEAH face lawful termination under the Labor Code (Law No. 154-XV) and the organization's zero-tolerance safeguarding policy.

Volunteer policies should include explicit clauses confirming that volunteers in direct contact with vulnerable groups may be subject to reference checks similar to staff. Policies should also state that misconduct-such as sexual harassment or boundary violations with minors-constitutes grounds for immediate termination of volunteer status, consistent with the Law on Volunteering (No. 121/2010).

Alignment with safeguarding measures: MDS processes should complement existing safeguarding frameworks. NGOs serving children should explicitly reference the Child Protection Law (No. 140/2013), noting that MDS checks reinforce other vetting measures, such as mandatory background checks for child-facing roles. Whistleblower protection procedures should also be updated to explain how substantiated internal misconduct findings may be included in MDS reference disclosures, without compromising the confidentiality of whistleblowers protected under the Law on Whistleblower Protection (No. 122/2018).

Sample policy insertions

- Recruitment procedures: "All new hires, particularly those with direct contact with beneficiaries, must undergo an MDS reference check. Documented misconduct-including sexual exploitation, abuse, or harassment of beneficiaries or colleagues-will result in non-selection or termination if identified after hiring."
- Volunteer agreements: "Volunteers who have access to children or at-risk populations must sign a consent form authorizing limited reference checks for prior SEAH-related misconduct, in accordance with MDS guidelines."

3.1.2 Staff Training

Effective implementation of the MDS requires training for staff at different levels of responsibility. HR personnel and hiring managers are the primary points of contact for reference requests, data collection, and candidate interviews. Safeguarding officers or focal points must be trained in investigating allegations, handling misconduct records, and ensuring legal compliance. Volunteer and program coordinators, particularly those managing high-risk roles, should understand how to apply MDS checks to volunteers. Finally, senior management must endorse the scheme, approve policy revisions, and allocate sufficient resources to support compliance.

Training should cover four key areas. First, data protection and consent, with practical guidance on obtaining explicit consent in line with Law No. 133/2011 (current) and Law No. 195/2024 (effective from 2026), and on applying legitimate interest where consent is withheld. Second, screening high-risk roles, focusing on staff and volunteers working with children, refugees, persons with disabilities, or other vulnerable groups. Third, handling SEAH allegations, including documentation, validation, and sharing of relevant information with prospective employers in accordance with MDS. Fourth, non-discrimination, ensuring that recruitment decisions are based only on substantiated safeguarding concerns and not on protected characteristics under the Anti-Discrimination Law (No. 121/2012).

3.1.3 Defining Roles and Responsibilities

Effective MDS implementation requires clear roles. The MDS focal point coordinates the process ensuring legal compliance and serving as the contact for staff and external inquiries. They also track changes to the Labor Code, Anti-Discrimination Law, and data protection legislation. This role requires strong knowledge of HR, safeguarding, and legal frameworks.
The HR lead prepares consent forms and questionnaires, ensures all staff and volunteers complete required documents, and manages records, including logging outcomes and applying retention and deletion rules in line with Law 133/2011 and, from 2026, Law 195/2024. In complex cases—such as unclear disclosures or partial refusals—they consult the MDS focal point. HR experience and familiarity with labor law are essential.

When available, a legal advisor or focal point ensures compliance with the Labor Code (Law 154-XV), Anti-Discrimination Law (121/2012), and data protection laws. They guide when to rely on consent or legitimate interest (Article 5 of Law 133/2011; Article 6 of Law 195/2024), and help draft contract clauses referencing MDS obligations. Legal training or relevant experience is required.
The MDS focal point, HR lead, and legal advisor should coordinate regularly to review cases, update procedures, and monitor legal developments. Escalation pathways must be documented in the safeguarding policy to guide staff on reporting and response roles. In smaller NGOs, where roles may overlap, functions should still be clearly separated on paper to maintain impartiality.

3.2 Step-by-Step MDS Procedure

3.2.1 Identify Positions Requiring MDS Checks

Organizations should begin by mapping all roles within the institution. While it is best practice to apply MDS checks to every staff member, volunteer, and consultant, priority should be given to positions with direct or unsupervised access to vulnerable populations such as children, refugees, survivors of abuse, or people with disabilities. This ensures that safeguarding risks are addressed at the most critical points of contact.

Roles should be tiered by risk. High-risk roles-including child psychologists, case workers, or field officers supporting refugees-require more rigorous screening and additional references. Medium-risk roles may undergo standard checks with some enhanced verification where appropriate, while low-risk roles, such as administrative staff with minimal contact with beneficiaries, should still undergo a basic MDS screening to reduce workplace risks. For example, an NGO in Chișinău operating a child day-care program designates the day-care coordinator, educators, and after-school volunteers as high-risk positions requiring in-depth vetting. The administrative assistant, who has little direct contact with children, is considered low risk but still subject to a misconduct screening.

This approach is reinforced by the Child Protection Law (No. 140/2013), which requires stricter vetting for staff working with minors, and the Labor Code (No. 154-XV), which provides the legal basis for conducting additional background checks on roles involving safeguarding responsibilities. Broader checks across all staff, however, are encouraged to strengthen organizational protection and consistency.

3.2.2 Obtain and Document Consent

NGOs should prepare clear and transparent consent forms that explicitly state the purpose of reference checks, the type of misconduct information being sought (e.g., sexual exploitation, abuse, harassment), and how such information will be stored and used. The form should be presented during recruitment, ideally alongside the application or at the first interview. For roles assessed as high risk, consent should be emphasized as a condition of eligibility.

If a candidate refuses to sign, the NGO should explain the safeguarding rationale, particularly the duty to protect vulnerable groups. Where refusal persists, the organization must decide whether to proceed under "legitimate interest," supported by thorough documentation, or disqualify the candidate from roles involving direct contact with beneficiaries. If consent is withdrawn later, the NGO should assess whether sufficient data already exists to complete the check and record the withdrawal in writing.

For example, a candidate applying for a counselor role in Bălți, supporting refugee families, refused to authorize checks with a previous employer. The NGO explained that refusal could affect their eligibility for a high-contact role. Following discussion, the candidate provided partial consent for other employers. The HR team documented this exception and evaluated whether legitimate interest applied to the excluded reference.

This process reflects the requirements of the Law on Personal Data Protection (No. 195/2024, Articles 5–6), which requires either explicit consent or legitimate interest for lawful processing. It also aligns with MDS guidance, which recommends sample consent forms focused specifically on safeguarding-related misconduct.

3.2.3 Reference Checks and Data Requests

NGOs should use focused and standardized reference request forms that ask only about substantiated safeguarding concerns, such as whether the candidate has been subject to disciplinary measures for SEAH Each request must confirm that the candidate has provided consent for the disclosure, or indicate that the check is conducted under legitimate interest. This ensures compliance with the Anti-Discrimination Law (No. 121/2012) by avoiding irrelevant or biased inquiries, such as questions on political or religious beliefs.

Special care is required for cross-border reference checks. Under Article 31 of the Law on Personal Data Protection (No. 195/2024), data transfers abroad are permitted only if the receiving country offers adequate protection or where explicit candidate consent is obtained. If adequacy cannot be guaranteed, NGOs should implement safeguards such as standard contractual clauses or bilateral data transfer agreements. Transfers must always use secure methods, including encrypted email or password-protected files. Each transfer should be logged with details of the date, purpose, and recipient to demonstrate compliance during potential audits by the CNPDP.
A reference-check log should be maintained for all requests, noting the date, type of data sought, and the legal basis used (consent or legitimate interest). This log provides an auditable trail and supports transparency.
For example, an international NGO in Moldova sought references from a German organization where a candidate had previously worked. The NGO attached the candidate's signed consent form and included standard contractual clauses confirming that the data would be handled securely. The request was transmitted using encrypted email, ensuring both compliance with the legal framework and data protection standards.

3.2.4 Evaluating Misconduct Information

When reviewing reference responses, NGOs should carefully assess the seriousness and reliability of disclosed information. It is essential to distinguish between substantiated and unsubstantiated allegations. Substantiated concerns should be backed by official documentation, such as disciplinary reports, termination letters, or investigation records. These provide credible evidence and align with the principle under the Labor Code (Law No. 154-XV, Articles 56 and 64) that dismissal or non-hiring decisions must be based on documented facts. By contrast, unsubstantiated claims-such as rumors or reports without investigation-should be treated with caution. Candidates should not be automatically disqualified based on hearsay. Instead, NGOs should provide an opportunity for the individual to respond or clarify the allegation before reaching a final decision.

All findings must be documented, including who reviewed the information, when, and what corroborating evidence was considered. Where misconduct is not clearly proven, records should reflect the candidate's response and the reasoning behind the organization's decision.
For example, an NGO in Cahul considered hiring a logistics officer with an unverified harassment complaint in his past. The previous employer could provide no documentation beyond rumor. The NGO recorded the claim as "unsubstantiated" but noted that, if a second reference raised similar concerns, additional caution would be applied. This could include legal consultation, placement in a lower-risk role, or declining to hire. The candidate's own denial was also recorded, ensuring procedural fairness and compliance with MDS guidance.

3.2.5 Decision-Making and Record-Keeping

NGOs must ensure that recruitment and termination decisions are based on documented and proportionate grounds. Where substantiated misconduct is identified-such as sexual exploitation of minors, organizations have clear authority under the Labor Code (Law No. 154-XV, Articles 56 and 64) to terminate an employment contract or reject a candidate. Even where the conduct does not constitute a criminal offense, unethical behavior such as an exploitative relationship with a beneficiary may breach internal safeguarding policies, justifying dismissal or non-hiring.

All MDS-related data should be stored securely. Completed reference forms, internal memos, and related documentation must be kept in password-protected digital folders or locked physical files. Access should be restricted to designated staff such as the HR lead, MDS focal point, or legal advisor, in line with confidentiality requirements under the Law on Personal Data Protection. Retention policies should also be clearly defined. For example, unsuccessful candidate records may be kept for up to three years, while records of terminated staff may be held for two years after employment ends. In accordance with Articles 11 and 13 of Law No. 195/2024, all records must be securely deleted or anonymized once they are no longer required. Each deletion should be documented to demonstrate compliance with data minimization principles. For instance, an NGO in Orhei received documented evidence that a candidate had engaged in sexual exploitation of refugee beneficiaries. The NGO declined to hire the individual, logged the decision in the reference-check file, and set a three-year retention period for the record. When no reapplication was made within that time, the file was securely destroyed, ensuring compliance with data protection law and safeguarding standards.

3.2.6 Appeals and Dispute Resolution

When an NGO declines a candidate due to substantiated misconduct, the decision should be communicated clearly and respectfully. Candidates should be given a short explanation referencing relevant internal policies-such as the organization's zero-tolerance stance on SEAH -and provided with an opportunity to respond. This can be offered either in writing or through a verbal meeting.

If a candidate or staff member challenges a decision, several mechanisms are available under Moldovan law. First, the matter should be addressed through the NGO's internal grievance process, which may involve mediation or review by senior management. Second, under the Anti-Discrimination Law (No. 121/2012), individuals who suspect that discrimination was a factor may file a complaint with the Council for Preventing and Eliminating Discrimination and Ensuring Equality. The Council has the authority to investigate and issue recommendations. Finally, disputes may escalate to formal proceedings under the Law on the Prevention and Resolution of Labor Disputes, which provides for specialized labor tribunals and courts. These bodies, applying the Labor Code (No. 154-XV), examine the evidence and determine whether the decision was lawful.

All appeal processes must be thoroughly documented. NGOs should keep dated records of meetings, correspondence, new evidence, and any revised decisions. If the candidate presents credible proof that misconduct was incorrectly reported, the file must be corrected to reflect this.

For example, a teaching assistant in Comrat was rejected after a reference revealed a formal warning for inappropriate behavior with minors. The candidate disputed the finding, presenting a letter from a local child protection officer stating that the allegations had been unsubstantiated. The NGO sought clarification from the previous employer and, after review, upheld its original decision. Each step was documented to show that the process had been fair, transparent, and consistent with legal obligations.

→ Summary of the Six-Step Procedure

By following these six steps, NGOs can apply the MDSin a manner that is both lawful and effective:

- Identify which roles require MDS checks, prioritizing those with direct or unsupervised access to vulnerable groups.
- Obtain explicit consent from candidates or, where this is not possible, document legitimate interest as the lawful basis for data processing.
- Conduct focused reference requests, including international checks, in compliance with data protection standards.
- Evaluate disclosed misconduct fairly, distinguishing substantiated findings from unverified rumors, and giving candidates an opportunity to respond.
- Make well-documented decisions, store safeguarding data securely, and delete records after the retention period expires.
- Provide candidates with access to appeal procedures, including internal mechanisms and legal remedies under Moldovan labor and anti-discrimination law.

3.3 Handling Special Cases

Although the MDS establishes a general framework for reference checks, certain situations call for tailored approaches in the Moldovan context.

3.3.1 SEAH Situations Not Classified as Crimes

Some SEAH cases may not meet the threshold of criminal law but still pose serious safeguarding risks. These may include inappropriate remarks, grooming behaviors, or manipulative relationships with adult beneficiaries. Even if such acts are not criminal, organizatinos have a duty to act under their safeguarding frameworks. A violation of internal codes of conduct provides sufficient grounds for disciplinary action, including dismissal, provided the findings are substantiated and documented.

→ Example:

A staff member at a domestic violence shelter attempted to initiate a sexual relationship with a 25-year-old resident, exploiting her emotional and financial vulnerability. While not constituting a criminal offense, this behavior breached the NGO's zero-tolerance policy on SEAH.

- The NGO conducted an internal investigation, collecting witness statements and documentary evidence.
- The staff member was formally notified of the allegations and given the opportunity to respond.
- Once the misconduct was substantiated, the NGO dismissed the staff member for gross ethical violations under its code of conduct.
- In line with the Misconduct Disclosure Scheme, any future reference provided by the NGO would state that the individual had been terminated for documented sexual exploitation.

This approach ensures compliance with Moldovan legislation while upholding safeguarding standards and preventing individuals with a record of exploitation from moving unchecked within the sector.

3.3.2 Ending Contracts or Declining Hiring

NGOs should ensure that internal policies and contractual documents provide a clear legal and ethical basis for action when safeguarding violations occur, even if they do not meet the criminal threshold.

Serious misconduct clauses: Employment contracts, consultant agreements, and volunteer policies should include explicit language stating that any form of exploitation, harassment, or abuse of beneficiaries constitutes grounds for immediate dismissal or non-selection. This ensures that unethical but non-criminal behavior is formally recognized as "serious misconduct," in line with Articles 56 and 64 of the Labor Code (No. 154-XV).

Internal disciplinary procedures: Organizations should apply standardized investigation procedures, under a survivor-centered approach, when allegations arise. This

includes collecting witness statements, reviewing communications (e.g., text messages, logs), notifying the accused, and providing them an opportunity to respond. Once misconduct is substantiated, the NGO may terminate employment under serious misconduct provisions without requiring a criminal conviction. For further reference on investigations procedures, organizations are encouraged to contact the PSEA Coordinator or specialized agencies, such as CHS Alliance.

Thorough documentation: A confidential record should be maintained for each case, including investigation reports, dates, interviews, and final decisions. Proper documentation ensures transparency and fairness, while also providing the NGO with a strong defense if a dismissal is later contested in court or through labor dispute mechanisms.

3.3.3 Ensuring Compliance with Labor Law

Zero-tolerance safeguarding policies must be applied within the framework of due process. Under the Labor Code (Law No. 154-XV), employees accused of misconduct must be informed in writing of the allegations, given an opportunity to present their version of events, and allowed to respond before a final decision is taken. This ensures that dismissals or disciplinary actions are both lawful and defensible.

In complex cases —such as those involving minimal evidence, borderline definitions of misconduct, or overlapping safeguarding and labor law consideration—NGOs should seek guidance from qualified Moldovan legal experts. Legal consultation helps confirm that grounds for dismissal meet statutory requirements, reduces the risk of wrongful termination claims, and ensures that safeguarding actions remain consistent with national labor legislation.

3.3.4 Volunteers vs. Employees

Applying MDS to Volunteers in Moldova
All personnel, including volunteers, should undergo safeguarding reference checks to ensure consistent application of protection standards, in compliance with the IASC PSEA Minimum Operating Standards, and UN Implementing Partners Protocol. This includes conducting reference checks to identify any history of SEAH and requiring signed consent forms that acknowledge safeguarding-related disclosures may be shared with future volunteer-hosting organizations.

Volunteer agreements should explicitly state these conditions. For example:
“By signing this agreement, you consent to an MDS reference check. Any documented misconduct involving SEAH, harassment, or exploitation may result in immediate termination of your volunteer role.”

→ Example – High-risk volunteer role

At a youth center in Edineț, a volunteer supervises teenagers on a regular basis. The NGO’s volunteer agreement includes a specific MDS reference requirement, and the individual consents to child-safeguarding checks. This measure ensures the NGO can act swiftly if prior SEAH concerns or suspicious behavior come to light, thereby maintaining a safe environment for beneficiaries.

This approach aligns with the Law on Volunteering (No. 121/2010), which requires NGOs to manage volunteers ethically, and the Child Protection Law (No. 140/2013), which emphasizes rigorous safeguarding measures for individuals working with minors.

Partial Checks or Disclaimers for Lower-Risk Volunteer Roles

Administrative or Logistics Volunteers: Even if volunteers have limited or no direct contact with beneficiaries, applying the MDS remains a mandatory practice to uphold consistent safeguarding standards across the organization. For lower-risk administrative or logistics positions, the NGO may opt for a streamlined approach-such as a basic misconduct self-declaration and a simplified reference check-while still ensuring all volunteers are covered by the MDS framework. This approach balances organizational safeguards with practical considerations for roles that present a lower direct risk to beneficiaries.

Upgrading Vetting if Roles Change: While the MDS should cover all volunteers from the outset, if a volunteer initially assigned to an administrative role, transitions into child-facing tasks or other high-risk duties, the organization should re-check or expand their vetting. This helps maintain consistent safeguarding standards across roles, ensuring more comprehensive vetting for positions with direct beneficiary contact.

Compliance with the Law on Volunteering (No. 121/2010)

Clarity on Volunteer Status: Under Moldovan law, volunteers are not employees. However, the NGO remains responsible for ensuring volunteer activities are conducted ethically, and that volunteers respect data confidentiality and safeguarding obligations.

Immediate Disengagement Clauses: Volunteer policies should state that the NGO can terminate a volunteer relationship at any time if misconduct is discovered. Retain minimal data for reference-check purposes (under the same retention policies as employee data).

3.4. Cross-Border Reference Check or International Staff

3.4.1 Data Protection Considerations and Article 31 Compliance

Under Article 31 of Law 195/2024, cross-border data sharing requires strict safeguards. Before requesting or disclosing information to employers abroad, NGOs must confirm that the receiving country ensures an adequate level of data protection. If adequacy cannot be guaranteed, organizations should use standard contractual clauses or obtain explicit consent authorizing the transfer.

NGOs must also maintain an internal log of all cross-border reference requests. This should include the date, purpose, recipient, and details of how secure communication was ensured. All transfers should be conducted via encrypted email or secure file transfer systems. Each request should be accompanied by a signed candidate consent form-translated into the relevant language where necessary-so that the foreign employer understands the legal basis for disclosing any safeguarding-related information.

→ Example – International candidate in Moldova

A candidate from France applies for a position supporting the refugee response in Chișinău. The NGO obtains the candidate's written consent authorizing international checks, then contacts the previous French employer using encrypted email and standard data-protection clauses. The completed reference checks are then stored in a secure, access-controlled system, accessible only to authorized HR or safeguarding staff. This approach ensures compliance with Moldovan data protection law while strengthening safeguarding standards in international recruitment.

3.4.2 Addressing Language

Provide bilingual consent forms (English–Romanian or English–Russian) if the candidate or foreign employer is not fluent in Romanian or Russian. For references received in other languages—such as Spanish or German—request a translation or summary to ensure HR and legal staff can accurately interpret any allegations or disciplinary records.

3.5 Ensuring Non-Discriminatory Practices

A core principle of the MDS is to base hiring or dismissal decisions on verified safeguarding concerns, rather than personal bias or assumptions. In Moldova, this obligation is reinforced by the Anti-Discrimination Law (No. 121/2012) and relevant labor regulations that prohibit any form of unjustified differential treatment. This section provides practical strategies for avoiding discriminatory practices, along with guidance on documenting decision rationales to protect both the NGO and the rights of candidates or staff.

3.5.1 Best Practices to Confirm Hiring Rejections Are Based on Safeguarding Concerns

MDS checks must focus exclusively on substantiated safeguarding concerns and avoid discriminatory practices. When requesting references, NGOs should seek information only on misconduct relevant to SEAH. Broad or vague questions about personal background, such as religion or political views, increase the risk of bias and should be avoided. If allegations are disclosed, organizations should request supporting documentation-such as investigation reports, disciplinary notices, or witness statements-to confirm credibility. Rumors or unverified claims should be treated with caution, and candidates must be given an opportunity to respond before decisions are finalized.

To ensure consistency, NGOs are encouraged to use a decision matrix. This should define which types of misconduct result in automatic rejection (e.g., confirmed sexual activity with minors or documented harassment of vulnerable groups) and which require further review (e.g., a single dated incident that was unsubstantiated). Factors such as severity, recency, and relevance to the role should guide decision-making. Any confirmed exploitation involving minors or other vulnerable populations must always be considered exceptionally serious, regardless of when it occurred.

Recruitment decisions must also comply with the Anti-Discrimination Law (No. 121/2012), which prohibits bias on grounds such as ethnicity, gender, disability, sexual orientation, or religion. Hiring managers and HR staff should be trained on these legal requirements and provided with simple guides to ensure that protected characteristics never influence outcomes.

→ Example – Consistent application of MDS

An NGO in Chișinău interviewed two candidates for a position supporting unaccompanied minors. One applicant was from a religious minority, the other from the majority faith. Both were required to sign the same MDS consent form and undergo identical reference checks. When one candidate received a negative reference confirming substantiated SEAH, the NGO issued a rejection letter referencing the proven misconduct, without mentioning religion or any personal traits. This demonstrates both compliance with anti-discrimination law and adherence to safeguarding principles.

3.5.2 Documenting Decision Rationale to Avoid Anti-Discrimination Violations

Documenting decision rationale to avoid discrimination risks: NGOs must ensure that recruitment and dismissal decisions are transparent, fair, and defensible. This requires keeping a clear record of how each decision was reached and ensuring candidates have the opportunity to respond.

Decision records: Each case should include the date of the reference check, a summary of any misconduct findings, and the specific justification for hiring or rejection. Where a negative outcome is recorded, the rationale must link directly to the NGO's safeguarding policy or code of conduct. These records should be stored securely with the consent forms and reference responses, in line with the NGO's data retention schedule.

Standardized forms and checklists: To reduce bias, NGOs should use standardized documentation, such as an "MDS Hiring Outcome" form. This should require decision-makers to list the allegations, supporting evidence, and the applicable policy provision. References to the Labor Code (Law No. 154-XV, Article 64) or relevant HR manual clauses should be included to confirm that the decision complies with anti-discrimination and labor law standards.

Recourse to the Equality Council: If a candidate alleges discrimination, they may appeal to the Council for Preventing and Eliminating Discrimination and Ensuring Equality under the Anti-Discrimination Law (No. 121/2012). Maintaining detailed records enables NGOs to demonstrate that decisions were based exclusively on safeguarding concerns. Transparent cooperation with the Equality Council or labor inspectors further reinforces accountability.

→ Example – Social worker application in Cahul

An NGO in Cahul rejected a candidate for a social worker role after two references confirmed substantiated sexual harassment incidents in 2021 and 2022. The HR manager completed an MDS Hiring Outcome form noting the misconduct, the supporting evidence, and the organization's zero-tolerance policy. The candidate was informed in writing that the rejection was based on "documented prior sexual harassment" and given the opportunity to contest inaccuracies. This process demonstrated fairness, compliance with labor and anti-discrimination law, and adherence to safeguarding standards.

3.6 Case Studies or Brief Scenarios

Case studies: applying MDS in practice

Scenario 1 **Refused consent for a child-facing role**

An NGO in Chișinău sought to recruit a child protection officer. The applicant, Andrei, refused to sign the MDS consent form, citing privacy concerns and strained relations with a former employer. Because the role involved unsupervised contact with minors, the NGO explained its legal and safeguarding obligations under the Child Protection Law (No. 140/2013) and the organization's zero-tolerance policy. Andrei refused all reference checks, even partial alternatives. Following consultation with legal counsel, the NGO concluded that it could not proceed under legitimate interest due to a lack of specific leads. The refusal was documented, and Andrei was disqualified. The decision was recorded in the MDS file to ensure compliance with the Labor Code (No. 154-XV) and data protection standards.

Scenario 2 **Cross-border discovery of SEAH**

A Moldovan NGO recruiting a program manager, Elena, obtained her consent for cross-border checks with a previous employer in Poland. The Polish NGO disclosed, via encrypted email and under standard contractual clauses in compliance with Article 31 of the Law on Personal Data Protection (No. 195/2024), that Elena had been found responsible for sexual exploitation of adult beneficiaries. Although no criminal charges were filed, the misconduct was substantiated through internal investigation records. Elena was given the opportunity to respond but did not provide evidence to refute the findings. The NGO declined to hire her and recorded the rationale in its decision log, referencing its zero-tolerance SEAH policy.

Scenario 3 **Volunteer misconduct in a refugee center**

An NGO in Cahul engaged Marin as a volunteer distributing aid to refugee families. Midway through his service, the NGO received a tip alleging harassment in a previous placement. Applying MDS checks retroactively, the NGO sought references from two organizations where Marin had volunteered. One reported no concerns; another indicated a past warning but lacked documentation. Because the evidence was weak, the NGO did not dismiss Marin but reassigned him to a lower-risk role without unsupervised access to children. The case was documented, and Marin was formally reminded of the NGO's zero-tolerance SEAH policy. This proportionate response aligned with the Law on Volunteering (No. 121/2010) and safeguarded beneficiaries while respecting due process.

Scenario 4 **Unsubstantiated allegation and probationary hiring**

A small NGO in Ungheni recruited Adriana as a field officer. A former employer mentioned "rumors of exploitation" but could not provide documentation. Adriana denied the claims and produced performance evaluations with no misconduct records. Following the Labor Code's requirement that dismissals or rejections must rely on evidence (Articles 56 and 64), the NGO chose not to reject her outright. Instead, she was hired on probation with monthly safeguarding reviews. This approach aligned with the Anti-Discrimination Law (No. 121/2012) by avoiding rejection based on unsubstantiated allegations while still protecting beneficiaries.

→ Key takeaways

1. **Consent and documentation:** Explicit consent or a documented legitimate interest basis is essential before collecting or sharing misconduct data.

2. **Fairness and zero tolerance:** NGOs must balance zero-tolerance safeguarding with fairness, substantiated misconduct can justify dismissal or non-hiring, but rumors alone cannot.

3. **Volunteer vs. employee standards:** Volunteers in high-risk roles require checks equivalent to employees; low-risk roles may undergo proportionate vetting.

4. **Cross-border safeguards:** International reference checks require compliance with data protection law (Article 31), use of contractual safeguards, and secure communication methods.

Regional Refugee Response for the Ukraine Situation

UNITED NATIONS MOLDOVA

MISCONDUCT DISCLOSURE SCHEME

Section 4.

Compliance Checklist

4.1 Compliance Checklist

4.3 References and Further Resources

4.1 Compliance Checklist

Below is a practical, one-page reference that your organization can use to quickly verify their MDS processes.

4.1.1 Consent and Legal Basis

Consent forms

- Ensure a clear, written consent form is completed for every candidate and volunteer, specifying that the check will cover misconduct related to SEAH
- Confirm that consent forms are translated into relevant languages (Romanian, Russian, and English) so that candidates fully understand their rights and obligations.

Legitimate interest assessments

- Where a candidate refuses consent, document the decision to rely on legitimate interest under Article 5 of Law No. 133/2011 (and Article 6 of Law No. 195/2024 after 2026).
- Keep a short written record explaining why safeguarding imperatives outweigh privacy concerns, signed by the responsible staff member (HR lead, safeguarding focal point, or legal advisor).
- Store these records securely in the candidate's file to demonstrate compliance if audited by the CNPDP.

4.1.2 Reference and Disclosure Procedures

Safeguarding-focused reference requests

- Verify that all reference request templates are limited to misconduct relevant to safeguarding-specifically SEAH
- Confirm that irrelevant or potentially discriminatory questions, such as those related to political beliefs, religion, health status, or other protected characteristics, have been removed.

Cross-border data sharing

- Ensure compliance with Article 31 of the Law on Personal Data Protection (No. 195/2024, effective 2026; Law No. 133/2011 until then) when requesting or transmitting information to employers abroad.
- Use secure communication methods, such as encrypted email or password-protected files, to prevent unauthorized access.
- Where the receiving country lacks adequate data protection, apply additional safeguards, such as standard contractual clauses, to remain legally compliant.

4.1.3 Data Storage and Retention

Secure handling of records

- Confirm that all reference-check data is stored securely in password-protected digital systems or locked physical files, with access restricted to authorized staff (e.g., HR lead, safeguarding focal point, or legal advisor).
- Maintain an audit trail or log showing when records were accessed or modified, in line with confidentiality obligations under the Law on Personal Data Protection (No. 133/2011; No. 195/2024 from 2026).

Retention timelines

- Establish clear timelines for record retention, it can be two to three years for unsuccessful candidates.
- Ensure compliance with Article 11 of Law No. 133/2011 and Articles 11 and 13 of Law No. 195/2024, which require data to be deleted or anonymized once it is no longer necessary.
- Conduct regular reviews to purge or anonymize outdated files, keeping a record of each deletion to demonstrate compliance if audited by the CNPDP.

4.1.4 Non-Discriminatory Decision-Making

Objective grounds for rejection

- Ensure that any negative hiring decision is based solely on documented misconduct relevant to safeguarding (e.g., SEAH).
- Provide candidates with an opportunity to respond to negative findings before a final decision is taken, in line with fairness and procedural rights under the Labor Code (No. 154-XV).

Consistent criteria

- Apply the same reference-check process and evaluation thresholds to all applicants for similar roles, ensuring consistency across departments and programs.

4.1.5 Clarifying Termination Grounds for SEAH

Zero-tolerance clauses in HR policies

- Verify that the organization's code of conduct explicitly defines sexual exploitation, abuse, or harassment as serious misconduct justifying lawful termination under Articles 56 and 64 of the Labor Code (No. 154-XV).
- Ensure managers and staff are trained to recognize that sexual activity with anyone under 18 constitutes a criminal offense under the Criminal Code, requiring immediate reporting to law enforcement and likely contract termination.

Documentation of internal investigations

- Ensure that all SEAH allegations are addressed through a documented procedure, including evidence collection (statements, written records), notification to the accused, an opportunity to respond, and a written conclusion. This ensures compliance with disciplinary requirements under the Labor Code and reduces the risk of unfair dismissal claims.
- Maintain a confidential investigation file, accessible only to authorized staff (HR lead, safeguarding focal point, or legal advisor), in accordance with the Law on Personal Data Protection (No. 133/2011; No. 195/2024 from 2026).

4.1.6 Volunteer-Specific Considerations

Volunteer agreements

- Confirm that all volunteer agreements include a clause requiring MDS checks for individuals with direct contact with vulnerable groups such as children, refugees, or GBV survivors, in line with the Law on Volunteering (No. 121/2010).

Ensure that agreements contain an immediate disengagement clause, allowing the NGO to terminate the volunteer relationship if misconduct is discovered, even when the behavior does not constitute a criminal offense.

4.2 Key Takeaways and Next Steps

Regular Policy Updates: Laws evolve (e.g., labor code amendments, data protection guidelines). Schedule annual or biannual reviews of HR manuals and consent forms to stay current.
Frequent Training Sessions: Conduct brief refresher workshops on MDS, data protection, and anti-discrimination at least once a year.

Mentorship for New Staff: Pair new HR officers with experienced team members for guidance on the MDS process.
Internal Audits: Conduct annual checks to ensure consent forms are properly used, reference logs are complete, and data retention rules are respected.

4.3 References and Further Resources

Below is a concise list of essential Moldovan laws, guidelines, and regulatory bodies that NGOs can consult to ensure ongoing MDS compliance and robust safeguarding. Where possible, links or direct contact information are provided to support further inquiries and clarifications.

A Key Moldovan Laws and Regulations

1. Labor Code (Law No. 154-XV of March 28, 2003)

Governs employment relationships, lawful grounds for termination, and employee rights.

- Articles 56, 64: Lawful termination (serious misconduct).
- Article 212: Confidentiality obligations.

Official resource: https://www.legis.md/cautare/getResults?doc_id=113032&lang=ro

2. Law on Personal Data Protection (No. 195/2024)

Sets standards for collecting, storing, and transferring personal data, including cross-border requirements (Article 31).

Official resource: https://www.legis.md/cautare/getResults?doc_id=144681&lang=ro

3. Anti-Discrimination Law (No. 121/2012)

Prohibits discrimination based on protected characteristics and ensures equal treatment in employment..

Official resource: https://www.legis.md/cautare/getResults?doc_id=106454&lang=ro

4. Child Protection Law (No. 140/2013)

Establishes vetting requirements for roles involving minors.

Official resource: https://www.legis.md/cautare/getResults?doc_id=118101&lang=ro

5. Criminal Code (Law No. 985-XV) & Criminal Procedure Code (Law No. 122-XV)

Establishes mandatory reporting obligations and defines criminal offenses, including any sexual activity involving persons under the age of 18.

Official resource: https://www.legis.md (search for updated versions)

6. Law on Whistleblower Protection (No. 165/2023)

Safeguards individuals who report misconduct and ensures the confidentiality of their identity and information.

Official resource: https://www.legis.md/cautare/getResults?doc_id=138148&lang=ro

7. Law on Volunteering (No. 121/2010)

Regulates volunteer engagement and defines the responsibilities of host organizations.

Official resource: https://www.legis.md/cautare/getResults?doc_id=23974&lang=ro

B MDS and Safeguarding Guidelines

1. Misconduct Disclosure Scheme (MDS) Global Site

Provide general principles and templates, which NGOs should adapt to align with Moldovan legal requirements.
Resource: https://misconduct-disclosure-scheme.org/

C Regulatory and Advisory Bodies

1. National Center for Personal Data Protection (CNPDP)

Oversees compliance with data protection laws. Offers guidance on consent, legitimate interest, and cross-border data transfers.
Contact:

- Website: https://www.datepersonale.md/
- Phone: (+373) 22 820 801
- Email: info@datepersonale.md

2. Council for Preventing and Eliminating Discrimination and Ensuring Equality

Handles discrimination complaints; can investigate if hiring rejections appear biased.

- Website: https://egalitate.md/
- Phone: (+373) 22 272 033
- Email: secretariat@egalitate.md

3. Ministry of Labor and Social Protection

Enforces labor standards and may provide updates on employment laws relevant to hiring and dismissals.

- Website: https://social.gov.md/
- Phone: (+373) 22 262 222

4. Local Labor Inspectorates

Conduct checks to ensure compliance with the Labor Code, including proper record-keeping and lawful dismissals.
Contacts vary by region (municipal offices or district inspectorates).

Section 5.

Annexes

Annex A. Template Consent Forms (Employee, Volunteer)

Annex B. Sample Reference-Check Questionnaire

Annex C. Legitimate Interest Assessment Template

Annex D. Risk Matrix (Detailed Version)

Annex E. Sample Contract Clauses for Termination on Grounds of SEAH

Annex F – Refusal handling form

Annex A. Template Consent Forms (Employee, Volunteer)

The sample consent forms below are tailored for use in Moldova. They reference key national laws and reflect best practices under the MDS. Organizations may adapt the templates to fit their context, adding or removing clauses as appropriate. Consent forms should be provided in Romanian, Russian, or other relevant languages to ensure candidates and volunteers clearly understand what they are agreeing to

A.1. Template Consent Form for Candidates

Title: Consent to Misconduct Disclosure and Reference Check (Employee)

1. Purpose of The Consent

I, the undersigned, hereby acknowledge that [Name of Organization] ("the Organization") requires safeguarding reference checks for roles involving contact with beneficiaries or access to sensitive information. This process forms part of the MDS aimed at preventing sexual exploitation, abuse, or harassment (SEAH), consistent with Moldovan laws and the Organization's code of conduct.

2. Scope of Reference Check

The Organization may collect or share documented information related to sexual exploitation, abuse, harassment, or other forms of serious misconduct from previous employers or relevant institutions. This process is carried out in compliance with Moldovan legislation, including: the Labor Code (No. 154-XV), which establishes grounds for lawful termination and outlines confidentiality obligations; the Law on Personal Data Protection (No. 195/2024), which governs consent, data minimization, and cross-border data transfers; and, where applicable, the Child Protection Law (No. 140/2013), which mandates enhanced vetting for roles involving minors.

3. Consent to Data Processing

The Organization will process my personal data—such as employment history and disciplinary records—solely for the purpose of verifying any prior misconduct. Where references are located outside Moldova, I consent to the cross-border transfer of my data in accordance with Article 31 of the Law on Personal Data Protection (No. 195/2024). I understand that if I withdraw my consent, the Organization may continue limited processing based on legitimate interest, but only where necessary to protect vulnerable persons.

4. Retention and Confidentiality

All misconduct-related records will be stored securely, with access limited to authorized personnel such as the HR lead, legal advisor, or safeguarding officer. Records will be deleted or anonymized after [insert retention period, e.g., two years following the end of employment], unless a legal or safeguarding justification exists to retain them longer—for example, in the case of an ongoing investigation.

5. Right to Withdraw Consent

I am aware that I may withdraw my consent at any time by submitting a written request to [organization contact/email]. If I choose to do so, I understand that the Organization may still rely on legitimate interest to continue processing my data, but only where it is essential to meeting safeguarding obligations.

6. Acknowledgment
I confirm that I have read and understood the purpose, scope, and implications of this consent form. I agree that the Organization may lawfully collect and/or share relevant information on past misconduct in accordance with Moldovan law and the MDS framework.

Candidate Name:
Candidate Signature:
Date:

A.2. Template Consent Form for Volunteers

Title: Consent to Misconduct Disclosure and Reference Check (Volunteer)

1. Purpose of The Consent
I, the undersigned, acknowledge that [Name of NGO] ("the Organization") implements a Misconduct Disclosure Scheme (MDS) to ensure that volunteers do not pose a risk of sexual exploitation, abuse, or harassment (SEAH), particularly when working with vulnerable populations.

2. Volunteer Role and Safeguarding Context
As part of my volunteer duties, I may have direct or indirect contact with beneficiaries, including children, refugees, or other at-risk groups. In line with Moldova's Law on Volunteering (No. 121/2010) and the Organization's code of conduct, all volunteers are subject to safeguarding measures to help prevent SEAH and uphold ethical behavior.

3. Consent to Data Processing and Reference Checks
I authorize the Organization to request and process information related to SEAH or other serious misconduct from my previous volunteer placements or employers. Where references are based outside Moldova, I consent to the cross-border transfer of my personal data in accordance with Article 31 of the Law on Personal Data Protection (No. 195/2024).

4. Data Retention and Confidentiality
Any findings will be stored securely and accessible only to designated personnel on a need-to-know basis. Records will be deleted or anonymized after [insert retention period, e.g., one year following the end of volunteer service], unless retention is required for an ongoing investigation or other safeguarding purpose.

5. Right to Withdraw Consent
I understand that I may withdraw my consent at any time by submitting written notice to the Organization. I acknowledge that, in such cases, the Organization may reassign or terminate my volunteer role if essential safeguarding checks cannot be completed.

6. Agreement
I confirm that I have read and understood the purpose and scope of this consent form. I agree to the use of MDS reference checks as they relate to my volunteer role and responsibilities.

Volunteer Name:
Volunteer Signature:
Date:

→ Notes on Using These Templates

Local Language Versions: Consent forms should be translated or adapted into Romanian and/or Russian to ensure that candidates and volunteers fully understand the content. Maintain consistent formatting and clearly reference relevant national laws or internal policies.

Customization: Insert appropriate data retention periods—for example, two to three years for employees and one year for volunteers. If needed, include additional legal disclaimers required by donors or internal codes of conduct.

Cross-Border Considerations: If your organization frequently contacts references abroad, include a short clause outlining data protection measures such as encryption or standard contractual clauses.

Signed Copies: Store signed consent forms securely, whether physical or digital, and provide a copy to the individual to ensure transparency.

Integration with Other Documents: Refer to this consent form in related documents—such as volunteer agreements, employment contracts, or HR manuals—to ensure consistency. Direct any questions to the designated MDS or HR focal point.

Annex B. Sample Reference-Check Questionnaire (Focused on Misconduct/SEAH in the Moldovan Context)

1. Introduction/Disclaimer
Sender: [NGO Name], [Position/Department], [Email/Phone]
Recipient: [Previous Employer/Referee Name], [Organization Name/Department], [Email/Phone]
We are contacting you under the Misconduct Disclosure Scheme (MDS) in compliance with Moldovan law —specifically the Law on Personal Data Protection No. 195/2024 and the Labor Code No. 154-XV. The purpose of this request is to verify whether the individual named below has a history of serious misconduct, particularly sexual exploitation, abuse, or harassment (SEAH). We confirm that we have obtained the candidate's explicit consent, or documented legitimate interest where consent was not granted, in accordance with applicable data protection standards.

2. Candidate/Former Employee Details
- **Full Name:**
- **Date of Birth (if relevant):**
- **Position(s) Held:**
- **Approximate Dates of Employment/Volunteering:**

Note: Please share only information that is directly relevant to safeguarding and SEAH concerns, in line with Moldova's anti-discrimination standards.

3. Verification of Role and Responsibilities

- Can you confirm the candidate's job title(s) and main responsibilities?
  Example: "She worked as a Child Protection Officer from June 2020 to August 2022, with direct supervision of minors."
- Did the role involve regular contact with vulnerable groups (e.g., minors, refugees, survivors of trafficking)?
  Yes / No / Not Sure

This information helps determine whether the candidate held a position subject to heightened safeguarding obligations under Moldova's Child Protection Law No. 140/2013.

4. Misconduct-Related Questions

Please respond only to formally investigated or documented incidents. We are not requesting personal opinions or unsubstantiated concerns.

I. Documented SEAH

- Has the candidate ever been disciplined, dismissed, or formally warned for SEAH in your organization?
  - If yes: Please provide details (e.g., date, nature of the misconduct, and outcome of any internal investigation).
  - If no: Please confirm that no SEAH-related concerns were recorded.

II. Exploitative Behavior

- Were there any substantiated reports of the candidate exploiting a power imbalance (e.g., with beneficiaries, vulnerable adults, or minors)?
  - If yes, how was this documented (e.g., investigation report, witness statements)?
  - What, if any, disciplinary action was taken?

III. Criminal Thresholds (Minors):

- Was any criminal or legal process initiated involving minors (under age 18)?

If yes, please specify the nature of the incident and any steps taken internally or externally.

Note: In Moldova, any sexual activity involving a person under 18 constitutes a criminal offense under national law.

IV. Other Serious Misconduct

- Were there any confirmed instances of serious misconduct (e.g., fraud, corruption, violence) that may be relevant in a safeguarding context?

5. Overall Assessment and Additional Comments

I. Rehire Eligibility

Would your organization be willing to rehire this individual based on their past conduct?

§ Yes / No / Not Sure

If no, please specify if this is related to behavioral or misconduct reasons rather than unrelated performance factors.

II. Additional Relevant Information

Is there anything else directly related to safeguarding or serious misconduct that we should be aware of?

6. Confidentiality and Data Protection Notice

We confirm that any information shared through this form will be:

- Used exclusively for safeguarding and misconduct verification under the MDS;
- Processed in accordance with the Law on Personal Data Protection No. 195/2024 and stored securely for the legally defined retention period;
- Accessible only to authorized personnel within our organization (e.g., HR lead, safeguarding focal point, or legal advisor).

If you are based outside Moldova, please note that standard contractual clauses or equivalent safeguards will apply to ensure lawful cross-border data transfers, in accordance with Article 31 of Law No. 195/2024.

7. Contact and Submission
Please return this form via one of the following methods:
Encrypted email (preferred): [Organization's email]
Postal mail (if necessary): [Organization's Physical Address]
Deadline: We kindly request a response within [X] working days, if feasible, to avoid delays in our recruitment or engagement process.

If you have any questions or wish to verify candidate consent, please contact:
MDS Focal Point: [Name, Title, Phone, Email]

Acknowledgment and Signature (Optional)
Referee Name and Title:
Organization:
Signature/Stamp (if applicable):
Date:

→ Notes for organizations Using This Template

1. **Customizing Questions:** Adapt the questions to your operational context (e.g., working with minors or refugees). Remove any items that are not locally relevant.

2. **Local Language:** Translate the form into Romanian or Russian if the referee is in Moldova and not fluent in English. For international checks, consider using bilingual versions.

3. **Short and Focused:** Short, focused forms increase the likelihood of timely responses. Limit questions to SEAH and other serious misconduct.

4. **Attach consent:** Include a signed consent form or mention that it is available upon request, so referees are assured the data sharing is lawful.

5. **Follow-Up:** If the referee does not respond or provides unclear feedback, follow up politely by email or phone to explain the purpose of the SEAH check.

Annex C. Legitimate Interest Assessment Template

The following template can be used to document and justify legitimate interest when processing a candidate's personal data for safeguarding purposes under the Misconduct Disclosure Scheme (MDS). It aligns with the Law on Personal Data Protection (No. 195/2024), which permits data processing without consent based on legitimate interest, provided that the processing is necessary and proportionate to protect beneficiaries and prevent misconduct.

1. Basic Information
Name of the Organization:
Officer Conducting Assessment:
Date:
Candidate Name:
Position Applied/Volunteered For:
Nature of Involvement (staff applicant, volunteer, consultant):
Reason for Legitimate Interest Assessment:
a) **Refusal/Withdrawal of Consent:**
- Candidate declined to sign the MDS consent form.
- Candidate withdrew previously granted consent.

b) **Other Circumstances:**
- Urgent safeguarding concerns (e.g., informal complaint, unverified report).
- Partial consent (candidate restricted which referees can be contacted).

2. Legitimate Interest Justification
Purpose of Data Processing
- To verify any documented history of SEAH-related misconduct.

To protect beneficiaries in line with Moldovan law and internal safeguarding standards.
Relevance and Necessity
- Is the position high-risk (involving unsupervised or direct contact with vulnerable persons)?

Why are self-declarations insufficient in this case? Could the absence of reference checks pose a safeguarding risk?
Proportionality and Balancing Test
Are you requesting only SEAH-related information, avoiding irrelevant data?
Candidate Rights vs. Safeguarding Need:
- **Candidate's privacy interest:** The candidate declined consent to data sharing.
- **Organization's safeguarding interest:** Preventing risk of harm
- **Conclusion:** Why safeguarding needs outweigh the refusal

Legal Basis
- **Law No. 195/2024 (Art. 6):** Legitimate interest may apply if data use is necessary and rights are not overridden.
- **Labor Code No. 154-XV (Arts. 56, 64):** Serious misconduct may justify dismissal or non-selection.

Child Protection Law No. 140/2013: Requires stricter vetting for roles involving minors.

3. Safeguards to Protect Candidate's Rights
Data Minimization
- Request only SEAH-related information.

Exclude data on protected characteristics.

Confidentiality

- Strong findings securely with limited access.
- Retain only for the period needed to make a decision or respond to appeals.

Candidate Notification

- Inform the candidate in writing that legitimate interest is being used.
- Refer to relevant laws and offer a chance to provide alternative references.

Potential Reporting Obligations

If findings indicate a criminal act (e.g., sexual activity with a minor), prepare to report to relevant authorities, as required by the Criminal Code and child protection law.

4. Outcomes of The Assessment

Decision on Data Collection

- Proceed with limited, targeted checks focused on SEAH or serious misconduct.
- Contact only the most relevant former employer(s).

Implications for Hiring

- If SEAH-related misconduct is confirmed, the candidate may be disqualified.
- If no evidence is found, continue with standard hiring procedures (e.g., with probation, if appropriate).

Monitoring and Review

Keep a copy of this legitimate interest assessment on file to demonstrate compliance if audited by the CNPDP or if the candidate questions the lawfulness of data processing.
Reassess if circumstances change (e.g., the candidate eventually grants partial consent, or new evidence arises).

5. Signatures and Authorization

- **HR Lead or MDS Focal Point:**
  (Name & Signature, Date)
- **Legal Advisor (Optional):**
  (Name & Signature, Date)

It is recommended that the Organization's legal advisor review and co-sign the assessment in high-risk or complex cases

→ Using This Template

1) Keep it Short and Actionable: Focus on clearly demonstrating how the balancing test was applied in line with Moldovan data protection law.

2) Link to Internal HR Policies: Reference your organization's child protection or zero-tolerance SEAH policy to strengthen the justification for invoking legitimate interest.

3) Adapt for Volunteers or Consultants: If legitimate interest is applied to volunteers or short-term consultants, adjust the language accordingly—for example, by referencing volunteer agreements under the Law on Volunteering (No. 121/2010).

4) Store in a Secure Folder: File the completed form with the candidate's record to maintain a clear audit trail of the decision-making process..

Annex D. Risk Matrix (Detailed Version)

The table below provides a comprehensive risk matrix that organizations can use to identify, assess, and mitigate specific challenges related to the implementation of the Misconduct Disclosure Scheme (MDS). Unlike summary versions, this detailed format includes explanations of risks, probability and impact levels, recommended mitigation measures, assigned responsibilities, and references to relevant Moldovan laws and MDS guidance.

→ How to Use:

1. **Customize** the categories and the rows to reflect your organization's specific context (e.g., child-focused programs, high staff turnover, international deployments).
2. **Update** the probability and impact levels (Low/Medium/High) based on organizational experience or past incidents.
3. **Review** the matrix regularly, —for example, every six to twelve months— to reflect changes in legal requirements, staffing, or operational capacity.

SAMPLE RISK MATRIX

Risk/ Conflict	Explanation	Probability	Impact	Overall Risk	Mitigation Measures	Responsibility	References	Action
1. Candidate Refuses Consent for MDS Checks	Candidate declines to sign the consent form, preventing access to relevant SEAH or misconduct data.	Medium	High	Medium/ High	**- Legitimate Interest Assessment:** Document why safeguarding outweighs privacy. **- Clear Communication:** Explain to candidate the necessity of checks for child-facing or refugee roles. **- Potential Disqualification:** If refusal persists for high-risk roles, consider non-selection.	1. Candidate Refuses Consent for MDS Checks	1. Candidate Refuses Consent for MDS Checks	1. Candidate Refuses Consent for MDS Checks

2. Overly Broad Reference Requests	Using generic or invasive questions risks collecting protected data (religion, political views), leading to possible discrimination claims.	Medium	Medium	Medium	**- Focus on SEAH/ Misconduct:** Adopt standardized forms strictly targeting proven SEAH **- Staff Training:** Teach recruiters to avoid irrelevant personal questions.	HR Lead / Legal Advisor	- Anti-Discrimination Law (No. 121/2012) - MDS Guidance: Minimizing irrelevant data	Update reference-check templates and run monthly or quarterly audits.
3. Disclosure of Unsubstantiated Rumors	A referee provides vague, hearsay-based SEAH allegations without formal documentation, risking unfair candidate rejection or defamation claims.	Medium	Medium	Medium	**- Request Documentation:** Ask for internal investigation reports or witness statements. **- Give Candidate Right to Reply:** If evidence is weak, offer them a chance to refute. **- Probationary Hiring:** If no proof emerges, consider short probation.	HR Department	- Labor Code (No. 154-XV), Articles 56 & 64 (disciplinary proofs) - MDS Guidance: Evaluating severity/ credibility of misconduct	Implement a documented "substantiation check" step in your reference protocol.
4. Inconsistent Data Retention	Retaining misconduct files longer than needed contravenes Moldovan data protection law; conversely, deleting them too soon might hamper future checks or legal defenses.	Medium	Medium	Medium	**- Clear Retention Policy:** E.g., keep unsuccessful candidate data for 2 years, staff data for 2 years post-employment. **- Annual Data Purge:** Schedule yearly reviews. **- Access Control:** Restrict who can update or delete records to preserve integrity.	MDS Focal Point / Data Protection Officer	- Law on Personal Data Protection (No. 195/2024), Arts. 11 & 13	Include a retention schedule in the HR manual and carry out an annual review to delete or anonymize outdated records.
5. Cross-Border Sharing Without Adequate Safeguards	NGOs fail to implement encryption, standard contractual clauses, or explicit candidate	Medium	Medium	Medium	**- Standard Data-Transfer Clauses:** For references from non-EU or non-adequate jurisdictions. **- Encryption:** Use secure email or file transfer.	MDS Focal Point / IT Security / Legal Advisor	- Law on Personal Data Protection (No. 195/2024), Art. 31	Maintain a "Cross-Border Data Log" and standard contract templates for each

	consent when seeking references from employers outside Moldova, risking legal breaches under Article 31.				**- Cross-Border Log:** Keep track of each overseas request (date, purpose, data categories).			reference request involving foreign employers.
6. Volunteer Roles Overlooked	High-risk volunteers (child-facing, direct beneficiary contact) not subjected to MDS checks, leading to potential SEAH incidents.	Medium	Medium -High	Medium/ High	**- Volunteer Policy Alignment:** Treat volunteers with unsupervised access like staff in high-risk roles. **- Volunteer Agreements:** Insert MDS clauses allowing misconduct checks. **- Tiered Vetting:** Basic checks for low-risk roles, full checks for high-risk volunteers.	Volunteer Coordinator / HR Lead	- Law on Volunteering (No. 121/2010) - Child Protection Law (No. 140/2013)	Include volunteer MDS checks in recruitment steps and highlight in your volunteer handbook.
7. Termination Grounds Not Explicit	Contracts or HR manuals may lack clear language stating that SEAH—even when not criminal—is considered serious misconduct. This gap can expose the NGO to disputes if a staff member is dismissed for exploitative behavior.	Medium	High	Medium/ High	**- Zero-Tolerance Clause:** Modify the code of conduct or HR policies to explicitly list SEAH as grounds for dismissal under Articles 56 & 64 of the Labor Code. **- Staff Communication:** Ensure employees/ volunteers know these policies at onboarding. **- Internal Investigations:** Document all procedures and findings before terminating.	HR Lead / Legal Advisor	- Labor Code (No. 154-XV), Articles 56 & 64 - MDS Guidance: Non-criminal SEAH misconduct	Revise all job contracts and volunteer agreements to include a clause defining SEAH as serious misconduct, and provide training to ensure staff and volunteers are aware of this standard.
8. Potential Discriminat ion in Hiring Decisions	Negative decisions might be influenced- intentionally or unintentionaly	Medium	High	Medium/ High	**- Objective Misconduct Criteria:** Evaluate only verified SEAH incidents relevant to the job. **- Decision Rationale:** Keep a written record	HR Lead / MDS Focal Point	- Anti-Discriminat ion Law (No. 121/2012) - Equality Council oversight	Implement a “Rejection Rationale Form” to document misconduct-related

	by candidate's ethnicity, religion, disability, or other protected characteristics.				explaining the reason for non-selection (e.g., documented harassment). **- Training on Anti-Discrimination:** Ensure recruiters understand protected grounds and legal risks.			reasons for non-selection, ensuring no reference to personal characteristics.
9. Unreported Cases of Sexual Activity Involving Persons Under 18	Staff discover or suspect that a candidate engaged in sexual activity with minors but fail to report it, resulting in a breach of criminal law and exposing the organization to serious legal and reputational risks.	Low/ Medium	High	Medium/ High	**Mandatory Reporting Training:** Inform staff that any sexual activity with a person under 18 is a criminal offense under the Criminal Code. **Immediate Escalation:** Require referral to authorities if references indicate involvement with minors. **Code of Conduct:** State that SEAH involving minors leads to immediate dismissal	Safeguarding Officer / HR Lead	- Criminal Code (Law No. 985-XV), Article 262 - Child Protection Law (No. 140/2013)	Develop a "Minor-Related SEAH Reporting Protocol" and list it in staff handbooks.
10. Whistleblower Identity Exposed	During MDS checks or reference sharing, the organization unintentionally discloses the identity of an internal whistleblower, violating confidentiality and the Law on Whistleblower Protection (No. 122/2018).	Low/ Medium	Medium	Medium	**Anonymize Whistleblower Details:** In references or internal records, refer to a "substantiated internal investigation" without naming the whistleblower Restrict **Access:** Limit access to the original complaint to the HR lead or legal advisor. **Whistleblower Policy:** Train staff to handle sensitive information with confidentiality.	HR Lead / Whistleblower Focal Point	- Law on Whistleblower Protection (No. 122/2018) - Labor Code (No. 154-XV), confidentiality rules	Redact whistleblower info from reference-check documents and store related data in a separate, confidential folder.
11. Defamation Allegations by Candidate	A rejected applicant claims the organization defamed them by sharing or relying on unverified or false	Medium	Medium	Medium	**Verified Evidence Only:** Request formal documentation from previous employers (e.g., disciplinary records, investigation reports).	HR Department / Legal Advisor	- Civil Code (defamation provisions) - MDS Guidance: Requiring documented or substantiated allegations	Establish an internal "evidence confirmation" step in the reference process to ensure decisions are

	misconduct information, potentially resulting in legal action or reputational harm.				**Candidate Opportunity to Respond:** Allow the candidate to review or challenge key findings before a final decision. **Maintain Decision File:** Keep a brief record of key evidence, how it was assessed, and the final rationale			not based on rumor or hearsay alone.

→ Key Elements of This Matrix

1. **Risk Explanation:** Describes how or why a specific issue may arise, helping staff understand the context.
2. **Probability & Impact:** Categorize each risk as Low, Medium, or High, based on past incidents or operational realities.
3. **Overall Risk:** Combines probability and impact to prioritize action (e.g., high–high equals urgent).
4. **Mitigation Measures:** Lists concrete steps—such as staff training or template revisions—to address each risk.
5. **Responsibility:** Assigns ownership to a specific role or department (e.g., HR lead, MDS focal point).
6. **References:** Links each risk to Moldovan law or MDS guidance to support compliance.
7. **Action:** Summarizes next steps (e.g., “audit references monthly,” “revise volunteer policy,” etc.).

Tip: Share updated versions of this matrix periodically with senior management and relevant staff (HR, safeguarding, MDS focal point). Invite feedback on new or resolved risks. A regular, collaborative review process helps maintain compliance and strengthen misconduct prevention under the MDS framework.

Annex E. Sample Contract Clauses for Termination on Grounds of SEAH

Below are sample clauses that organizations may adapt for use in employment contracts, volunteer agreements, or consultancy contracts. These clauses explicitly state that SEAH constitutes grounds for lawful termination, even when the conduct does not meet the criminal threshold. Language should be tailored to reflect the organization's policy framework and role type (employee, volunteer, contractor), and all final wording should be reviewed by legal counsel to ensure alignment with Moldovan labor law and internal policies.

1. Zero-Tolerance Clause for SEA
Clause Title: Zero-Tolerance for Sexual Exploitation and Abuse
Text:
"The Organization applies a zero-tolerance policy to all forms of sexual exploitation, abuse, or harassment (SEAH), particularly involving beneficiaries, minors, refugees, or other at-risk groups. Any substantiated case of SEAH—regardless of whether it constitutes a criminal offense under Moldovan law—will be considered serious misconduct and may result in immediate termination of this [employment/volunteer/consultant] contract in line with Articles 56 and 64 of the Labor Code (No. 154-XV)."

2. Explicit Definition of SEAH and Misconduct
Clause Title: Definition of Misconduct Involving SEAH
Text:
"For the purposes of this agreement, sexual exploitation and abuse (SEA) includes, but is not limited to:
I. Any actual or attempted sexual activity with a person under the age of 18, regardless of consent or local laws on the age of majority;
II. Abuse of a position of power, trust, or vulnerability to solicit, pressure, or engage individuals—especially beneficiaries or colleagues—in sexual activity;
III. Offering or receiving money, employment, goods, or services in exchange for sex, including any form of transactional or exploitative relationship;
IV. Sexual harassment, including unwelcome sexual advances, requests for sexual favors, or other verbal, non-verbal, or physical conduct of a sexual nature that creates an intimidating or hostile environment;
V. Other conduct identified as serious misconduct under the Organization's Code of Conduct or safeguarding policies."

3. Investigation and Due Process
Clause Title: Investigation Procedure and Termination
Text:
"If there is credible evidence or allegations of SEAH, the Organization will conduct an internal investigation following its established procedures and Moldovan labor laws. The individual in question:

1. Will receive notification of the allegations and be given a fair opportunity to respond;
2. May be placed on administrative leave or temporarily reassigned pending investigation outcomes;
3. Will face immediate termination if the investigation finds substantiated misconduct, even if no criminal prosecution takes place.
4. All steps will observe due process under the Labor Code (No. 154-XV), and any confirmed or suspected criminal acts involving persons under 18 will be reported to authorities as required by Article 262 of the Criminal Code."

4. Mandatory Reporting and Legal Obligations
Clause Title: Mandatory Reporting of Underage Exploitation

Text:
"In accordance with Article 262 of the Criminal Code of the Republic of Moldova, any sexual activity involving a person under the age of 18 is a criminal offense and must be reported. All [employees/volunteers/consultants] are required to immediately report any suspected or confirmed involvement in such conduct through the Organization's safeguarding channels. The Organization is legally obligated to notify law enforcement or child protection authorities and will terminate the contract without delay in cases of substantiated or credible concern."

5. Reference Disclosure / MDS Clause
Clause Title: Misconduct Disclosure Scheme (MDS) Reference-Sharing
Text:
"By signing this agreement, the [employee/volunteer/consultant] acknowledges that documented SEAH or serious misconduct may be disclosed to future employers or partner organizations under the Misconduct Disclosure Scheme (MDS). This is done solely for safeguarding and in compliance with the Law on Personal Data Protection (No. 195/2024). Should the individual refuse consent or withdraw it, the Organization may rely on legitimate interest to share critical misconduct details for high-risk roles, following a balancing test and proper documentation."

6. Acknowledgment of Policies
Clause Title: Agreement to Uphold Safeguarding Code of Conduct
Text:
"The [employee/volunteer/consultant] acknowledges having received, read, and understood the Organization's Code of Conduct and its Policy on the Prevention of Sexual Exploitation, Abuse and Harassment (PSEAH). They agree to uphold these standards at all times. Any substantiated breach—including acts of sexual exploitation, abuse, harassment, or other serious misconduct—will be considered grounds for disciplinary action, including immediate termination, in accordance with the Organization's zero-tolerance policy and applicable legal provisions."

→ Key Elements of This Matrix

1. Review by Legal Advisors
Ensure local labor lawyers or consultants confirm these clauses align with Moldovan labor law and the organization's HR structure (e.g., references to internal investigation steps).

2. Embedding in Existing Contracts
For new hires or volunteers, integrate these clauses directly into the main body of their contract or agreement.
For ongoing staff, consider an addendum or updated code of conduct requiring a signature.

3. Multi-Language Versions
Provide these clauses in Romanian or Russian (and possibly English for international staff) to avoid confusion or claims of not understanding legal obligations.

4. Staff/Volunteer Orientation
During induction, highlight these clauses, clarifying what constitutes SEAH and what investigative/disciplinary steps the NGO takes if allegations arise.

5. References to Consent Forms
Cross-reference the Annex A consent forms if you plan to share documented SEAH findings with future employers. Make it explicit how those forms interact with these termination clauses.
6. Annual or Periodic Updates
If your organization's code of conduct or if Moldovan legislation changes (e.g., new data protection guidelines), revise these clauses accordingly. Communicate changes to staff and volunteers.

Annex F – Refusal handling form Refusal Handling Form

Section A: Candidate and Position Details

1. Candidate Name:
   (First name, Last name)
2. Position Applied For:
   (Specify role/title; indicate if it is a high-risk or direct-contact position)
3. Date of Application/Interview:
   (DD/MM/YYYY)
4. Name of HR/Interviewer Completing Form:
   (Full name and title)

Section B: Refusal Context

1. Date and Time of Refusal:
   (When did the candidate explicitly decline to sign the consent form?)
2. Method of Refusal:

In-person
Email
Phone
Other (specify)

1. Candidate's Reason(s) for Refusal (If Provided):
   (Briefly outline any rationale the candidate mentioned-e.g., privacy concerns, past conflicts with a former employer, reluctance to share personal details.)

Section C: Explanation of Safeguarding Purpose

1. Safeguarding Requirement Discussion

Date/Time of Meeting with Candidate:
Key Points Explained to Candidate:

- The NGO's duty to protect vulnerable populations (children, refugees, survivors of abuse, etc.)
- Why reference checks for misconduct (SEA) are essential for high-risk roles
- Potential outcomes if consent is not provided (e.g., legitimate interest test, disqualification)

1. Candidate's Response After Explanation:
   (Summarize whether the candidate maintained their refusal, requested additional information, or expressed conditional or partial consent.)

Section D: Outcome of Candidate Refusal

1. Legitimate Interest Assessment

Does the organization plan to proceed under a documented legitimate interest claim despite refusal?

- Yes
- No

If yes, attach or reference the completed "Legitimate Interest Assessment Template."

2. Candidate Disqualification

If the position is high-risk (direct contact with vulnerable groups) and no feasible alternative measure exists, indicate whether the candidate is disqualified:

- Yes, candidate is disqualified
- No, candidate remains under consideration
- Conditional approach (e.g., offering a different, lower-risk position pending further checks)

Section E: Final Decision and Signatures

1. Summary of Decision

(One or two lines summarizing the final action. Example: "Candidate disqualified due to refusal; legitimate interest not invoked" or "Organization will apply legitimate interest and request minimal references focusing strictly on SEAH.")

2. Signatures

HR Representative / Interviewer:
Name:
Signature:
Date:

Candidate (Optional)
(If the candidate chooses to acknowledge they have been informed of the decision, they may sign here.)
Name:
Signature:
Date:

MDS/Legal Focal Point (If Applicable):
Name:
Signature:
Date:

Additional Notes/Attachments

- Attach any supporting documents (email screenshots, written communications, or the completed Legitimate Interest Assessment) to this form.

Store this form in a secure file with limited access, following the NGO's data protection and retention policies.

How to Use This Form

1. Initiate Promptly Upon Refusal: As soon as the candidate declines to sign the MDS consent, the HR or interview lead should complete Sections A and B.

2. Discuss Safeguarding: Hold a brief meeting or call to clarify the purpose of the consent (Section C). Record the candidate's concerns and their final position after the discussion.

3. Decide on Next Steps: Decide whether to invoke legitimate interest (attach or reference the completed Legitimate Interest Assessment) or disqualify the candidate, particularly for roles involving direct contact with beneficiaries (Section D).

4. Finalize and File: Have the HR lead sign the form, optionally collect the candidate's acknowledgment, and securely file the document under the candidate's record.

By using this "Refusal Handling Form," organizations demonstrate that they have:

- Taken reasonable steps to inform the candidate about the importance of safeguarding.
- Documented the decision-making process.
- Complied with data protection obligations should the organization proceed under legitimate interest or decide to disqualify the candidate in a fair and transparent manner.

Moldova PSEA Network

Regional Refugee Response for the Ukraine Situation

UNITED NATIONS MOLDOVA

MISCONDUCT DISCLOSURE SCHEME

This document was developed with the support of UNHCR, the UN Refugee Agency, within the framework of the Misconduct Disclosure Scheme (MDS) in the Republic of Moldova

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The UN Refugee Agency

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